



International
Labour
Office

A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers



▶ **A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers**

Exploring the migration policymaking process with a specific focus on bans and restrictions on foreign employment

Mark McCarthy

ILO Country Office for Nepal
October 2020

Copyright © International Labour Organization 2021

First published 2021

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licenses issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ISBN: 9789220346990 (Print)

ISBN: 9789220343371 (Web)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

Information on ILO publications and digital products can be found at www.ilo.org/publns or contact ilopubs@ilo.org.

Images of Kumari Chaudhary, Sabita Rai, Sarda Rai, Anjana Rai, and Bimala Adhikari © ILO/[S Kolakshyapati 2020]

Images of Kopila Prasai, Mina Acharya, and Sushila Rana © ILO/[M. McCarthy 2020]

Images of Shrijana Oli and Sunita Lama © ILO/[Subash Khatri 2020]

▶ Contents

<i>Foreword</i>	5
<i>Acknowledgements</i>	7
<i>Abbreviation</i>	9
<i>Executive Summary</i>	11
▶ 1. Overview	27
1.1 Introduction	28
1.2 Background on Work in Freedom (WIF)	31
1.3 Study setting	31
1.4 Structure of the report	32
1.5 Reconstructing a timeline of bans and restrictions	33
▶ 2. Methodology	37
2.1 Scope and Rationale	38
2.2 Sources and tools for data collection and analysis	39
2.3 Limitations of the review	40
▶ 3. Nepali Migrant Domestic Workers and Female Labour Migration: Background and Trends	43
3.1 Overview of Nepali labour migration	44
3.2 Female labour migration and migrant domestic work	46
3.3 Overview of socio-economic conditions for Nepali women	50
3.4 Reasons for migration and engagement in domestic work	53
3.5 Recruitment process	57
3.6 Conditions for Nepali women migrant domestic workers abroad	59
▶ 4. Conceptual Framework: An Intersectional Analysis of Migration Policy-Making in Nepal	65
4.1 Characterizing migration policymaking and policy reform in Nepal	66
4.2 Gender, class, caste, race and their intersectionality in the migration process	68
4.3 Adopting a gendered analysis of policymaking on migration and human trafficking	71
4.4 Media and migration	73
4.5 Incorporating transnational dynamics into the policymaking analysis	74
▶ 5. Findings (Part 1): Reconstructing A Timeline of Migration Bans and other Policies and Frameworks Governing Women Migrant Workers and Migrant Domestic Workers in Nepal (1998 – 2020)	77
5.1 The early years of gender-restrictive migration policies (1997 – 2010)	78
5.2 The “open window” of foreign employment for Nepali women (2010 – 2012)	82
5.3 Introduction of the ‘age ban’ and end of open migration channels (2012 – 2014)	83

▶ A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers	
5.4 The fourth ‘total ban’ and new guidelines (2014 – 2015)	86
5.5 Lifting the ‘total ban’ (2015 - 2016)	89
5.6 A new ban and changes in migration policymaking structures (2017)	93
5.7 Retracing current changes (2017 – early 2020)	103
5.8 New developments in 2020 and a second parliamentary delegation	116
▶ 6. Findings (Part 2) – Further Accessing The Knowledge and Opinions of Key Stakeholders	121
6.1 Summarizing key opinions and positions of stakeholders	122
6.2 The nexus between labour migration, human trafficking and migrant smuggling	126
6.3 Summary: Discussions with returnee women migrant domestic workers	129
6.4 Nepal’s current and future priorities on foreign employment policies	135
6.5 Discussing concerns regarding the effects of the outbreak of COVID-19	137
▶ 7. Discussion: Summarizing Key Findings	141
▶ 8. Conclusion and Recommendations	153
8.1 Conclusion	154
8.2 Recommendations	156
<i>References</i>	165
<i>Annex A: Definitions of Key Terms</i>	185
<i>Annex B: List of Key Informants Interviewed</i>	187
<i>Annex C: Brief Overview of The Recruitment Process in Nepal</i>	188
<i>Annex D: Domestic and International Frameworks</i>	190
<i>Annex E: Exploring Migration Journeys: In-Depth Case Study Interviews with Returnees</i>	204



Foreword

The right to work and freedom of movement are basic human rights. Article 13 of the Universal Declaration of Human Rights stipulates that: *“Everyone has the right to freedom of movement and residence within the borders of each state, and everyone has the right to leave any country, including his own, and to return to his country”*. Moreover, Article 23 of the Universal Declaration of Human Rights specifies that *“everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”*. In addition to this Article 18 (3) of the Constitution of Nepal guarantees the right to equality and right against discrimination on grounds of sex.

In spite of this, Nepal has a recent history of introducing controversial restrictions on women’s migration only to remove them and reintroduce them later in the name of protecting women. Studies have shown that many such restrictions tend to be ineffective and generate additional obstacles that compound the vulnerabilities that migrant women face and further discriminate on the basis of gender. The Committee of Experts for the Application of Conventions and Recommendations has raised concerns around the requirement that Nepalese migrant domestic workers must have reached the age of 24 to emigrate and the prohibition of women with a child below the age of two from taking up domestic work outside Nepal. It also noted that in early 2017, the Parliamentary International Relations and Labour Committee instructed the Government to temporarily stop Nepalese women migrants from going to the countries of the Gulf Cooperation Council for domestic work. The Committee of Experts reiterated the Special Rapporteur’s concerns about stigma around the migration of women, loosely associated with prostitution or trafficking for sex work, and highlighted that the solution to the problems faced by domestic workers could not be to discriminate against them through the imposition of bans or other means of violating their right to leave the country.

These vicissitudes are indicators of an ongoing struggle for women’s equal right to mobility and work. To turn the page, it is important to elucidate the political economy of these policies so that policy makers can identify and address opposition to these basic rights. The purpose of this study is to explore this policy context and list recommendations for a way ahead.

This study was supported by the Work in Freedom Programme of the ILO, which is funded by the United Kingdom’s Foreign Commonwealth and Development Office. The views expressed in this study do not necessarily reflect the department’s official policies.

Richard S Howard, PhD

Director

ILO Country Office for Nepal



Acknowledgements

This report was produced by Mr. Mark McCarthy, ILO consultant, who managed research design and data collection and provided technical coordination throughout the review. Overall guidance and support were provided by Ms. Sandhya Basini Sitoula, National Project Coordinator, Mr. Narendra Nadh Choudary, Technical Officer (Monitoring and Evaluation), and Mr. Igor Bosc, Chief Technical Advisor, all with the ILO-FCDO Partnership Programme on Fair Recruitment and Decent Work for Women Migrant Workers in South Asia and the Middle East (WiF), Phase II, currently under process.

We are grateful for the kind support of ILO staff in Nepal for sharing insights and providing comments and validation throughout the process. In particular, we would like to thank Mr. Richard Howard, Director, Ms. Bina Kunwar Thapa, Programme Officer, Ms. Neha Choudhary, National Project Coordinator, and Mr. Basanta Karki, National Project Coordinator, all with the ILO Country Office for Nepal. Special thanks are owed to Mr. Bhagat Kumar Sunuwar for providing administrative and financial assistance to the review.

Portions of this review could not have been completed without the participation of NGO partners in Nepal, specifically WOREC and POURAKHI. Ms. Shristi Kolakshyapati (Senior Program Coordinator) at WOREC served as a research contributor to this review and assisted with locating and interviewing returnee women migrant workers in Nepal's Morang district. Ms. Manju Gurung (Chairperson), Mr. Subash Khatri (Monitoring, Advocacy and Public Relations Officer) and the rest of the POURAKHI team helped to locate and document the stories of returnee women migrant workers in the Kathmandu Valley. Two interns with POURAKHI, Ms. Anusha Rana and Ms. Luise Bidari, and Mr. Subash Khatri spoke to returnee migrant women and transcribed and translated these interactions.

We express our gratitude to Catherine Davison, copy editor, as well as R Ajithkumar who provided layout and design for this report.

Finally, we are grateful to the brave women who continue to take the time to share their migration stories and give us a window into their lives. It is for these women, and for past, present and potential women migrants that we write this report.



Abbreviations

BLA	Bilateral Labour Agreement
CSO	Civil Society Organization
DoFE	Department of Foreign Employment
FEB	Foreign Employment Board
GAATW	Global Alliance Against Traffic in Women
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GEFONT	General Federation of Nepalese Trade Unions
GoN	Government of Nepal
ILO	International Labour Organization
IOM	International Organization for Migration
KI	Key informant
MoLESS	Ministry of Labour, Employment and Social Security
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
SAARC	South Asian Association for Regional Cooperation
SDG	Sustainable Development Goals
UAE	United Arab Emirates
UN	United Nations
USD	United States Dollars
WOREC	Women's Rehabilitation Centre

► Executive Summary

I. Overview

Nepal has implemented, repealed and re-implemented various bans and restrictions on the migration of women migrant workers and / or migrant domestic workers since 1998, the year in which all women migrant workers were first banned from migrating to Gulf countries following the highly publicized death of a domestic worker, Kani Sherpa, in Kuwait. Over subsequent years, total bans or restrictions on certain countries, occupations and / or ages have been implemented and repealed under the auspices of protecting migrant domestic workers / women migrant workers from exploitation and abuse abroad.

One of the principal causes and risk factors for forced labour and trafficking, identified by past research led by the International Labour Organization (ILO)'s *Work in Freedom* (WiF) Programme, is restrictive and gender-insensitive migration policies. These include restrictions on movement in the form of bans and restrictions on the departure of women migrant workers and migrant domestic workers from origin countries to seek foreign employment.

Issues in the recruitment and foreign employment industry in Nepal are multi-faceted and extend far beyond migration bans and restrictions. While bans and restrictions have led to increased migration through informal channels, migration through formal channels in Nepal and throughout South Asia does not guarantee safety for migrant workers nor prevent them from facing exploitation (Zimmerman et al., 2015). The foreign employment registration process in Nepal is often gender-blind and does not account for the intensive stigma surrounding female labour migration. Consequently, those women who are legally able to access the labour permit application process still risk criticism or reproach from families, communities and administrative officials.

Nevertheless, restrictive emigration regimes have been shown to exacerbate legal and protection shortcomings in the foreign employment industry for women migrant workers and migrant domestic workers and contribute to their further marginalization and vulnerability. Combined with structural social stigma and discrimination which has driven female labour migration into hidden corners of the foreign employment process, migration restrictions have prevented women from availing of mechanisms such as pre-departure trainings, insurance and welfare fund schemes, while increasing their dependency on informal recruitment intermediaries in spaces where information on safe migration is not typically readily available (ILO, 2015a; Paoletti et al., 2014; GAATW, 2017; Mak et al., 2019; Pyakurel, 2018). Bans have inhibited women's access to redress and retribution mechanisms in the event of abuse, and most importantly, have accomplished little in improving their living and working situations once abroad (Ibids). Migrant and human rights organizations both within Nepal and abroad have also repeatedly decried bans and restrictions as violating key national and international human rights frameworks, including commitments to freedom of movement, gender equality, employment and non-discrimination made in the country's 2015 Constitution (ILO, 2015a; FWLD, 2018; UN OHCHR, 2018).

Notably, while past bans have focused specifically on migrant women, the most recent ban on foreign employment for migrant domestic workers (in place from 2017 to 2020) ostensibly applied to both males and females. However, migration for domestic work from Nepal continues to be a phenomenon undertaken almost entirely by women, and many experts asserted that this discursive shift did little to change how bans were implemented on-the-ground.

In September 2019, Nepal's Ministry of Labour, Employment and Social Security (MoLESS), in consultation with Nepal's foreign missions and upon instruction from the Nepal Parliamentary Committee of Industry, Commerce, Labour and Consumer Interest (CICLCI) lifted the ban on re-entry of migrant domestic workers. This action granted certain migrant domestic workers a re-entry permit which allowed them to legally return to Nepal to visit and then return to the same destination country / job after their visit – albeit only if they had originally migrated with approval from the Nepali government.

Members of the aforementioned Parliamentary Committee, accompanied by representatives of MoLESS and its Department of Foreign Employment (DoFE), as well as the Nepal's National Human Rights Commission (NHRC), then sent a delegation to three Gulf countries – Oman, UAE and Saudi Arabia – to reassess the situation for migrant domestic workers in early March 2020. Following consultations regarding bans and restrictions, as well as other frameworks related to women migrant workers and migrant domestic workers, the Committee requested that the Government repeal the 2017 ban in September 2020, subject to seven conditions including the signing of BLAs with all destination countries, the existence of separate labour laws, and mandatory training of migrants before starting work.

In the ILO's efforts to support the construction of regular migration pathways for women migrant workers and migrant domestic workers which respect their safety, dignity, wellbeing and human and labour rights and which allow them to enrich their own lives, the lives of their families and communities back home, the ILO Country Office for Nepal commissioned this present review between February and June 2020 as a comprehensive analysis of legal and policy frameworks governing foreign employment for women migrant workers and migrant domestic workers. This review builds off of ILO's previous study of migration bans, *No Easy Exit: Migration Bans Affecting Women from Nepal* published in 2015, but fills an important research gap by focusing on the policy formulation phase itself. The findings will identify and characterize the ways in which stakeholders (governmental and otherwise) formulate policy narratives, negotiate policies and regulations and invoke knowledge claims in order to justify regulatory and policy interventions related to women migrant workers, migrant domestic workers and associated thematic areas – including anti-trafficking frameworks, frameworks combatting forced labour, domestic work and more.

The following research explores: (1) what the prevailing norms, ideas and beliefs in policy spheres about work, women, migration and domestic work are and how these norms and beliefs influence the continued use of migration bans; (2) characterizes the parties that maintain support for or wish to repeal bans; (3) determines ongoing concerns of policymakers that maintain support of bans and what their plans are to address these concerns; (4) analyzes the role and use of empirical evidence in the policymaking process; (5) measures Nepal's progress on the negotiation of bilateral labour agreements (BLAs) and memoranda of understanding (MoUs) with specific reference to migrant domestic workers, and what impact this has on bans and restrictions; and (6) the transnational dynamics which impact this process.

II. Methodology

Findings for this review are based on two principle tools for data collection – extensive documentary research / media analyses and qualitative semi-structured Key Informant (KI) interviews with expert stakeholders.

- The documentary research portion of this review entailed a literature review of existing studies on Nepali women migrant workers, migrant domestic workers, as well as migration bans and restrictions implemented by Nepal. This portion of the research also entailed reviews of legal and policy documents, government publications and circulars and administrative data records. Finally, the reconstruction of policy timelines also involved a media analysis of over 200 news articles published between 1998 and mid-2020 in three of Nepal's premier media outlets. This information was corroborated by information provided by KIs wherever necessary.
- Qualitative semi-structured interviews were realized with 26 KIs, including independent gender and labour migration experts, staff of international organizations, research institutes, civil society organizations (CSOs) (including those dedicated to migrants' rights and counter-trafficking), recruitment industry professionals, Members of Parliament, trade unions and government ministries. Interviewees were selected through non-probability / purposive sampling methods based on perceived knowledge and expertise of the foreign employment and migration process for Nepali women migrant workers and migrant domestic workers.

Aside from direct data collection tools, the research portion of this study was complemented with the realization of an advocacy-based documentary project, which entailed in-depth conversations with 11 returnee Nepali women migrant domestic workers who had previously worked in West Asia. Participants were selected in order to access a diverse cross-section of socio-economic, demographic and migratory characteristics. Free and informed consent was obtained from participants before interviews or photos were conducted / taken. To read the stories of these migrant women, see Annex E.¹

III. Overview of Nepali female labour migration and migration for domestic work

A. Historical background and trends

Nepal has a long history of out-migration for employment, beginning with the recruitment of Nepali *gorkhas* to serve in the British Indian army in the 1800s (ILO, 2017a). Since the signing of Nepal's first Foreign Employment Act (FEA) in 1985 in particular, and with the country's subsequent democratization in the years following, Nepal began to actively promote foreign employment for its citizens (Pyakurel, 2018). During the 1980s and 90s, the State pursued open market policies, facilitated access to passports, opened up the foreign employment industry to private sector actors and liberalized travel regimes (Sijapati and Limbu, 2017; ILO, 2015a; Pyakurel, 2018; Kharel, 2016). These changes occurred simultaneously with a decrease in investments in domestic agriculture, which led to structural changes in Nepal's predominantly agrarian economy, increased costs of production and significant declines in agricultural productivity and employment. Exacerbated by shifts in climate and rainfall patterns in recent years, these changes have been a significant factor stemming labour out-migration in Nepal for decades. Further out-migration for employment was generated as a result of conflict and instability arising from the country's 10-year Civil War (1996 – 2006).

Beginning in the 1990s, the principle destination countries of Nepali migrant workers abroad – both male and female – began to rapidly diversify away from India to include Gulf countries, other countries in the Middle East as well as countries in East and Southeast Asia (mainly Malaysia, as well as Hong Kong and South Korea). The majority of Nepali migrant workers are employed on temporary work contracts (2 – 3 years) in Gulf countries in construction work, services (such as retail and wholesale), care, and domestic work (GiZ and ILO, 2015a; Kharel, 2016). In the last decade, the Nepal Department of Foreign Employment (DoFE) has issued over four million labour permits, with the number of workers registering for departure on an annual basis peaking in 2013/14 at roughly 500,000, albeit steadily declining since (MoLESS, 2020). Of these four million labour permits, approximately 200,000 were issued to women, constituting roughly five per cent. Current data and information on the quantities, locations, occupations and other details of Nepali migrants based in India remain limited, however, due to the open border between the two countries.

B. Feminization of labour migration from Nepal

Prior to the 1990s, few Nepali women engaged in out-migration for employment, reinforced by government restrictions which prohibited recruitment agencies from recruiting women without consent of their male guardian, as well as gendered barriers to accessing passports and conferring citizenship rights (ILO, 2015a; Bhattarai, 2007; Sijapati and Limbu, 2017). However, since the late 1990s, more women have begun migrating independently in search of work, facilitated by changing gender and cultural perceptions and practices, increased resources to migrate and macro-structural shifts taking place in Nepal and elsewhere in South Asia at the time – including the informalization of labour, poverty

¹ This review benefitted from previous unpublished research by the author: McCarthy, M. (2019). *Reconstructing and analysing dominant policy narratives and processes preceding the implementation of outright or partial bans and restrictions on the departure of women migrant workers (WMMs) from Nepal and Sri Lanka* [Master's thesis, London School of Economics and Political Science (LSE) (unpublished)].

and inequality, low wages, shortcomings in national welfare systems, urbanization, privatization, rapid industrialization and globalization (GAATW, 2017; CARITAS, n.d.).

Whilst Nepali women migrant workers still represent a very small proportion of all workers registering for foreign employment through formal channels (that is, with approval from the GoN), data do not portray an accurate picture of women's labour migration from Nepal, given that most women migrate through informal channels in order to circumvent bans and restrictions imposed by the State on and off for more than two decades. Most women migrate by way of India, departing from airports in Delhi, Mumbai or Chennai; from Dhaka, Bangladesh; or from locations farther afield (ILO, 2015a; Pyakurel, 2018; IOM, 2019a; Kharel, 2016). Some women have also been found to depart irregularly from Nepal's Tribhuvan International Airport in Kathmandu (Paoletti et al., 2014). Unverified / anecdotal figures have suggested that women migrant workers constitute as much as 30 per cent of total outflows of migrant workers from Nepal, and that as many as 80 to 90 per cent of migrant workers leaving Nepal through informal migration channels are women (Mak et al., 2019; ILO, 2015a; Paoletti et al., 2014). Nepali women are mainly migrating to Gulf destination countries, as well as Lebanon, Jordan, Israel, Hong Kong and Malaysia (Gioli et al., 2018; MoLESS, 2020).

C. Sociodemographic characteristics of Nepali migrant women

Most women migrant workers / migrant domestic workers are from lower social and economic strata and possess very minimal levels of education, and many are illiterate (GAATW, 2017). The majority of migrant women are from lower castes and predominantly originate from rural areas in Nepal's Hill and Tarai districts (MoLESS, 2020). Most migrant women are under the age of 30 when they first migrate, and the majority are married (IOM, 2019a; Mak et al., 2019). These socio-demographic characteristics are important to understand when analysing the policy formulation process and the positions of governmental stakeholders, as the mobility of poor women from marginalized socio-economic backgrounds then becomes a site of state regulation (Piper, 2008). Nepali women migrate in order to earn a better income and provide for themselves and for their families, gain economic and social remittances, build individual autonomy, and increase their relative decision-making power, both in household social dynamics but also in the management of household resources and finances (Sijapati and Limbu, 2017). Many originate from households where one member (usually male) has already migrated (Abramsky et al., 2018).

The majority of Nepali women migrate for domestic work. This is due to sex segmentation in labour markets in Nepal and abroad, gender inequalities in access to skills training and education in Nepal, and unequal distribution of reproductive labour. Domestic work is usually the most affordable option available to migrant women, given that recruitment costs are often borne by the employer and many migrant women receive incentive payments upfront (ILO, 2015a). Domestic work is considered highly precarious, unregulated and informal and is often excluded from domestic labour laws in origin and destination countries (Parreñas, 2015; Zimmerman et al., 2015). It is often difficult to detect exploitation and abuse of domestic workers due to the nature of their working situation (that is, in private family homes) (Ibid).

The lack of legal frameworks governing domestic workers in both origin and destination countries reifies notions that domestic work is not legitimate work, and thus not deserving of the same rights and labour entitlements as other workers (GAATW, 2017). However, domestic work is a form of care work, either paid or unpaid, and forms the foundation of societies. Particularly in light of ageing and growing populations, changes in family and labour market structures and shortcomings in national welfare and social policies, care work in paid and unpaid forms will be even more critical to the successful reproduction of societies and in ensuring decent work in the future (ILO, 2018d).

D. Socioeconomic conditions for women in Nepal

Understanding the socio-economic conditions for Nepali women helps to contextualize and explain the multiple and complex drivers that fuel women's out-migration for employment from Nepal. There

are persistent discrepancies in development outcomes based on gender. Average female literacy rates in Nepal are significantly lower than for males, and females on average possess fewer years of schooling (UNDP, 2019; UNFPA, 2017; FAO, 2019). Females hold few key leadership positions in all levels of government and in the private sector (Bhattraï, 2017). Nepali women face a number of barriers to health, safety and wellbeing, with a high prevalence of intimate partner violence, domestic abuse, sexual and gender-based violence (SGBV), verbal, psychological and socio-economic violence, child marriage, and lack of access to sexual and reproductive health services (UNDP, 2019; FWLD, 2018; IDPG Nepal, 2017; FIGO, 2019).

The Gross National Income (GNI) (in 2011 USD at PPP) for Nepali women is significantly less than for Nepali men – at USD 2,113, compared with USD 3,510, respectively (UNDP, 2019). Women's labour force participation rate (LFPR) is roughly half the rate for men according to the 2017/18 national Labour Force Survey (LFS) (CBS, 2019). There persist significant gendered divisions of labour and sex segmentation in Nepal's domestic labour markets, and most of women's work remains non-remunerated and completed within the sphere of household maintenance (Kaspar, 2005; Kharel, 2016). Of women engaged in productive labour, roughly seven in 10 work in agriculture, forestry and fishing industries (CBS, 2019). However, many women are working as unpaid family labourers in subsistence agriculture and must negotiate triple-work burdens of reproductive and community work in addition to productive farm labour (ILO, 2017a; FAO, 2019). Women in agriculture face barriers in setting up micro-enterprises and businesses, lack of access to farm labour and farming inputs, limited knowledge and training and weaker overall bargaining power (IOM, 2019a; FAO, 2019). There are also vast discrepancies in socioeconomic outcomes for women based on ethnicity / caste group, with women from Tarai castes, Muslims and Hill Dalits facing poorer outcomes in education, livelihoods, social indicators and overall development (Pandeya and Oyama, 2019; FWLD, 2018; IOM, 2019a).

E. Reasons for migration

The migration process does not occur in a vacuum and does not begin when a woman leaves her home. Instead, it is influenced, as with male migrants, primarily by lack of access to jobs and decent employment, inadequate incomes and poverty at home. While some of the reasons that women migrate are similar to those for men, these stresses are exacerbated by gendered deprivations in key well-being related indicators in health, education, employment and protection (including SGBV and violence against women and girls), as well as discrimination, illustrated above.

The strength of these socioeconomic factors often results in women choosing to migrate, often despite being aware of the many risks involved (Zimmerman et al., 2015). Female labour out-migration has further stemmed from slumps in agricultural production and productivity in recent years (Kharel, 2016; IOM, 2019). The majority of migrant women are motivated to seek foreign employment due to lack of decent work opportunities available in Nepal, as well as motivations to increase income levels, improve educational opportunities for their children and improve their family's overall economic status (IOM and IASCI, 2017; ILO, 2015a; UN Women, 2017).

While financial considerations are certainly an integral reason for migration, the migration decision-making process is too complex to limit to conversations on economic determinism or wage differentials (Mezzadra, 2004). Nepali female labour migration is also fuelled by patriarchal social norms, gender inequality, and stigma surrounding women's work and mobility within Nepal (Thieme et al., 2005; ILO, 2017a). Nepali women who seek occupations outside of the home are often scrutinized and face discrimination (Coyle et al., 2014). Migration gives women the opportunity to work and earn higher incomes while distancing themselves from this judgement. In addition, the decision to migrate is often taken collectively as a household-level coping strategy, or is influenced by immediate and extended relatives, friends and community members as well as wider social networks (Gamburd, 2000; Kiss and Bosc, 2017).

For some Nepali women, migration also constitutes an escape from systems of violence, including SGBV and violence against women and girls in public and private spheres, and abusive husbands (Piper, 2008;

UN Women, 2017; ILO, 2015a). Migration is often seen as a *de facto* method of marriage separation for Nepali women, given that divorce or disruption of marriages at the female spouse's behest is still highly stigmatized in Nepal (The Women's Foundation Nepal, 2020; Kharel, 2016). In the past, migration has also been fuelled by conflict – in particular, the country's 10-year Maoist insurgency from 1996 to 2006 (IOM, 2019a; K.C. et al., 2017) – as well as natural disaster – in particular, following Nepal's devastating 7.8-magnitude earthquake in April 2015 (IOM, 2019a).

F. Migration and recruitment process for Nepali migrant domestic workers and women migrant workers

Owing in large part to migration bans, the vast majority of women migrant workers and migrant domestic workers rely on a burgeoning number of unregistered recruitment intermediaries in order to obtain jobs overseas (Kharel, 2016). These intermediaries are often directly or indirectly involved in assisting the movement of migrant women through India and other transit areas onward to destination countries.

Informal recruitment intermediaries, or "agents", assist in simplifying a complicated bureaucratic and frequently changing recruitment process that is often inaccessible to potential migrant workers, particularly those in rural areas who lack the education or financial means to negotiate the process individually. For migrant women, agents can provide crucial and up-to-date information on job vacancies, background on destination countries, information on terms and conditions of employment, arrange necessary travel itineraries and documentation, and liaise with agencies and employers in Nepal and in destination countries (Paoletti et al., 2014; Kern and Müller-Böker, 2015). Agents are often former migrants themselves and possess an array of first-hand knowledge and experience (Müller-Böker, 2015). Many are individuals personally known by the migrant woman, originating from the same village or surrounding area (Ibids).

While using subagents to migrate can bring a number of conveniences, there are also a number of risks. Migrant women migrating informally with the assistance of recruitment intermediaries may: (1) pay intermediaries up front and lose their initial deposit with no job materializing; (2) have their documents retained without having them returned; (3) be promised false salaries or working conditions; (4) feel "sold" or at risk of being trafficked as they are often "passed off" between multiple intermediaries during the informal migration process; (5) may have to pay additional fees, both because there are often multiple agents involved in the process but also in order to cover costs of falsification of documents or bribery of officials, which is often required in order to migrate through informal channels; (6) have to delegate increased trust and decision-making power to sub-agents, which can reduce the amount of agency they have over the process; (7) lack freedom of movement whilst in transit or be stranded in transit countries for extended periods in sub-standard housing and living conditions; (8) lack awareness and information on pre-departure orientation trainings, working conditions and benefits; (9) lack written employment contracts; (10) face difficulties in reporting fraudulent recruitment practices or instances of abuse to authorities; and (11) in less common occasions, be subject to exploitation or human trafficking while in transit to destination countries (Paoletti et al., 2014; ILO, 2015a; GAATW, 2017; IOM, 2019a; Kharel, 2016; Mak et al., 2019).

However, many of these aforementioned recruitment violations and concerns are not necessarily unique to recruitment through informal channels. Falsification of job conditions, document retention, lack of knowledge of predeparture trainings, lack of access to insurance, inability to access redress mechanisms, trafficking and other violations are known to occur both in formal and informal recruitment channels. There is no clear delineation between safe and unsafe migration when it comes to informal versus formal migration channels for women, and as Zimmerman et al. (2015) points out, migrating through regular channels in Nepal and elsewhere in South Asia does not guarantee that a migrant is protected from exploitation. The challenge then is to design policies and frameworks which not only formalize recruitment channels but also make formal recruitment channels accountable for women migrants.

G. Conditions for Nepali women migrant domestic workers abroad

Migration is not static; it may produce both positive and negative outcomes, often simultaneously. ILO's initial 2015 study of migration bans in Nepal found that a multitude of women reported having positive experiences abroad and good relationships with their employers, as did the women who participated in a recent evaluation conducted by UN Women (UN Women, 2017; ILO, 2015a). Various studies have shown that women migrant workers can have empowering and valuable experiences abroad, saving money, paying off debts and developing new skills and higher levels of autonomy.

However, many migrant women may face difficult and exploitative conditions abroad. This is particularly the case for women migrant domestic workers – and particularly for live-in domestic workers – due to the nature of their work. Women migrant workers and migrant domestic workers have been known to face issues such as: (1) non-payment of wages; (2) excess working hours and inadequate rest hours; (3) inadequate housing and food provisions; (4) lack of leave days; (5) confiscation of passports and identity documents; (6) barriers to accessing health services; (7) inability to participate in collective action; (8) wage levels that do not permit the annual reproduction needs of the migrant worker and her family; (9) workplace injuries and illnesses; (10) contract substitution and lack of formal contracts; (11) unpaid or underpaid wages; (12) lack of freedom of movement and isolation; (13) mental health issues and suicide; (14) disappearance; (15) verbal abuse; (16) sexual harassment, violence and rape; and (17) other conditions that may amount to forced labour, labour trafficking and / or debt bondage.²

For many women migrant workers and migrant domestic workers, there are very few avenues for redress that exist in destination countries. Labour violations for women migrant domestic workers in particular are rarely identified and prosecuted, and most dispute resolution is handled through voluntary conciliation between the worker and the employer, often with the support of a recruitment agency, CSO or embassy (ILO, 2017c). Resolution through Ministries or through judicial action in civil courts also occurs but is extremely rare. For both formal and informal resolution mechanisms, women migrants face numerous access issues, including language barriers, the inability to negotiate complex and foreign legal and court procedures, movement restrictions, and prohibitive costs and legal fees (ITUC, 2017; GAATW, 2017; ILO, 2017c). This is exacerbated by discriminations in legal structures in destination countries which have historically excluded domestic workers from labour laws.

Unionization is prohibited for migrant workers in most destination countries. While certain groups tend to offer informal, ad hoc assistance to workers in principle destination countries – including trade unions such as the General Federation of Nepalese Trade Unions (GEFONT), NGOs such as the Pravasi Nepali Coordination Committee (PNCC) and Non-Resident Nepali Associations (NRNAs), (PNCC, n.d.; Baniya, 2019) – these activities have tended to target / be accessible to male migrant workers only.

Women migrant workers and migrant domestic workers sometimes seek assistance through Nepal's diplomatic mission located in their respective destination countries, but retribution through consular services is also limited. Embassies may get involved *ad hoc* in settling labour disputes, connecting workers with legal services, facilitating negotiation between workers and employers and coordinating repatriation of distressed women migrant workers / migrant domestic workers (Paoletti et al., 2014). However, there is almost universal recognition in existing studies and amongst stakeholders interviewed for this review that Nepal's foreign missions do not have the sufficient human, training or financial resources to handle the volume of work required to assist all of its workers abroad. This is exacerbated by the limited legal powers that missions often have in destination countries. Nepal's embassies and consulates are often actively discouraged by destination governments from getting involved in labour disputes (Paoletti et al., 2014). Some women migrant workers who have sought assistance from embassies have been denied assistance outright due to their irregular migration status, urged to turn themselves in to the police to get deported, or even encouraged to return to abusive employers (McQue, 2020).

² Sijapati and Limbu, 2017; ILO, 2015a; Joshi et al., 2011; Philippines OFW Guide, 2014; Paoletti et al., 2014; ILO, 2017a; Mak et al., 2019; UN Women, 2017; GAATW, 2017; Kharel, 2017; O. Rai, 2017; ILO, 2015c; ILO, 2015d; ILO, 2016c; ILO, 2016d; ILO, 2017c.

IV. Domestic and international frameworks governing female labour migration and migrant domestic work in Nepal, and their alignment with bans and restrictions

A. Domestic frameworks

- **The Constitution of Nepal (2015)** - provides specific commitments to reaffirm and advocate for the rights of marginalized groups and eliminate “discriminations relating to class, caste, region, language, religion and gender discrimination including all forms of racial untouchability” (Constituent Assembly Secretariat, 2015). The document also includes various protections and guarantees related to equal employment, non-discrimination, gender equality and foreign employment, prohibits forced labour and exploitation and prohibits discrimination in salaries and access to social security between men and women (Sijapati and Limbu, 2017; ILO, 2017a).
- **Human Trafficking and Transportation (Control) Act (HTTCA) (2007)** - defines human trafficking and “human transportation”, outlines rules and procedures for reporting suspected offences, the certification of statements by victims, arrests and investigations, rescue, rehabilitation and reconciliation, and more (Law Commission of Nepal, 2007). The law has been criticized for focusing too narrowly on sex trafficking of women and girls, with no mention of forced labour in any of its provisions and minimum acknowledgement of trafficking of men. The law also conflates prostitution with human trafficking, even if it is voluntary (ILO, 2017a; GAATW, 2017; FWLD, 2018). The HTTCA (2007) does not outline standard operating procedures (SOPs) for the identification of victims and the provision of rehabilitation services (NHRC, 2018).
- **Foreign Employment Act (2007)** - prohibits gender discrimination and advocates for the GoN and institutions that send workers to provide special facility to women, Dalit and indigenous groups (ILO, 2007). As a rights instrument the FEA is very limited, and does not provide specific protection, rights or tailored mechanisms for women or irregular migrants (Sijapati and Limbu, 2017). Provisions of the law also do not do enough to counter the wealth and power of recruitment agents, nor of employers (Ibid). Many human trafficking cases are incorrectly filed and tried under the FEA (2007), because it is quicker, less arduous, more accessible and does not carry the stigma of being identified as “trafficked” (GAATW, 2017; NHRC, 2018). However, this greatly inhibits access to true justice and compensation for trafficking victims.
- **Foreign Employment Policy (2012)** - makes a number of commitments to address the needs of women migrant workers and migrant domestic workers, including skills-based training and orientation for women, information dissemination, elimination of violence and discrimination against women, support mechanisms for returnee women migrant workers, and preferential loans for women migrants, as well as the appointment of female labour attachés in principle diplomatic missions abroad (DoL, 2012).
- **The 2015 Directive on the Management of Sending Domestic Workers for Foreign Employment (hereinafter, the 2015 MDWGs)** – are a set of guidelines related to the recruitment, employment, and migration of Nepali migrant domestic workers. The guidelines establish a minimum age of 24 years for Nepali citizens who wish to take up jobs in domestic work sectors in Gulf countries, Lebanon and Malaysia (ILO, 2015a). The same Directive only allows for migrant domestic workers and women migrant workers to migrate to countries with which Nepal has signed a bilateral labour agreement (BLA) or memorandum of understanding (MoU). The MDWGs (2015) require mandatory pre-departure orientation trainings, prohibit recruitment costs, require monitoring and inspection of working conditions for domestic workers, and require a separate registration system and application structure for recruitment agencies that wish to send domestic workers (MoLESS, 2020; ILO, 2017a).
- There are a range of other relevant national laws and frameworks, including the **Labour Act of 2017**, which finally recognized domestic workers and their labour rights on par with the labour rights afforded to other Nepali workers (IDWFED, 2017).

There is a clear discursive gap between bans and restrictions, and commitments made to non-discrimination, gender equality, equal access to employment / the right to choose employment, and freedom of mobility enshrined in the 2015 Constitution and the FEA (2007). Bans and restrictions also appear to operate against the objectives of the HTTCA (2007) to combat and reduce the vulnerability of Nepali women and girls to trafficking. While progressive and comprehensive, the objectives of the FEP (2012) remain largely unimplemented. The stipulations of the MDWGs (2015) remain unimplemented due to bans and restrictions. At the same time, the MDWGs (2015) perpetuate age discriminations on migrant domestic workers and introduce complex administrative procedures in the foreign employment process for domestic workers.

B. International frameworks

- Nepal has ratified seven out of eight of ILO's fundamental conventions. It has also ratified the Global Compact for Safe, Orderly and Regular Migration (2018), the Universal Declaration of Human Rights (UDHR) (1948), the South Asian Association for Regional Cooperation (SAARC)'s Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002), and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979), amongst others.
 - Bans and restrictions operate against CEDAW's General Recommendation No. 26, which advocates for gender-sensitive, rights-based policies based on equality and non-discrimination, facilitating women's access to work opportunities abroad and repealing sex-specific bans and discriminatory restrictions on women's migration (UN Women, 1979).
- Nepal has not yet ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the ILO Convention C189 on Domestic Workers (2011), nor the ILO Convention C190 on Violence and Harassment, amongst other instruments.
- Nepal also participates in a number of regional multilateral fora, including SAARC, the Colombo Process, the Bali Process and the Abu Dhabi Dialogue. However, these multilateral fora remain underutilized in pursuing initiatives specifically related to the rights of women migrant workers and migrant domestic workers.
- Nepal also has obligations under its fulfilment of the 2030 Sustainable Development Goals (SDGs) – particularly target 8.7 (eradicating forced labour, modern slavery and human trafficking), target 8.8 (safe and secure work environments for all workers, including migrant workers and women migrants in particular), target 10.7 (safe, orderly, regular and responsible migration) and Goal 5 (gender equality and empowerment of women and girls), amongst others (UN, n.d.a.; UN, n.d.b.).

C. Progress on the negotiation of BLAs and MoUs

BLAs and MoUs are the most widely used tools for bilateral cooperation on labour migration governance pursued by Nepal. A BLA is a formal, legally binding agreement, whereas MoUs are non-binding agreements and are more flexible (ILO, n.d.d.). Nepal has signed nine agreements with destination countries between 2005 and mid-2020 at the time of writing (MoLESS, 2020). MoUs and BLAs are an important instrument that may be used to negotiate better rights and protections for certain types of workers or occupations which are not usually covered under destination countries' domestic labour laws – for example, domestic workers.

The MDWGs (2015) made the signing of BLAs and MoUs with destination countries a fundamental pre-condition for sending migrant domestic workers, and the repeal of migration bans has on numerous occasions been conditioned on the signing of these agreements, including the latest repeal in September 2020. However, of the existing BLAs and MoUs that Nepal has signed, only one – the BLA signed with Jordan in 2017 - includes specific stipulations on the rights of migrant domestic workers. Lack of progress

in the negotiation of these instruments with specific coverage of migrant domestic workers is likely influenced in part by unequal power dynamics and negotiating power between Nepal and destination countries. However, interviews conducted for this review, as well as information published on past negotiations, suggest that policymakers have deprioritized negotiations of BLAs and MoUs regarding migrant domestic workers once at the negotiating table. On the other hand, the GoN has continually demonstrated the preference to pursue negotiations on general workers instead, who given their larger numbers are considered a greater economic priority by the State. According to various key informants, this is despite sustained interest from principle destination countries to sign specific agreements on migrant domestic workers, as well as continued willingness to make concessions on the rights afforded to migrant domestic workers due to high demand in key destination labour markets (Sedhai, 2014b; Sedhai, 2014c).

V. An intersectional analysis of migration policymaking in Nepal

Migration policy spheres are populated by a number of different stakeholder groups that hold rival ideas, values and interests regarding appropriate policy interventions, influenced by “different traditions of thought, paradigms or frames” (Boswell et al., 2011: 1). These different stakeholder groups weave together assertions regarding the characteristics, causes and consequences of migration phenomena into causal stories known as “policy narratives”, which set out “beliefs about policy problems” and their appropriate interventions (Boswell et al., 2011: 1). However, the policy narratives which prevail are not always informed or aligned with empirical realities, particularly if empirical findings do not reinforce existing perceived interests, are not dramatic or morally compelling, or not cognitively plausible. Despite increased calls for evidence-based policymaking in Nepal and around the globe in recent years, policy narratives are often not informed by research and data but are rather determined by a web of informal behaviours, deep-seated norms and values, and networks of political alliances and obligations (Bennett, 2005) surrounding gender, class, caste, race and ethnicity, as well as cultural views and assumptions regarding women’s work and mobility.

Women’s labour migration in Nepal is often conflated with prostitution, “looseness” or promiscuity (Mak et al., 2019; Kharel, 2016). Many assume that women will be sexually abused by predatory male members of their employers’ households or directly trafficked into sex work (GAATW, 2017; Kharel, 2016). While sexual abuse and sexually exploitative relationships are a concerning issue that Nepali migrant women have reported facing in destination countries, popular reference to sexual abuse of migrant women in Nepal and other origin countries tends to be drastically sensationalized and rarely informed by evidence (Kharel, 2016). The discourse that migrant women are destined to a fate of sexual exploitation abroad, without nuance or a broader understanding of the scale, the reasons or the conditions under which sexually-exploitative conditions may arise abroad, can have drastic implications on their reputations and can negatively affect their personal relationships and employment prospects upon return to Nepal (GAATW, 2016).

This stigmatization of returnee women often arises out of assumptions that migrant women are no longer *choko* (“pure”) because they are believed to have either consensually engaged in sexual activity abroad or to have been sexually abused (alarmingly, little distinction is made between the two) (Kharel, 2016). Many women who are not victims of sexual abuse struggle to convince families and communities that they were not raped while abroad (Kharel, 2016). On the other hand, those returnee migrant women who are victims of sexual assault or exploitation in destination countries often face victim blaming upon return to Nepal – for example, they may be accused of “provoking” their exposure to sexual violence by choosing to migrate in the first place. Many returnee victims may be excommunicated and / or completely cut-off from their families and communities (GAATW, 2017).

Kharel (2016) discusses how Nepali migrant women are often described and viewed as *cheli* – that is, “daughters”, “sisters” or “female pupils” - who are kin of the patriarchal Nepali state. This enables the perpetuation of policy narratives which view migrant women as helpless victims in need of protection rather than as individual citizens whose rights must be upheld. Discussions around migrant women in policy circles center around debates over whether young Nepali women are “mature” enough to

handle the stresses and challenges of overseas labour migration. At the same time, young Nepali men depart to Gulf and other destination countries to seek employment, often in dangerous and precarious occupations, yet do not face discursive limitations regarding their mobility, sexuality or maturity. The perpetual depiction of migrant women as *cheli* disregards the agency and control women exercise over their own bodies, their work and their mobility (Kharel, 2016; GAATW, 2017; Mak et al, 2019; ILO, 2015a; Piper, 2008).

These dynamics of power and patriarchy that surround female labour migration and migrant domestic workers embed themselves in state structures and directly influence governmental institutions and policy narratives and interventions. This is enabled by the fact that women's voices are rarely given adequate political representation, and their opinions and perspectives are rarely heard in policymaking spheres (Hennebry et al., 2017). Consequently, the diversity of women's experiences and women's agency in their migration process is often bypassed or ignored. Women are categorized as "victims" in need of saving rather than as equal citizens under the law whose rights must be ensured (Hennebry et al., 2017; Anderson, 2012). The products of this process are "protectionist" migration policies that restrict women's mobility and autonomy over their work, instead of equipping them with the knowledge and resources to exercise and assert their rights (Paoletti et al., 2014; GAATW, 2017; Piper, 2008).

Bans and restrictions, as well as other frameworks currently governing foreign employment for women migrant workers and migrant domestic workers in Nepal, operate on the assumption that women are safer remaining in Nepal. However, this assumption is untested and likely untrue, given high instances of sexual and domestic violence, unsafe working conditions, lack of access to society security, and continuation of practices of forced / bonded labour in Nepal (Sijapati, Limbu and Khadka, 2019). Policy interventions (including bans and otherwise) on women migrant workers and migrant domestic workers in Nepal tend to focus disproportionately on the plight of migrant women abroad without addressing the structural issues and prevailing power structures back home that are pushing women to migrate in the first place (Bosc, 2018). Migration bans subsequently shift blame to migrant women themselves, who are termed as "illegal" or "criminal" for departing without government approval, regardless of whether or not they have legal documentation and work permits for their respective countries of destination. In addition, less attention is given to the actors who are actually perpetuating abuses (labour and otherwise) against women migrant workers and migrant domestic workers – in particular, employers – nor to the asymmetrical labour relationships in origin, transit and destination countries which enable these abuses to continue in the first place.

Migrant bans in Nepal have often been justified by policymakers using an anti-trafficking discourse (GAATW, 2017; Kharel, 2016). However, conflating labour migration with human trafficking rarely generates positive outcomes in reducing instances of trafficking during transit, and instead often pushes migration toward more circuitous and complex routes, where the need to use intermediaries, including smugglers, is heightened. While not all migrant-intermediary (and / or migrant-smuggler) relationships are abusive, some are, and some of these abuses may amount to human trafficking (GAATW, 2009). There is also little attention given to the trafficking and forced labour of Nepali male migrants in policy spheres, despite the fact that they are often equally at risk of being trafficked or exploited as migrant women (Zimmerman et al., 2015). Human trafficking in Nepal continues to be seen as primarily a "women's issue" and primarily a "sexual issue".

Media also play an important role in influencing the above processes and dynamics. Media reporting on women migrant workers and migrant domestic workers in Nepal focuses disproportionately on harrowing stories of exploitation, smuggling, trafficking and sexual abuse (often with inaccuracies) while presenting little information on the positive outcomes of women's migration experiences (IOM and IASCI, 2017; Kharel, 2016; ILO, 2015a). This can create and perpetuate powerful, negative fields of "truth" around female labour migration in Nepal which can influence the ways in which policymakers view women migrants and female mobility (Hennebry et al., 2017).

Transnational dynamics also influence this process. Destination countries rely on the circular exchange of lower cost, temporary labour through guest worker programs in order to fill critical labour market gaps, while at the same time not granting access to permanent residency, naturalization or a full set of rights to

foreign workers. This forces migrants to occupy a liminal and precarious “third space” whereby they are accepted as workers but not as human beings (Hennebry, 2014; Castles and Davidson, 2000). Migration experts expect the most meaningful improvements in the rights enjoyed by migrant workers to come as a result of reforms in destination countries. However meaningful policy reform in prominent migrant destination countries in Asia has been a slow-going and often unsuccessful process. International donors often focus disproportionately on pre-migration interventions (which are not necessarily effective once migrants are in their respective destination countries), given that results are more quickly seen, and given that origin countries are often more willing to cooperate (Mak et al., 2019; Hennebry, 2014).

VI. Positions on bans and restrictions amongst expert stakeholders interviewed for the review

Below represents a summary of opinions of key stakeholders interviewed for this review regarding bans and restrictions.

- **Parliamentarians** – according to Parliamentarians interviewed for this review as well as expert stakeholders who work closely with the National Assembly and House of Representatives, the majority of Parliament, as well as members of the Parliamentary Committee currently responsible for making decisions on the matter, currently support migration bans. A smaller number of Parliamentarians are in support of immediately lifting bans. Another portion is interested in eventually repealing bans but would prefer to do so over time through a phased approach, with additional protection mechanisms in place. One Parliamentarian interviewed for this review was adamant that bans and restrictions were not discriminatory. There appears to be cross-party support for bans amongst elected officials, as well as cross-demographic support, including amongst female Parliamentarians and Parliamentarians from lower castes and indigenous and other minority groups.
- **Government ministries** – representatives from the Ministry of Foreign Affairs (MoFA) and the Ministry of Labour, Employment and Social Security (MoLESS) appeared largely in favour of lifting bans and posited that this was the official stance of their respective ministries as a whole. The National Planning Commission (NPC) did not convey an official stance. The perspectives of security-oriented government bodies, such as the army and police or the Ministry of Home Affairs (MoHA) were not consulted but may differ from the perspectives of these aforementioned social and economic sector ministries. Although not interviewed for this study, the National Human Rights Commission (NHRC) has repeatedly made public statements against migration bans and restrictions.
- **Independent gender and labour migration policy experts** – prominent independent experts interviewed for this review were overwhelmingly in favour of lifting bans and stated that gender and occupationally-restrictive migration policies were discriminatory.
- **Research institutions** – academics and heads of research institutes dealing with themes related to migration and labour interviewed for this review were in support of lifting migration bans.
- **CSOs** – CSO representatives interviewed for this study – which included CSOs dedicated to migrants rights and counter-trafficking – were overwhelmingly in support of lifting bans, which they saw as discriminatory and felt had done little to improve the rights and safety of women migrant workers and migrant domestic workers abroad (these opinions cannot be generalized to all CSOs, however).
- **UN organizations** – the staff of UN organizations interviewed for this study were in support of lifting bans. Interviewees of one UN organization were hesitant to call bans and restrictions discriminatory given that recent restrictions applied to both male and female migrant workers. Representatives at this same organization opined that while bans should be repealed, it should be done gradually over time, and with additional mechanisms put in place in order to ensure the safety of migrant women.
- **Recruitment industry professionals** – those recruitment industry professionals interviewed for this study – including heads of agencies with current authorization to send domestic workers and those not

engaged in sending domestic workers for foreign employment, as well as current and former senior officials of NAFEA – were in support of lifting bans.

- **Trade union representatives** – trade union senior officials interviewed for this study were largely in favour of lifting bans, although an informant from one trade union opined that controls should not be lifted until additional mechanisms were put in place to ensure the safety of women migrant workers and migrant domestic workers abroad.

VII. Key findings from the analysis of the policymaking process and interviews with Key Informants

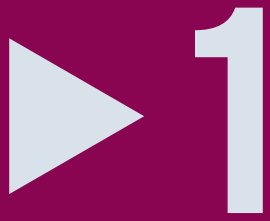
- Whereas most migrants are labelled as “undocumented” by the countries they are seeking to enter or have already entered, Nepali women migrant workers and migrant domestic workers are being afforded this status by their own country of origin / citizenship.
- The status of irregularity for women migrant workers and migrant domestic workers extends itself extra-regionally to apply to all women who left Nepal through informal channels, regardless of whether or not they are living and working legally in their respective destination countries.
- Bans and restrictions do not appear to align with democratic commitments to equal access to employment, gender equality, occupational equality, freedom of mobility and non-discrimination outlined in Nepal’s 2015 Constitution and in other national and international legal instruments.
- Bans have largely been a quick-fix solution rather than a comprehensive response to issues of exploitation, trafficking and forced labour. The State’s responses have largely been *ad hoc* and incident-based, responding to strong external shocks rather than long-term institutional needs.
- While acknowledging that destination countries have a greater responsibility in addressing abusive labour relationships between employers and women migrant workers and migrant domestic workers, many commitments that Nepal has made to improving the rights and resources available to women migrant workers and migrant domestic workers outlined in the FEP (2012), FEA (2007), MDWGs (2015) and the National Employment Policy (2016) remain unimplemented.
- Bans and restrictions have not prevented women from migrating – in fact, female labour migration has increased while bans have been in place.
- Bans and restrictions demonstrate that a women’s right to migrate and seek employment has not yet been accepted as an inalienable right in Nepal.
- Many ministerial officials and elected politicians are now aware that migration bans are ineffective and increase vulnerability and exploitation of women migrant workers and migrant domestic workers, but do not want to repeal bans out of fear of political implications for themselves / their political parties.
- There is cross-sectoral support for lifting bans amongst different stakeholder groups interviewed for this review.
- Bans and restrictions have been implemented without public consultation and with minimum transparency and information disseminated.
- Frequent changes in policy approaches (including bans) demonstrate that decision-makers lack a long-term, institutionalized plan for women migrant workers and migrant domestic workers (Pyakurel, 2018).
- Migration bans have allowed for formal and informal actors to reap additional profits off of the illicit recruitment and transport of migrant women for jobs in domestic work abroad. This has extended to

officials at the Tribhuvan International Airport in Kathmandu and employees of certain government bodies.

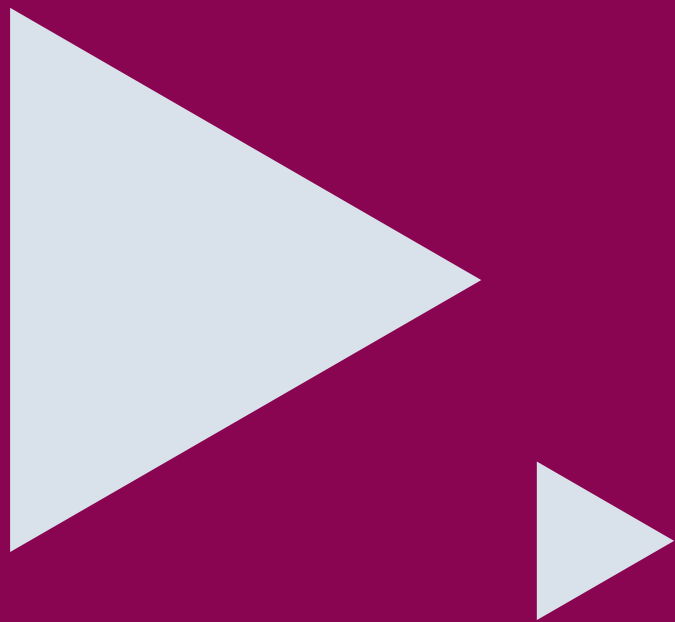
- ▶ Efforts to stop women from migrating along the Indo-Nepal border and at airports in India have not been successful and have instead pushed the migration process / informal routes further underground.
- ▶ The State has made repeal of bans dependent on the negotiation of BLAs and MoUs – but has thus far deprioritized the negotiation of these agreements with specific regard to women migrant workers / migrant domestic workers, demonstrating preferences for BLAs and MoUs on general workers instead.
- ▶ Bans have often been justified due to a lack of resources in Nepal’s diplomatic missions abroad to handle the volume of complaints filed by women migrant workers and migrant domestic workers. However, despite these statements, Nepal has made little progress made in improving financial, training or human resources at its foreign diplomatic missions.
- ▶ There is not always a clear understanding amongst policymakers about why / how migration bans are discriminatory.
- ▶ There is a general tendency in migration policymaking spheres to make decisions without consulting empirical evidence, without adequate study and appropriate rationale.
- ▶ As a result of women seeking migration through informal channels, there is a lack of knowledge on the whereabouts, job conditions, living conditions and general wellbeing of women migrant domestic workers. This makes it more difficult to respond to and understand the needs of migrant women abroad (including in times of crises such as the global pandemic caused by COVID-19).
- ▶ The abuse of women also occurs in Nepal. However, narratives in migration policymaking spheres in Nepal continue to attach to stories of abuse and exploitation in destination countries while neglecting to address or pursue origin-side interventions that would address the exploitation and vulnerabilities that Nepali migrant women face back home.
- ▶ The voices of migrant women themselves have systematically been left out of policy discussions, and very few efforts have been made to reconcile this gap.
- ▶ Mid-level and senior-level government officials and Parliamentarians act as “moral guardians” of migrant women and their families and assume the paternalistic role of “protecting” the female kin, or *cheli*, of the Nepali state.
- ▶ Migrant women who do choose to migrate in circumvention of migration bans are characterized as untrustworthy, as criminals or as “illegal”, and undeserving of the rights and protections of the State.
- ▶ Age bans and other age restrictions – e.g. the age bans of 2012, or the persistent age minimum of 24 – sexualize and infantilize migrant women and call the maturity of women into question, whereas young migrant men depart the country in the hundreds of thousands, uninhibited by the same discourses.
- ▶ Meaningful policy reform has been hindered by frequent changes in government and frequent turnover of Government Ministers and Secretaries. Officials with limited experience working in migration and foreign employment matters are often appointed to key decision-making positions where they subsequently implement policies and frameworks in absence of strong regulatory expertise.
- ▶ Unnuanced media reporting has contributed to the perpetuation of predominantly negative (and skewed) notions and beliefs on women’s work and mobility and has informed protectionist approaches in migration policy spheres.

VIII. Key recommendations

- ▶ Repeal and depoliticize bans and restrictions on migration – recognizing that the safety and wellbeing of women migrant workers and migrant domestic workers should be prioritized above concerns over political risks or over how the repeal of bans will affect the images of individual politicians and of political parties;
- ▶ Focus on the promotion and advancement of decent working conditions for women in Nepal in order to reduce pressures to migrate;
- ▶ Conduct a conference on female labour migration and migrant domestic work with a diverse array of stakeholders present;
- ▶ Design and implement a new Plan of Action on female labour migration and migrant domestic work with one-year, five-year and ten-year goals;
- ▶ Incorporate the voices and opinions of migrant women in the policymaking process;
- ▶ Pursue further bilateral and multilateral cooperation on women migrant workers and migrant domestic workers with other origin countries in the region;
- ▶ Pursue further negotiation of BLAs and MoUs on women migrant workers / migrant domestic workers and ensure that adequate monitoring and implementation mechanisms are in place;
- ▶ Improve information dissemination and awareness-raising campaigns on labour migration and the foreign employment process, including campaigns that specifically target women;
- ▶ Improve the safety of women migrant workers and migrant domestic workers once abroad;
- ▶ Enhance access to justice and compensation at home;
- ▶ Reform procedures and approaches to managing and implementing counter-trafficking and counter-smuggling laws and initiatives, including establishing a set of SOPs on trafficking and smuggling, and training judicial and law enforcement in identifying and assisting victims;
- ▶ Change the language used to describe migrant women and shift away from pejorative terms such as “illegal”, “undocumented”, “pathetic” or “irregular”;
- ▶ Design and implement a new Foreign Employment Policy (FEP) which adequately accounts for the desires and necessities of migrant women;
- ▶ Sign and ratify key international instruments which ensure for the rights of women migrants and migrant domestic workers, reform domestic laws on trafficking and foreign employment in line with international standards and with adequate consideration of gender, and introduce new legal frameworks on anti-discrimination, women’s work and care work;



Overview



1.1 Introduction

Labour migration in Nepal has for decades been a major source of revenue and an important conduit for economic growth, not only for individual migrants and families but for the government and state apparatuses as well. The sending of workers for foreign employment became increasingly prominent in Nepal after 1985, with the signing of its first Foreign Employment Act and gradual democratization thereafter, which led to open market policies and opened up the transnational recruitment industry to a number of private-sector actors. Over time, out-migration for employment has been driven by structural shifts in Nepal's predominately agrarian economy (including reduced public investment in agriculture and rising costs of agricultural inputs), as well as conflict and instability arising from the country's 10-year Civil War (1996 – 2006). Particularly since the turn of the century, migrating for employment has now become an intrinsic aspect of life for a vast proportion of Nepali households (Sijapati and Limbu, 2017). Nepal has the highest proportion of overseas workers per capita of any South Asian³ country (Paoletti et al., 2014).

Migrant remittances peaked at over 31 per cent of Nepal's GDP in 2015 and still made up over 28 per cent of GDP in 2018 (World Bank, n.d.a.). Nepal consistently falls within the top five countries that receive the highest amount of remittances (as a percentage of total GDP) in the world (Ratha et al., 2019). Remittance inflows equate to roughly three times the size of net Official Development Assistance (ODA) that the country receives (World Bank, 2017). Approximately one-third of Nepali households have one member currently living and working abroad, and roughly half of households have at least one member who has migrated (IOM, 2019a; Sijapati and Limbu, 2017). The World Bank has determined that socioeconomic progress for households with at least one migrant occurred nearly twice as rapidly when compared with households without any migrant members between 2000 and 2009 (IOM, 2019a). The accumulated wealth from overseas labour migration of Nepali citizens has had broad-scale impacts on the country's overall development and represents one of the largest sources of liquidity in Nepal, while providing viable alternative livelihood and employment opportunities and relieving supply pressures in Nepal's domestic labour market (ILO and GiZ, 2015; IOM and IASCI, 2017).

The majority of migrant workers – both men and women – are lower- and semi-skilled workers on temporary contracts (typically between two and five years) placed by labour recruitment intermediaries in jobs in Gulf countries, and in smaller numbers in other countries in West Asia and certain destinations in East and South-East Asia – mainly Malaysia, Hong Kong and South Korea. In the early stages, overseas employment was mainly dominated by men. However, outflows have become increasingly feminized over time, in light of rapidly changing gender and cultural perceptions and practices as well as Nepali women's increased access to the necessary resources in order to migrate (Sijapati and Limbu, 2017).

Nevertheless, the number of Nepali women migrating for employment – at least, amongst those registering for migration through formal channels – has been significantly less when compared with men (MoLESS, 2020). This is due in part to active and passive restrictions that numerous State entities have pursued on women's right to migrate (e.g. by placing restrictions on women's access to passports or requiring that women obtain permission from male guardians) prior to 1998, as well as subsequent on-again and off-again bans applicable to all women or specific sub-groups of women migrant workers and migrant domestic workers (the majority of whom are women) over the past two decades. Social and cultural stigma toward women's migration and mobility and work outside of the home has also served to limit the number of women seeking foreign employment in past decades and continues to limit women's access and participation in migration to this day (ILO, 2015a; GAATW, 2017).

However, given stigma and various policy restrictions, official data in Nepal do not portray an accurate picture of the size and scale of women's labour out-migration. Anecdotal figures estimate that women migrant workers could constitute as much as 30 per cent of total outflows of migrant workers from Nepal and that as many as 80 to 90 per cent of migrant workers leaving Nepal through informal channels are women (Mak et al., 2019; ILO, 2015a; Paoletti et al., 2014). Nowadays, the majority of Nepali women

³ For the purposes of this review, South Asia refers to the Asian sub-region consisting of the following eight countries: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

migrant workers abroad are employed as domestic workers in UAE, Qatar, Saudi Arabia, Kuwait, Lebanon, Hong Kong, Jordan, Malaysia and Israel (MoLESS, 2020; Gioli et al., 2018, IOM, 2019a). Most women migrant workers / migrant domestic workers are from lower social and economic strata and possess very minimal levels of education, and many are illiterate (GAATW, 2017). The majority of women migrant workers and migrant domestic workers who migrate overseas originate from rural areas and consist of predominantly lower-caste women from Hill and Tarai districts (MoLESS, 2020).

Nepal is classified as a least developed country (LDC) by the UN Committee for Development Policy (FAO, 2019). Roughly a third of the population lives in multidimensional poverty and nearly 12 per cent live in severe multidimensional poverty (UNDP, 2019). The country has established the ambitious goal of graduating from its LDC status to “developing country” status by 2030 (IOM, 2019a). The immense scale of out-migration in Nepal, combined with ongoing precarity in economic situations and livelihoods for millions of Nepali households, absence of decent work opportunities for Nepali citizens domestically and ambitious future development plans demonstrate why effective, evidence-based migration policymaking that achieves equitable outcomes and maximizes development potential – for both men and women – is fundamental.

However, the impact of such large-scale migration on origin societies may also point to apparent paradoxes or normative dissonances in policy outputs. This is particularly the case when countries like Nepal attempt to restrict or end the migration of certain groups – in this case, women – due to perceived inconsistencies with domestic values, objectives or attitudes (Ghosh, 2009), at the same time that they appear to be significantly dependent on a form of ‘remittance-based development’ contingent on large numbers of both male and female migrants departing each year (Castles and Delgado Wise, 2008; Watkins and Nurick, 2002; Chami, 2008). Over the years, a number of policies and regulations have been introduced which have made legal migration channels inaccessible to women. The most recent bans and restrictions were issued in 2012, in 2014 and again in 2017, reportedly in response to highly publicized cases of trafficking, exploitation and abuse of Nepali women migrant domestic workers in transit to and while working in Gulf countries. Despite restrictions, bans have been found to have little impact in deterring women migrant workers from migrating. ILO’s initial study of migration bans published in 2015 found that most migrant women interviewed were determined to leave regardless of any restrictions in place, even if they have to do so through informal channels (ILO, 2015a). In order to do so, the majority of women migrant workers over the years have been known to either leave Nepal across the open border with India and depart from international airports in Delhi, Mumbai and Chennai, India (amongst others); from Dhaka, Bangladesh; or from locations even farther afield (ILO, 2015a; Pyakurel, 2018; IOM, 2019a; Kharel, 2016). Other migrant domestic workers are known to depart irregularly from Nepal’s Tribhuvan International Airport – the only authorized port of exit for migrant workers – on tourist or other non-work visas (Paoletti et al., 2014).

Issues in the recruitment and foreign employment industry are multi-faceted and extend far beyond migration bans and restrictions. While bans and restrictions have led to increased migration through informal channels, migration through formal channels in Nepal and throughout South Asia does not guarantee safety for migrant workers nor prevent them from facing exploitation (Zimmerman et al., 2015). The foreign employment registration process is often gender-blind and does not account for the stigma surrounding female labour migration in the country. Consequently, those women who are legally able to access the labour permit application process still risk criticism or reproach from families, communities and administrative officials.

Nevertheless, restrictive emigration regimes have been shown to exacerbate legal and protection shortcomings in the foreign employment industry for women migrant workers and migrant domestic workers and contribute to their further marginalization and vulnerability. Combined with structural social stigma and discrimination which has driven female labour migration into hidden corners of the foreign employment process, migration restrictions have prevented women from availing of mechanisms such as pre-departure trainings, insurance and welfare fund schemes, while increasing their dependency on informal recruitment intermediaries in spaces where information on safe migration is not always readily available (ILO, 2015a; Paoletti et al., 2014; GAATW, 2017; Mak et al., 2019; Pyakurel, 2018). Bans

have inhibited women's access to redress and retribution mechanisms in the event of abuse, and most importantly, have accomplished little in improving their living and working situations once abroad (Ibids). Migrant and human rights organizations both within Nepal and abroad have also repeatedly decried bans and restrictions as violating key national and international human rights frameworks, including commitments to freedom of movement, gender equality, employment and non-discrimination in the country's 2015 Constitution (ILO, 2015a; FWLD, 2018; UN OHCHR, 2018).

Migration bans in Nepal are often justified using an anti-trafficking discourse (GAATW, 2017; Kharel, 2016). However, conflating labour migration with human trafficking rarely generates positive outcomes in reducing instances of trafficking during transit, and instead often pushes migration toward more circuitous and complex routes, where the need to use intermediaries, including smugglers, is heightened. While not all migrant-intermediary (and / or migrant-smuggler) relationships are abusive, some are, and some of these abuses may amount to human trafficking (GAATW, 2009).⁴ On the other hand, women who are willingly and voluntarily migrating without coercion or exploitation are often misidentified as trafficking victims simply by crossing the Indo-Nepali border either alone or in groups with other migrant women. Some of these women are then "rescued", or rather, returned back to Nepal against their will (Kharel, 2016).

As opposed to most migrants around the world in an irregular situation who are afforded this status by the destination countries they are seeking to enter or have already entered, irregularity and the condition of being undocumented is being conferred upon Nepali women migrant workers within their own country of citizenship / origin. This status extends itself extra-regionally to apply to all women who left Nepal through informal channels, regardless of whether or not they are living and working legally in their respective destination countries.

Despite these realities, Nepal has yet to repeal bans or critically reform its protectionist migration and foreign employment policy regime for Nepali women migrant workers and migrant domestic workers. While the country has taken significant steps in making migration safer, more transparent, better managed, systematized, and more convenient and accessible, this review will show how many of these reforms have not encompassed the needs of Nepali women. Instead, bans have often served as a "quick-fix" solution in place of more meaningful policy reform in the realm of female labour migration and migrant domestic work, while neglecting to acknowledge the strength of social and economic differential exclusion and deprivation affecting Nepali women domestically which are pushing them to migrate in the first place.

In light of these dynamics, this review commissioned by the ILO for the FCDO-ILO *Work in Freedom (WiF)* Programme relies on secondary research and key informant interviews with experts involved in the policymaking process, in order to reconstruct an extensive timeline of bans and restrictions on women migrant workers and migrant domestic workers and present an in-depth analysis of the overall framework governing foreign employment for these groups, including on closely related thematic areas of forced labour, exploitation, anti-trafficking, anti-smuggling, gender and non-discrimination.⁵

This review addresses a significant research gap by adopting an intersectional conceptual framework on policymaking in Nepal which explores how policy narratives and interventions on migrant women and migrant domestic workers are influenced by gender, class, caste, race and transnationality, to explain why these regulations were devised in the first place, and why they continue to be (re)implemented. This interpretive approach to policy analysis will look at the "framing and representation of problems and how policies reflect the social construction of 'problems'" (Browne et. al, 2018: 1032), enabling an exploration of how and why migration bans have been enacted, and the values, interests and political contexts which

4 Although, migrating through regular channels does not protect migrants from falling victim to exploitation (Zimmerman et al., 2015).

5 This review benefited from previous unpublished research by the author: McCarthy, M. (2019). *Reconstructing and analysing dominant policy narratives and processes preceding the implementation of outright or partial bans and restrictions on the departure of women migrant workers (WMMs) from Nepal and Sri Lanka* [Master's thesis, London School of Economics and Political Science (LSE) (unpublished)].

have underpinned policy narratives and informed principal knowledge claims employed by implementing actors in order to justify these interventions.

In realizing this analysis, this review will demonstrate that the recurring use of bans and restrictions, despite empirical evidence that they are ineffective, results from prevailing patriarchal norms, ideas and beliefs in policy spheres about work, women and migration that have not been sufficiently challenged. The ILO commissioned this review in the hope that it will support Nepal in reforming its migration governance approach in regard to women migrant workers and migrant domestic workers, in order to enable informed migration decisions and support the construction of safer migration pathways for migrant women that respect their security, dignity and wellbeing and which allow them to enrich their own lives, the lives of their families, and communities back home. In pursuit of these objectives, it is also hoped that Nepal will support its trajectory toward fulfilment of the 2030 Sustainable Development Goals (SDGs), which include a number of commitments related to labour migration and the rights of migrant workers. Ensuring poverty reduction and fulfilling Nepal's greater development agenda will not be possible without the successful engagement with and participation of Nepal's women and girls (IDPG Nepal, 2017). However, women's roles as key development agents will be limited without gender-sensitive development policies, including gender-sensitive migration policies that view women as rights-holders whose rights need to be ensured, rather than as victims who need to be protected. These are the dynamics which will be explored throughout this report.

1.2 Background on *Work in Freedom (WiF)*

This review was undertaken as part of ILO's *Work in Freedom (WiF)* Programme, a ten-year development cooperation project that started in 2013 and is funded by the UK Department of International Development (FCDO), or UK Aid. The Programme adopts an integrated and targeted approach in developing practices and multi-sectoral policy measures to promote empowerment and education, and support better recruitment practices and policies enabling decent work for migrant women in South and West Asia. The Programme also aims to identify and create tools that will reduce vulnerability of women and girls to forced labour in countries of origin - Bangladesh, India and Nepal - and in selected destination countries, including India, Jordan, Lebanon and some Gulf countries. Interventions until this point have included: (1) law and policy initiatives; (2) assessments and piloting of recruitment practices; (3) worker empowerment interventions; (4) employer advocacy; and (5) research.

In Nepal, the WiF Programme works in close coordination with the Ministry of Labour, Employment and Social Security (MoLESS) and partners with central trade unions, Local Government Units, the Nepal Association of Foreign Employment Agencies (NAFEA), and partner organizations such as WOREC in Morang, POURAKHI in Dolakha and Chitwan, and Agroforestry, Basic Health and Cooperative (ABC) Nepal in Rupandehi. The ILO Country Office in Nepal, alongside partners, has focused on interventions that strengthen migrants' understanding of their own rights in the context of patriarchy, mobility and work. In addition, the Programme has worked to strengthen the capacity of local and regional groups and institutions to better guarantee labour mobility and livelihood options.⁶

1.3 Study setting

One of the principal causes and risk factors for forced labour and trafficking identified through WiF-led research until this point is restrictive and gender-insensitive migration policies. These include restrictions on movement in the form of bans and restrictions on the departure of women migrant workers and migrant domestic workers from origin countries to seek foreign employment.

⁶ Additional information on ILO WiF's background, project strategy, geographic coverage, key partners as well as country-level briefs for Nepal and other participating Member States, may be located [here](#). (ILO, n.d.a) [accessed 04 Mar. 2020]. See also, the brief *Work in Freedom – Preventing trafficking of women and girls in South Asia and the Middle East: Promoting education, fair recruitment, safe migration and decent work* (ILO, 2013) as well as the *Brief on Work in Freedom Programme in Nepal: Women and girls on the move in Nepal* (ILO, 2016a) and *Lessons learned: by the Work in Freedom Programme* (ILO, 2019).

Nepal has implemented, repealed and re-implemented various bans and restrictions on the migration of women migrant workers and / or migrant domestic workers since 1998, the year in which all women migrant workers were first banned from migrating to Gulf Cooperation Council (GCC)⁷ countries following the highly-publicised death of a domestic worker, Kani Sherpa, in Kuwait. Over subsequent years, total bans or restrictions on certain countries, occupations and / or ages have been implemented and repealed under the auspices of protecting migrant domestic workers / women migrant workers from exploitation and abuse abroad.

A growing range of empirical studies and advocacy efforts on the behalf of CSOs, UN organizations and certain governmental bodies have argued the bans to be ineffective in preventing women and / or domestic workers from migrating, while forcing them into informal migration channels and failing to reduce their risk of facing trafficking, forced labour and other forms of exploitation.

In September 2019, MoLESS, in consultation with Nepal's foreign missions and upon instruction from the Nepal Parliamentary Committee of Industry, Commerce, Labour and Consumer Interest (CICLCI) lifted the ban on re-entry of migrant domestic workers. This action granted certain migrant domestic workers a re-entry permit, allowing them to legally return to Nepal to visit and then return to the same destination country / job after their visit (albeit only if they had originally migrated with approval from the Nepali government).

Members of the aforementioned Parliamentary Committee, accompanied by representatives of MoLESS and its Department of Foreign Employment (DoFE), as well as the Nepal's National Human Rights Commission (NHRC), then sent a delegation to three Gulf countries – Oman, UAE and Saudi Arabia – to reassess the situation for migrant domestic workers in early March 2020. Following consultations regarding bans and restrictions, as well as other frameworks related to women migrant workers and migrant domestic workers, the Committee requested that the Government repeal the 2017 ban in September 2020, subject to seven conditions including the signing of BLAs with all destination countries, the existence of separate labour laws, and mandatory training of migrants before starting work.

Whilst the relaxation of the ban is an important first step, meeting the seven conditions prescribed by the Parliamentary committee will be difficult however. Of the existing BLAs and MoUs that Nepal has signed, only one – the BLA signed with Jordan in 2017 - includes specific stipulations on the rights of migrant domestic workers. Lack of progress in the negotiation of these instruments with specific coverage of migrant domestic workers is likely influenced in part by unequal power dynamics and negotiating power between Nepal and destination countries. However, interviews conducted for this review, as well as information published on past negotiations, suggest that policymakers have deprioritized negotiations of BLAs and MoUs regarding migrant domestic workers once at the negotiating table, with the GoN continually demonstrating a preference to pursue negotiations on general workers instead, who given their larger numbers are considered a greater economic priority by the State.

The review welcomes the decision to lift the ban. However, while the ban may have been lifted, other barriers have not been removed. Many of the preconditions cited are regurgitations of past commitments that the State has already made - for example, in the 2015 Migrant Domestic Worker Guidelines - that have never come to fruition. Given that many destination countries still do not have comprehensive laws in place for migrant domestic workers, and the lack of success in the past in making pre-departure trainings accessible to migrant women and migrant domestic workers, as well as continual delays in the negotiation of BLAs and MoUs on these workers with key destination countries, there is a legitimate risk that lifting of the bans remains merely a discursive commitment without meaningful implementation. In addition, the preconditions that were given do not appear to negate the long-term, structural, socioeconomic, geographic and cultural limitations in Nepal that, whether a ban is in place or not, have drastically limited women's access to formal migration channels for decades. The review suggests that the lifting of bans

⁷ The Gulf Cooperation Council (GCC) is a regional intergovernmental organization comprised of six Member States – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE).

also be accompanied by widespread reforms that make the foreign employment process more gender-sensitive and administratively, geographically and financially accessible to migrant women.

1.4 Structure of the report

The following section 2 of this report will outline this review's methodology, including the scope and rationale of the review, the sources of data used to answer the principal research questions and the main limitations. Section 3 provides an in-depth background on female labour migration and migration of domestic workers from Nepal, including historical and current data and trends, socio-economic conditions, key migration drivers, the current recruitment process and conditions for migrant domestic workers (specifically, women migrant domestic workers). Section 4 will provide a brief analytical framework focused on the intersectionality between policymaking, gender, class, patriarchy and transnationality in Nepal and their influence on the form and function of migration bans until this point.

Sections 5 and 6 of this report will present the main findings of the primary research conducted for this review, derived from Key Informant (KI) interviews with key stakeholders (governmental and otherwise) in Nepal. Section 5 will: (1) reconstruct a detailed timeline of bans and restrictions over the past two decades; (2) identify the key stakeholders involved; (3) pinpoint the main policy narratives and knowledge claims employed by actors in order to justify bans and other policy interventions related to women migrant workers and migrant domestic workers; (4) analyse how dynamics related to informal norms and value systems in Nepal related to gender, class, caste, race and ethnicity have influenced the framing of policies related to women migrant workers and migrant domestic workers; and (5) explore how these dynamics have changed over time. Section 6 will present the main opinions of interviewed stakeholders on migration bans and female labour migration, and will access expert stakeholder knowledge in order to assess: (1) the nexus between foreign employment policies, anti-trafficking and anti-smuggling initiatives; (2) current and future objectives of the Nepal government on foreign employment policies; and (3) the implications that COVID-19 has and will continue to have on the foreign employment industry and on women migrant workers and migrant domestic workers. Section 6 will also provide summaries of in-depth documentary conversations conducted with returnee women migrant domestic workers, including their opinions and experiences navigating migration bans, and connecting these documentary interviews to the research base. Section 7 will provide key high-level observations derived from the findings of this review.

Finally, section 8 of this report will present conclusions of the review and will provide a set of key policy recommendations for governmental and other stakeholders moving forward. These recommendations will center on alternatives to migration bans which will assist in the creation of regular, and more importantly, *safer* migration pathways for those women migrants and migrant domestic workers who choose to seek employment abroad, while respecting their safety, dignity and wellbeing and allowing them to enrich their own lives, the lives of their families and communities back home. Annex A of this report provides a list of definitions for key terms used throughout this report. Annex B outlines the key informants interviewed for this review. Annex C discusses broad dynamics of the legal foreign employment recruitment process in Nepal, while Annex D gives an in-depth overview of key domestic and international policies and frameworks governing migrant domestic work, women's mobility and associated thematic areas (including trafficking, forced labour, national labour laws and more). Annex E presents a write-up of in-depth documentary conversations conducted with returnee women migrant workers.

1.5 Reconstructing a timeline of bans and restrictions

This sub-section will present a key timeline of events related to bans and restrictions on foreign employment for women migrant workers and migrant domestic workers since 1998.

TIMELINE OF BANS AND RESTRICTIONS ON THE DEPARTURE OF WOMEN MIGRANT WORKERS AND / OR MIGRANT DOMESTIC WORKERS FOR FOREIGN EMPLOYMENT FROM NEPAL, 1998 - 2020



November 2009

New ban on migration to Lebanon

Despite having briefly reopened channels in May of 2009, Nepal bans domestic workers from migrating to Lebanon again following a number of high-profile suicides.

May 2011

Full reopening for all countries / occupations

Nepali women are given permission to seek foreign employment in any destination country without restrictions based on occupation.

April 2014

No new permits issued

The GoN stops issuing labour permits for all women migrant workers migrating for domestic work, although women who have already obtained permits for domestic work abroad are allowed to depart.

2014 – 2015

New directive on domestic workers

The GoN consults migration experts, UN organizations and CSOs and assesses the situation for migrant domestic workers during 2014-2015. In 2015, the Government signs a new 'Directive on the Management of Sending Domestic Workers for Foreign Employment' in preparation for lifting of bans. The new Directive outlines a number of strict new requirements that must be fulfilled before women may be sent for foreign employment in domestic sectors abroad.

Early 2017

Reconsideration of policies for migrant domestic workers

By the beginning of 2017, elected officials begin engaging in discussions to impose a new ban. The Parliamentary International Relations Committee sends a delegation of members to Kuwait, Qatar, UAE and Saudi Arabia to assess the situation for Nepal's migrant workers, including women migrant domestic workers.

December 2010

Migration to the Gulf reopened

Nepal decides to lift bans on female labour migration to Gulf countries, including for migrant domestic workers, in combination with new protective measures including mandatory pre-departure trainings, and additional legal assurances from employers.

August 2012

'Age ban' introduced

The "window period" of open migration for women ends with the introduction of new restrictions prohibiting any women 30 years of age and under from migrating as domestic workers to Gulf countries. These new restrictions reportedly came as a result of continued highly-publicized cases of abuse and suicide of Nepali women migrant domestic workers, concerns that underage girls were migrating with falsified passports and pressure from Nepal's embassies abroad.

September 2014

Global 'total ban' imposed

After the 2012 'age ban' was determined ineffective, Nepal issues a total ban prohibiting women from migrating for domestic work, regardless of destination country. This measure was reportedly temporary while new policies were devised.

May 2016

Bans lifted and new requirements in place

The State reopens foreign employment for women migrant domestic workers aged 24 and over to Gulf countries, with additional protection mechanisms put in place.

March 2017

A new total ban

Following the delegation visit to Gulf destination countries, the Parliamentary committee submits a report instructing that MoLESS to reintroduce a ban on foreign employment for all migrant domestic workers (men and women). The ban is issued with the stipulation that domestic workers will only be sent to countries with which Nepal has signed a bilateral labour agreement (BLA) or memorandum of understanding (MoU).

October 2017

Migration to Jordan for domestic work reopened

The GoN begins issuing labour permits for migrant domestic workers for employment in Jordan following the signing of a BLA between the two countries.

September 2019

Re-entry ban lifted

The Parliamentary Committee of Industry, Commerce, Labour and Consumer Interest instructs the GoN to begin allowing certain Nepali migrant domestic workers to apply for re-entry permits, allowing them to legally return to Nepal for visits and return to the same destination country / job afterward to continue their employment. This decision comes as a result of a number of news stories highlighting the inability of tens-of-thousands of Nepali workers abroad to return to Nepal out of fears of losing their jobs, as well as pressure from international organizations and civil society.

September 2020

Repeal of the 2017 ban

Following visits by the delegation to key destination countries, at the end of September the Parliamentary committee recommended that the Government repeal the 2017 ban, subject to seven conditions. As with previous ban relaxations, one of these is that Nepal and the destination country must have a bilateral agreement. Destination countries should also have separate, specific labour laws ensuring the protection and rights of workers. Women migrant workers are also required to take part in mandatory training before departure, and should have a solid understanding of the local culture, language, and job requirements.

Early - Mid 2019

Pressure to reform policies on migrant domestic workers

Domestic and international human rights actors continue pressuring decision-makers to lift bans on migrant domestic workers in 2019. The Nepal Human Rights Commission (NHRC) publishes a report in July recommending repeal, pointing out that bans were making migrant women more vulnerable to trafficking and exploitation.

February - March 2020

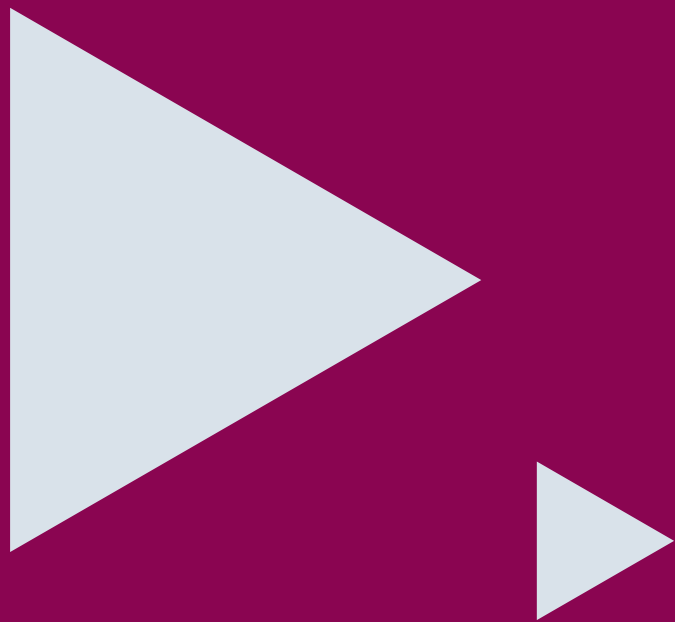
Updated assessment of bans

In February, representatives of the Parliamentary Committee of Industry, Commerce, Labour and Consumer Interest begin meeting with stakeholders to discuss reforming policies on migrant domestic workers. The Committee sends a new delegation of members, accompanied by representatives of MoLESS, the Department of Foreign Employment (DoFE) and the NHRC to three Gulf countries - Oman, Saudi Arabia and UAE - to reassess the situation for Nepali migrant domestic workers in early March.

Sources: Own calculations; Pyakurel, 2018; ILO, 2015a; Kharel, 2016; MoLESS, 2020; Bhadra, 2007; Thieme, 2006; van der Velde and van Naerssen, 2016; Coburn, 2018; Jain and Oommen, 2017; Rajan, 2016; Kumar Mandal, 2019; Timothy and Sasikumar, 2012.

▶ 2

Methodology



2.1 Scope and rationale

The present study, conducted between February and June 2020, serves as an updated review of policies and regulatory frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers, with a specific focus on migration bans and restrictions.

While this review will touch on elements of policy impacts and outcomes in order to build off of past studies produced by international organizations (IOs), civil society organisations (CSOs), academic experts and the ILO (in particular, *No Easy Exit: Migration Bans Affecting Women from Nepal*)⁸, this review addresses an important research gap by focusing instead on the policy formulation phase itself. This entails identifying and characterising the ways in which stakeholders (governmental and otherwise) in Nepal formulate policy narratives, negotiate policies and regulations and invoke knowledge claims in order to justify regulatory and policy interventions related to women migrant workers, migrant domestic workers and associated thematic areas (e.g. anti-trafficking frameworks, frameworks combatting forced labour, elements governing domestic work and its form and function, and more). It also focuses on the role and perspectives of non-governmental actors that are engaged in these processes.

Findings from this review are designed to enhance the evidence base surrounding labour migration for Nepali migrant domestic workers, but also inherently for all women migrant workers, recognizing that migration for domestic work from Nepal is inherently a gendered phenomenon undertaken in large part by women migrants. This review is also designed to understand the drivers for migration bans and understand the ongoing concerns of stakeholders in support of or against these restrictions, while analysing a pathway of alternative policy mechanisms that would ensure the agency, safety and wellbeing of migrant domestic workers and their families. A portion of this review will also focus on highlighting some of the potential benefits and positive outcomes that can result from migration for domestic work, in order to counter-balance some of the more negative dynamics and outcomes of this phenomenon that are often disproportionality highlighted in media and other public spheres (Kharel, 2016).

This report presents findings to the below research questions explored in this review:

Research Questions

1. What are the prevailing norms, ideas and beliefs in policy spheres about work, women and migration in Nepal, and how do these impact the willingness and / or lack thereof to reform bans on migrant domestic workers;
2. Who are the parties that maintain support for, or backed repeals of, bans and restrictions and how can they be characterised (e.g. along social, demographic, political lines)?
3. What are the outstanding concerns that stakeholders have and what are the plans to address these concerns?
4. To what degree do the perspectives of key stakeholders align with empirical (research) findings until this point and how is research used to inform policymaking?
5. What progress has been made in the negotiation and implementation of bilateral and multilateral tools – such as Memoranda of Understanding (MoUs) or Bilateral Labour Agreements (BLAs) – and what are their impacts on restrictions for overseas employment of migrant domestic workers?
6. What, if any, transnational dynamics affect domestic processes and negotiations of these restrictions?

⁸ The ILO undertook the evaluation, *No Easy Exit: Migration Bans Affecting Women from Nepal* in 2014 alongside the Global Alliance Against Trafficking in Women (GAATW). This evaluation analyzed migration restrictions in place at that time on women migrant domestic workers under 30 years of age and explored whether these age bans deterred younger women from migrating, as well as whether bans had any effect on improving working conditions of migrant women abroad. This report may be located [here](#). [accessed 02 Mar. 2020].

2.2 Sources and tools for data collection and analysis

Data were collected from two distinct tools, outlined below:

Documentary research

This portion of the review involved the analysis of secondary research derived from a limited range of documents produced by academics, international organizations and government ministries regarding women migrant domestic workers, as well as the bans and restrictions in question. This portion also entailed an analysis of primary documents, including the limited range of public government records and official Circulars available regarding the bans. However, obtaining official information on Parliamentary or other government proceedings, as well as the outcomes of legislative debates and positions of key actors in Nepal is difficult. To close information gaps, primary media sources were consulted, given that policy developments are frequently disseminated through popular media outlets.

► Box 2.1: Documenting stories of returnee women migrant workers

Outside of data collection, research findings were paired with the realization of a small number of in-depth documentary case study conversations with 11 returnee women migrant workers who had previously been employed as domestic workers in West Asia (the summaries of these interviews may be located in Annex E). Given the small sample, research conclusions cannot be drawn from this exercise. Conversations were not designed to establish causality links nor to be representative of the phenomenon of foreign employment for migrant domestic workers. Some of the stories are connected to the research base when possible (see section 6.3).

Instead, documentary conversations are intended to highlight the stories of individual migrant women, their experiences abroad and their perspectives regarding social, cultural and policy structures influencing their migration experience. This work supports existing explorations that the ILO and other organizations have realized in documenting the individual lives and experiences of Nepali women migrant workers, including Migrant Forum in Asia's [Nepal: A documentary on the role of sub-agents in the recruitment of migrant workers](#), ILO's [Nepal: Labour migration should be a choice](#), GAATW's [Justice denied: Stories of Nepali migrant women workers](#), or UN Women's [A returned migrant woman in Nepal finds a new start](#). For a more robust, research-based study of the experiences of Nepali migrant women, reference ILO's [first study of Nepal's migration bans](#), which consulted the experiences of over 100 women migrants.

Those returnee migrant women that the ILO spoke to during this project were selected with the aim of contacting individuals from different social, demographic and migration characteristics (including varied regions of origin, countries of destination, repeat vs. first-time migrants, marital status, etc.). The ILO partnered with two prominent non-governmental organizations (NGOs) – [WOREC Nepal](#) and [POURAKHI Nepal](#) – for this documentary exploration. Both NGOs assisted in locating and contacting individuals, conducting and transcribing conversations (in Nepali) and translating these into English. Conversations were conducted with five women located in Morang district and six women located in the Kathmandu valley (originating from various regions of Nepal). Only women who were not currently residing in a rehabilitation shelter were contacted for interview. This was decided upon recognition that women migrant workers who are usually interviewed and whose stories are told in popular media outlets are often residing in shelters when contacted. These women may be facing unique challenges and experiences that are not experienced by other women outside of migrant shelters.

Documentary conversations were designed to abide by “do no harm” principles to ensure that participation did not pose a risk to participants. Informed consent (in Nepali) was obtained from each participant prior to being interviewed and / or photographed.

This entailed the analysis of over 200 news articles published in the Kathmandu Post, the Nepali Times and the Himalayan Times published between 1998 and 2020. Extensive efforts have been made to corroborate and triangulate information derived from these sources with information provided by key informants / published in secondary research documents. Together, these sources of information helped in the reconstruction of the timeline of bans and restrictions presented in section 5.

Qualitative semi-structured Key Informant (KI) interviews

The primary qualitative portion of this review entailed the realization of 26 semi-structured interviews with key informants, all of whom are involved at different levels in the process of regulating, studying, advocating for, or managing processes of overseas labour migration of Nepali migrant domestic workers (a list of the interviewed counterparts may be located in Annex B).

Stakeholders contacted for interview included: (1) journalists who have written extensively on these policies; (2) staff of international organizations and donor agencies specializing in labour migration; (3) research institutes; (4) civil society organizations – including those specializing in migrant and women’s rights and those dedicated to anti-trafficking initiatives and awareness; (5) independent experts; (6) recruitment agencies; (7) workers’ organizations / unions involved in labour migration; (8) representatives from governmental ministries; and (9) Members of Parliament (MPs). Efforts were made to distribute the number of interviews uniformly between these aforementioned parties. Additional interviews were conducted until data saturation was achieved – that is, when little to no new information was achieved through the realization of additional interviews.

Given the limited timeframe to realize this review, the counterparts selected for interview were targeted based on the perceived knowledge and expertise regarding labour migration regulation and policy, with efforts made to access individuals with diverse perspectives and opinions regarding the bans. Interviews were evaluated using content analysis to generate qualitative data. To protect the confidentiality and security of stakeholders, the identities of those interviewed have been anonymised. Express informed consent was obtained from each informant prior to interview.

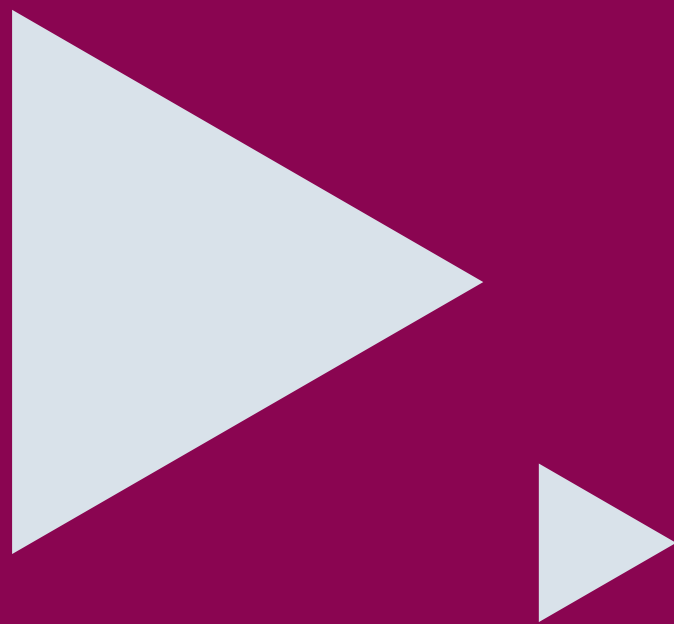
2.3 Limitations of the review

- This review was conducted in the midst of the outbreak of COVID-19. This not only affected data collection by reducing access to stakeholders, but also has far-reaching implications on Nepal’s foreign employment industry, and may have a significant role in changing the dynamics and opinions reflected in this report;
- Given time and resource limitations, it was not possible to collect primary quantitative data (e.g. through large-scale surveys of women migrant workers);
- This review focuses on perspectives of political actors located in Kathmandu Valley, and has highlighted activities of Nepal’s central Government. Due to time, resource, and COVID-19 access limitations, the perspectives of local and provincial government officials have not been consulted. It is recommended that these information gaps be addressed in subsequent research. Readers may also reference ILO’s initial study on migration bans and restrictions published in 2015 (ILO, 2015a), which includes consultations with Chief District Officers (CDOs) and Village Development Committees (VDCs);
- Due to COVID-19 access restrictions and given this report’s focus more on the policy formulation phase itself and less on the bans’ impact on migrant women, ILO did not interview a robust sample of migrant women. A valuable follow-up to this research would be conducting a more in-depth follow-up to the interviews and focus groups discussions (FGDs) performed in 2014 (ILO, 2015a), focused at the local level in key migration origin districts with potential and returnee migrant women and local government and administrative officials as well as other key stakeholders (including, for example, recruitment intermediaries, family members of migrant women, local labour market experts and more).

- ▶ Selecting key informants with diverse perspectives and opinions is challenging. There exists the potential for bias in those KIs interviewed toward stakeholders interested in repealing migration bans, given greater willingness to participate in the review;
- ▶ While KIs provide important information and expertise that is not always publicly available, caution is advised in generalising findings to entire unions, CSOs, ministries or governmental bodies, recognising that individuals working for the same entity may have rival interests and policy stances;
- ▶ This review has been realised by an international consultant who is not Nepali, and it must be recognised that these dynamics create implicit biases while limiting the ability to relate to and convey information on local cultural dynamics. The social and physical characteristics of the researcher can also influence dynamics with research subjects and the types of answers elicited from respondents. When requested by KI interviewees, the international consultant was also accompanied by a Nepali researcher who facilitated with translation and clarification of questions and answers.

▶ 3

Nepali Migrant Domestic Workers and Female Labour Migration: Background And Trends



3.1 Overview of Nepali labour migration

This section will provide a brief overview of historic and current labour migration trends in Nepal before exploring in-depth dynamics related to female labour migration and migrant domestic work in subsequent sections.

3.1.1 Historical Overview

Nepal has a long history of out-migration for employment, particularly beginning with the recruitment of Nepali *gorkhas* in the 1800s to serve in the British Indian army (ILO, 2017a). Since then, cross-border movements of Nepali workers to India on a temporary, seasonal and long-term basis have persisted until this day (Sijapati and Limbu, 2017). This process was formalized with the signing of the Indo-Nepal Treaty of Peace and Friendship (1950), which established an open border and free movement between the two countries and permitted Nepali nationals to work without a visa or passport in India (Sijapati and Limbu, 2017). At present, Nepali migrant workers in India (originating mainly from Hill and Tarai zones of Nepal)⁹ are most frequently employed as domestic workers, porters, guards, sex workers, as restaurant employees, and in factories (IOM, 2019a; Bhattra, 2007).

The signing of the first Foreign Employment Act (FEA) in 1985 and the gradual democratization of the country in subsequent decades saw the government begin to actively promote foreign employment (Pyakurel, 2018). In the 1990s, with the dawn of the People's Movement in Nepal, the government began embracing open market policies, facilitating access to passports, opening up the foreign employment industry to a range of private sector actors and liberalizing travel regimes (Sijapati and Limbu, 2017; ILO, 2015a; Pyakurel, 2018; Kharel, 2016). Foreign employment began featuring as a prominent component of the Nepal government's Five-Year Plans, as a viable alternative for domestic employment, a source of economic growth and a tool for overall development (Pyakurel, 2018).

These changes occurred simultaneously with a decrease in investments in domestic agriculture, which led to structural changes in Nepal's predominantly agrarian economy, increased costs of production and significant declines in agricultural productivity and employment (discussed further in section 3.3.2). Exacerbated by shifts in climate and rainfall patterns in recent years, these changes have been a significant factor stemming labour out-migration in Nepal.

As liberalization of foreign employment gained pace, the primary destination of Nepali workers began to shift away from India to include a wider array of destination countries. A large number of low- and semi-skilled Nepali workers on temporary contracts began migrating to GCC countries, other countries in the Middle East, as well as certain destinations in East and Southeast Asia (mainly Malaysia, Hong Kong and South Korea) (GAATW, 2017; Sijapati and Limbu, 2017; IOM, 2019a). Demand for migrant labour in GCC countries in particular arose out of the 1970s oil boom and hike in oil revenues in the Arabic peninsula, which stimulated economic growth and infrastructural development in these countries. The majority of Nepalis and other migrants in GCC countries are employed on temporary work contracts (two to three years) in construction work, services (such as retail and wholesale), and care and domestic work (GIZ and ILO, 2015a; Kharel, 2016).

Outmigration for employment witnessed its most rapid increase during Nepal's Maoist insurgency between 1996 and 2006, with general economic and social instability and volatility pushing young migrants (including ex-Maoist combatants) in particular to seek employment abroad (FAO, 2019; IOM, 2019a; Sijapati and Limbu, 2017; Thieme et al., 2005; Kharel, 2016). Trends of youth out-migration for employment from Nepal have continued to this day, facilitated by a significant demographic youth bulge and increasing numbers of young adults who are unable to locate adequate employment in the domestic labour market (Swatantrata Abhiyan Nepal, 2015; IOM, 2019a). Roughly three-fourths of the country's

⁹ Nepal can be broken up into three distinct ecological zones: the Tarai, or warmer lowlands bordering India, the Hill (or mid-hill) zone, which occupies middle zones of the country and has a more temperate climate, and the colder, less-populated Mountain (or high-hill) zone in northern sections of country bordering China. These ecological zones are often used to demarcate demographic, economic and other trends in the country (including on migration).

absentee population are between the ages of 15 and 24 years and the majority are in their mid-twenties (IOM, 2019a).

3.1.2 Data and trends

In the last decade, DoFE has issued over four million labour permits to workers for overseas employment (MoLESS, 2020). Of these, approximately 200,000 (or five per cent) were issued to women. The number of workers seeking labour permits for overseas employment peaked in 2013/14¹⁰ at roughly 500,000 but has steadily declined since (MoLESS, 2020). The number of labour permits issued to women migrants increased from roughly 8,000 in 2008/09 to nearly 23,000 by 2011/12, and has remained steady since, with between 20,000 and 30,000 permits issued to women each year in the ten-year period between 2008/09 and 2018/19 (MoLESS, 2020). However, these figures do not include migrants departing Nepal to India, whose migratory trajectories often go virtually unregistered. India remains the main country of destination of Nepali migrant workers. The total stock of Nepalis estimated to be residing in India in 2019 was roughly 530,000, and approximately 287,000 of these were women (UNDESA, 2019). However, these numbers are likely not accurate as they are based on census data and would not capture temporary or seasonal migrant workers, nor absent households. Other estimates put the number of Nepalis residing in India in the millions (Shrestha and Kumar Mandal, 2020). According to the 2011 National Demographic and Health Survey (NDHS), while most Nepali men who migrate to India do so for purposes of employment, Nepali women migrating to India are more likely to migrate as dependents or for marriage (IOM, 2019a). Nepali women who do migrate for work are more likely to migrate to destinations farther afield (e.g. GCC countries) (see section 3.2 for more gender-specific data on Nepali female labour migration).

Most Nepali migrant workers originate from rural areas. They often lack vocational training and most frequently possess minimal levels of education (Thieme et al., 2005). Only seven per cent (7%) of Nepali migrant workers abroad were estimated to have completed university-level education and only 45 per cent were estimated to have completed some high school or professional / vocational education (Ibid). While comprehensive statistics on education levels of women migrants are not available, overall educational attainment for Nepali women is generally significantly lower than for males. One in three women between the ages of 15 and 49 in Nepal have no education whatsoever (New Era and Ministry of Health, 2017). The destination of Nepali migrants is often determined by household wealth, which is also closely tied to education. Migrants from households falling in lower quintiles of wealth migrate in large part to India, while households in higher wealth brackets demonstrate a higher propensity to migrate to the Gulf or Malaysia (Sijapati and Limbu, 2017).

3.1.3 Perceived benefits of foreign employment

Migration has generated immense financial and social benefits for Nepal and for its socio-economic development trajectory, as witnessed by considerable advancements that the country has made in the reduction of household poverty, and improvements in health and education outcomes in the past two decades (FAO, 2019; MoLESS, 2020). Despite the gradual decline in the number of workers registering for foreign employment, the volume of inflows of migrant remittances to Nepal continues to be staggering and has increased continually in absolute terms since the early 2000s (MoLESS, 2020; World Bank, n.d.a.). In 2018, remittances received in current United States Dollars (USD) amounted to USD 8.29 billion and constituted nearly 29 per cent of the country's total GDP (World Bank, n.d.a.) – one of the highest in the world and leading to Nepal's frequent characterization as a remittance-based economy.¹¹

10 Administrative data on foreign employment in Nepal are collected on a fiscal year basis, beginning 17 July and ending 16 July of the following year. Data on outflows of migrant workers do not reflect actual individuals departing, but rather registrations / issuance of permits. Thus, repeat migrants may be counted if they register more than once. These numbers would also include migrants who obtained an exit labour permit but who may not have departed. Data also do not include any workers migrating to India, or those registering for foreign employment with the Republic of Korea, who obtain registration through a separate government-to-government Employment Permit System (EPS) (ILO, 2018).

11 The actual volume of remittances received is believed to be much higher given the large but unknown volume remitted through informal channels that is not captured in official statistics (Sijapati and Limbu, 2017; IOM, 2019a).

Remittances have been shown to have significant effects on improving living conditions, educational and health outcomes and enhancing food security of Nepali households, while offsetting trade deficits and supporting the value of the country's currency (IOM and IASCI, 2017). Households receiving remittances have been found to save at least twice as much as households that do not receive remittances (IOM and IASCI, 2017). Migration has also benefitted Nepal through exchange of social remittances, with returnee migrants bringing back new experiences, skills, information and ideas that have broadscale implications on overall development.

3.1.4 Potential risks associated with labour out-migration

While foreign employment has rendered significant benefits for Nepal's socio-economic development, the country's dependence on remittances has long been a subject of debate in policy spheres and there is mounting concern about the volatility of this revenue source to sudden shocks or economic slumps in key destination countries. For example, at the time this report is being written departures for foreign employment have plummeted, while many workers abroad have lost their economic livelihoods as a consequence of the outbreak of COVID-19. Others have criticized the Nepal government for using foreign employment to support development (Sijapati and Limbu, 2017) without focusing sufficiently on initiatives to improve conditions at home, or improving public service delivery and quality (IOM, 2019a).

Perhaps most concerning is the welfare of left-behind families, and the risks and dangers that Nepali migrant workers – both male and female – face abroad. Access to decent work conditions in principle destination countries for many migrants, particularly those engaged in low-skilled manual labour, is limited, and physical and mental health concerns are widespread. A multitude of studies have pointed to instances of human trafficking and forced labour that migrants face both in transit and in destination countries. In Nepal, abuses and fraud in the recruitment system represent further challenges to ensuring safe and decent migration experiences. As put by Paoletti et al. (2014), the “protection of migrant workers and regulation and oversight of private actors that send workers abroad have not kept pace with the expansion of labour migration programs” (p. 23). At the same time, migrants in vulnerable situations that often face numerous deprivations in key areas of safety and wellbeing, as well as intersecting forms of discrimination – specifically, women migrant workers and migrant domestic workers – are often left with no choice but to leave their homes in search of work abroad. These individuals are left even more vulnerable as they negotiate a complex web of social and political barriers that often greatly inhibit their mobility and / or push them towards more circuitous and unregulated migration pathways. These are the dynamics which will be explored in further detail in the subsequent sections of this report.

3.2 Female labour migration and migrant domestic work

This section outlines principle trends related to female labour migration and migrant domestic work. More in-depth information on migration drivers, recruitment processes and conditions for migrant domestic workers and women migrant workers abroad and upon return will be outlined in subsequent sections.

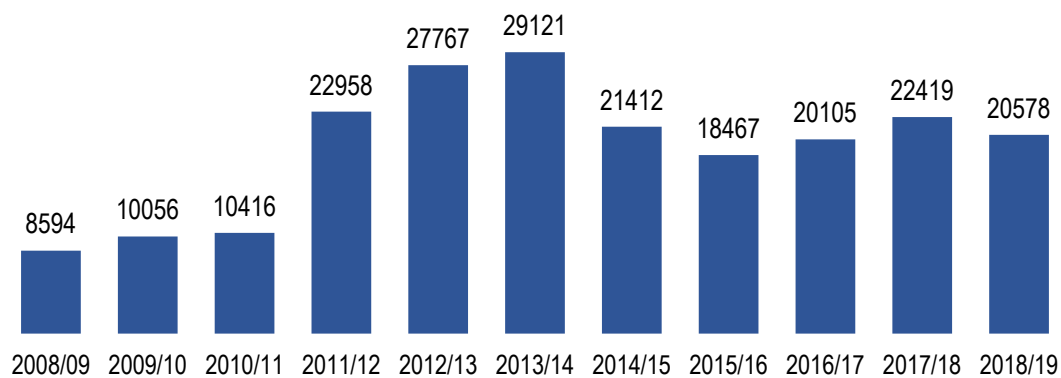
3.2.1 The feminization of Nepali out-migration for employment

Prior to the 1990s, very few Nepali women engaged in out-migration for employment. This was reinforced by government restrictions, including those codified in the FEA (1985), which prohibited agencies from recruiting women for foreign employment without the consent of her male guardian (either father or husband) prior to 1997 (ILO, 2015a). Until the 1990s it was also exceedingly difficult for women to obtain passports (Pyakurel, 2018; ILO, 2015a). While out-migration from Nepal continues to be a process undertaken mainly by men, outflows have become increasingly feminized over time. More specifically, more and more women have been migrating *independently* in search of work, rather than as family dependents. This process has been facilitated by rapidly changing gender and cultural perceptions and practices as well as increased access to the necessary resources for migration (Sijapati and Limbu, 2017).

Female labour migration has also been facilitated by a complex web of changing micro-, meso-, and macro-structural shifts taking place in this period in Nepal and throughout South Asia, including rapid industrialization and globalization, urbanization, privatization, shortcomings of national welfare systems, the informalization of labour, poverty and inequality, low wages and more (GAATW, 2017; CARITAS, n.d.) This process is also influenced by the “feminization of poverty” (Bhadra, 2007: 2) concurrently taking place – the dynamics whereby women face the effects of poverty disproportionately when compared to men and face greater livelihood insecurities when compared to men. Equally important have been rapidly changing social and demographic trends in destination countries, including aging populations and increased female labour force participation, which has increased the demand for care and domestic workers – gendered occupations which are traditionally realized by women (see sub-section 3.4 for an in-depth discussion of migration drivers).

Official statistics reflected in administrative records maintained by DoFE regarding annual labour permits issued show that, at least in regard to migration through formal channels, women migrant workers have only accounted for roughly five per cent of outflows each year since 2008/09 (MoLESS, 2020). This proportion increased slightly to 8.5 per cent in 2018/19 due to a decrease in registrations of male workers (MoLESS, 2020) (see Figure 3.1 below).

Figure 3.1 Total labour approvals for foreign employment issued by the Department of Foreign Employment (DoFE) to females, 2008/09 – 2018/19



Source: Ministry of Labour, Employment and Social Security (MoLESS), *Nepal Labour Migration Report 2020* (MoLESS, 2020).

Note: Data do not include the small number of Nepali women migrant workers who migrated to the Republic of Korea for foreign employment through the government-to-government Employment Permit System (EPS). Estimates are based on fiscal year (e.g. 2008/09), beginning 17 July and ending 16 July of the following year.

3.2.2 Migration pathways and information gaps

Official data do not portray an accurate picture of the size and scale of women’s labour migration or the migration of domestic workers. Given recurring and long-term bans on the departure of migrant domestic workers in the country (ILO, 2015a), and that the overwhelming majority of Nepali women migrant workers are migrating for domestic work, women migrants and the phenomenon of women’s labour migration from Nepal is inherently absent from a large number of data sources, as the process usually takes place through informal channels (Piper, 2008; GAATW, 2017).

Despite these long-term bans and restrictions on migrant domestic workers, and social stigma toward female labour migration, women migrant workers continue to migrate for domestic work. Anecdotal, unverified figures estimate that as many as 80 to 90 per cent of migrant workers leaving Nepal through informal channels are women (Mak et al., 2019; ILO, 2015a; Paoletti et al., 2014). Census data from 2011, which measures the total absentee population abroad, would suggest that while there are greater numbers of migrant women abroad than what administrative records on labour permits would suggest, it is still relatively low – of the roughly 1.9 million absentee Nepalis recorded in the 2011 census, approximately 13 per cent were women. Over half of these women were residing in the Middle East

(IOM, 2019a; Paoletti et al., 2014). The female absentee population has grown over time (FAO, 2019) and it remains to be seen whether further increases will be witnessed in the next census round due to take place in 2021. Some surveys indicate that female labour migration may be increasing. Of the 47 per cent of households that reported at least one individual who migrated in the past 10 years prior to data collection in the 2016 NDHS, 43 per cent of those who were reported to have migrated were women (IOM, 2019a).

As female labour migration grew in pace in the 1990s, the limited number of Nepali women who were employed abroad were mostly engaged in domestic and service sectors in Japan and Hong Kong (ILO, 2015a). However, throughout the 2000s, female labour migration from Nepal to GCC countries has dominated principal migration corridors (ILO, 2015a). According to data from DoFE in 2018/19, those women who were obtaining labour permits prior to departure were migrating in large part to UAE (35.6% of labour permits issued to females), followed by Qatar (18%), Saudi Arabia (7.7%), Kuwait (7.7%) and Cyprus (7.5%) (MoLESS, 2020). Throughout the years, Lebanon, Hong Kong, Jordan, Malaysia and Israel have also been prominent destination countries for Nepali women migrant domestic workers (MoLESS, 2020; Gioli et al., 2018).

3.2.3 Profile of women migrant workers / migrant domestic workers

Given the lack of comprehensive country-wide administrative data sources on the majority of women migrant workers, knowledge gaps on the socio-demographic characteristics of these women must usually be overcome through thematic population surveys and smaller-scale research studies. Gioli et al. (2018) found that the majority of Nepali women migrant workers registered with the NGO POURAKHI were married and had children, while a smaller proportion were also widowed or separated. The same study also found that many surveyed returnee women migrant workers were married before the age of 18. Mak et al. (2019), in a study of 521 returnee women migrant workers in Morang, Chitwan and Rupandehi districts found that the majority of women were under 30 years of age when they first migrated. Larger-scale population surveys, including the previously mentioned NDHS (2016) point to trends that women are more likely to migrate at a younger age than men – 44 per cent of those women who were reported to have migrated in the 10 years prior to data collection were between the ages of 15 and 19 while most males were reported to have migrated between the ages of 20 and 24 (IOM, 2019a) (these NDHS figures include women migrating for non-work purposes).

Most women migrant workers / migrant domestic workers are from lower social and economic strata and possess very minimal levels of education, and many are illiterate (GAATW, 2017). The majority of those who migrate overseas originate from rural areas and consist of large quantities of lower-caste women from Hill and Tarai districts. These socio-demographic characteristics of women migrant workers are important to understand when analysing the policy formulation process and the positions of governmental stakeholders, as mobility of poor women from marginalized socio-economic backgrounds then becomes a site of state regulation (Piper, 2008).

Mak et al. (2019) found that the majority of returnee women migrant workers they surveyed were from households where at least one individual had already previously migrated for work outside of Nepal. Nearly half of all prospective married migrant women interviewed by Abramsky et al. (2018) reported that their husbands were currently working and living away. While these dynamics require further exploration and analysis, they may point to trends in which existing migration experience in households (perhaps of male members), social networks and a “culture of migration” at the familial level may be an important push-factor leading female members to seek foreign employment as well. While a large portion of women migrant workers have never worked outside of their homes prior to departure, a study conducted by the Nepal Centre for the Study of Labour and Mobility (CESLAM) for UN Women published in 2017 determined that more than three-fifths of a total of 605 returnee women migrant workers interviewed had been employed prior to migration (UN Women, 2017).

For women, foreign employment is becoming increasingly popular as a way to make a decent income and provide for themselves and for their families, to gain economic and social remittances and to build

individual autonomy. Migration is also a way for women migrant workers to increase their relative decision-making power, both in social dynamics in the household but also increasingly over the management of household finances (Sijapati and Limbu, 2017). There are very minimal existing data on remittances disaggregated by gender, including the volume of total remittances sent by women migrant workers. Nepali women migrants are known to be more likely to remit through informal channels than male migrants (Bhadra, 2007; IOM and IASCI, 2017). One (outdated) survey from Nepal's Central Bureau of Statistics (CBS) estimated that women migrants contributed 11 per cent of Nepal's total inflow of remittances, but this figure is from 2001 (Bhadra, 2007; FAO, 2019). In regard to earnings, the IOM-IASCI survey in 2017 found earnings for women and men to be roughly equal in GCC countries, with women in lower-skilled jobs (which is the majority of women migrant workers) earning more than men in lower-skilled positions (IOM and IASCI, 2017).

► Box 3.2: Perceptions of domestic work as “unskilled” labour

Domestic work is often classified as “unskilled” labour, which is commonly understood as labour which does not require special training or experience in order for job duties to be performed successfully. However, classifying domestic work as unskilled ignores the complex range of interpersonal skills, cultural competencies, organization and efficiency that domestic workers demonstrate on a daily basis, as well as the high level of personal and moral concern and responsibility that they often demonstrate for others (Folbre, 2018). Domestic work is a form of care work, either paid or unpaid, and forms the foundation of societies (ILO, 2018d). Particularly in light of ageing and growing populations, changes in family and labour market structures and shortcomings in national welfare and social policies, care work in paid and unpaid forms will be even more critical to the successful reproduction of societies and ensuring decent work in the future (ILO, 2018d).

It would also be inaccurate to believe that domestic workers – migrants or otherwise – do not bring years of special training and experience to their jobs. Many migrant domestic workers have trained and engaged in unpaid forms of domestic and reproductive work within their own households in origin countries for years prior to migrating. By migrating, these years of experience and skills are often being remunerated for the first time (Parreñas, 2015). When women – migrant women and otherwise – perform paid domestic work, however, it is often assigned an exceptionally low market value, despite its crucial role in ensuring the reproduction and wellbeing of society (McGovern, 2020) (see section 4.2.2. for a more in-depth discussion of these dynamics).

McGovern (2020) asserts that classifying work as “unskilled” allows governments, societies and employers to perpetrate different “classes” of worker while perpetuating lower wages, poor working conditions and minimal labour rights (Hagan, Hernandez-Leon and Demonsant, 2015). This report challenges the notion that domestic work is inherently “unskilled” work, recognizing that domestic work is likely the most commonly engaged in form of work for Nepali migrant women not because they are “unskilled” but because of vast gender inequalities, long-standing stigma against women's work in general, as well as deep-seated stereotypes that restrict women's work to reproductive roles (see Section 4 for further discussion).

3.2.4 Domestic work

The ILO Domestic Workers Convention, 2011 (C189) defines domestic work as “work performed in or for a household or households”, while a domestic worker is “any person engaged in domestic work within an employment relationship” (ILO, 2018a: 4). C189 also specifies that “a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker” (ILO, 2018a: 4) (for other relevant definitions to terminology used throughout this report, reference Annex A. For a description of C189 and other relevant international conventions see Annex D).

The vast majority of Nepali women employed abroad are engaged in domestic work and care sectors, with smaller proportions engaged in health or trade occupations. Women migrant workers are often pushed into domestic work by a variety of macro-structural social, gender, education and labour market factors, explained in greater detail in section 4. Additionally, domestic work abroad is often a more affordable option for lower-income Nepali migrant women given that recruitment fees for migrant domestic workers are often borne by the employer (ILO, 2015a).

Domestic work is considered one of the most precarious occupations, often because it is unregulated, informal, not incorporated into domestic labour laws and not subject to labour inspections (Parreñas, 2015; Zimmerman et al., 2015). Many migrant domestic workers are isolated in their employer’s homes and do not have access to health services, redress mechanisms or key information on their rights. The fact that domestic work is often not covered in regular labour laws, or is given fewer rights in separate legal instruments, both reflects existing perceptions, and further reifies notions that domestic work is not “real” work (GAATW, 2017), and that domestic workers are then not deserving of the same labour rights and entitlements as other workers (for further information on the conditions for Nepali migrant domestic workers abroad, see section 3.6).

In recognizing the precarity, abuse and exploitation that migrant domestic workers can face, this review does not negate that policies such as migration bans are likely motivated by genuine concerns for the safety and well-being of migrant domestic workers, but rather how perceptions of, and responses to, these dynamics have not produced the desired effects of making migrant domestic workers safer or preventing them from migrating (as explored in sections 5 and 6).

3.3 Overview of socio-economic conditions for Nepali women

Before one can understand the multiple and complex drivers that fuel women’s out-migration for employment from Nepal it is important to set the context of female labour migration, as well as policies and frameworks governing foreign employment for women within the larger social, political, economic and cultural conditions that currently exist for women in Nepal. This subsection will present such information.

3.3.1 Key development-related indicators

Nepal is classified by the UN as a “Least Developed Country” with a Gross National Income (GNI) per capita of USD 745 in 2018 (UN DESA, n.d.a.). A quarter of the country’s population lived below the national poverty line in 2010 (Asian Development Bank, n.d.). Rankings of Nepal’s Human Development Index (HDI) from the 2019 UNDP Global Human Development Report (HDR) place the country at 147th out of 189, with a value of 0.579 (UNDP, 2019). A number of other key indicators point to persistent discrepancies in development outcomes based on gender.

In regard to education outcomes, the average female literacy rate in Nepal is only 57 per cent compared with 75 per cent of males, and the gap between sexes has narrowed only minimally over the past four decades (UNFPA, 2017). The mean number of years of schooling for females was 4.2 compared with 6.4 for males (UNDP, 2019). The female population (aged 25 and older) reported to have completed at least some secondary education was only 29 per cent compared with 44.2 per cent of males (aged 25 and older), and national attendance rates for girls at grade five is still less than 20 per cent (UNDP, 2019; FAO,

2019). The Nepal Living Standards Survey in 2011 found that a third of women in Nepal had no education compared with 14 per cent of men (IDPG Nepal, 2017).

Only about a third of the seats in the Parliament are held by women (UNDP, 2019). Those positions which are allocated to women are facilitated by affirmative action initiatives codified in national laws, with the Election Act (2007) requiring a quota of at least one-third of seats to be occupied by women in the Constituent Assembly (FAO, 2019). While this is the highest proportion in South Asia, further progress is certainly needed. In general, women hold few key leadership positions in all levels of government (Bhattraï, 2017). For example, an analysis of current published staff lists (as of May 2020) of MoLESS, DoFE and the Foreign Employment Board (FEB) show that most employees, as well as all but one senior-level position within all three of these bodies, are men. In MoLESS, there are 27 men employed compared to just eight women. The highest position held by a woman is Under Secretary / Information Officer, while the Secretary and Joint Secretaries are all men. Within DoFE, there are currently 10 men and just one woman, with no women in senior positions (the Director General and division directors are all men). Finally, in FEB, there are 12 men and four women employed, with a woman serving as Director and a male serving as Executive Director.

Nepal's HDI, by gender, shows that its female populations have reached a lower overall level of development, with a value of 0.556, compared with 0.612 for men (UNDP, 2019). UNDP's Gender Inequality Index (based on maternal mortality ratio, adolescent birth rate, the share of seats occupied by women in Parliament, female labour force participation rate (LFPR), completion of secondary education and more) was 0.476 in 2019 (with values closer to 1 indicating greater inequality), placing it 149th in global rankings (UNDP, 2019). While this represents a significant improvement over previous years – with a value of 0.658 in 2000 – it demonstrates that Nepal has a long road ahead to improve outcomes for women.

Gender inequality is also evident in cultural, social and intra-familial dynamics. 25 per cent of women in Nepal (aged 15 and older) are reported to have faced intimate partner violence (sexual or physical) in their lifetimes (UNDP, 2019), and between 20 and 50 per cent of women have faced violence in their lifetime (IDPG Nepal, 2017). A significant proportion of the population (both male and female) still believes it is acceptable to beat a wife if she burns food, neglects children, argues with her husband or refuses sexual relations (although the proportion of the population believing this to be acceptable is declining over time) (UNFPA, 2017). Access to health services continues to be a challenge particularly in more remote and rural areas where infrastructure is lacking and there are a lack of qualified medical workers (FIGO, 2019). Maternal mortality is still high and there remains a high prevalence of stunting in children (UNDP, 2019; FAO, 2019). Many women cannot afford to pay for higher-quality care, and even then, they face many barriers to access. Access to sexual and reproductive health (SRHR) services in Nepal is tied to marital status and single / unmarried women face barriers to accessing SRHR (FIGO, 2019). Women still face health risks from harmful practices like *Chaupadi*¹² and child marriages are leading to increased rates of teenage pregnancy (FIGO, 2019). Nepal's rate of child marriage is the third highest in Asia and 37 per cent of girls are married before the age of 18 (HRW, 2017a). In addition to child marriage, practices such as dowry, polygamy, accusations of witchcraft, discrimination against women and traditional cultural / religious practices of *jhuma* and *deuki* (separating a daughter from her family and putting her into service in a monastery) continue to occur (FWLD, 2018).

3.3.2 Female employment and income

The gross national income (GNI) by gender (in 2011 US\$PPP¹³) for males was US\$3,510 compared with just US\$2,113 for females (UNDP, 2019). Data from national surveys indicate that access to employment and employment-related outcomes are highly gendered. Results from the 2017/18 Labour Force Survey (LFS) show that the female LFPR was roughly half of the male LFPR (26.3% compared with 53.8%), with the

12 *Chaupadi* is the practice of separating women from contact with others while they are menstruating, which often entails obliging women to sleep outside in small huts known as goth, with little to no bedding and often in extremely cold winter temperatures (Robinson, 2015).

13 PPP = purchasing power parity.

gap persisting for all educational levels with the exception of individuals with tertiary education (Central Bureau of Statistics - CBS, 2019).

On average, males who were employed earned nearly 6,000 Nepali rupees (NPR) (equal to roughly USD 50) more per month than females, which is striking given that the average monthly wage for males and females combined is NPR 18,809 (or, roughly USD 155). There are also disparities in the type of labour realized – while the 2017/18 LFS showed that nearly half of girls (under 18) were involved in housework, the percentage for boys (under 18) was less than 20 (CBS, 2019).

Inequalities in the distribution of reproductive labour – that is, socialization and care of children, household chores, care for elders and adults, and maintenance of social ties (Parreñas, 2015) – between Nepali men and women are evident. While on average Nepali women only spend one hour less than men on paid work per week, they typically spend triple the amount of time performing unpaid work (IDPG Nepal, 2017). These findings reinforce the notion of persistent gendered divisions of labour in Nepal whereby male labour spheres are predominantly consisting of wage employment while women's work remains in the sphere of household maintenance (Kaspar, 2005; Kharel, 2016).

Of working women, over 70 per cent are engaged in agriculture, forestry and fishing industries (CBS, 2019). However, many of the women who are employed in these industries are working as unpaid family labourers in subsistence agriculture, while also needing to negotiate triple-work burdens of reproductive and community work in addition to their productive farm labour (ILO, 2017a; FAO, 2019). Women in agriculture face a number of difficulties including lack of opportunities to set up micro-enterprises and businesses, limited knowledge and training in business and markets, lack of access to farm labour, lower access to farming inputs and assets and weaker bargaining power (IOM, 2019a; FAO, 2019). Women own land in only nine per cent of households in Nepal and there are a number of barriers for women in regard to land ownership rights (FAO, 2019).

While both male and female workers in Nepal are overwhelmingly engaged in the informal economy, the rates of informality were markedly higher for females than for males. Only 9.5 per cent of females were employed in the formal sector, while the rate was roughly double for males (CBS, 2019). This raises concerns for workers' rights and decent work conditions given the inadequate inspections of workplaces in Nepal, particularly in informal sectors, and lack of access to social security or minimum wage standards (Forum for Women, Law and Development - FWLD, 2018; Swatantrata Abhiyan Nepal, 2015).

3.3.3 Differences in socio-economic outcomes between women

Nepal has over 125 caste and ethnic groups. Though discrimination based on caste has been outlawed in Nepal, the system still remains engrained in economic, social and political structures in the country, which is evident based on the vastly varying outcomes in living standards between high-caste, middle-caste and low-caste groups (low-caste groups include Muslims, foreigners and *Dalits*) (Pandeya and Oyama, 2019). Caste and class are very closely linked in Nepal (Subedi, 2011). Higher-caste groups have been found to have the highest HDI and adult literacy in Nepal and the lowest poverty rate (roughly 18%) (Pandeya and Oyama, 2019). This is compared with higher poverty rates (between 25% and 28%) for Hill and Tarai Janajatis and 28 per cent for Madhesi communities (Ibid). For lower-caste Dalits the poverty rate is significantly higher, with 38.2 per cent of Tarai Dalits and nearly 44 per cent of Hill Dalits living in poverty (Ibid). The HDI for Tarai and Hill Dalits is significantly lower than for other caste groups (see Table 3.3 on the next page).

These discrepancies are recounted given that the socio-economic pressures and conditions for Nepali women – many of which push them to migrate – are likely not the same for a high-caste Bahun or Chhetri Nepali woman when compared with a Tarai or Hill Dalit woman. Girls belonging to “lower-caste” groups, indigenous groups, or linguistic and ethnic minorities are far more likely to have lower enrolment in schools and are more likely to drop out of schools at a younger age (FWLD, 2018). The prevalence of physical violence faced by women also tends to decrease with increases in education levels, and women in Tarai castes, Muslims and Hill Dalits are more likely to report having faced physical violence in their lifetimes than women from more highly educated upper castes (UNFPA, 2017). Women from lower castes

► **Table 3.3: Human Development Index (2019) for Nepali populations, by ethnicity / caste group**

Ethnic / caste group	HDI
Khas / Arya	0.550
Hill Janajati	0.509
Tarai Janajati	0.473
Madhesi	0.460
Hill Dalit	0.446
Tarai Dalit	0.400
Muslims	0.422
Other social groups	0.586

Source: Pandeya and Oyama, 2019; citing Nepal Central Bureau of Statistics.

most commonly perform manual labour in agricultural sectors and face barriers to running their own businesses (Timilsina et al., 2018), have higher rates of under-five mortality and maternal mortality, and the lowest overall access to health services (Chaurasiya et al., 2019). It is likely these and other factors may explain why Muslims and Hill Dalit households show the highest likelihood of having a migrant worker in the household (IOM, 2019a). An IOM (2019a) report suggested this trend could be a product of systematic exclusion of these groups in Nepal's domestic labour market.

These dynamics are important to understand as not only gender and geography (e.g. rural vs. urban) play an important role but also caste, whereby restrictions on the migration of women focus disproportionately on lower-caste women who are more likely to migrate in the first place due to social and economic exclusion. Even when looking at the limited group of women represented in Nepal's legislature, higher-caste women are generally far overrepresented while Dalit and Muslim women have the least amount of representation (Pandeya and Oyama, 2019). With this backdrop it would appear that policies like migration bans that disproportionately target lower-caste women are also devised in policy spaces where these women do not have political representation.

The migration process does not occur in a vacuum and does not begin when a woman leaves her home. Instead, it is influenced, as with male migrants, primarily by lack of access to jobs and decent employment, inadequate incomes and poverty at home. While some of the reasons that women migrate are similar to those for men, these stresses are exacerbated by gendered deprivations in key well-being related indicators in health, education, employment and protection (including SGBV and violence against women and girls), as well as discrimination, illustrated in this sub-section.

3.4 Reasons for migration and engagement in domestic work

Nepal has clearly made immense progress in development and improving outcomes for women and for women workers in the country over the past few decades; however, the dynamics recounted above demonstrate that conditions for women remain highly precarious and continue to fuel the need to seek opportunities overseas.

The severity of migration push and pull factors in Nepal help to explain why policies aimed at preventing trafficking and forced labour of women migrant workers and discouraging women from migrating altogether have met with limited success (Abramsky et al., 2018). When discussing the below migration drivers, it is important to iterate that many women are aware of the risks associated with migrating but choose to leave anyway due to the strength of these push and pull factors (Zimmerman et al., 2015). Growing recognition of these realities are leading many development actors to focus on creating programmes aimed toward helping women and migrant domestic workers migrate safely rather than

trying to curb their migration altogether (Abramsky et al., 2018). Perceptions of stakeholders interviewed for this review were mixed. While some perceived that women were aware of the risks and chose to migrate anyway, others opined that women were willing to migrate because they were not sufficiently aware of the risks involved.

With these considerations in mind, this section will elaborate on the conditions that are fueling female labour migration from Nepal, predominantly for domestic work.

3.4.1 Economic dynamics fueling migration

While the proportion of female workers entering new sectors traditionally geared toward men (including service, hospitality and tourism, export businesses, and construction) is growing, labour markets in Nepal are still heavily segmented by sex, and there are not enough job opportunities available for women in order for them to sustain their own livelihoods and the livelihoods of their families. Numerous stereotypes exist regarding certain occupations whereby they are seen as work only fit to be completed by men (such as plumbing, carpentry, driving and a range of other occupations). Given that many Nepali women are employed in agriculture, slumps in these and other industries that typically employ women are important push factors for migration (Kharel, 2016). In recent years there has been a significant decline in agricultural productivity and outputs in Nepal and a lack of modernization in farming techniques, coupled with environmental degradation (FAO, 2019). As a result, some households engaged in agricultural sectors have been sending members – including women – abroad to offset the effects of farming losses exacerbated by frequently-changing seasonal and rainfall patterns (FAO, 2019).

The 2017 IOM-IASCI survey found that over four in five surveyed migrants (male and female) left due to low salaries at home, while roughly three-quarters cited lack of employment opportunities (and lack of opportunities matching skills and qualifications) (IOM and IASCI, 2017). Women migrants were more likely than male migrants to claim lack of employment opportunities in Nepal as a reason for migration (Ibid). For both male and female migrants, the ability to secure decent employment in Nepal was the most frequently cited pre-condition upon which permanent return would be considered (IOM and IASCI, 2017). Interviews with migrant women conducted in 2014 for the ILO study, *No Easy Exit: Migration Bans Affecting Women from Nepal* found that many women were already employed in Nepal but were motivated to migrate in order to increase their income levels abroad (ILO, 2015a).

It is not just consideration of one's own economic condition that fuels migration, but also concern for one's family. A 2017 CESLAM and UN Women survey of returnee women migrant workers – four-fifths of whom had been engaged in domestic work while abroad – found that the top two reasons why women chose to migrate were to: (1) improve their family's economic condition (cited by 55%); and, (2) to improve their children's future (cited by 24%) (UN Women, 2017). The ILO (2015) study also determined funding educational opportunities for children as a primary reason that women chose to migrate.

One 'push' factor featuring prominently in studies of both returnee and potential women migrant workers was the overwhelming burden of debt that families were unable to pay down with local wages, even when both spouses were gainfully employed (Zimmerman et al., 2015; Mak et al., 2019; ILO, 2015a; Kharel, 2016). Mak et al. (2019) found that two-thirds of households they surveyed reported outstanding household debt as a reason for migration, with remittances earned abroad used to service these debts. The CESLAM-UN Women 2017 study found that 24 per cent of women migrated in order to pay off debts (UN Women, 2017). Most often, debt is accrued in order to cover home building and maintenance, education for children and basic living necessities (Mak et al., 2019). Often, women migrant workers / migrant domestic workers also incur further debt in order to finance their migration experience, taking out loans from friends or relatives, from local money lenders or from banks (IOM, 2019a). They may frequently borrow money from recruiting agents themselves (GAATW, 2017). Some reports have estimated that as many as three-quarters of migrants (male and female) have to take out loans when needing to pay recruitment fees (Paoletti et al., 2014).

Debt-financed migration is an alarming trend in Nepal and throughout Asia which can have concerning implications for the safety and well-being of migrants. A number of studies have found that migrants

who take out loans in order to finance their migration are more likely to report experiencing exploitation. This can happen both in transit – because it incentivizes riskier migration decisions – and while abroad (Mak et al., 2019), perhaps because migrants with high debt burdens are less likely to leave exploitative or dangerous work situations for fear of losing their income source. Often, loans taken from recruiting agents are repaid through wage deductions once the migrant arrives to the destination country, which can lead to forced labour or debt bondage as migrants are immobilized until they have repaid these debts (IOM, 2019b). Migrants often lack key financial literacy and financial counselling in order to successfully renegotiate debts, design repayment plans and ultimately reduce debt, which can further perpetuate cycles of indebtedness and migration (IOM, 2019b). Perhaps optimistically, the CESLAM-UN Women (2017) survey found that while many women first migrated to service debts and survive economically, those who chose to migrate again were focused more on wealth accumulation and investment (UN Women, 2017).

Repeat migration is common amongst women migrant workers and migrant domestic workers. One quarter of women migrant workers surveyed by Mak et al. (2019) were repeat migrants as were over a third of those that CESLAM-UN Women (2017) surveyed. While many women are likely motivated to migrate again because they have earned adequate incomes and have been able to save / remit money, had positive relationships with their employers and / or enjoyed added levels of autonomy, there are also origin-side factors present in Nepal which inevitably push women to repeatedly seek foreign employment. Many women migrant workers are unable to capitalize on the new skills and autonomy they have gained abroad upon return to Nepal, with numerous returnees reporting that they were expected to adopt former household roles and similar burdens of household reproductive work responsibilities upon return (UN Women, 2017). These obligations effectively inhibited their ability to seek employment outside of the home. Others reported gaining a range of new skills and expertise as domestic workers but found that these skills did not translate well back into the domestic labour market and that they had no comparative advantage in obtaining employment once they returned (UN Women, 2017; IOM, 2019a).

3.4.2 Patriarchy, gender inequality and other dynamics fueling migration

While financial considerations are certainly an integral determinant of migration decision-making, the process is too complex to limit to conversations on economic determinism or wage differentials (Mezzadra, 2004). Instead, the process is also fueled by a range of unequal, gendered social dynamics in Nepal reinforced by traditional patriarchal structures. While these patriarchal social norms and stigmas against women's work and migration are likely one of the reasons why so few women in Nepal have migrated when compared to men (Thieme et al., 2005; ILO, 2017a; Parreñas, 2015), migration for employment, perhaps paradoxically, is also one of the only options available to Nepali women to navigate these local systems of oppression.

Said patriarchal structures are those which perpetuate the educational and skills development of boys over girls in Nepal. For these reasons and given discrimination against women in labour markets, Nepali women are unable to access higher-skilled positions in the job market. When women attempt to access lower-skilled employment instead, they are frequently prevented from doing so by their families, who fear that their reputation will be affected if their wives or daughters are engaged in "lower status" occupations outside of the home (UN Women, 2017). Women who do leave their homes to seek employment elsewhere – for example, in restaurants or hotels – are often judged by their families and by their communities (UN Women, 2017). This is due to complex patriarchal social value systems in Nepal regarding woman's honor which constrain their mobility and scrutinize women's work and travel away from their homes (Coyle et al., 2014). Migration thus gives women the opportunity to work and earn significantly higher incomes while distancing themselves from this judgement. As women migrant workers subsequently become primary breadwinners in their family by migrating, this may also give them a greater ability to make choices regarding household decisions and distribution of household resources (Afsar, 2011).

The decision to migrate for women migrant workers is rarely individual and is frequently influenced by external social networks such as family members, community members, institutions and recruitment

intermediaries (Gamburd, 2000; Kiss and Bosc, 2017; Abramsky et al., 2018; Massey et al., 1998). At a family level, for example, the initial preference may have been for the male spouse to migrate, but for a variety of reasons it is ultimately decided that the female spouse should migrate instead (Zimmerman et al., 2015; ILO, 2015a). This could be because the male spouse is ill or does not have the necessary skills, or because migration costs are significantly higher for men (Kharel, 2016; ILO, 2015a). Migration costs for women migrant workers may be lower because fees for domestic workers are often borne by the employer in the destination country, and migrant domestic workers often receive incentive payments upfront (Ibid). These dynamics, coupled with lack of skills, education and training for women migrant workers in other areas often mean that migrating for domestic work is their only option. This is reinforced by structures in Gulf and other destination countries, where labour markets for migrant women are also highly segmented by sex and where available jobs fall almost entirely within the realm of domestic work (Baldwin-Edwards, 2011).

Equally important as a migration driver is the role of social networks and large-scale repeat and circular migration (Castles et al., 2014), which has fostered a general culture of migration in Nepal. This culture of migration has generated dynamics of a so-called “neighborhood effect” – where women witness the success stories of other women in their communities who have migrated and see their newly-obtained economic prosperity (for example, through construction of a new house or by sending their children to private school) and feel the desire to reap the same benefits (UN Women, 2017; Zimmerman et al., 2015; Kharel, 2016). Given how many Nepalis have migrated both past and present, the process has also become a “rite of passage” for many Nepali youth and is often seen as intrinsically connected to an increase in class and social status (IOM, 2019a).

Finally, migration for many Nepali women also constitutes an escape from systems of violence, which are also representative of deeply entrenched patriarchal norms. As discussed in sub-section 3.3, women are often vulnerable to sexual and gender-based violence (SGBV) in public and private spheres in Nepal. Many women migrant workers use foreign employment as a way of distancing themselves from abusive husbands, and many of these husbands often suffer from alcohol addiction and engage in other vices such as gambling (Piper, 2008; UN Women, 2017; ILO, 2015a). Other women may use migration to escape unwanted marriages (Piper, 2008). Although domestic violence is criminalized through the Domestic

► Box 3.4: The role of conflict and natural disasters

Both conflict and natural disasters have been important migration drivers in Nepal (ILO, 2017a). During the country’s Maoist insurgency, out-migration for employment to international destinations increased rapidly (IOM, 2019a; K.C. et. al., 2017; Kharel, 2016), driven by economic instability, violence and insecurity. While the majority of those who left were men, women also increasingly engaged in migration, as evidenced by the growth in the share of women migrants amongst the total absentee population occurring in this period (FAO, 2019). Simultaneously, some non-migrant women with absentee male spouses encountered significant changes in gender roles during this period, becoming de facto heads-of-household and engaging in employment typically reserved for men (K.C. et. al., 2017).

Natural disasters have also been an important driver for overseas migration for both men and women. In particular, the devastating 7.8-magnitude earthquake which struck Nepal in April 2015 and killed approximately 9,000 Nepalis led to increased outmigration. Both men and women sought jobs and higher incomes overseas in order to rebuild their homes and service earthquake-related debts back home (UN Women, 2015). The outbreak of COVID-19 has already had significant effects on limiting global mobility, including for migrants, and it remains to be seen when or if out-migration from Nepal will return to pre-pandemic levels, or whether or not the economic consequences of this crisis will generate further out-migration – including of women migrant workers – once the pandemic has subsided.

Violence (Crime and Punishment) Act (2009) the act is rarely enforced and domestic violence is rarely acknowledged or punished in Nepal (FAO, 2019). While divorce is legal in Nepal, disruption of marriage – particularly at the female spouse’s behest – is highly stigmatized (The Women’s Foundation Nepal, 2020; Kharel, 2016). As a result, migration is sometimes the only way for women to separate themselves from their husbands (ILO, 2015a; Afsar, 2011; Mak et al., 2019). These social realities may explain why policy interventions aimed at reducing pressures to migrate by focusing on root economic causes are not always successful. In recognizing that family itself can be a space for patriarchal norms and unequal power exchanges, as opposed to a static unit, one may view female mobility not as a product of economic determinism or wage imbalances but as a social movement for autonomy (Afsar, 2011; citing Mezzadra, 2014; citing Matthei, 1999). Policies such as migration bans that aim to reduce the migration of women then serve to limit this autonomy.

3.5 Recruitment process

The spaces where migrant workers – including migrant domestic workers and women migrant workers – are often most at risk of exploitation and abuse are in workplaces once in destination countries. However, the complex, centralized, insufficiently regulated, corrupt and costly recruitment system in Nepal is also frequently blamed for further exacerbating exploitation and abuse of Nepalis seeking foreign employment (Paoletti et al., 2014; Zimmerman et al., 2015; GAATW, 2017; IOM, 2019a). This section briefly explores the characteristics of the recruitment process – with a specific focus on migrant domestic workers – and the processes, dynamics and potential risks involved in their recruitment spheres.¹⁴ For an overview of the steps involved in the formal recruitment process managed by DoFE, as well as a description of general challenges in the recruitment framework for Nepali migrant workers, reference Annex C.

Owing in large part to policies which prevent formal recruitment agencies from sending Nepali migrants for domestic work overseas, migrant domestic workers mostly rely on a burgeoning number of unregistered recruitment intermediaries (Kharel, 2016). Said intermediaries are typically not registered with the government and there is little available information and data on their numbers, characteristics or whereabouts (Kern and Müller-Böker, 2015; Paoletti et al., 2014). Mak et al. (2019)’s study of returnee women migrant workers found that two-thirds had used an informal recruitment intermediary in order to obtain overseas employment.

Informal recruitment intermediaries, often known as brokers or sub-agents, or pejoratively as *dalals*, play a fundamental role in facilitating the foreign employment recruitment process in Nepal, both within regular and irregular migration channels. Agents are able to simplify a complicated, bureaucratic and frequently changing recruitment process that is often inaccessible to potential migrant workers, particularly those located in rural areas who lack the education or financial means to negotiate the process individually (Paoletti et al., 2014; Kern and Müller-Böker, 2015; MFA, 2018). Agents provide crucial and up-to-date information on job vacancies, background on destination countries, information on terms and conditions of employment, arrange necessary travel itinerary and documentation, and liaise with agencies in Nepal and destination countries, as well as employers (Paoletti et al., 2014; Kern and Müller-Böker, 2015).

Within formal recruitment channels, agents serve as an important conduit between local villages and official and semi-official agencies based in larger cities. Agents may also indirectly assist with securing permits from DoFE. Many recruitment agencies iterate that they would be unable to operate without the help of these local actors (Kern and Müller-Böker, 2015). In informal channels, agents can help migrant workers in negotiating the complex process of bypassing border and travel restrictions to access jobs in destination countries. This is the case for many migrant domestic workers and women migrant workers. The agent (or chain of agents) is often responsible for locating employment and negotiating with

¹⁴ This section is not intended to be an in-depth discussion of the recruitment industry in Nepal nor is it intended to cover all details of this complex process. For a more in-depth analysis of these topics, please reference, for example: ILO, 2017a; Paoletti et al., 2014; Institute for Human Rights and Business (IHRB), 2018; Migrant Forum in Asia (MFA), 2017.

agencies and employers in destination countries, while also directly or indirectly coordinating transport of women migrant workers and migrant domestic workers across the Nepali border into India and through other transit countries to their final destinations. Even for migrants who may be able to avail of formal recruitment channels, the large costs associated with travel and accommodation to Kathmandu, where most pre-departure activities are concentrated, is another barrier that may lead a migrant worker to use the services of an agent to embark through informal channels. Others may choose to do so out of desperation to begin working and to avoid potential loss of income experienced during the often-drawn-out foreign employment application and documentation process (Kern and Müller-Böker, 2015).

Agents are usually individuals that are personally known by the migrant worker, and can be family members, friends or members of the same community (Paoletti et al., 2014). Many are themselves former migrant workers and can thus offer firsthand knowledge and recommendations to first-time migrants on the correct steps to take in securing jobs overseas (Kern and Müller-Böker, 2015). As such, workers put a great deal of trust in these individuals to provide them with access to livelihoods and a “way out” of local communities where employment options are scarce.

While using subagents to migrate can bring a number of conveniences, there are also a number of risks. Firstly, workers often pay agents up front before any position is secured, and risk not receiving a job offer and losing their initial deposit (Paoletti et al., 2014). The process can also involve increased (and potentially inflated) costs for certain migrant women who are asked to cover the fees associated with falsification of documents or bribery of officials that may be required in order to depart the country through informal channels (ILO, 2015a). Given the circuitous and transborder nature of migrating through informal channels, the process often involves multiple agents. This not only exposes migrant women to additional costs (as each agent in the chain can cover additional fees) but has also led some migrant women to report feeling “sold” or at risk of being trafficked as they are “passed off” between different intermediaries (Paoletti et al., 2014; ILO, 2015a).

Furthermore, by having to put increased trust and delegate more decision-making power to sub-agents, women migrant workers and migrant domestic workers may have less control and agency over the migration process and are often put in a disadvantageous negotiating position, given that they have no alternative method of migrating (GAATW, 2017; ILO, 2015a; Paoletti et al., 2014). Migrant women departing through informal channels have previously reported lacking freedom of movement whilst in transit, while others have reported being left stranded in transit destinations or being forced to wait for extended periods where they are held in sub-standard housing and not permitted to leave their accommodation (NHRC, 2018; Paoletti et al., 2014; Kharel, 2016). Many migrant women hand their passports and other documents over to agents and risk not having these documents returned (ILO, 2015a). Sometimes, agents have been known to promise migrant domestic workers and women migrant workers false jobs and false salaries in order to lure them into migrating, with migrant domestic workers only discovering this deception when it is too late.

Many women who migrate by way of India are unaware of pre-departure orientation trainings, lack information on their working conditions and benefits as well as their foreign rights and responsibilities (Mak et al., 2019). Many also report never receiving written employment contracts (Mak et al., 2019). Of continued concern are stories of women being trafficked / sold into brothels by recruiting agents in India whilst in transit to destination countries (IOM, 2019a; Kharel, 2016). Finally, women migrant workers / migrant domestic workers migrating informally may face significant difficulties in reporting fraudulent recruitment practices or instances of trafficking to authorities. This is not only due to a reluctance to reveal their migration status, but also because migrants embarking through informal channels rarely have the adequate documentation and evidence necessary in order to support their cases, and lack knowledge on how to submit claims in the first place (Paoletti et al., 2014).

However, many of these aforementioned recruitment violations and concerns are not necessarily unique to recruitment through informal channels. Falsification of job conditions, document retention, lack of knowledge of predeparture trainings, lack of access to insurance, inability to access redress mechanisms, trafficking and other violations are known to occur both in formal and informal recruitment channels. There is no clear delineation between safe and unsafe migration when it comes to informal versus

formal migration channels for women, and as Zimmerman et al. (2015) points out, migrating through regular channels in Nepal and elsewhere in South Asia does not guarantee that a migrant is protected from exploitation. The challenge then is to design policies and frameworks which not only formalize recruitment channels but also make formal recruitment channels safer for women migrants.

Informal recruitment intermediaries in Nepal and elsewhere are often generalized as unscrupulous, opportunistic actors that infiltrate foreign employment processes and inhibit the functioning of safe and regular migration channels (Lindquist et al., 2012). Most are often characterized as smugglers or traffickers (Kern and Müller-Böker, 2015). This is also the narrative frequently employed by government officials, popular media outlets, NGOs and other migration stakeholders in Nepal. While concern around abuse and exploitation perpetuated by recruitment intermediaries is a legitimate concern, it is not possible to generalize these individuals – who adopt a wide array of behaviors, come from a multitude of backgrounds, and realize many different activities – as one homogenous, monolithic entity. Additionally, many migrants have positive experiences and establish interpersonal relationships with these brokers. Given the difficulties that Nepali workers face in negotiating legal and administrative procedures, and active and passive restrictions that prevent many Nepalis from accessing formal procedures in the first place, agents would be more accurately interpreted as a byproduct of a migration system that is structurally inaccessible and unregulated. Agents form a small part of a multi-step process in transnational mobility in which many actors are operating, often with competing interests, across “socially and spatially unconnected social fields” (Kern and Müller-Böker, 2015: 159).

3.6 Conditions for Nepali women migrant domestic workers abroad

Migration, like many other experiences, is not static. It may produce positive and negative outcomes, often simultaneously. ILO’s initial study of migration bans in Nepal published in 2015 found that a multitude of women interviewed reported having positive experiences and good relationships with their employers (ILO, 2015a) (in addition, reference the in-depth documentary profiles of migrant women in Annex E to see more stories on how women migrant workers can benefit from overseas migration). However, overseas employment can also carry a multitude of risks. While males and females face these risks, women migrants may be particularly vulnerable. This is often structural, given women migrant workers’ greater propensity to be engaged in informal, casual, low-skilled and low-paid work (Kiss and Bosc, 2017).

The risks are further exacerbated for women migrant domestic workers, who, given the nature of their work, encounter weak or non-existent laws and policies protecting their rights in destination countries (Mak et al., 2019). Due to the isolated and spread-out nature of domestic work, the signs of abuse for domestic workers – particularly live-in domestic workers – are often hidden (GAATW, 2017; Paoletti et al., 2014). Additionally, many migrant domestic workers find themselves living and working in destination countries in an irregular status, which can decrease the likelihood that they will seek assistance when encountering problems, owing to fears of being detained or deported (Ghimire, 2017).

Domestic work, along with construction, is the lowest paid job abroad for Nepali migrant workers (IOM and IASCI, 2017). UN Women’s (2017) survey of returnee women migrant workers found the average wage of participants to be USD 240 per month while working abroad. Mak et al. (2019)’s survey of returnee women migrant workers found that the majority of workers worked all seven days of the week, often in excess of 13 hours per day (both studies tended to focus on and sample live-in domestic workers only). This section briefly outlines the primary issues that women migrant domestic workers are known to face while abroad. It will also discuss which factors are known to exacerbate their vulnerability to facing adverse migration outcomes, and the available retribution mechanisms in destination countries.

3.6.1 Primary issues reported by Nepali women migrant domestic workers employed abroad

The below text box is a list of the primary issues that women migrant domestic workers have reportedly faced in destination countries (primarily in the Middle East), collected from various documentary research publications. Notably, there are three principle types of migrant domestic worker – (1) hourly workers, who work for one or more employers for a specific number of hours or realize specific tasks for one or multiple employers each day; (2) live-out workers – who live outside of their employers' homes and commute to their employer's house each day to work part-time or full-time; and (3) live-in domestic workers, who reside full-time on their employer's premises (ILO, 2017c). Working conditions between these categories of domestic workers likely differ significantly, particularly in regard to excess working hours and freedom of movement. While there are signs that this may be changing, only live-in migrant domestic workers are (generally) lawfully permitted to work in Gulf countries (ILO, 2017c). As such, the below table focuses on this latter category, while recognizing that there are other countries in West Asia where live-out domestic workers may be more common and where conditions may consequently differ, including Jordan, Lebanon and Israel.¹⁵ In addition, this discussion does not focus on other household workers, including male-dominated occupations like gardeners, drivers or private security guards. Many of these issues that women migrant domestic workers are known to face abroad are also intertwined with and represent continuations of abuses occurring during the recruitment process.

In order to better understand why women migrant domestic workers are often subjected to the above conditions, the ILO has realized a variety of studies of employers of domestic workers in key destination countries, including Lebanon (ILO, 2016d), Kuwait (ILO, 2015e) and Jordan (ILO, 2015d). Many employers surveyed in these three countries justified the retention of passports or prohibitions on free movement outside of the house as a way of “protecting the investment” they had made in recruiting and transporting the worker to the destination country (ILO, 2017c). Many employers reported fearing that workers would either run away, steal from them, develop an intimate relationship with someone outside the home or commit a crime if allowed to leave the premises (ILO, 2017c). Many of these assumptions are based on deeply embedded discriminatory attitudes regarding workers' class, nationality and gender, with employers perceiving migrant women as “too vulnerable”, “easily corrupted” or “untrustworthy” (ILO, 2017c: 6). The continuation of these practices despite numerous prohibitions in international and national laws highlights the need for behavioral change campaigns in key destination countries (ILO, 2015c; 2015d; 2016c; 2016d; 2017c).

It is also imperative to point out that the abuses discussed above are also mostly derived from studies focused on conditions for those migrants living in GCC and other Middle Eastern countries. However, Nepali migrant workers and women migrant workers / women migrant domestic workers in India are also known to face a range of economic and social deprivations and face poor working and living conditions (Bhattraï, 2007; ILO, 2017a). In transit, many migrants are subject to extortion and other illegal activity on the Indo-Nepali border (ILO, 2017a). Trafficking of women and girls to India (as the final destination) to work in brothels in cities like Delhi and Mumbai has been known to occur for decades (B. Sapkota, 2019; United States Department of State, 2019).

Despite these realities, discussions on abuse of women migrant domestic workers and of migrant workers in general often focus on the Middle East and destinations in East/South-East Asia, while the labour and human rights realities of Nepali migrants in India are often absent from the policy discussion. This is despite proven knowledge that migrants in the most vulnerable situations, from the poorest households, and with the fewest resources in Nepal are those who are migrating to India in the first place (as discussed in sections 3.1 and 3.2). However, research on Nepalis' migration trajectories, their

¹⁵ See, for example, ILO's publications on domestic workers in Lebanon, including: *Protecting the rights of migrant domestic workers: Good practices and lessons learned from the Arab Region* (ILO, 2015c) (available [here](#)); *A study of the working and living conditions of migrant domestic workers in Lebanon: "Intertwined: the workers' side"* (ILO, 2016c) (available [here](#)); and, *A study of the employers of migrant domestic workers in Lebanon: Intertwined* (ILO, 2016d) (available [here](#)). See also, ILO's publications in Jordan, including: *Employers' perspectives towards domestic workers in Jordan* (ILO, 2015d) (available [here](#)); and, *Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies* (ILO, 2017d); (available [here](#)).

► **Box 3.6.1 Summary of main employment-related issues reported by Nepali women migrant domestic workers abroad**

- Non-payment of wages;
- Working excess hours with inadequate rest hours;
- Inadequate housing and / or food provisions;
- Substantial changes in the conditions and nature of work originally agreed upon;
- No leave days or being denied leave originally promised;
- Confiscation of passports and other identity documents;
- Occupational safety and health hazards and unsafe working conditions;
- Lack of access to collective bargaining and freedom of association;
- Lack of access to grievance and other dispute resolution mechanisms;
- Barriers to accessing health care services - either due to fears of losing employment, lack of sick leave days and / or prohibitive healthcare costs that are not borne by the employer;
- Workplace injuries and work-related illnesses;
- Contract substitution – which occurs when an employer, often once the worker is in the destination country, signs a new, altered contract with the worker which frequently offers a lower salary and fewer benefits. Once the new contract is signed the old contract is considered null and void;
- Salary discrepancies – between the salary originally agreed-upon and that received in-country;
- Lack of freedom of movement and forced isolation - including by prohibiting migrant domestic workers from leaving the house if not in the company of their employer or prohibiting migrant domestic workers from leaving the house whatsoever;
- Mental health issues and suicides that may be linked to working conditions and isolation;
- Disappearances – with families in Nepal never hearing from their loved ones again;
- Abuse - taking numerous forms but ranging from reports of verbal abuse, threats of violence, physical violence and domestic abuse, as well as sexual abuse. There have been some reports of sexual abuse and rape leading to unwanted pregnancies;
- Various violations of working conditions (some of which included above) that individually or together could amount to forced labour, labour trafficking or debt bondage, amongst other rights violations.

Sources: Sijapati and Limbu, 2017; ILO, 2015a; Joshi et. al., 2011; Philippines OFW Guide, 2014; Paoletti et. al., 2014; ILO, 2017a; Mak et. al., 2019; UN Women, 2017; GAATW, 2017; Kharel, 2016; O. Rai, 2017; ILO, 2015c; ILO, 2015d; ILO, 2016c; ILO, 2016d; ILO, 2017c).

occupations and locations in India, working conditions and more tend to be under-explored in migration literature (Bhattraï, 2007). Should policymakers be genuinely concerned about the “plight” of Nepali women migrant workers abroad, then the labour abuses of the entire contingent of cross-border Nepali men and women working in India should be taken into consideration as well.

3.6.2 Elements that exacerbate risks of exploitation and abuse

Despite what is now widespread knowledge of the issues that women migrant domestic workers may face while working abroad, there is still very limited research on what social and demographic characteristics, structural constraints, and individual or collective factors may enhance certain women migrant domestic workers’ vulnerability to facing negative migration outcomes over others (Abramsky et al., 2018;

Zimmerman et al., 2015). Zimmerman et al. (2015) found that migrants frequently have minimal control over reducing risks. Perhaps contrary to the belief of many policymakers and practitioners in Nepal, Mak et al. (2019) determined that neither women's sociodemographic characteristics (including age), nor their level of knowledge about the risks involved, had any effect in exacerbating or reducing their risks of facing adverse migration outcomes. Instead, growing bodies of research suggest that women's migration experiences are overwhelmingly dependent on the nature of their work (e.g. domestic work), the methods through which they were recruited, legal structures, and once in destination countries, above all – their relationship with their employer (Zimmerman et al., 2015; ILO, 2015a; Mak et al., 2019).

The dynamics reflected upon in Text Box 3.6.1, many of which are related to the relationship of the woman migrant domestic worker with her employer, are often intrinsic features of the *kafala* (sponsorship) system, which still predominates in many Gulf destination countries as well as Jordan and Lebanon. This long-standing system, which has persisted since the 1950s, ties a migrant worker's residence and work status in the country to their employer or sponsor (*kafeel*) (MFA, 2012). Workers must obtain express consent from their sponsor to enter or leave the country and to change their employment, and although the practice has been made illegal in many countries, sponsors continue to retain the passports and travel documents of their workers (MFA, 2012). This creates significant power asymmetries between workers and employers and increases instances of forced labour (Kharel, 2016; ILO, 2015a; ILO, 2017a). While numerous Gulf countries have made concrete or passive commitments to reforming this system – including Qatar and Bahrain, who declared that it would be abolished – the system persists (International Trade Union Confederation – ITUC, 2017).

3.6.3 Mechanisms to address exploitation and abuse experienced abroad

For most migrant domestic workers in West Asia, resolution of disputes is usually conducted through voluntary conciliation between the worker and the employer (e.g. through informal / amicable settlement) often with the support of a recruitment agency, CSO, union, embassy or consulate (ILO, 2017c). Resolution through Ministries or through judicial action in civil courts also occurs but is rare. In instances of criminal activity, criminal cases may be brought by a prosecutor; however, compensation to victims is not guaranteed (ILO, 2017c). For each of these pathways, migrant workers – and women migrant workers and migrant domestic workers in particular – face a number of access challenges and barriers (ITUC, 2017). In instances of informal remediation between workers and employers, there is no way of guaranteeing engagement of the employer, while there is no mechanism in place to ensure that resolutions are fair to the worker from a legal standpoint (ILO, 2017c). In formal dispute resolution processes, workers face a number of physical access challenges, and many women migrant workers are unable to leave the employer's home to file disputes or carry out administrative and legal procedures. Migrant workers face language barriers, may not understand complex and foreign legal and court procedures, and often face prohibitive costs and legal fees (GAATW, 2017; ILO, 2017c). While disputes are underway, many workers may endure precarious or uncertain legal immigration statuses while being unable to sustain themselves financially or maintain a secure accommodation (ILO, 2017c).

Most importantly, as an extension of the lack of labour laws covering domestic workers in key destination countries, migrant domestic workers have historically been excluded from accessing formal legal redress mechanisms that migrant workers in other occupations are (from a legal standpoint) able to access. However, there are at least signs that this is changing over time with the signing of new laws in key Gulf destination countries. In Kuwait, the new Domestic Worker Law (No. 69) (2015) and its 2016/17 regulations allow migrant domestic workers to access complaint mechanisms through the Kuwaiti Domestic Labour Department (ITUC, 2017; Human Rights Watch – HRW, 2018a). In UAE, the recently signed Law on Support Service Workers (No. 10) (2017) allows for disputes to be tried in the Ministry of Human Resources and Emiratization (UAE Government portal, n.d.). In Oman, while not codified in law, the Domestic Workers' Regulation (2004) allows migrant domestic workers to bring disputes to the Omani Manpower Ministry (ITUC, 2017). Qatar's Law on Service Workers in the Home (No. 15) (2017) allows domestic workers to refer disputes to the Ministry of Administrative Development, Labor and Social Affairs (HRW, 2018b). Virtually all GCC countries have laws on anti-trafficking and forced labour, and an analysis of legal reforms over

the past few years show that the penalties for such violations have *in general* been made more severe over time (ITUC, 2017). However, while new legal mechanisms on domestic workers are being created in Gulf countries, the ILO has identified a general lack of compliance and weak enforcement of laws (ILO, 2017c) (see Table 5.3 for more a more in-depth analysis of current laws and regulations governing migrant domestic workers in key Gulf destination countries).

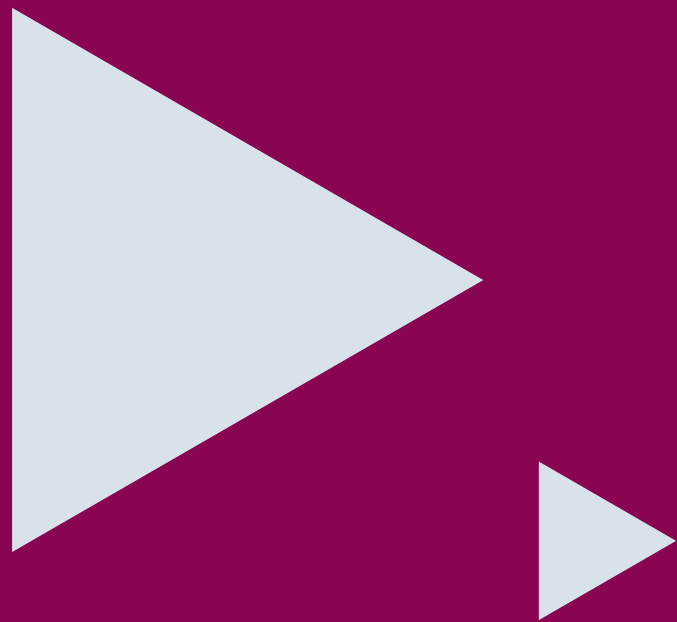
Although unionization of migrant workers is prohibited in most destination countries, a number of trade unions and trade union federations based in Nepal and elsewhere in South Asia conduct loose or informal operations in Gulf countries. However, these groups do not have a wide reach and almost exclusively consist of men. NGOs also offer support for Nepali workers in Gulf destination countries. The Pravasi Nepali Coordination Committee (PNCC) runs networking and outreach centers in Qatar and Saudi Arabia and helps distressed and stranded workers, while addressing issues of non-payment and fraud and helping workers claim compensation and fight penalties (PNCC, n.d.). However, as confirmed by a UN labour migration expert based in the Middle East, most of these services focus on male migrants, and very few actively and consistently assist women migrant domestic workers, often because domestic workers are spread out geographically and are difficult to locate and access in the first place. This was confirmed by various union and CSO counterparts interviewed for this review. Overall, legal restrictions in most principle destination countries mean that trade union participation for all Nepali migrant workers abroad, but especially migrant women, is still widely aspirational, ad-hoc and informal.

Most frequently, Nepali diplomatic missions based in destination countries are the only places where workers know to or are able to seek assistance. Additionally, workers may prefer to seek help from embassies or consulates because staff speak their own language (ILO, 2017c). Nepali embassies and consulates frequently have *ad hoc* involvement (to various degrees) in labour disputes, helping in connecting workers with legal services, assisting them in accessing mechanisms and even facilitating negotiation between workers and employers (Paoletti et al., 2014). Major destination countries have labour wings consisting of labour counselors and labour attachés. The Nepal FEA (2007) mandates the appointment of labour attachés (specialized experts in labour migration attached to the Nepali diplomatic mission) in any countries with 5,000 or more Nepali workers (MoLESS, 2020). Many of these missions also have labour counselors. Nepal's Foreign Employment Rules (2008) also mandate for the appointment of female labour attachés in destination countries with more than 1000 female Nepali migrant workers (MoLESS, 2020).

However, there appears to be almost universal recognition, both in existing studies and amongst the stakeholders interviewed for this review, that Nepal's foreign missions do not have the sufficient human, training or financial resources to handle the volume of work required to assist workers abroad and assist in settling disputes. Nepal's foreign missions also have limited legal powers in destination countries and are discouraged by these governments from getting involved in labour disputes (Paoletti et al., 2014). Many embassies have been reported to encourage women to turn themselves into the police in order to get deported, or otherwise return to abusive employers (McQue, 2020). Other women migrant domestic workers have reported that embassies have outright refused to assist them (Paoletti et al., 2014; GAATW, 2017). Few women migrant domestic workers possess the necessary information to know who to contact in the embassy or how to contact them (ILO, 2015a). Given these limitations, Nepal is encouraged to strengthen the capacities and human resources of its foreign embassies in key destination countries, with a specific focus on appointing gender focal points and female labour attachés specifically engaged in advocating for and assisting women migrant workers, migrant domestic workers and women migrant domestic workers.

▶ 4

Conceptual Framework: An Intersectional Analysis of Migration Policy-Making In Nepal



Numerous studies realized by human rights NGOs, UN organizations, CSOs, research institutes, independent academics, journalists and even certain governmental ministries regarding the outcomes and impacts of Nepal's migration bans have advocated for their repeal. Many have identified the ban to be gender discriminatory and have pointed out that bans on either women migrant workers or migrant domestic workers (or both) over the years have not prevented migration and have not made women migrant workers or migrant domestic workers safer.

However this growing body of empirical research on policy outcomes has not yet deterred the repeated use of bans. On every occasion where advocates and human rights stakeholders have lobbied the State to begin scaling back on restrictions, it has rather swiftly reversed its decision to do so. This has created confusion for migrants themselves and for stakeholders involved in the foreign employment process (ILO, 2015a). According to various human rights organizations interviewed for this review, it also creates a complicated and arduous cycle for activists and migration experts, who then have to begin the advocacy process over again from the beginning, often with new bureaucrats and politicians who do not have regulatory experience in this area.

These rapid knee-jerk policy reversals regarding migration bans and the oscillation between on-again, off-again restrictions shows that Nepal has no long-term, institutionalized policy plan for female labour migration or migrant domestic work. This review takes the position that research and advocacy has fallen short in achieving meaningful long-term reform because not enough attention has been given to the policy formulation phase itself, nor has there been enough attention directed towards deconstructing the policy narratives and the ideas, values and norms which feed into these narratives, and the ways in which policies are devised and negotiated. This section will present a conceptual framework which links together concepts related to migration policymaking, intersectionality of gender, class, caste and race, transnationality, and media discourses to better understand the reasoning behind migration bans and gender-restrictive migration policies. This framework will in turn inform the analysis of policymaking dynamics in sections 5 and 6.

4.1 Characterizing migration policymaking and policy reform in Nepal

In any country, political positions on international migration are rarely uniform amongst key decision-makers. In addition, policies themselves rarely arise out of objective, rational facts (Goldstein and Keohane, 1993; Berman, 2001; March and Olsen, 2011). Instead, migration policy spheres are populated by a number of different stakeholder groups that each hold their own rival ideas, values and interests regarding appropriate policy interventions, which are often influenced by "different traditions of thought, paradigms or frames" (Boswell et al., 2011: 1). These stakeholders weave together their own assertions, or knowledge claims, regarding the characteristics, causes and consequences of migration phenomena into causal stories known as "policy narratives". These policy narratives set out "beliefs about policy problems" and their "appropriate interventions" (Boswell et al., 2011: 1).

Amongst the many rival policy claims which are made on migration issues, those which usually prevail are ones which: (1) match perceived interests; (2) are "cognitively plausible"; and (3) are dramatic or morally compelling (Boswell et al., 2011: 1). However, narratives that chime with the aforementioned three criteria are not always informed by empirical realities. In fact, policies may function in direct contradiction with existing or emerging data and research. Growing recognition of the complexities involved in managing and regulating migration, uncertainties about its causes and impacts, and increasing expertise in the policy community over the past two decades have led to increased global pressure on governments to make migration policies "evidence-based" – that is, sourced from expert and scientific knowledge (Boswell et al., 2011).

This call to make migration policy-making more technocratic and evidence-based has also been echoed in Nepal and in sub-regional policy spheres. Nepal's Foreign Employment Policy (2012) makes numerous commitments to improving the evidence-base on migration, including by researching and studying the risks (Objective 9.3), engaging academic and professional institutions to bridge research gaps (O.9.4),

advocating for the establishment of a labour migration research center (O.9.5), forming partnerships with research-based organizations (O.9.6), research on remittances (O.9.7), and commitments to improving data collection through administrative records on migrant workers (DoL, FEP 2012, 2012). The DoFE has also recently launched its Foreign Employment Information Management System (FEIMS), a one-stop data portal which monitors the labour permit approval and renewal process, facilitates online registration of grievances, and provides “timely, easy and real-time disaggregated data” in order to support “evidence-based policymaking by increasing the capacity to analyze trends, origins and destinations, skills, and grievances, among others” (MoLESS, 2020: 55). At a sub-regional level, SAARC in its 2016 Draft Plan of Action on Labour Migration recognized the need to strengthen the capacity of South Asian government authorities to manage migration and improve the impacts of migration policies by, for example, creating “a shared database or web portal with information about migration trends and patterns” (ILO, 2018b: xiv).¹⁶

However, despite national, regional and global efforts to make migration policymaking more technocratic, expert knowledge and empirical research is often overlooked in Nepal (and elsewhere) during the policy formulation phase (Boswell et al., 2011). This is often because findings from empirical research do not reinforce predetermined interests and narratives established by key decision-makers, because policies are used to respond to populist pressures or public opinions or because governments stick with the perceived wisdom of long-standing bureaucrats instead (Boswell et al., 2011). In Nepal, Bennett (2005) discusses that many of these pre-determined interests and beliefs are products of a “thicket of informal behaviors and deep-seated norms and values and networks of political alliances and obligations” (p. 2), which must evolve in order for meaningful policy reform to take place. When policy narratives do shift and when policy reform is achieved, it is often due to “increasingly apparent internal contradictions or through external economic, political or ideological shocks” (Ibid: 2). Policymakers in Nepal and elsewhere in South Asia are usually more willing to pursue interventions on migration and trafficking (or otherwise) that do not disrupt existing power structures (Bosc, 2018), so reforms that require departures from these structures are often “reluctantly conceded” by these “entrenched power holders” (Bennett, 2005: 9). Accessing evidence and research on migration can assist in catalyzing this shift away from traditional paradigms in migration policymaking. However, even when technocratic research on female labour migration is accessed, decision-makers often focus more on numbers, stocks and flows, as opposed to more in-depth social and ethnographic evidence that analyses these structural norms and values and how they impact women’s mobility and work outside of the home, as well as perceptions of migrant women.

The initial ILO study of bans and restrictions on women migrant workers and migrant domestic workers published in 2015 concluded that regulations were not introduced in adequate consultation with expert stakeholders (ILO, 2015a). As the debate surrounding migration bans in Nepal is currently characterized by a number of competing narratives jostling for center stage, this review will seek to reconstruct these narratives and identify what role, if any, empirical evidence is playing in informing different policy positions. In addition, the findings will look at whether the role of empirical evidence in informing narratives has changed since the ILO’s first analysis of these bans conducted over five years ago. This report will also discuss what role public pressure is playing in decisions to implement bans. More generally, the review will explore what sources of information key stakeholders use to inform their knowledge on female labour migration. Finally, the review will analyze what reforms, if any, in these and related policies have taken place since 2015.

16 The UN Secretary General himself, in light of the finalization of the GCM, urged Member States at the General Assembly in 2018 to base migration policies on facts rather than myths (Kraley and Hovy, 2020). The GCM document establishes the objective for a “robust global evidence base on international migration by improving and investing in the collection, analysis and dissemination of accurate, reliable, comparable data, disaggregated by sex, age and migration status” (GCM, 2018: 5). Even Target 17.18 of the 2030 SDGs commits to “enhancing capacity building support to developing countries to increase significantly the availability of high-quality, timely and reliable data disaggregated by several characteristics, including migratory status” (UN DESA, n.d.b.)

4.2 Gender, class, caste, race and their intersectionality in the migration process

This sub-section will move the conversation a step further by discussing what the values and norms *are* in Nepal that have often underpinned policy narratives and approaches to migration policymaking. The discussion will focus on current dynamics related to gender, class, caste and race, given that this review focuses on migration bans which, over their 20-plus year history, have either directly or indirectly targeted women, many of whom are from lower-caste, lower-class and / or indigenous or minority ethnic and religious backgrounds.

4.2.1 Social and cultural dynamics of female labour migration in Nepal

In Nepali society, women's labour migration is often directly conflated with prostitution, "looseness" and promiscuity (Mak et al., 2019; Kharel, 2016). There is an assumption that, without the presence and watchful eye of a woman's father or husband, women will engage in immoral behavior while abroad (GAATW, 2017; Mak et al., 2019). Reinforced by patriarchal media, political and public discourses, many Nepali communities also assume that women will be sexually abused by predatory male members of their employers' households or directly trafficked into sex work while in transit (GAATW, 2017; Kharel, 2016). While sexual violence is an important and worrying issue that migrant women have reported facing in destination countries, popular reference to sexual abuse of migrant women in Nepal and in other origin countries tends to be drastically sensationalized and rarely informed by evidence (Kharel, 2016).

Kharel (2016) iterates that the intense stigma and ostracization that migrant women face in Nepal is often owing to the concepts of *cheli* and *chokho*. Although the word *cheli* (or *chelibeti*) means "daughters", "sisters" or "female pupils", it is also often used to describe female migrant workers by media publications, by migrant households and even by Nepali policymakers. Kharel (2016) argues that the constant use of the word *cheli* to identify Nepali migrant women is a reflection of social constructs which view women as kin of the state – as mothers, daughters or sisters of Nepali men - rather than as individual citizens and legitimate rights holders. These norms are legally represented by the unequal rights afforded to migrant women vis-à-vis migrant men in Foreign Employment laws up until 2007 and are still evident in gender-discriminatory citizenship laws codified in the 2015 Constitution and in current and past migration bans.

While countless Nepali men depart to Gulf countries to engage in precarious and often dangerous occupations which pose numerous risks to their health and wellbeing, they rarely face discursive limitations regarding their sexuality or mobility outside of the home. On the other hand, the perpetual use of the word *cheli* infantilizes migrant women and portrays them to be helpless dependents of their male guardians (Kharel, 2016). This perpetuates discourses regarding the need to "protect" women from harm and effectively ignores the agency and control that women exercise over their own bodies, their work and their movement (Kharel, 2016; GAATW, 2017; Mak et al., 2019; ILO, 2015a; Piper, 2008). The power of this discourse also means that Nepali society is more reluctant to accept female labour migration as a choice of women migrant workers themselves, and concurrently ignores the difficult socio-economic push factors which make women decide to leave in the first place (Kharel, 2016).

On the other hand, it must be acknowledged that patriarchal structures exist not only in Nepal and in other origin countries in Asia but also within prominent destination countries in the region. Migrant women in particular face asymmetrical powerlessness vis-à-vis male employers and contractors in private households and other workplaces (including garment factories) in destination countries, which can generate conditions for the perpetuation of systematically abusive relationships. These abuses often extend into the realm of sexual assault, harassment, abuse and rape. Previous research conducted for ILO's WIF Programme has documented such cases of sexual abuse in destination countries narrated by migrant women themselves (Blanchet and Watson, 2019). Other ILO studies have documented these dynamics in Lebanon through parallel surveys of migrant women and their employers, as well as in garment factories in Jordan, where workers were threatened with and fell victim to gender domination

and violence as a systematic tool used by employers to increase productivity and achieve production targets (ILO, 2015d; ILO, 2016c; ILO, 2016d).

The discourse that migrant women are destined to a fate of sexual exploitation abroad, without nuance or a broader understanding of the scale, the reasons, or the conditions under which sexually-exploitative conditions may arise abroad can have drastic implications on their reputations and can negatively affect their personal relationships and employment prospects upon return to Nepal (GAATW, 2017). This is owing to traditional values related to *choko*, a Hindu value system which advocates for women to remain “unaltered” and “pure” by refraining from pre-marital or extra-marital sex, or from divorcing / remarrying (Kharel, 2016). Returnee women are accused of no longer being *choko* if they are suspected to have either consensually engaged in sexual activity abroad or to have been sexually abused (alarmingly, little distinction is made between the two) (Kharel, 2016). Due to these perceptions of “impurity”, unmarried returnee migrant women are often times ostracized and no longer considered as viable spouses (Kharel, 2016). Those returnee migrant women who are victims of sexual assault or exploitation in destination countries often face victim blaming upon return to Nepal – for example, they may be accused of “provoking” their exposure to sexual violence by choosing to migrate in the first place. Many returnee victims may be excommunicated and / or completely cut-off from their families and communities (GAATW, 2017).

4.2.2 Global care chains, care and domestic work and the commodification of reproductive labour

Gender norms also manifest themselves in the vastly different ways in which men and women migrate. In Nepal, men who migrate are giving up wage labour in their villages (such as in construction) or in agriculture and exchanging this wage labour in Nepal for similar occupations in foreign employment (Kaspar, 2005). The majority of women, however, are migrating for domestic work. These women are leaving spheres in Nepal where their reproductive labour is usually not remunerated and not recognized as legitimate work, to foreign jobs where these activities are paid for the first time (albeit still in environments where they are not recognized as legitimate workers). This process whereby women in origin countries “commodify” their care work and export it to wealthier families in industrialized destination countries is characteristic of the theory of “Global Care Chains” (importantly, the theory does not identify labour as a commodity but exposes how it is, unfortunately, often treated as such. A fundamental principal of the ILO is that human labour is not and should not be treated as a commodity).

Understanding the form and function of the Global Care Chain is fundamental in understanding transnational dynamics of care and domestic work. According to Hoschild (2000), the Global Care Chain is a “series of personal links between people across the globe based on the paid or unpaid work of caring” (p. 121). The process involves wealthy women in destination countries who purchase low-wage domestic care work from migrant women, who subsequently find even lower-paid non-migrant women or unpaid relatives to care for their own families back home (Parreñas, 2015). The Global Care Chain is loosely modeled off of the orthodox global commodity chain analysis in that it represents the extraction of materials or products (or in this case, care workers) from poorer, peripheral and semi-peripheral areas to wealthier ‘core’ countries in order to create surplus value (Yeates, 2004; 2005). At the bottom of this chain, domestic care work loses value until it is unpaid (Parreñas, 2015).¹⁷ However, even at the top of this chain, care work and domestic work is often extremely undervalued. When these forms of reproductive labour are provided by mothers to their own families it is called “mothering”, but when it is performed by a hired worker it is considered “unskilled” (Rothman, 1989).

This process is predicated on an unequal system of gendered inequalities in the distribution of reproductive labour. At the same time that economic conditions in origin countries are increasingly requiring women to become income providers – often by migrating overseas to countries where they

17 This discussion only covers dynamics of the Global Care Chains in the context of origin countries and does not explain the entire process in-depth. To read more about the Global Care Chains theory and transnational care and domestic work, reference Parreñas (2015).

are not afforded any rights – they are not relieved of their duties to provide reproductive care to their immediate families and relatives back home (Parreñas, 2015). While some non-migrant fathers accept new care and work arrangements in the absence of their female spouse, most are unwilling to do so. As a result, children of absentee migrant women are often cared for by other female kin (including mothers and sisters). Some non-migrant male spouses express discontent with household reorganization, changing gender relations, and the introduction of a female breadwinner model, often because these dynamics can threaten men’s idea of masculinity, especially if they are unemployed (Piper, 2008; Gamburd, 2000). Poor adaptation to these drastic role reversals often leads non-migrant men to engage in vices such as drinking and gambling, while neglecting the needs of children (Gamburd, 2000).

Absent mothers who migrate out of desperation to improve their family’s socio-economic conditions back home are subsequently blamed for the breakdown of families, as opposed to lack of care provided by left-behind fathers or macrostructural inadequacies in state welfare and childcare structures. This is often in spite of evidence that absent mothers provide extensive amounts of caring even from afar (Parreñas, 2015). Criticizing migrant mothers as neglectful to their families is another discursive tool used to further stigmatize and blame migrant women. In fact, concerns over family breakdown due to female labour out-migration were voiced by a number of stakeholders interviewed for this review. While concerns for left-behind children are valid and represent a significant challenge for many migrant origin countries in Asia, the effects of absent migrant fathers and male outmigration for work (which is far more prominent in Nepal) on left-behind families are rarely, if ever, discussed (Parreñas, 2008).

Workers engaged in care work globally – the majority of whom are women – are known to suffer wage penalties. That is, workers generally experience lower wages in care work and higher wages in other areas, and care workers typically receive much lower wages when compared with workers in other occupations who are of similar skill levels, population groups, education, age, sex, and status in employment (ILO, 2019d; Budlender, 2011; Folbre, 2006; Folbre, 2018). This wage penalty, also known as the “care penalty”, is a product of low social and market value assigned to paid care work, a product of discrimination and lower social status, and structural differentiations in the rights afforded to care workers in laws and regulations (e.g. domestic workers being excluded from minimum wage entitlements) (Budig and Misra, 2011; Folbre, 2006; Folbre, 2018).

Migrant care workers are more likely to be engaged in low-status care employment compared to non-migrant care workers in destination countries and are often exposed to additional wage penalties (Lightman, 2018). These considerations mean that migrant women engaged in domestic work and other forms of care work abroad may have even greater challenges in meeting the annual social reproductive needs of their households back home when compared to migrant women and men in other occupations. These women are often obliged to hire non-migrant women back home who themselves cannot afford to hire care work to sustain their own families. For these non-migrant women, working to provide care to a different family may limit the amount of resources they can provide to sustaining their own family’s needs, creating additional care deficits, which is also a feature of the “care penalty”. Female family members of absent migrant women may also suffer from “care penalties”. The additional demands of sustaining households, (again, often in absence of support from male family members) limits their ability to engage in other wage employment or non-work opportunities which could lead to their socioeconomic advancement, such as education.

4.2.3 Intersecting forms of discrimination

Gender is not the only factor to influence the migration process for women migrant workers, as it is often accompanied by other intersecting hierarchies of caste, class, religion and geography (K.C. et al., 2017; Afsar, 2011). Despite Nepal abolishing caste-based discrimination in 1963, and numerous social movements challenging these norms, the country still maintains many (diluted) remnants of its identity as a Hindu kingdom (Bennett, 2005). This means that the dominant order is still maintained by predominantly male, Hindu Bahuns and Chhettris (who also represent the majority in policymaking spheres), while indigenous ethnic and religious groups such as Janajatis, ‘untouchable’ Dalit castes, and Muslims are still excluded (Bennett, 2005). Concepts related to female sexual purity are actually value

systems that have been maintained and reproduced by dominant higher-caste groups, whereas lower-caste groups such as the Hill Janajati in Nepal often hold less-conservative views of female sexuality and are less likely to stigmatize female labour migration (Kharel, 2016). These under-represented groups are then required to abide by structures and policies which reflect the norms of the dominant social classes (these dynamics are not unique to Hinduism, either, and often occur with Muslims and Buddhists as well).

Intersectional dynamics on gender, class and caste are important to consider when looking at bans on women migrant workers and migrant domestic workers, given that they disproportionately target lower-caste and lower-class women migrants who are often less ‘rights’ conscious and are usually geographically separated from centers of policymaking in the country’s capital (Piper, 2008). At the same time, affluent, caste and class-privileged Nepali women may not face as severe of legal restrictions or cultural limitations to their movement as lower-class, economically disadvantaged Nepali women (ILO, 2015a). It is also important to recall systematic exclusion of rural communities and the rural-urban divide present in Nepal, which leads to differential exclusion in regard to access to markets, information, and other essential services (Bennett, 2005). Many of these rural-urban deprivations are ones which push rural women to migrate in the first place.

4.2.4 The potential for empowerment

As Afsar (2011) discusses, research on female labour migration tends to focus disproportionately on the oppressive experiences that women experience in the migration process. However, while systems of oppression should be recognized, this should not be the end of the discussion, given that migration for women can be a meaningful and empowering process to escape from local forms of patriarchal oppression. By choosing to pursue foreign employment, Nepali women actively operate in contravention of traditional gendered divisions of labour and power (Foucault, 1980; Connell, 1987; K.C. et al., 2017). Women’s migration challenges not only formal structures – e.g. bans – but also these social norms regarding femininity detailed above, while redefining the worth of female work and challenging unequal resource entitlements (Afsar, 2011; Murphy, 2008; GAATW, 2009). Migration for Nepali women can be a powerful form of emotional protest which manifests itself in changes in internal self-perceptions, improvements in self-confidence and a greater willingness to express one’s voice. At the same time, the migration process also produces a number of physical and material benefits for migrant women and their families. Many women are able to earn incomes and support their families, gain work skills and learn new languages (Mak et al., 2019). Others can afford to buy plots of land, new homes and send their children to private schools (Kharel, 2016).

This review will determine whether and to what degree traditional norms, values and perceptions regarding women, domestic work and migration in Nepal outlined in this section have influenced policy narratives and the repeated use of migration bans and assess whether these informal institutions have changed over time. The review will also assess whether key informants involved in policy spheres – regardless of their support or lack thereof for migration bans – are aware of these informal systems and whether they themselves draw any connection between these norms and the bans in question.

4.3 Adopting a gendered analysis of policymaking on migration and human trafficking

The dynamics of power and patriarchy that surround processes of female labour migration and migrant domestic workers are recounted given that power and patriarchy can embed themselves in state structures and directly influence governmental institutions and policy narratives.

Migrant women are rarely given adequate political representation in order to have their opinions and voices heard in policymaking spheres (Hennebry et al., 2017). This may lead policymakers to base decisions off of certain informal ideas, social institutions and values (as discussed in sub-section 4.1). These are the gendered values recounted in sub-section 4.2 which categorize women as helpless “victims”, rather than as equal citizens under the law whose rights need to be ensured (Hennebry et al.,

2017; Anderson, 2012). The product of this infantilization and simplification of women and their work and migration experiences are “protectionist” migration policies that center on restricting women’s mobility, and their ability to exercise autonomy over their work, instead of a rights-based framework centered on equipping women with the knowledge and resources to exercise and assert their rights in origin, transit and destination countries (Paoletti et al., 2014; GAATW, 2017; Piper, 2008).

Migration bans also do not address or place any of the blame on structural causes of gender inequalities themselves (Ghimire, 2017). The argument that women are safer by remaining in Nepal is erroneous and potentially dangerous considering that poor and unsafe working conditions and sexual and domestic violence are some of the main reasons pushing women to migrate in the first place. Some studies estimate that tens of thousands, if not hundreds of thousands of workers in Nepal continue to work under bonded labour, despite a number of practices being made illegal (Sijapati, Limbu, and Khadkha, 2019).¹⁸ As put by Paoletti et al. (2014), “the conditions that give rise to exploitation often begin at home” (p.26), and poor working and living conditions are a reality for Nepalis across different occupations and sectors, not just for the poorest, rural Nepalis. However, these dynamic rarely appear to be brought up in discussions on migration bans. Instead, policymakers seem more willing to focus on the plight of migrant women abroad without addressing structural issues back home (Bosc, 2018). The dynamic of middle and upper-class policymakers acting as guardians who determine what is “safest” for poorer migrant women reflects an air of moral superiority and class transposition of upper-class notions of women’s safety upon migrating, working women.

In addition, the bans effectively shift the blame to migrant women themselves. While terms such as “illegal” are often used in a derogatory sense by destination countries to refer to undocumented migrant workers, Nepal often employs the term to describe its own citizens who are voluntarily leaving their country of origin. Nepali women are often described as “illegal” or “criminal” by leaving Nepal without government approval, even if they have legal documentation and work permits for their countries of destination.

Migration bans in Nepal are often justified using an anti-trafficking discourse (GAATW, 2017; Kharel, 2016). However, by conflating labour migration with human trafficking, women are often exposed to even more danger. This is because restricting migration rarely has positive outcomes in reducing instances of trafficking during transit, and instead often pushes migration toward more circuitous and complex routes, where the need to use intermediaries, including smugglers, is heightened. While not all migrant-intermediary (and / or migrant-smuggler) relationships are abusive, some are, and some of these abuses may amount to human trafficking (GAATW, 2009).¹⁹ On the other hand, women who are willingly and voluntarily migrating without coercion or exploitation are often misidentified as trafficking victims simply by crossing the Indo-Nepali border alone. Some of these women are then “rescued”, or rather, returned back to Nepal against their will (Kharel, 2016).

According to interviews with migration and trafficking experts conducted for this review, legal frameworks on trafficking in Nepal, as well as government officials and practitioners that implement these frameworks, also tend to conflate human trafficking with migrant smuggling. There is a general confusion in policy spheres about the difference between these two crimes (see Annex A for definitions of these and other terms). As section 7 will explore in further detail, as a result of this confusion Nepali migrants who are being smuggled (by choice) through India and other countries in the sub-region are often misidentified as trafficking victims. While concern of anti-trafficking stakeholders is legitimate given that many Nepali women found to have been trafficked into sex work in India had initially left Nepal under false promises of foreign employment, a ban has done little to reduce this phenomenon. At the same time, the Nepal government has received criticism for ignoring widespread trafficking of women and girls within its own borders while focusing on cross-border trafficking to India (Acharya, 2014).

¹⁸ The 2017/18 LFS estimated that 31,000 individuals in Nepal were working in forced labour (CBS, 2019).

¹⁹ Although, migrating through regular channels does not necessarily mean that migrants will not fall victim to exploitation (Zimmerman et al., 2015).

The logic behind imposing restrictions and bans to protect women from exploitation, forced labour and human trafficking appears fallacious considering that migrant men are often equally at risk of being trafficked or exploited (Zimmerman et al., 2015). Instead, women and girls are more likely to be vulnerable to *specific types* of trafficking, exploitation and abuse, including modern slavery in domestic work, forced marriage or trafficking in the sex industry. Male migrants, on the other hand, are more likely to face exploitation and forced labour in manufacturing and construction sectors (IOM, 2019c). However, male victims are often far less likely to be identified. Most research on trafficking in Nepal and elsewhere has focused on sex trafficking of women and girls, with very little attention paid to men and boys (Pocock et al., 2016; Polaris, n.d.). Mak et al. (2019) found that the majority of returnee Nepali male migrant workers they interviewed had experienced conditions amounting to forced labour (as per the ILO definition) while abroad. Countless national and international stories recount the exploitative conditions under which Nepali men work in construction and other industries in Gulf countries and Malaysia, yet their migration has rarely if ever been controlled by policymakers in Nepal, and the migration routes that male migrants embark on are not systematically branded as irregular. These dynamics seem to normalize these conditions for male workers and perpetuate hegemonic masculine norms whereby men are perceived to be stronger, tougher and more self-sufficient and thus less likely to be trafficked or exploited.

All of these aforementioned dynamics have generated a number of contradictory paradigms in Nepal (Mak et al., 2019). The birth of the country's democratic movement and the signing of a new Constitution and other modern legal instruments has shown a discursive commitment to values of gender equality and non-discrimination. However, at the same time that this liberal conscience is emerging it is still accompanied by a protectionist paradigm that reifies traditional patriarchal norms and structures. Perhaps due to rampant criticism from national and international human rights actors, the Nepal government shifted the scope of the latest 2017 ban to encompass all migrant domestic workers (both men and women), as opposed to maintaining a ban that targets only women. However, expert stakeholders interviewed for this review opined that this shift did little to change how these regulations functioned during implementation on-the-ground, given that almost all migrant domestic workers are women, and given that men can usually find alternative occupations overseas aside from domestic work which are not accessible to women migrants (unfortunately, no official numbers exist regarding the proportion of migrant women who migrate for domestic work).

This review will critically analyze the protectionist framework which the Nepal government adopted in regard to women migrant workers and migrant domestic workers and ascertain how this approach has changed over the past few years in light of increased advocacy and growing bodies of empirical evidence. This review will also look at the nexus between migrant rights and anti-trafficking frameworks and assess any alignments and misalignments between these two poles in Nepali policymaking spheres.

4.4 Media and migration

One must also consider the role that media plays in influencing narratives on female labour migration. Media framing can create powerful fields of truth around a subject, particularly when the same discourse is used repeatedly over time (Hennebry et al., 2017). Kharel (2016) finds that the Nepal government's policies on migration are largely based on social perceptions of female labour migration which are often reinforced by negative media representations of migrant women. News stories tend to gravitate toward and fixate on isolated stories of exploitation, smuggling or using of circuitous routes, trafficking and sexual abuse, while very few if any stories are published regarding the positive outcomes of women's migration experiences (IOM and IASCI, 2017; Kharel, 2016; ILO, 2015a). Media reports in the past have also been blamed for misidentifying women migrant workers migrating voluntarily as trafficking victims (Kharel, 2016). This is accompanied by general misreporting or misinformation on stories related to migration, mixing of different phenomena and terminology, as well as misidentification of instances of trafficking, informal migration channels and forced labour.

However, despite these aforementioned shortcomings, media can also be a powerful tool for sharing truth and for information dissemination. Media sources are perhaps the most “active partner” in Nepal involved in the “dissemination of information on safe migration practices via public services announcements, jingles and video clips” (MoLESS, 2020: 49). Media stories are also the principle way by which the public finds out about policy changes and about bans and restrictions on women migrant workers and migrant domestic workers (ILO, 2015a). In Nepal, media reports give clarity and transparency to dynamics on migration and migration policymaking processes that are otherwise opaque and inaccessible outside of key decision-making circles.

Notably, bans and restrictions on migrant domestic workers and women migrant workers over the past two decades in Nepal have reportedly been catalyzed by stories of exploitation, suicides and death of women migrant domestic workers in Gulf countries, beginning with Nepal’s news coverage of the death of woman migrant domestic worker Kani Sherpa in 1998. This review will explore these dynamics further and will analyze the role that media reports play as exogenous shocks leading the Nepal government to show action against abuse in the form of bans and restrictions. The findings will also look at whether media reporting has aided in contributing to reforms of these regulations in recent years.

4.5 Incorporating transnational dynamics into the policymaking analysis

Origin countries have ethical reasons to protect their citizens working abroad, both on normative and legal levels, and given that the State and numerous private actors in Nepal profit significantly off of the migration industry and off of the remittances that migrant men – and women – send back home (Paoletti et al., 2014). However, obligations to protect the safety and wellbeing of migrant workers must be placed within a greater transnational context to include destination countries as well. These destination countries rely on the circular exchange of temporary migrant labour through guest worker programs in order to fill critical labour market gaps. However, by not giving temporary migrants access to permanent residency or naturalization, destination countries force migrant workers to occupy liminal and precarious positions where they are awarded significantly fewer rights (Hennebry, 2014). Destination countries are willing to welcome these individuals as workers but not as human beings (Castles and Davidson, 2000; Parreñas, 2015).

As discussed in sub-section 3.6, the most important factor affecting outcomes for women migrant workers and migrant domestic workers is often their relationship with their employer (ILO, 2015a; Kiss and Bosc, 2017). Migration experts expect the most meaningful improvements in the rights of migrant workers to come as a result of reforms in destination countries, while there is little evidence showing that interventions at the origin country level affect the working conditions of migrants once they are in their respective destination countries (Mak et al., 2019). However, obtaining meaningful policy reform in prominent migrant destination countries in Asia has been a slow-going and often unsuccessful process. Perhaps as a result of this, international donors often focus disproportionately on pre-migration interventions at an origin country-level, because improvements are more quickly seen and because origin-country governments are generally more willing to cooperate (Mak et al., 2019; Hennebry, 2014).

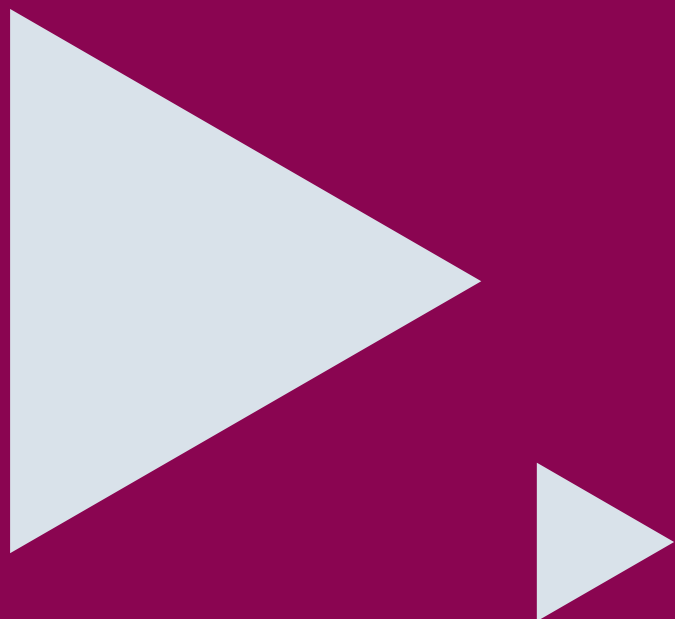
In negotiating better rights for workers abroad, origin countries often face significant power differentials compared with destination countries. There is stiff competition for jobs and remittances amongst migrant origin countries in Asia, and when any of these origin countries, including Nepal, has attempted to negotiate better rights for their nationals – including through BLAs and MoUs – destination countries have often responded by bypassing these more “expensive” countries and recruiting workers from origin countries which demand fewer rights for their workers and are thus lower-cost (Hennebry, 2014; Paoletti et al., 2014; Piper, 2008).

In the following sections, particular attention will be given to identifying what transnational dynamics, if any, have affected Nepal’s ability to negotiate better rights for women migrant workers and migrant domestic workers abroad. The review will also analyze whether power differentials between Nepal and destination countries have had any influence on continued use of restrictive migration policies. Finally,

the findings will include an analysis of Nepal's progress in negotiating BLAs, MoUs and other bilateral instruments intended to improve the rights for women migrant workers / migrant domestic workers abroad and will analyze how and whether negotiations of these instruments have impacted decisions related to migration bans up until this point (reference Annex D for additional background information on BLAs and MoUs).

▶ 5

**Findings (Part 1):
Reconstructing a Timeline
of Migration Bans and other
Policies and Frameworks
Governing Women Migrant
Workers and Migrant
Domestic Workers in Nepal
(1998 – 2020)**



The following section presents an in-depth timeline of policies and frameworks implemented in Nepal to govern female labour migration and foreign employment for migrant domestic workers between 1998 and 2020, with a focus on developments occurring during the last four years. The timeline will not only focus on migration bans and restrictions but will also explore a nuanced historical overview of other laws, policies and regulations which have shaped (or attempted to shape) the foreign employment process for Nepali women migrant workers and migrant domestic workers. The key sources of information used to reconstruct this timeline are secondary research publications, over 200 media reports from Nepal's most prominent news outlets (as well as international news sources), and most importantly, KI interviews with 26 key migration policy stakeholders in Nepal. COVID-19 access restrictions have limited the focus of this analysis to the perspectives of actors located in Nepal's central government and election officials at the national level. It is hoped that further research will explore these dynamics with government actors at the local level. Readers may also access ILO's 2015 report, *No Easy Exit: Migrating Bans Affecting Women* which assessed the perspectives of local government actors (ILO, 2015a).

In reconstructing this timeline, the discussion will focus on the policy formulation process itself. The analysis will identify the key institutions, political bodies and other counterparts that are involved in influencing and making decisions on migration policies. Further exploration will also look at the knowledge claims and policy narratives utilized by these key stakeholders in order to justify the implementation or repeal of bans and other regulations and policies. The historical perspective provided is expected to allow for an analysis of how policy narratives and approaches have changed over time. The diverse array of data sources will also inform the review of the roles that gender, class, caste, race, ethnicity, media and transnationality (outlined in section 4) have played in influencing decisions on these frameworks.

This section will shed light on why policy frameworks on women migrant workers and migrant domestic workers have remained largely unchanged over time, and why decision-makers consistently resort to bans and restrictions as the main approach to prevent exploitation and abuse of women migrant workers and migrant domestic workers overseas. Insights of this exploratory research will also shed light on macrostructural dynamics of policymaking (on migration, trafficking, smuggling, and otherwise) in Nepal, the rapid evolution in power structures occurring within these policy spheres, and the main policy objectives moving forward. These findings will ideally support the identification of gaps and challenges in this institutional process and inform possible alternatives in the future. The overall goal is to improve rights-based policies and frameworks in order to construct safe, decent migration pathways for women migrant workers and migrant domestic workers which respect their security, dignity and wellbeing, and which will allow them to enrich their own lives and the lives of their families and communities back home. For a succinct summary of key findings and observations from this section, see section 7.

5.1 The early years of gender-restrictive migration policies (1997 – 2010)

5.1.1 Retracing the steps to the first 'total ban' (1997 – 2002)

Very few Nepali women were able to migrate through regular channels between 1985 and 1998. Those choosing to do so required a guardian's consent in order to obtain an exit visa (Ghimire, 2017). This changed in May of 1997 when the State officially lifted restrictions and formally allowed women migrant workers to seek jobs overseas (Pyakurel, 2018). However, formal channels would only remain open for a year before the first ban on foreign employment for women migrant workers was announced in 1998. This decision was made in response to the tragic death of Nepali woman migrant domestic worker, Kani Sherpa, in Kuwait on 9 November of that year.

Sherpa was a native of the Sindhupalchock district in Nepal. She first migrated to Kuwait in 1997 by way of a formal recruitment agency in order to work as a domestic worker in a family household, providing childcare, cleaning and other household maintenance. While in Kuwait, Sherpa allegedly suffered rampant abuse at the hands of her employers, who verbally abused her and raped her on repeated

occasions. At one point, Sherpa was reportedly thrown from a third-story window at her employer's household and subsequently hospitalized. She decided to end her own life in the hospital out of fears of being forcibly returned to her abusive employers (O'Neill, 2001; Kharel, 2016).

Sherpa's death sparked public outcry in Nepal. The director of a research institute interviewed for this review recalled numerous high-profile protests taking place in late 1998. Her suicide first brought concerns over the exploitation and vulnerability faced by women migrant domestic workers overseas under wider public scrutiny, at a time when very few women had yet to migrate for foreign employment. Sherpa's death proved to be a powerful political exogenous shock, and the government was criticized for not doing enough to protect Nepal's women and girls working abroad. Under pressure to show quick and decisive action, the government imposed a total ban on all female labour migration – regardless of age, occupation or destination country – at the end of 1998. Key informants noted that the government saw no alternative policy response capable of placating public outcry other than imposing a total ban. The decision to implement the ban was made unilaterally by what was then the Ministry of Labour, and subsequently approved by the Cabinet of Ministers (H. Rai, 2003) (see Table 5.1 below for a timeline of name / portfolio changes of the Ministry of Labour since its formation in 1981, for the reader's reference throughout the remainder of this report).

► **Table 5.1 Timeline of name and portfolio designations and changes of Nepal's Ministry of Labour (1981 – 2020)**

Years	Name / Portfolio
1981 - 1995	Ministry of Labour and Social Welfare (MoLSW)
1995 - 2000	Ministry of Labour (MoL)
2000 - 2002	Ministry of Labour and Transport Management (MoLTM)
2002 – 2018	Ministry of Labour and Employment (MoLE)
2018 – 2018	Ministry of Labour, Employment, Women and Senior Citizens (MoLEWSC)
2018 – Present	Ministry of Labour, Employment and Social Security (MoLESS)

Media stories at the time of Sherpa's death were filled with assertions that male employers in destination countries were hiring Nepali maids in order to rape and sexually abuse them (Kharel, 2016). Kharel (2016), in an analysis of publications in the Kantipur Daily newspaper in that period, found that these highly sexualized narratives and assumptions about migrant women would predominate in cultural discussions on female labour migration for years to come. Kharel (2016) found that highly publicized stories of rape, suicide and sexual abuse would also firmly solidify political perceptions of women migrant workers as victims in need of saving and justify "protectionist" responses in policymaking spheres. This opinion was shared by a number of CSOs, trade unions, UN organizations and independent experts interviewed for this review.

One migrant women's advocate and formal UN program specialist noted that bans held a wide degree of populist and cross-sectoral appeal in this time period. In fact, influential anti-trafficking CSOs had actively lobbied for the first ban to be put in place (H. Rai, 2003). The same expert, as well as an expert journalist in migration noted that bans appeared to chime with public interests and proved to be both dramatic and morally compelling, portraying an image that decision-makers were committed to rescuing Nepali *cheli* (sisters and daughters) from predatory employers in foreign lands.

5.1.2 Gradual relaxation of restrictions for certain migrant women (2003 – 2005)

In early January 2003, the Social Justice Committee of Nepal's Upper House (National Assembly) met and agreed that the total ban should be reformed. The committee chairperson was quoted in the media saying, "stopping women from finding jobs abroad is a serious violation of freedom of mobility, livelihood

and self-determination rights” (Rai, 2003). Consequently, the total ban was partially lifted to allow Nepali women to seek formal employment opportunities in Gulf countries (specifically), provided that the prospective woman migrant worker obtain a letter from the Nepal diplomatic mission in the destination country certifying the job to be safe (Pyakurel, 2018; Nepali Times, 2003). Female labour migration for formal sector employment was opened up to Malaysia from May 2005 onward as well (Pyakurel, 2018). However, restrictions on domestic work for women migrant workers remained in place. The Director General of DoFE in 2003 was quoted in media reports, saying, “our view is that there aren’t enough safeguards to prevent women from abuse and exploitation when they go to the Gulf countries to work as domestics” (H. Rai, 2003). The Ministry of Labour announced that the decision to ease restrictions on female labour migration came after rights groups labelled them as discriminatory (Nepali Times, 2003). Activists had accused the government of taking the “easy way out” by implementing a ban (H. Rai, 2003).

Despite the slight lifting of restrictions, those women going abroad in formal sector work still faced a number of legal and regulatory limitations. In March 2003, the GoN issued a directive requiring overseas Nepali women workers who returned temporarily to Nepal for visits and holidays to obtain re-approval from the government before being able to return to their jobs abroad (Pyakurel, 2018). In May 2003, the government implemented additional restrictions requiring women to obtain prior approval from their families and local government offices before migrating (Pyakurel, 2018). Perhaps as a result of strict legal requirements, some recruitment agents were reportedly reluctant to send women migrant workers through formal channels because the process had become too time-intensive and expensive (H. Rai, 2003). There was also growing recognition amongst certain actors that women were continuing to migrate for domestic work by crossing the Indo-Nepal border and departing from airports in India.

5.1.3 Brief lifting of migration bans and restrictions (2006 – 2007)

By 2006, a number of top government officials began making loose commitments to repeal migration bans. The Minister of Finance voiced intentions to repeal the bans in a budget speech in 2006 (Bhadra, 2007). By November of 2006, policymakers were already engaged in talks to sign a new FEA, which envisaged a liberal and democratic paradigm shift for the foreign employment industry. Many believed that the passage of the FEA would spell the inevitable end of bans, which appeared to operate in contravention of the new law’s stated objectives of equal opportunity, access and anti-discrimination (D. Shrestha, 2006). In November 2006, officials from the Ministry of Labour, DoFE and UNIFEM (now called UN Women) reportedly met to discuss matters related to Nepali women employed as domestic workers abroad (D. Shrestha, 2006). Attendees reached a general consensus that bans should be lifted in order to better monitor the location and conditions of Nepali women abroad, and to ensure that migrant women had access to legal recourse by migrating through formal channels.

Passage of the new FEA (2007) was delayed however, in the midst of significant political change and turmoil. The year 2006 saw the end to the civil war, the abdication of Nepal’s King Gyanendra in April and the appointment of a new Prime Minister Koirala in late 2006. In January 2007 the country’s previous constitution was scrapped, and the 2007 interim constitution was adopted. The new constitution made explicit commitments to eliminate discrimination based on gender and caste and included various stipulations on equal employment (UNDP, 2007). With the new constitution as a backdrop, the prominent migrant rights NGO, POURAKHI, filed a gender discrimination case against the government in early May of 2007, in opposition of migration bans. The Supreme Court responded by directing a “show cause order” to the Government later that month (Bhadra, 2007).

A Member of Parliament (MP) from the House of Representatives (HoR) interviewed for this review commented that the decision to repeal the ban around this time came as a product of strong, sustained activism from CSOs and trade unions. Throughout this review, CSO and non-CSO informants alike commented on the uniquely powerful position that civil society has played in influencing laws and policies in Nepal over the past two decades, particularly when compared to other South Asian countries – and particularly in the sphere of migration policymaking. However, despite sustained efforts to develop evidence-based migration policymaking, CSOs in Nepal faced difficulties building sustained constituencies due to their dependency on project-based donor funding, which can often prevent them

from sticking to particular missions and objectives (United State Agency for International Development, USAID, 2019). Some CSO informants felt that these factors had limited them from being able to focus on multi-year, sustained advocacy on the bans spanning multiple government administrations.

By 5 September 2007 the New FEA 2064 (2007) had finally been signed, which eliminated numerous pre-existing barriers for women migrant workers to seek foreign employment (e.g. gaining permission from families) and opened up foreign employment for women migrant workers in all sectors, including domestic work (see Annex D for an in-depth look at the FEA (2007) and other laws related to foreign employment). Kharel (2016) found the lifting of bans at this time to be a logical consequence of the legal changes and entitlements afforded by the FEA. However, the signing of the FEA was not without its criticisms. Numerous informants interviewed for this review noted that the document, despite subsequent reforms, does not do enough to introduce meaningful safeguards and initiatives to mitigate women's inequal access to essential resources and information, while informal migrants are not provided with rights and tailored mechanisms of protection. One senior programme coordinator at a migrant rights NGO and the director of another NGO focused on assisting migrant women speculated that these shortcomings may be due to the fact that the FEA (2007) was passed when the number of women departing was still quite low and the government had minimal policy and practical experience in regulating female labour migration. Senior programme officers and directors working for anti-trafficking CSOs and UN organizations interviewed for this review re-iterated the need to reform FEA (2007) to be harmonized with HTTCA (2007) and vice versa – a recommendation which has been included in numerous NHRC and US TIP reports over the years, but which has yet to come to fruition.

5.1.4 The third total ban (2008 – 2010)

The decision to reopen formal channels for women migrant workers in formal and informal sectors in 2007 was short-lived. The exact factors which led to Nepal's rapid overturning of its 2007 decision to lift restrictions are unclear but appear to be a product of highly publicized news stories of exploitation, abuse and suicide of Nepali women migrant domestic workers abroad which created ripple effects similar to those following the death of Kani Sherpa roughly ten years prior.

The first and most notable case was that of Dolma Sherpa, who migrated to Kuwait in 2006 to work as a domestic worker (Bhattarai, 2017; Kharel, 2016). She reported migrating informally by way of Delhi at a time when bans were in place (Bhattarai, 2017). After arriving in Kuwait, she worked in a household alongside another domestic maid from the Philippines. Dolma was alleged to have murdered the Filipina woman and was later sentenced to death in Kuwait in 2008 (capital punishment is not legal in Nepal). A "Save Dolma" campaign subsequently erupted in Nepal and elsewhere with various activists and members of the public initiating a fundraising campaign in order to raise Rs. 5 million to compensate the victim's family and cover legal fees (Himalayan Times, 2008a). The Nepal government also donated a measurable sum to the fund (Himalayan Times, 2008a). In the end, Dolma avoided the death penalty but was jailed in Kuwait for 10 years before being sent back to Nepal. The public response to her plight struck similar tones as those following Kani Sherpa's death in 2008, as many accused the government of not doing enough to protect Nepal's women abroad. The fallout from Dolma's case was exacerbated by numerous highly publicized suicides of Nepali women migrant domestic workers in Lebanon in 2008 (HRW, 2008), which exposed the toll that isolation and difficult working conditions can have on the mental health of migrant domestic workers.

By September 2008, a complete ban had been passed by the Ministry of Labour and approved by the Cabinet of Ministers once again (Pyakurel, 2018). This ban applied to all migrant women, regardless of occupation, and extended to all Gulf countries and Malaysia (it effectively blocked migration to other countries in the Middle East as well). This was met with outcry from rights activists who pointed out that most of the victims had migrated while bans were in place, and that bans had thus far done little to improve the situation of women workers abroad (D. Rai, 2009). Ganesh Gurung, a prominent migration expert in Nepal, wrote a media piece shortly after the re-imposition of the ban voicing frustration toward the government's "protectionist" policies. G. Gurung deemed the government's approach as "paradoxical" given that, between 1998 and 2007 when bans were in place, the number of Nepali women

departing for domestic work abroad had increased at its fastest pace ever (G. Gurung, 2008). G. Gurung noted that bans had come not only as a product of widespread media reporting but also per the specific request of Nepal's ambassadors in Saudi Arabia and Malaysia, who felt that Nepali women migrant domestic workers were too vulnerable to exploitation to be seeking foreign employment (Ibid). This was the first (registered) involvement of foreign missions in decisions on migration bans but would not be the last, as subsequent subsections will show.

5.2 The “open window” of foreign employment for Nepali women (2010 – 2012)

Nepal decided to do away with the total ban on women migrant workers at the beginning of December 2010 (BBC, 2010; Nair, 2010). After lifting the ban, women were permitted to seek employment in any destination country and for any occupation, including domestic work (ILO, 2015a). Women were also permitted to migrate on an individual basis (that is, obtain a labour permit and organize matters of their overseas employment without the assistance of a recruitment agency) (Budathoki and Sharma, 2012). The ministerial decision received very little if any media coverage in domestic media outlets and did not seem to be a product of any internal or exogenous political shocks. Instead, the Ministry of Labour had prepared an internal report published in October 2010 in which it recommended opening formal migration channels for Nepali women alongside additional mechanisms to ensure their safety and security (University of California Davis, 2011). The internal report included a laundry list of other recommendations, the most prominent of which included the signing of bilateral agreements on domestic workers with principal destination countries, ensuring low-cost migration options for women, preferential loans and comprehensive and accessible training for women migrants before their departure.

The Director General of DoFE at the time, Purna Chandra Bhattarai, seemed largely in favor of lifting the bans but told media that “before they can recruit workers, employers will have to assure us that they will provide insurance, accommodation, security and a basic wage” (BBC, 2010). Bhattarai later admitted that lifting of the ban in 2010 came as a result of sustained pressure from civil society and media outlets – the latter of which had begun to publish a number of opinion pieces against the ban (Budathoki and Sharma, 2012). Bhattarai had reportedly tried to address corruption and fraud in DoFE and within the wider recruitment industry and pushed for reforms that would modernize the labour permit system and address instances of human trafficking (CESLAM, 2013). However, his actions reportedly agitated powerful recruitment agencies in Kathmandu, who then succeeded in having him transferred after lobbying the Minister of Labour at the time (Mahato, 2012; CESLAM, 2013; Nepali Times, 2012b).

Whilst acknowledging that access to additional information does not necessarily make women safer or prevent them from facing exploitation, one of the principal criticisms offered by informants from various sectors interviewed for this review was the lack of information dissemination in Nepal and the general absence of effective information channels available to prospective / current / repeat migrant women – in particular those who are living in rural areas and are illiterate. Most information appears to come from print media or through campaigns run by CSOs and UN orgs, but there are persistent gaps. Multiple informants noted that the parameters of bans and restrictions on women migrant workers have changed on numerous occasions and often on a moment's notice – leading to an overall lack of clarity amongst stakeholders and migrant women themselves about what the laws were and whom they applied to (GAATW, 2017).

This appeared to be the case when bans were lifted in 2010. Many sub-agents and informal brokers continued to send women through India who were unaware that migration bans had been lifted (Nepali Times, 2012a). At the same time, previous ILO research has shown that women who migrated in times when bans were not in place may have chosen to depart by way of India under the belief that it was cheaper (ILO, 2015a). By early 2012, MoFA reiterated requests to officials at the Indira Gandhi International Airport in Delhi to intercept Nepali women who were departing to Gulf countries on visit visas or who did not possess a ‘No Objection Certificate’ issued by the Nepal embassy in Delhi (Nepali Times, 2012a). Thousands of Nepali women were reportedly intercepted at the Delhi airport within the

first few months of 2012 (Ibid). One UN programme coordinator specializing in smuggling and trafficking questioned the efficacy of this approach, noting that stepping up surveillance in Delhi's airport simply pushed migration routes of Nepali migrant women farther afield, with women beginning to depart from airports in Calcutta, in Colombo, Sri Lanka, Dhaka, Bangladesh and as far away as Bangkok, Thailand. Rather than improving the safety of migrant women, the externalization of securitized migration policies, by enlisting Indian authorities in controlling informal migration of Nepali women migrant workers, has instead pushed the process further underground where it cannot be effectively monitored.

By mid-2012, tensions over open female labour migration appeared to be mounting once again. Despite stipulations in the FER (2008) that female labour attachés should be appointed in destination countries where more than 1000 Nepali women were working, this had yet to happen (Nepali Times, 2012a). Despite improvements, many critical destination countries continue to lack female labour attachés to this day. By April 2012, there were reports that the GoN felt it lacked the resources to combat exploitation of Nepali migrant women abroad (Mahato, 2012). Others felt that decision-makers had opened up foreign employment through individual channels too early without putting safeguards in place (Budathoki and Sharma, 2012). An analysis of news publications at the time show that while media outlets were already largely against migration bans, the discourse on female labour migration was often unnuanced, fatalistic and cynical. One article published in 2012 in the Nepali Times on the matter of women migrant workers asserted that exploitation for Nepali women abroad was so grave that “only a handful manage to get out alive” (Budathoki and Sharma, 2012).

The analysis conducted for this review of news stories related to bans published by the Kathmandu Post, Nepali Times and Himalayan Times from 1997 to 2020 shows recurring use of statements such as these. These narratives arguably perpetuated and reinforced policy narratives on women's mobility as a death sentence and continued to ignore the vastly different experiences that migrant women – including women migrant domestic workers – have while working abroad. Even the Kathmandu Post admitted in 2017 that the news outlet, along with others, was guilty of publishing stories on migrant women that focused only on women's victimhood and not on the many success stories that women migrant workers have experienced (Kathmandu Post, 2017a). An expert migration journalist interviewed for this review admitted to having overwhelmingly reported on the negative aspects of female labour migration and migrant domestic work for many decades; however, after conducting interviews with hundreds of migrant women in various Gulf destination countries, this individual found that negative news stories were not deterring women from migrating and that the lives of migrant women abroad could not be generalized. As a result, this journalist has shifted the rhetoric of their migration-related reporting to focus on highlighting safe migration channels. This is a shift that many informants felt needed to take place on a wider scale.

5.3 Introduction of the ‘age ban’ and end of open migration channels (2012 – 2014)

5.3.1 Reconstructing the ‘age ban’ of 2012

Debates over shortcomings in Nepal's approach to formalising foreign employment for women migrant workers and migrant domestic workers culminated with the introduction of the ‘age ban’ on 8 August 2012 (Shrestha and Basu, 2012; Pyakurel, 2018). This regulation banned all women under the age of 30 from seeking foreign employment in domestic sectors in Gulf countries. The decision was met with immediate condemnation from human rights organizations including Human Rights Watch (HRW), who accused the government of taking an easy approach that, as with decisions in the past, ignored underlying conditions in Nepal that were pushing desperate Nepali women to migrate in the first place (Shrestha and Basu, 2012). The NGO POURAKHI also publicly decried the ban, describing it as another obvious example of Nepal's “protectionist” mindset in gendered migration policymaking.

At the time, the age of 30 was reportedly chosen under the auspices that women by that age would be more ‘confident’ and ‘mature’ and thus would be less likely to face sexual abuse or exploitation while

abroad (ILO, 2015a; Hindustan Times, 2012). The decision also reportedly came as a result of widespread reports that underage girls were doctoring their passports and other legal documents (often with the help of unregistered recruitment brokers) in order to put them over the minimum legal age to migrate (which was 18 years at the time) (ILO, 2015a). Policymakers reportedly believed that it would be more difficult for a minor with falsified documents to pass as a 30-year-old than as an 18-year-old (ILO, 2015a). The Minister for Information and Communication at the time, Raj Kishore Yadav, was quoted in the Himalayan Times saying, “young female workers are reported to have been sexually and psychologically exploited in Gulf countries... so the cabinet decided to set an age bar for women migrant workers going to the Gulf” (Hindustan Times, 2012).

An informant serving as the director of a trade union federation noted that the ban had been introduced without prior consultation with destination countries. The new regulation was also introduced by the Cabinet of Ministers without a period of official public consultation, and only a brief description of the new regulation was published in a hurried press release that did not include all relevant details (Pyakurel, 2018). The ILO’s initial analysis of the ‘age ban’ found that civil society groups and recruitment actors had limited inputs in the policy decision (ILO, 2015a). These findings demonstrate that the Nepal government did little to conduct policy impact studies, consult empirical evidence or meet with expert stakeholders prior to passing the regulation. This appears to be a recurring theme throughout the years.

However, various informants in this review noted that, although largely an uninformed decision, the government genuinely believed that passing age restrictions would make Nepali migrant women less vulnerable to exploitation and abuse abroad, and that officials had a genuine interest in reducing the mistreatment of Nepali women migrant workers. A current MP informant in the HoR noted that stances on the age ban amongst decision-makers were widely divided at the time, with some officials overwhelmingly in support and others considerably more hesitant. The same informant noted that a large catalyst of the age ban was a government delegation visit to a shelter for Nepali women migrant domestic workers in Kuwait in 2011, where officials came in contact with a number of women who had faced issues with their employers and subsequently fled their employers’ households to seek support from the embassy. This MP noted that embassies in Kuwait and other Gulf destination countries were submitting numerous reports to MoFA detailing accounts of a grave situation for Nepali women in Gulf countries. These foreign missions recommended that Nepal end formal recruitment of Nepali women unless government-to-government (G2G) recruitment channels were put in place to strictly manage the overseas employment process of Nepali women, particularly those in the domestic sector.

The decision to implement the ‘age ban’ was also reportedly fueled by a number of suicides of women migrant domestic workers in Lebanon that took place in 2010 (Hindustan Times, 2012). As with the multiple bans and restrictions prior to 2012, it appears that the ‘age ban’ was also implemented without consulting the preferences of prospective, current and returnee migrant women themselves. The interaction taking place directly between decision-makers and migrant women appeared to be limited to the small sample of Nepali women in shelters that officials spoke to in destination countries. As further subsections and numerous key informants in this review suggest, this would not portray an accurate picture of the living and working conditions of the majority of Nepali women migrant workers abroad, given that the majority of women likely never need to seek assistance from the embassy. One UN labour migration programme coordinator explained that the predominantly female composition of shelters contributed to the policymakers’ misconception that women were more likely than men to face exploitation and abuse while abroad, but pointed out that these shelters were effectively reserved for women migrants only. The same informant speculated that male migrants may not be aware of these shelters, may fear the stigma involved in using them, or may believe that they are not able to access them. This informant also speculated that male migrants who face grave exploitation or abuse may have a larger network of other migrant workers on whom to rely and seek refuge with in destination countries, and thus may have less of a need to make avail of a migrant shelter. These hypotheses have been largely unexplored thus far but warrant further empirical exploration.

ILO’s initial review of the ‘age ban’ noted that views on the regulations were not uniform amongst government stakeholders (ILO, 2015a). While ministerial officials stood behind the bans and believed

they would be beneficial in protecting women from harm, the opinions of local-level government officials – including Chief District Officers (CDOs) and Village Development Committees (VDCs) – were mixed (Ibid). A number of local-level officials that were interviewed questioned the efficacy of the ban and pointed out that women were migrating through informal channels despite restrictions (Ibid). Others believed it to be unfair to make young women wait until the age of 30 before being able to migrate (Ibid). This disjuncture between the opinions of national-level and local-level government officials shows that opinions on policy interventions were not universal. It may also demonstrate a clear rural-urban divide, whereby local officials – who are likely more exposed to migrant women on a day-to-day basis when compared with bureaucrats in Kathmandu’s central government – were more likely to question the efficacy and fairness of age restrictions.

Finally, the decision to choose 30 years as the age minimum was never justified or explained clearly by policymakers and appears to have been chosen with little scientific or empirical backing. Some informants from rights organizations and CSOs interviewed for this review commented that the choice to set a higher age operated off of the assumption that younger, single women would be more of a target for sexual abuse when compared with older, married women with children. In any case, the rhetoric appears to be highly sexualized and infantilizing. At the same time that policy discussions on women migrant workers were being dominated by debates over women’s maturity or which women would be sexual targets, young Nepali men continued to migrate uninhibited and without scrutiny. The policy approach also appears fallacious as it operates off of the assumption that if young women remain in Nepal, they will be less likely to face physical and sexual abuse. However, discussions over SGBV in section 3 have shown that SGBV and violence against women and girls is a significant legal, social and public health issue in Nepal and is one of the principal reasons why women choose to migrate in the first place. As discussed in section 3, Mak et al. (2019) found that the age of migrant women has not been found to affect the degree of risk migrant women have toward facing exploitation abroad.

5.3.2 Responses to and outcomes of the ‘age ban’ (2012 – 2014)

A number of national and international actors came out in opposition of age bans after they were implemented. HRW pointed out that restrictions on age, applied only to women migrants, operated in contravention of national and international laws on non-discrimination (HRW, 2012). Having interviewed Nepali women migrant workers who migrated to Saudi Arabia when the previous bans were in place, HRW also found that those women migrant workers who arrived through informal channels were less likely to know their rights and were less likely to possess employment contracts (Ibid). These Nepali women migrant workers also reported finding it more difficult to seek assistance from authorities due to their migration status (Ibid). Many were found to be paying off exorbitant debts taken on from recruitment agents who assisted with their travel through India and other South Asian countries in order to board flights to Saudi Arabia (Ibid). HRW later requested that SAARC member states collectivize to lobby GCC countries to end discrimination of migrant domestic workers, implement reforms recognizing them as equal workers under national labour laws, reform the *kafala* system and adequately enforce anti-trafficking frameworks (Nepali Times, 2013).

By 2014, Nepal had yet to sign bilateral agreements regarding women migrant workers or migrant domestic workers with any destination countries, despite commitments made as many as four years prior. However, the Ministry of Labour had reportedly begun talks with Saudi Arabia, Kuwait, Jordan, Lebanon and Oman (Sedhai, 2014a). Then secretary at the Ministry of Labour, Suresh Man Shrestha, was quoted in media in February 2014 stating that the age ban on women migrant domestic workers had not achieved its desired effect (Kathmandu Post, 2014a). He also iterated that the Ministry of Labour had made a recommendation to keep the minimum age at 25 in 2012 but that the Cabinet had insisted on raising it to 30 (Ibid). This comment exposes that there may have been disagreements amongst key high-level officials regarding the correct course of policy actions to take on the age ban, and that the Ministry of Labour may have begun to change its overall institutional stance regarding restrictions on women migrant workers at this point. On the other hand, ILO’s interviews with officials from the Ministry

of Labour in 2014/15 showed that many bureaucrats at the Ministry still maintained support for age restrictions (ILO, 2015a).

5.4 The fourth ‘total ban’ and new guidelines (2014 – 2015)

5.4.1 A new ‘total ban’ put in place (2014)

After public admissions by top Ministerial officials that the ‘age ban’ had not done enough to improve the safety and wellbeing of Nepali women migrant domestic workers abroad, policymakers decided to adopt a more hardline approach. In mid-April 2014, DoFE stopped issuing labour permits to any Nepali women for jobs overseas, regardless of occupation (ILO, 2015a). Women who had already obtained visas and were awaiting departure were still permitted to leave at this time (Ibid). This move was apparently influenced by a request made by the Nepal embassy in Kuwait (and other Gulf countries) to put a full stop on sending domestic workers until bilateral agreements could be signed (Kathmandu Post, 2016b).

The decision seemed to be at discursive odds with statements made by certain officials at the Ministry of Labour at that time. In an interview with the Nepali Times the then-Director General of DoFE admitted that almost all of the women departing Nepal for employment opportunities in the Gulf were doing so through informal channels. (R. Adhikari, 2014). He then stated that while it was not DoFE’s stance to encourage women to seek work opportunities overseas, they could not stop women from doing so (Ibid). The Director General expressed the opinion that “we [the government] may face criticism if we ban them from going abroad to work” (Ibid).

Despite these comments, restrictions were tightened further, and by September 2014 a new ‘total ban’ had been put in place, applying to all migrant women departing to all locations, regardless of whether the woman migrant worker had already obtained a labour permit and completed the necessary pre-departure trainings (ILO, 2015a). Overall, the ‘total ban’ was more transparent than the ‘age ban’ in that it was explained to be a temporary measure while the government reassessed recruitment and foreign employment policies for Nepali women migrant workers and migrant domestic workers, in order to better ensure their safety and security (ILO, 2015a; N. Adhikari, 2014b). Compared to past decisions on migration bans it would appear that decision-makers also made a more concerted effort to consult expert stakeholders and engage in a fact-finding mission to identify best practices. The Ministry of Labour reportedly conducted visits with destination countries, consulted UN agencies and NGOs and set up a committee to study the issues and recommend potential policy interventions (ILO, 2015a).

5.4.2 Domestic and international outcry against the new ban and talks on bilateral agreements (2014)

The State’s decision to implement a new ‘total ban’ in September of 2014 was immediately met with frustration by a range of domestic and international actors involved in the foreign employment industry and working in migrant worker rights. The regulations were also reportedly met with dissatisfaction among principal destination countries (Sedhai, 2014b). In June 2014, The Deputy Minister of Labour in Saudi Arabia at the time, Moufarrei bin Saad Al-Haqbani requested a meeting with Nepal’s Minister of Labour at the time, Tek Bahadur Gurung (T. Gurung) in Geneva, Switzerland at the 103rd International Labour Conference. In said meeting, Al-Haqbani urged T. Gurung to reopen channels for domestic workers to Saudi Arabia (Ibid) (see Table 5.2 below for a timeline of individuals serving as Minister of Labour and Employment, beginning with Minister T. Gurung in 2014, for the reader’s reference throughout the remainder of this report).

► **Table 5.2: Current and former Ministers of Labour and Employment in Nepal since 2014**

Name and party	Dates of service
Tek Bahadur Gurung (Nepal Congress Party)	February 2014 – December 2015
Deepak Bohara (Rastriya Prajatantra Party)	December 2015 – August 2016
Surya Man Gurung (Nepal Congress Party)	August 2016 – June 2017
Farmulha Mansur (Nepal Communist Party)	June 2017 – February 2018
Gokarna Bista (Nepal Communist Party)	March 2018 – November 2019
Remshwor Raya Yadav (Nepal Communist Party)	November 2019 - Present

By November of 2014 governments in Gulf countries and Malaysia were calling on Nepal to eliminate legal hurdles for women migrant workers (Sedhai, 2014b), during a period when demand for domestic and care workers in these countries was skyrocketing. Malaysia, Saudi Arabia and Kuwait expressed open willingness to sign BLAs and / or MoUs specifically on domestic workers and communicated willingness to make significant concessions in the rights afforded to migrant domestic workers, in order to guarantee continued supply of these workers (Ibid). The Malaysian Minister of Human Resource paid a visit to Kathmandu and met personally with Minister T. Gurung to request a bilateral agreement on domestic workers, noting that if an agreement were reached then Malaysia would perhaps be willing to explore a broader agreement applying to all general workers (Ibid). At Saudi Arabia and Kuwait's insistence, the Nepal Ministry of Labour prepared drafts of agreements on domestic workers and sent them to both countries for review (Ibid). The director of a research institute interviewed for this review noted that it was in destination countries' interests to sign agreements on domestic workers in recent years particularly as domestic workers recruited from other origin countries – including the Philippines and Indonesia – have become “more expensive”.

However, Nepal's interests and those of destination countries were not aligned. Despite key policymakers citing on numerous occasions that the government wished to have bilateral agreements on domestic workers, the lack of progress on signing domestic-worker-specific BLAs was reportedly due in part to the reluctance of officials in Nepal. While destination countries were keener to make concessions on domestic worker agreements in order to meet large deficits in their labour markets, they were less willing to reach an agreement encompassing general workers as well. On the other hand, Nepal reluctantly drafted agreements on domestic workers during this period while trying to push destination countries to negotiate BLAs and MoUs that would cover general workers (Ibid) – which represented the majority of Nepali workers abroad.

A director of a recruitment agency who previously served as a senior member of NAFEA interviewed for this review reported being on the delegation that engaged with Saudi officials to discuss the bilateral agreement on domestic workers. This official noted that following bilateral talks between the two governments in December 2014, Saudi Arabia had agreed to meet nearly all of the conditions that Nepal was requesting regarding recruitment fees, a universal minimum wage, food and accommodation, access to leave days and other general stipulations on rights and welfare. This was confirmed in media reports at the time as well (Sedai, 2014c). Although Nepal had requested that community outreach centers be established and made accessible to support migrant domestic workers, Saudi Arabia was reluctant to do so (Ibid). The same recruitment industry representative noted that a final point of contention was Saudi Arabia's reluctance to provide 24-hour insurance to women migrant domestic workers.

According to this recruitment agency director, the Ministry's immediate response was to drop the agreement altogether, much to the dismay of recruitment industry and other professionals in Nepal. High-level officials from NAFEA encouraged the Ministry of Labour not to sacrifice the multitude of other rights and benefits that Saudi Arabia was willing to offer due to a disagreement over one stipulation of the draft agreement. Instead, NAFEA encouraged the GoN to sign the agreement anyway and instead purchase international insurance policies for Nepali women migrant domestic workers in Nepal prior to their departure. This informant noted that even if this cost was passed down to the migrant woman

herself, the overall costs of migrating would be immensely lower with the new labour entitlements in place. This former senior official of NAFEA, who conversed with Ministry of Labour officials back and forth on the matter over subsequent months, noted that while they had succeeded in convincing the Minister and secretaries to proceed with the agreement at the time, these officials were soon replaced in 2015. The new Minister and secretaries were unfamiliar with the ins and outs of the negotiation process and were reportedly unwilling to proceed with the domestic worker BLA with Saudi Arabia. Negotiations between the two countries were likely not helped by the fact that Saudi Arabia had sentenced a Nepali woman migrant domestic worker, Shoya Pariyar, to death in August 2014 for allegedly murdering the two-year-old child of her employers (Sedhai, 2014c).

After the BLA on migrant domestic workers fell through, Saudi officials declined to sign a different agreement for general workers (Sedhai, 2014c). While the failure to negotiate a BLA with Saudi Arabia can certainly be attributed in part to the positions of Saudi officials, the reluctance of Nepali officials to show flexibility on certain provisions and an apparent preference to negotiate agreements on general workers before touching the matter of domestic workers – not only with Saudi Arabia, but with Malaysia and Kuwait at the time as well – is also a contributing factor. An official at DoFE would later state that bilateral agreements were stalled due to Gulf countries' unwillingness to make meaningful reforms to *kafala* laws (Kathmandu Post, 2016b). As subsequent subsections will show, these dynamics would continue to repeat themselves during future negotiations of bilateral agreements.

5.4.3 Pursuing new policy guidelines on migrant domestic workers (2014 – 2015)

By December 2014, Ministerial officials were reportedly undergoing the process to negotiate a new legal and policy framework for migrant domestic workers according to internationally accepted guidelines (Kathmandu Post, 2014b; Sedhai, 2015a). These guidelines were meant to end the chain of migration bans and establish a long-term framework for open migration channels for Nepali migrant domestic workers once and for all (Sedhai, 2015a; Sedhai, 2015b).

In late April 2015, the Directive on the Management of Sending Domestic Workers for Foreign Employment (in short, the Migrant Domestic Worker Guidelines or MDWGs) was formally endorsed by the GoN (ILO, 2015a; Sedhai, 2015b). The new guidelines would allow women aged 24 and above to migrate for domestic work in Gulf countries and Malaysia (with a minimum age of 18 years set for other countries) through a selected group of pre-approved recruitment agencies who would need to fulfil a certain number of stipulations and pay a significant additional sum for accreditation (for more information on the 2015 MDWGs, reference Annex D). The guidelines also required that agencies in destination countries were also accredited by the Nepali embassy (Sedhai, 2015b; ILO, 2015a). Most importantly, the new guidelines required that a bilateral agreement on domestic workers be in place between Nepal and the destination country in question before migration channels for domestic work could be opened (Sedhai, 2015b; ILO, 2015a). Despite stalls in the early negotiation of BLAs and MoUs on domestic workers in 2014 and 2015, the Minister of Labour T. Gurung made a public commitment to pursue these instruments, stating, “we should not restrain the right to mobility of female migrants for long. We want to start sending them now and gradually sign required agreements” (Sedhai, 2015b). Still, high-profile elected officials in Parliament at the time were against the idea of bans being lifted.

According to numerous informants, the new Guidelines were cautiously welcomed by a number of advocates and rights groups who appreciated the new commitments but were worried about the GoN's capacity to ensure successful implementation, given its spotty record in the past. A recruitment agency director interviewed for this review noted that, on the other hand, many actors in the recruitment industry were highly discontented with the new stipulations. In particular, many agencies complained about the exorbitantly high deposit fee required of agencies who wanted to send domestic workers – Rs. 2.5 million. According to this informant, smaller agencies argued that this stipulation would only benefit rich and powerful recruitment agencies who had the administrative and financial resources in order to comply. This recruitment agency director, a current high-level NAFEA official as well as an expert

migration journalist, all noted that there were millions of rupees in profits on the line, and recruitment professionals knew that domestic workers could become a cash cow for those agencies who managed to gain access to the Ministry of Labour's pre-approved list. According to one migration journalist, as a result of these new stipulations, the GoN effectively facilitated the creation of "a rich and powerful syndicate of agencies" with a monopoly over the domestic worker recruitment market. Very little information was made available regarding this new recruitment structure and the entire process was relatively opaque, although it was reported that 49 total agencies were ultimately approved for sending domestic workers (Kathmandu Post, 2016b). One recruitment agency head noted that this number has dwindled to approximately 20 as more agencies have stopped paying the extra guarantees in light of continuation of bans. This same representative noted that the money that agencies have paid for certification continues to sit untouched in a government account.

Recruitment industry executives interviewed for this review felt that industry stakeholders had been almost universally *against* the bans for many years. This is in line with similar findings from ILO's study of bans published in 2015 (ILO, 2015a). Despite being against bans at the time the new guidelines were being negotiated, one former senior official from NAFEA explained that the association chose to disengage itself entirely from advocacy efforts after requests to the Ministry of Labour to remove new stipulations and deposit requirements for agency accreditation were reportedly denied by the Minister of Labour.

A lawyer working for a legal non-profit supporting migrants' rights in Nepal interviewed for this review noted that the new guidelines would likely not have addressed violations of migrant domestic workers' rights in the recruitment process, given that some formal and informal agencies who were not on DoFE's approved list would likely have found a way to bypass restrictions and send domestic workers anyway. The same informant noted that over the years of on-and-off-again bans, agencies were known to falsify job orders to give the appearance that the recruited worker would be engaged in hospital work or as a professional cleaner, but would later work as a domestic helper once in the destination country. Some informants noted similar trends in a not-yet published ILO study conducted in late 2019 (ILO, forthcoming). The head of a recruitment agency who participated in this study and who has sent domestic workers for jobs overseas in the past adamantly denied these claims, stating, "we have to follow rules and regulations, agencies cannot go through other channels – we have a strict system of law and order and we [recruitment agencies] are definitely not allowed to send domestic workers while a ban is in place".

5.5 Lifting the 'total ban' (2015 - 2016)

5.5.1 Steps toward lifting the ban (2015 – 2016)

Although the MDWGs (2015) were passed, this did not lead to an immediate repeal of the 'total ban'. In mid-2015, Nepal appeared to be pursuing the opening of certain corridors before a total repeal would take place. Israel had long been concerned about informal migration of Nepali care and domestic workers to the country and about illegal practices in Nepal's recruitment industry. Consequently, it had imposed a ban on Nepali migrant workers in April 2009 (Pyakurel, 2015). In August 2015 the Director General of DoFE at the time, Bhara Taj Subedi, signed a deal with the Israeli ambassador to Nepal to revoke the ban and reopen channels for Nepali caretakers through a G2G recruitment model – a plan which Minister of Labour T. Gurung believed would "minimize the risk of exploitation and abuse" (Nepali Times, 2015a). At that time, a pilot deal was designed in order to locate and send 300 Nepali caregivers to Israel in 2015; however, the initiative was unsuccessful and very few women were ever recruited through the program (T. Gurung, 2017).

In late 2015, decision-makers came under increased criticism for not yet acting on the bans. The Indian Central Bureau of Investigation submitted a report in 2015 detailing that Nepali women were being transported by middlemen to UAE through Delhi airport (Kathmandu Post, 2015). The Nepal embassy in Riyadh was reportedly rescuing and repatriating numerous distressed Nepali women migrant domestic workers every month (Ibid). In a media interview, Labour Minister T. Gurung stated that the

government was working to lift the ban and iterated his belief that the new MDWGs (2015) would ensure safe migration for Nepali women and migrant domestic workers once operationalized (Ibid). Pressure to lift bans and create formal migration channels mounted further after two devastating earthquakes struck Nepal in late April and early May 2015 (Jaiswal, 2017). Experts feared that the disasters would generate further out-migration of migrant women and exacerbate their risk of exploitation in absence of safe migration channels (either formal or informal) (Jaiswal, 2017). The NHRC reported a measurable increase in the number of women intercepted at the Indo-Nepali border in the three months following the earthquakes (Ibid).

Many stakeholders voiced concerns that even if the MDWGs (2015) were operationalized and the ban lifted, there was no way to guarantee that destination countries would obey these new requirements (Kathmandu Post, 2015).²⁰ Notably, Qatar began implementing reforms to its own national laws governing migrant workers, and made commitments to begin reforming its *kafala* system in November of 2015 (O. Rai, 2015). When Nepal's former ambassador to Qatar was interviewed on the matter, he expressed doubt over Nepal's capacities to achieve meaningful reform in migration domestic worker recruitment and foreign employment structures (Ibid). In later 2015, T. Gurung was removed from his post as Minister of Labour when a new government was elected. T. Gurung was asked about the progress of the MDWGs (2015) shortly after he stepped down, to which he responded: "if the new government cares about poor Nepali migrant workers, the policy should be implemented. But I am not very hopeful" (Ibid). These despondent statements from Minister T. Gurung and the former ambassador to Qatar reflect a surprising lack of confidence amongst former high-level government officials in the State's ability to achieve meaningful policy reform or improve outcomes for overseas migrant workers.

In September 2015 the new Constitution was signed amidst violent protests. The following month, the Prime Minister, Sushil Koirala, stepped down and KP (Khadga) Prasad Oli of the Nepal Communist Party was elected for his first tenure as Prime Minister.²¹ Labour Minister T. Gurung was replaced by Deepak Bohara once Oli's new Cabinet was appointed. PM Oli became the seventh PM elected to the post in as many years. In fact, by 2017 Nepal had been led by 22 different governing coalitions in the 26 years prior (World Bank, 2017). Frequent regime changes and governmental and institutional changeover has arguably hindered the State's ability to conduct meaningful stakeholder consultations, policy impact assessments and comprehensive reviews of empirical migration research. With minimum time to implement measures, and in light of sustained pressure from pro-ban lobbyists, bans have often been seen as an effective discursive tool to demonstrate quick and decisive action. Many stakeholders interviewed for this review communicated similar opinions.

Most non-governmental stakeholders interviewed for this review communicated that the State's engagement with empirical evidence through 2016 and until this day has been rather limited. On one hand, one current MP in the National Assembly and two researchers from a migration research institute noted this is likely because the data on women migrant workers and vulnerability of women migrant workers in different contexts is still highly limited at this point. On the other hand, the director of one research institute noted that the Government rarely read the research reports that *do* exist that are produced by academics, UN organizations and CSOs. This same informant noted that the only success research institutes and other stakeholders have had in conveying findings of research to key policymakers was by presenting them verbally directly to those in power. At the same time, the directors of two CSOs interviewed for this review noted that when they went to the policymakers to present research findings, there was often a sense that decisionmakers had already made up their minds and were not interested in changing their approach.

One trade union federation director stressed the need to bring more experts and consultants into the policy formulation process. One current MP (National Assembly) noted as well that certain Parliamentary members had been voicing the need to develop a robust research section within the Parliamentary secretariat "staffed with good researchers and equipped with good data collection tools" which can "draft

²⁰ Nepal previously signed a bilateral agreement with Qatar in 2005 that at this point had expired (O. Rai, 2015). At the time of writing, Nepal has yet to sign a new agreement with Qatar.

²¹ PM Oli was re-elected for a second term in February 2018 and remains Nepal's PM at the time this report was drafted.

unbiased briefs and reports and make these available to all MPs”. The same National Assembly member expressed that MPs “simply did not have the time or resources to research every topic and to develop expertise in every subject area”. The director of one UN agency, however, opined that even with greater use of empirical findings, informal attitudes and patriarchal structures would continue to predominate in policy spheres.

5.5.2 ‘Total ban’ officially lifted (2016)

At the beginning of May 2016, SAARC countries met to discuss initial plans for a Plan of Action on labour migration (Kathmandu Post, 2016a). Activists called on the inter-governmental body to remove gender discriminatory migration policies in South Asian origin countries. They also urged SAARC countries to include concrete stipulations on the rights and protections of migrant domestic workers in the Plan of Action. However, according to the director of one CSO, after discussion amongst Member States, migrant domestic workers were apparently left off of the agenda.

One week later, the total ban was finally lifted in May 2016, with the condition that the stipulations (minimum age, BLAs and otherwise) of the MDWGs (2015) be pursued and implemented (Kathmandu Post, 2016b). A CSO director noted that the decision to repeal the ban had been a product of pressure from civil society. The same informant reported that CSOs had attended a multi-stakeholder consultation which included a few migrant women testimonies. These women, who had experienced both positive and negative migration outcomes, attested that they had migrated through India in order to evade the ban. These conversations reportedly influenced the government to rethink its decision on the bans.

5.5.3 A ban applying to male Nepali migrant workers (2016)

On repeated occasions over the past two decades, those against migration bans for women migrant workers and migrant domestic workers have pointed out that despite numerous tales of exploitation, abuse and deaths of male migrant workers in construction, security and other industries, Nepali men have faced far fewer restrictions on their mobility. Prior to 2017, even male migrant workers seeking jobs in the domestic sphere (despite there being very few) did not face mobility restrictions. Some informants interpreted this long-term gendered applicability of migration restrictions as stark evidence of state-sponsored gender discrimination. Others attributed this to the nature of live-in informal domestic work, which they believed to carry greater quantifiable risks compared to other occupations and thus warranting tighter restrictions.

A brief glance at prominent newspaper headlines shows that national and international concern over the safety of Nepali male migrant workers abroad has been raised on numerous occasions in recent years. Below are just a few examples:

- Arab News: “Nepal confirms many death’s in Qatar as show says figure as high as 1,400” (Kumar, 2019);
- SCMP: “Nepal to probe why 1,000 migrant workers die in Asia, Middle East each year” (Carvalho, 2020);
- Kathmandu Post: “Hundreds of young, healthy Nepalis die sudden deaths in foreign lands. No one knows what’s killing them” (Kumar Mandal, 2020a);
- The Guardian: “Revealed: hundreds of migrant workers dying of heat stress in Qatar each year” (Kelly, McIntyre and Patisson, 2019);
- Freedom United: “Kathmandu: Nearly 6,000 Nepali workers have died abroad” (Freedom United, 2018).
- Time: “A Nepalese World Cup worker dies every other day in Qatar” (Liljas, 2014)
- IPS News: “Why are so many Nepali workers in Korea committing suicide?” (Mindoo, 2019)
- Aljazeera: “Increasing number of deaths among Nepali workers” (Aljazeera, 2016).

Hundreds of thousands of male migrant workers employed overseas are engaged in low-skilled manual labour which entails numerous occupational safety and health (OSH) risks. Migrant construction workers, for example, are frequently reported to face serious accidents and death due to falls and being struck by falling objects (ILO, 2017b). In Gulf countries, there are widespread reports of under-utilization of safety equipment (or lack thereof) (ILO, 2017b). Climatic conditions are also a major risk factor for construction workers, who are often vulnerable to heat stress while working 10-hour days in temperatures as high as 45 degrees Celsius (Kelly, McIntyre and Pattison, 2019). Certain Gulf destination countries have introduced regulations to reduce heat-related illness and death by limiting working hours during certain times of day or when temperatures / humidity levels get too high, but workers have been found to face dangerous heat exposure even when these regulations are in place (Ibid).

These conditions are recounted to demonstrate that the working conditions for hundreds of thousands of male migrant workers are often far from safe or well-regulated.²² In addition, the risks that male migrant workers face abroad are not limited to workers in construction sectors. Thousands of Nepali migrants are known to migrate each year to war-torn countries such as Iraq, Afghanistan and Syria (amongst others). Some of these workers are engaged in high-risk jobs with inadequate safety mechanisms in place. On 20 June 2016, 14 Nepali male migrant workers working as security guards were killed in a Taliban suicide bomb attack in Kabul, Afghanistan, with several more injured (Kathmandu Post, 2016c; Sharma, 2016). This was not the first time that Nepali migrant workers were killed by armed terrorist groups (Kathmandu Post, 2016c). Previously, Nepal had tried to stop overseas employment in countries at war but had lifted these restrictions in 2011, reportedly due to pressure from recruitment agencies with important foreign military ties (Kathmandu Post, 2016c).

Immediately in the aftermath of the June 20 attacks, the International Relations and Labour Committee (IRLC) of Parliament ordered the GoN to ban recruitment of Nepali workers as security guards in Afghanistan and other high-risk countries. The IRLC also requested that MoFA and the Ministry of Labour assess the security situation in these countries and investigate recruitment agencies known to be sending workers to Afghanistan (Kathmandu Post, 2016d). This represented one of the few bans applying to male migrant workers that the State had implemented until this point (a full ban on all workers going to Malaysia was later temporarily put in place in 2018, which will be discussed in subsequent subsections). However, the decision to ban all migration to Afghanistan was only in place for two-and-a-half months (Himalayan Times, 2016). On 22 November 2016 the same IRLC decided to lift the ban and allow the recruitment of Nepali security guards for jobs in high-risk countries once again.

When asked about the State's overall lack of migration controls on male workers until this point and the brevity in which this 2016 ban on security guards had been in place when compared with bans on women migrant workers / migrant domestic workers, a long-term government migration policy advisor noted that the difference came down to political power – Nepali women face cultural and social barriers to engaging in political expression, and many lack a strong platform through which to actively protest the government in the event of a ban. This advisor also noted that the bans themselves demonstrate that a woman's right to migrate has not yet been accepted as an inalienable right in Nepal. The same expert noted that if Nepal bans migration of men under any circumstances – including for security guard positions in high-risk countries – they inevitably face political fallout and outcry from workers and recruitment agencies alike. Later sections will show that this was the case when migration to Malaysia was banned in 2018. According to one UN regional migration expert contacted for this study, another reason why a ban on security guards would inevitably be short-lived is due to the long-standing influence of powerful transnational military recruitment networks of Nepali *gorkhas* – many of whom have trained in elite institutions abroad – who are often in high demand by foreign military personnel. These foreign military personnel also hold significant influence in recruitment agencies based in Nepal.

Another UN labour migration programme coordinator posited that the lack of bans and restrictions on male migrant workers over time is borne out of the assumption that men do not face physical and sexual

²² For a more in-depth review of data and information on accidents and fatalities of male and female Nepali migrant workers, reference ILO's 2016 evaluation, *When the safety of Nepali migrant workers fails: A review of data on the numbers and causes of the death of Nepali migrant workers* (ILO, 2016b).

exploitation abroad, despite evidence that this is untrue. The same informant asserted that male migrant workers were a greater priority for the State than women migrant workers, pointing out that while Nepal has struggled to find a “Plan B” to better ensure the rights of women migrant domestic workers abroad for over two decades, it was supposedly able to do so for male security guards in just two-and-a-half months.

A section officer at MoLESS maneuvered around a question on why stories of death and abuse in the construction sector had never led to mobility restrictions on these workers, but acknowledged that male migrant workers in construction and other sectors were also vulnerable and that “these issues should not be omitted”. A joint secretary at MoFA expressed the belief that domestic sector work was more dangerous than construction and other industrial sectors. This official acknowledged that foreign missions frequently received reports from workers in the construction sector regarding non-payment or under-payment of wages, being denied leave days or being forced to work excess hours but felt that it was easier to address these issues when they occurred in formal sectors. The MOFA representative also stated that the GoN and its diplomatic missions’ handling of complaints for organized sector workers had improved significantly over the years and that workers in industrial, manufacturing and agricultural sectors overall “faced less problems”. On the other hand, this official said it was more difficult for embassies to address “female-related problems” such as “sexual harassment and sometimes rape cases”. Albeit well-intentioned, this statement reflects perpetuation of highly gendered perspectives of sexual assault and violence and demonstrates misconceptions that SGBV is inherently a “female issue” – whereas anyone can be victims of GBV (although women and girls are more frequently affected).

On the other hand, representatives from a research institute with extensive experience conducting research with women migrant workers and migrant domestic workers noted that many of the complaints reported by migrant domestic workers were similar to formal-sector employees, although migrant domestic workers were more likely to report issues such as not getting enough sleep. The same researchers noted that while there were cases of sexual abuse reported by migrant domestic workers, it was not nearly as common as other violations. These assertions have been backed by findings from numerous research studies, including a UN Women study (UN Women, 2017), by Kharel (2016) and by Mak et al. (2019).

5.5.4 Signs that open migration channels for women migrant workers / migrant domestic workers would be short-lived (2016)

Even after the opening of migration channels for women migrants and migrant domestic workers in 2016, rights groups were quick to criticize remaining discriminatory provisions. Various stakeholders pointed out that the age minimum of 24 years was still arbitrary and discriminatory and would lead to continued outflows of young Nepali women through irregular migration channels (Kathmandu Post, 2016e). While decision-makers discussed the details of regulations for open migration, political instability saw another change in government in July of 2016. Pushpa Kumar Dahal (“Prachanda”) became the new PM in July 2016 (the ninth government in eight years) after PM Oli was forced to resign ahead of a no-confidence vote (HRW, 2016a). Shortly after, Minister of Labour Bohara was replaced by Minister Surya Man Gurung. By early 2017, talks on a new migration ban were already taking place.

5.6 A new ban and changes in migration policymaking structures (2017)

5.6.1 Calls for a new ban amidst allegations of trafficking, smuggling and government corruption (March – April 2017)

In March 2017, the Parliamentary IRLC announced their decision to send an official delegation of its members, led by lawmaker Prabhu Saha (committee chair), to four different Gulf countries. This decision

was reportedly made in order to investigate repeated stories of exploitation and abuse of Nepali migrant workers abroad (Kathmandu Post, 2017b; Samiti, 2017). Delegation members officially departed on 18 March (Kathmandu Post, 2017c). While visiting Saudi Arabia, UAE, Kuwait and Qatar, delegation members interviewed numerous Nepali women migrant domestic workers residing in shelters run by Nepal's embassies (Kathmandu Post, 2017c). The exact number of women migrant domestic workers that officials spoke to is unknown and varied in media reports at anywhere between 50 and 1000 (Kathmandu Post, 2017b; Kathmandu Post, 2017c; Himalayan Times, 2017a). All of the women were alleged to have fled from their employers to seek refuge in the embassies. Importantly, consultations between government officials and migrant women on this visit were rather narrow in that they included only discussions with women residing in shelters, and did not reflect a more holistic consultative process which consulted the views and opinions of live-in and live-out domestic workers in these destination countries who had not left their employers to seek assistance from the Nepal embassy.

After speaking with women migrant domestic workers, officials were reportedly alarmed to learn that nearly all of the women had arrived in their respective destination countries through informal means, without government approval (Himalayan Times, 2017a). In addition, many women reported having departed from the Kathmandu Airport without labour permits and without being stopped by immigration officials (Samiti, 2017). When commenting on the interviews, Committee chair Saha recalled that "half of the women we met told us that they had left from Kathmandu's airport without being questioned by authorities, while the other half had travelled through India, Bangladesh and Sri Lanka" (Himalayan Times, 2017a). He further stated, "it is not possible for so many women to pass through the airport without the knowledge of immigration officials. The government must investigate this" (Ibid).

Further investigation confirmed that officials from the Department of Immigration (DoI) and the Ministry of Home Affairs (MoHA) had colluded with recruitment agents doubling as facilitators to send Nepali women as domestic workers through the Kathmandu airport (Kathmandu Post, 2017b). The IRLC's final report, prepared shortly after the delegation's return to Kathmandu on 28 March, asserted that there was "a nexus between human smugglers and employees of the DoI" and that these groups were "in cahoots to send Nepali women to various countries" (Ibid). Saha expressed concern about the "illegal" migration of Nepali women and stated that it was "a matter of grave concern that DoI employees have been working hand in glove with human smugglers" (Ibid).

These findings were not the first time that that allegations of corruption and collusion by officials at the Kathmandu airport had come to light. In 2013, Nepal's Commission for the Investigation of Abuse of Authority (CIAA) had arrested a number of employees at the DoI, airport customs and DoFE itself after an investigation showed that officials at the airport were involved in bribery and harassment of departing and returning migrant workers (Rai and Pandey, 2013). The CIAA found that many Nepali women who had left Nepal through informal channels with falsified passports provided by recruiters (many of them unaware that their documents were fake) were being extorted by officials at the airport upon return to Nepal (Ibid). The initial investigation had been opened after one returnee woman migrant worker was raped and abused by airport officials when she presented them with fake travel documents after returning to Kathmandu in 2012 (Ibid).

Following completion of the delegation visit, IRLC officials demanded an urgent meeting with senior government officials. Then Foreign Minister Prakash Sharan Mahat, Minister of Labour S. Gurung and Minister of State for Home Affairs, Indra Bahadur Baniya, as well as secretaries from these Ministries, were all present (Samiti, 2017). At said meeting, the IRLC:

- (1) Demanded that the Council of Ministers impose an immediate ban on sending Nepali migrant domestic workers until further provisions could be put in place to protect them;
- (2) Requested that Ministries investigate and punish foreign nationals involved in the smuggling and trafficking of Nepali nationals seeking foreign employment;
- (3) Instructed MoFA and MoLESS to coordinate with foreign missions to effectively rescue and repatriate distressed Nepali women migrant domestic workers who are facing difficulties in Gulf countries;
- (4) Urged the government to conduct a thorough investigation of airport and immigration officials in order to identify those involved in the smuggling of Nepali women migrant domestic workers;
- (5) Demanded that the government punish and suspend DoI directors and employees found to be aiding in helping Nepali women to leave the country irregularly for domestic work abroad; and,
- (6) Iterated the need to take action against unscrupulous recruitment agents involved in smuggling (and potentially trafficking).

Sources: Kathmandu Post, 2017d; Samiti, 2017; Sedhai, 2017; Devkota, 2017; Preiss and Shahi, 2017; TRT World, 2017.

Thus, in the aftermath of IRLC's visit to destination countries a migration ban was yet again put in place in March 2017. The impetus for the reimplementation of these bans and the manner by which it was done carries a myriad of implications.

Firstly, this decision represents the first time that bans – at least on paper – applied to both male and female migrants seeking foreign employment in domestic work. However, it is questionable whether this shift can be interpreted as less discriminatory toward women migrant workers. As one women's and migrant's rights activist, political advisor, and former and current head of CSOs in Nepal pointed out, the IRLC did not speak to any male migrant domestic workers during their delegation visit. Statements on the bans made by high-level officials at the time were also highly gendered and paternalistic. Prabhu Saha was quoted in the media saying, "our women are living in a very pathetic condition there [in the Gulf]" (Himalayan Times, 2017a). Other media statements at the time and the language of the IRLC's report itself also showed that the words "women" and "domestics" were often used interchangeably. The bans were not being justified or explained by top officials as interventions to protect migrant domestic workers, but rather Nepali women.

Secondly, the interventions recommended by the IRLC appear to operate off of assumptions that issues of trafficking and informal migration can be addressed through migration restrictions. This fallacious approach fails to recognize that migration bans have likely served as a principle reason behind why migration channels through India and corruption amongst airport and immigration officials were allowed to flourish in the first place. Lessons from other policy interventions – including monitoring of Nepali women departing from India's Delhi airport – have also shown that securitizing and restricting movement in one area is counter-intuitive, as it creates a hydra effect whereby illicit activity is generated elsewhere. In addition, the committee's findings demonstrate why the disproportionate blame placed on informal actors for illicit activity occurring in the migration process is unwarranted, given that officials both in formal and informal spheres were found to be violating rules and regulations. Additionally, while the IRLC and various Ministries occupied themselves with punishing lower-level customs and immigration officials at the Kathmandu airport, the government appeared less concerned with bringing justice to wronged women migrant workers themselves or with addressing the persistent structural socioeconomic and regulatory gaps that allow these practices to continue in the first place.

Thirdly, an analysis of public statements made by policymakers at this time shows a continued confusion between the delineation between "trafficking" and "smuggling". While some of the women residing in shelters interviewed by the IRLC in destination countries were likely trafficked, and while this is of grave

concern, it is likely that the majority of these women had knowingly and voluntarily migrated through these channels and were thus informal migrants. This opinion was shared by many interviewed in this review. However, as section 6 will discuss in further detail, concepts of “trafficking” and “smuggling” tend to be used interchangeably in government and policy spheres in Nepal. This also appears to be the case in many media reports covering the matter. These two crimes are vastly different from one another, however, and require vastly different legal interventions.

Recruitment industry professionals interviewed for this review stated they were not adequately consulted before bans were imposed, both in 2017 and in prior years. These informants, including agency heads and current and former NAFEA officials, also noted that bans and restrictions have limited the State’s ability to keep track of migrant women. One current MP in Parliament’s HoR acknowledged that migrant women who have positive migration experiences and are not facing issues are likely not coming in contact with embassies or trade unions while abroad and admitted that the sample of women interviewed by the IRLC in shelters could have been skewed. Representatives of two research institutes voiced the same opinion.

Some informants believed that Nepal’s constant reversal of its position on the bans was delegitimizing and gave the appearance that State was uncoordinated and lacked knowledge on the issue. Numerous informants from trade unions, UN organizations, civil society and even government attributed these policy oscillations to frequent changes in government in Nepal.

According to one expert migration journalist, there is little continuity in roles and duties of Ministers and line ministry officials, who are frequently transferred from one ministry to another to work on topics with which they have no previous knowledge or expertise. As a result, policy decisions are more often made on ‘guesses’ or ‘hunches’ rather than informed regulatory experience. This sentiment was voiced by countless KIs that participated in this review, across nearly all stakeholder groups.

To quote one current government policy advisor, former UN programme specialist, and ongoing migrant rights advocate:

“Every time we make our case and make headway in convincing new bureaucrats and politicians about these issues, they are then replaced by individuals who have minimal expertise in this area. A new government is elected, it learns, it grows institutional knowledge, and this often leads to a repeal – but then another government comes into power and we start from the beginning. This will go on and on. The institutional memory is not there.”

A trade union federation director voiced a similar opinion in regard to the constant back-and-forth on migration bans and other migration policies:

“It is largely due to institutional instability. Secretaries and Ministers are changing so quickly and the whole gamut changes. You build up your case for an issue – such as repealing the ban – over of six to seven months and then later they’re gone. They’ve been transferred to a different ministry.”

As with past bans, a UN programme director specializing in trafficking and smuggling asserted that decision-makers were well aware of the possible linkages between migration bans and increased vulnerabilities of migrant women but had chosen to implement a ban because it was the easiest and most time-sensitive policy intervention available. Various trade union representatives and the head of a research institute opined that instead of conducting a delegation visit to destination countries, Nepal should have conducted tripartite, multi-stakeholder visits to other origin countries of migrant domestic workers – such as Indonesia or the Philippines – in order to identify best practices and brainstorm new policy approaches.

A joint secretary in MoFA interviewed for this review felt that the ban was not a good solution. When a section officer from MoLESS was asked about the decision to reimplement bans, the official appeared to place full onus of the decision onto the Parliamentary Committee and expressed that it had been out of the Ministry’s hands at the time. Nevertheless, the same official iterated that they did not believe the bans to be discriminatory. Albeit acknowledging that the vast majority of migrant domestic workers were women, the Ministry employee expressed that “there is no discrimination, it is not gender-based – if we ban we ban for all, and if we lift the ban then we lift the ban for all.”

5.6.2 Political fall-out after publication of the Parliamentary delegation report (April – September 2017)

As the IRLC's investigation concluded and the committee's final report was published, additional accusations against government Ministries and ministerial officials came to light. Specifically, MoFA was accused of turning a blind eye to numerous reports submitted by Nepal's foreign missions over the years about cases of human trafficking of Nepali women migrant workers. These allegations allegedly involved dozens of individuals and companies based in Nepal and in destination countries (Kathmandu Post, 2017b; Kathmandu Post, 2017e). Many of these reports were reportedly submitted to embassy officials by Nepali women migrant domestic workers themselves who sought refuge in embassy shelters (TRT World, 2017).

The committee determined that MoFA had failed to forward these reports on to MoHA in order to investigate these allegations and coordinate action against perpetrators (Kathmandu Post, 2017e; Kathmandu Post, 2017f). Nepali diplomats and officials at MoFA responded to these allegations by saying they lacked the adequate human and financial resources to be able to handle the volume of cases they were receiving (Kathmandu Post, 2017e).

Furthermore, the IRLC ordered an investigation against Foreign Minister P. Mahat himself. Mahat was accused of irresponsibly pursuing implementation of the MDWGs (2015) and overzealously opening up of migration channels for Nepali women migrant domestic workers despite numerous recommendations from foreign missions that Nepali women should not be allowed to migrate for domestic work (Kathmandu Post, 2017f). After being called in front of the committee to justify his actions, Mahat iterated that the Directive had already been approved and implementation had already begun under PM Koirala's tenure, before he had yet to occupy the position of Foreign Minister (Ibid). Mahat expressed feeling that the Committee was unfairly attacking him for trying to regularize the status of Nepali women migrant domestic workers and "bring those working abroad under the legal ambit" (Ibid). Two informants – a high-level political advisor with 20-plus years working with the government and a migration expert journalist who covered the incident at the time – noted that the Foreign Minister had been adamantly against the Committee's decision to reimpose the ban, which he viewed as largely ineffective. Instead, Mahat had prioritized the creation of safe and orderly migration pathways for Nepali women migrant workers and believed this could be achieved by effectively implementing the MDWGs (2015). The expert journalist asserted that Committee chair Saha and Minister Mahat were reportedly at odds with each other, and Mahat had openly criticized the way Saha was handling matters related to the delegation visit. This same informant speculated that this turbulent political relationship between the two officials was a contributing factor behind Saha's decision to order an investigation against the Minister.

By July 2017, Minister Mahat had been replaced by new Foreign Minister, Krishna Bahadur Mahara, who also served as Deputy Prime Minister (DPM) at the time (Kathmandu Post, 2017g). When speaking to the IRLC, DPM / Foreign Minister Mahara assured the committee that issues facing Nepali migrant workers and migrant domestic workers in particular would be resolved through improved inter-ministerial coordination and by effectively mobilizing diplomatic missions abroad (Ibid). Mahara also assured IRLC members that the government would pursue negotiation of bilateral labour agreements (Ibid). Meanwhile, the Committee reiterated its request to have foreign missions facilitate the rescue of distressed Nepali citizens, and requested that the government establish an integrated database to keep track of data and trends on migrant workers employed abroad (Ibid).

The joint secretary from MoFA interviewed from this study was asked to comment on the IRLC's allegations and discuss the role of foreign missions in Parliament's decision to reimplement migration bans for this review. This informant confirmed that various diplomatic missions submitted reports to MoFA in 2017 voicing concerns about the abuses domestic maids were reporting to them whilst seeking refuge in embassy shelters. This informant also confirmed that IRLC officials met with ambassadors and other diplomatic officials in each of the four Gulf countries they visited, and that officials in all four of these countries (with the exception of the UAE, where embassy officials reportedly discouraged a ban) felt

that embassies were overburdened by the amount of requests for assistance being received by women migrant domestic workers (Karki, 2019). Consequently, the MoFA informant noted that embassy officials felt it would be easier to put a stop on migration of women migrant domestic workers to Gulf countries altogether. Numerous informants, as well as the MoFA official interviewed for this review, felt that the recommendations received from foreign ambassadors were the most important factor contributing to the IRLC's decision to reimplement bans in 2017.

One UN labour migration programme director based in the Middle East interviewed for this review offered a slightly different explanation, noting that Nepal's embassies were often under difficult political and social pressure to abide by laws in destination countries and are thus often involved in assisting host governments in clamping down on their undocumented nationals living in destination countries. Given that many women migrant domestic workers either arrive informally or transition into irregularity (e.g. by leaving their sponsor and becoming "freelance" live-out domestic workers in destination countries), this creates a difficult situation for embassies. Consequently, they tend to uphold and respect the kafala system of key destination countries due to legal pressures, as opposed to acting as defenders of all nationals working in destination countries, regardless of immigration status. This same interviewee speculated that bans were thus a way of addressing this constant political and legal struggle between assisting undocumented women migrants and appeasing the desires of destination governments by attempting to escape the issue altogether.

Many informants in the UN, CSOs, independent experts and trade unions expressed criticism of the stance that foreign missions and the IRLC took on this issue, asserting that these conclusions enabled a continuation of the *status quo* and reflected a lack of political will on the part of key decision-makers to improve the legal, administrative, human resource and financial capacities of Nepal's diplomatic missions so that they could meaningfully improve service delivery and adequately meet the needs of women migrant workers. Others – including an MP from the HoR, a joint secretary in MoFA, and a high-ranking official in a large Nepali trade union federation expressed the opinion that, even if resources and capacities were increased, foreign missions would be unable to effectively address the issues faced by women migrant domestic workers due to their inability to enter employer homes and due to the private, unregulated nature of domestic work.

5.6.3 Parliamentary committees and the vastly evolving migration policymaking landscape in Nepal (2014 – Present)

The IRLC's involvement in the 2017 decision to reinstitute migration bans represented a significant departure from past policymaking structures. Since 1998, decisions on bans and restrictions on women migrant workers and migrant domestic workers had largely been made at the ministerial level and by the Cabinet of Ministers, with minimal involvement of Nepal's Parliament or its thematic committees. Few if any studies have looked at the role that Nepal's Parliament and its thematic committees have increasingly played in shaping the country's migration policy agenda in recent years, and how their entry into the migration sphere has affected the work of officials at a Ministerial level. This review seeks to address this research gap by exploring why and how the IRLC became involved in decisions on migration bans.

The IRLC was formed in April 2014 along with four other thematic Parliamentary committees (sometimes referred to as 'mini Parliaments') under the second Constituent Assembly of Nepal (which ended in October 2017). Prabhu Saha of the Communist Party of Nepal was appointed committee chair in August 2014 (Ghimire, 2014). As with other parliamentary democracies, the Nepal Parliament, under Art. 97 of the 2015 Constitution, maintains the practice of forming thematic committees to "make its work systematic, quick, efficient and effective and to debate the issues of governance" (Federal Parliament of Nepal, n.d.). Under Rule 170 of the Rules of Procedures of the House of Representatives (HoR) (2075 BS), each committee is assigned a mandate to oversee certain Ministries and evaluate their work and their implementation of laws (Ibid). The Ministries assigned to IRLC were MoFA and the Ministry of Labour. At present, there are 16 committees in Parliament – 10 in the HoR and four in the National Assembly (Upper

House) (NA), as well as two joint committees (Pradhan, 2020). Each committee consists of roughly 25 members (Ibid).²³

The IRLC first became involved in issuing directives and recommendations on migration policies shortly after its formation in 2014. In that year, the committee requested that the Ministry of Labour ensure women migrant workers had necessary training and information before migrating and voiced the need to have separate channels for male and female migrants to apply for work permits, as well as machine-readable passports (Kathmandu Post, 2014c). In 2016, the Committee accused the Ministry of Labour of failing to act on a request it made two years prior to revoke the license of a Malaysian recruiting agency operating in Nepal (VLN Nepal) that was found to be in violation of company registration laws in Nepal (Kathmandu Post, 2016f). This agency was later found to be charging illegal fees to Nepali workers seeking jobs in Malaysia, and would be at the center of a transnational recruitment scandal that would culminate in a ban on all migrant workers going to Malaysia in 2018 (Kathmandu Post, 2016f; Sapkota and Alhadjri, 2018) (discussed in further subsections).²⁴ The IRLC was also involved in the temporary ban on sending Nepali security guards to high-risk countries in 2016, as discussed in sub-section 5.5.3.

Expert stakeholders interviewed for this review were asked why the Parliament suddenly became immersed in decision-making regarding bans and restrictions for women migrant workers and migrant domestic workers. Many stakeholders were unaware of the reasoning behind this shift. Others offered a range of explanations.

The head of one research institute who also serves as a long-term advisor to the government, and who has worked directly with the committee chair and members over the years, asserted that although much of this work was handled by the Minister of Labour in the past, Parliament saw a political opportunity in getting involved. Various stakeholders, including the founder of a prominent migrant rights CSO and the formerly-mentioned research institute director noted that the IRLC's delegation visit was good publicity to show that lawmakers were showing leadership, taking action and trying to protect the rights and interests of Nepalis abroad.

One MP (National Assembly) interviewed for this review noted that migration and foreign employment policies have become an increasingly contentious political issue in recent years and have thus captured the attention of more elected officials over time. Powerful images of the repatriated bodies of deceased Nepali migrant workers circulating in news publications in the past few years have led to accusations from the public that Nepal's government and elected officials are not adequately protecting its people, thus sparking pressure amongst Parliamentarians to show action on these issues. At the time of the 2017 delegation visit there were numerous stories being published in national and international news outlets about Nepali women migrant domestic workers coming back to Nepal with babies, and various other reports about Nepali women migrant domestic workers being harassed by their employers. Many informants in civil society, the UN, high-level policy experts, a migration journalist and a section officer at MoLESS also spoke of these powerful negative media stories as important catalysts to the IRLC's involvement in 2017. Finally, Parliamentarians were receiving word of reports submitted by various diplomatic missions about tragic stories of abuse and exploitation faced by Nepali women migrant domestic workers. In response to these pressures, two current MPs interviewed reported that there was a strong coalition of pro-ban Parliamentarians who mobilized to take action, feeling that it was inappropriate to be sending women for domestic work under these perceived conditions.

The MP informant of the National Assembly noted that Parliamentary committees have broad powers to look at whether the regulations, policies and guidelines prepared by a given Ministry are in line with laws and acts passed by Parliament. This same informant, as well as a migration expert journalist

23 Parliamentary committees have a number of other roles as well, including evaluating proposed bills and issuing reports to Parliament. Committees can also assess bills by inviting members of government agencies or independent experts to provide commentary and advice on pieces of legislation (Pradhan, 2020). Rule 175 of the Rules of Procedures also permits committees to summon government ministers and officials during clause-wise discussion (Ibid).

24 In response to the IRLC's request an anonymous official at the Ministry of Labour called it a "publicity stunt" and iterated that the Ministry had been unable to act due to legal hurdles, and that the Committee had failed to make necessary changes to the law (Kathmandu Post, 2016f).

asserted that Saha and other committee members took advantage of this broad mandate to look into matters related to migrant domestic workers. The National Assembly member interviewed also iterated that Parliament at this time had grown weary of the growing power and influence that recruitment (“manpower”) agencies appeared to have over the policymaking process within the Ministry of Labour, and committee members were eager to break up the perceived coalition that was forming between recruitment agencies and Ministerial officials. A journalist specializing in migration policy noted that Prabhu Saha had pushed the mandate of the committee to work on elements of migration policymaking and migration bans after he perceived there to be “power games” occurring between the Ministry and various recruitment agencies. These sentiments were expressed particularly in light of the new perceived monopoly over the recruitment of migrant domestic workers that the Ministry had granted to a select few recruitment agencies.

A number of informants – including high-level independent policy advisors with former roles as UN officials and CSO directors – attributed the growing influence of Parliamentary committees in decisions on migration policies to the dawn of federalism and the establishment of new political structures in Nepal. Thematic committees were able to consolidate their powers and become more involved in these processes once the Constitution was finally passed in 2015, which defined new mandates for these committees.

The MP informant from the National Assembly, who had been employed in a government Ministry at the time bans were re-imposed in 2017, asserted that most bureaucrats and line ministry officials at this time were aware that eliminating regular migration channels would only generate further irregular movement and lead to additional problems for women migrant workers. This statement would lead one to believe that cross-Ministerial institutional knowledge – at least in regard to migration bans – had indeed been developed by this point but became less important as traditional decision-making and power structures were now evolving. The same MP speculated that the ban would not have been re-implemented by the Ministry of Labour and Cabinet of Ministers after 2016 had elected officials of Parliament not become involved. However, both MPs interviewed for this study, a section officer at MoLESS and multiple independent policy advisors interviewed for this review noted that the power of Parliament’s committees clearly superseded that of the MoLESS and that – particularly because committee directives and recommendations are made public and are issued in formal reports – MoLESS and the Minister of Labour would not have had a choice to go against the instructions of the IRLC.²⁵ In fact, one policy advisory and former UN programme specialist noted that the Minister of Labour had been against the ban at the time.

Various informants that currently work as policy advisors as well as the current MP of the National Assembly noted that members of the IRLC were not migration experts and that many did not have previous knowledge and expertise working in matters of foreign employment and human trafficking. As a result, a former UN gender and development expert informant believed that policy decisions were motivated by preconceived notions about female labour migration and assumptions that the process could negatively “affect social and cultural harmony in Nepal” while putting women at unnecessary risk. Lack of experience and expertise in Parliament extends beyond migration topics. Approximately 80 per cent of MPs are new and lack experience in drafting legal content and making new laws (Pradhan, 2020). MPs are sometimes criticized for lack of engagement with experts on content and drafting, which has led to a “tendency to move amendment proposals without adequate study and without any rationale” (Ibid).

According to the MP informant from the National Assembly, while committee members were likely well-intentioned, they operated off of incorrect assumptions that the movement of Nepali women could be controlled in the first place. Consequently, while committee members debated the matter of “ban or no ban”, what they did not understand – and what it took Ministerial officials years to learn – is that they were actually debating whether they wanted women to migrate “legally or illegally”. The same Parliamentarian opined that the unnuanced way in which lawmakers continue to perceive these issues is also a product of politicians not engaging the opinions of migrant women themselves, many of whom are poor, living

²⁵ This is despite frequent accusations against the government that it has ignored directives issued by parliamentary committees in the past (Pandey, 2018).

in rural areas, and lacking a political voice. This sentiment was also voiced by other UN and independent experts interviewed for this review.

Finally, stakeholders were also asked to offer their inputs regarding the IRLC's delegation visit and the ways in which it was conducted. A 20-plus year policy expert serving on numerous government task forces accused the committee of conducting the visit and reaching its decisions without adequately consulting independent experts or members of civil society. As mentioned previously, many informants criticized the skewed nature of the sample of women that committee officials interviewed while on the visit. Finally, policy advisors and research institute heads questioned the intentions and motivations behind the delegation visit in the first place, speculating that the trip was less motivated by concerns over migrant women themselves and instead by the allure of visiting foreign countries and the grandeur involved in participating in an official diplomatic visit.

5.6.4 The failure of “Free Visa, Free Ticket” (2015 – 2017)

In addition to matters related to domestic workers and allegations of smuggling and trafficking, the Parliamentary delegation visit determined that Nepal's 2015 “Free Visa – Free Ticket” had been a failure (Kumar Mandal, 2017). Discussed in more detail in Annex C, the “Free Visa – Free Ticket” policy obligated employers to bear the costs of visas and roundtrip flights for all workers departing to Oman, Saudi Arabia, Bahrain, UAE, Kuwait, Qatar and Malaysia, and limited agencies to charging a maximum Rs.10,000 (roughly USD 85) service fee (MFA, 2017). Before this, the government had set a fee ceiling of between roughly NPR 70,000-80,000 (approximately USD 590 – USD 680) but there were numerous reports of workers paying between two and four times this maximum limit (Ibid).

Most of the migrants that the 2017 delegation had spoken to reported paying tens of thousands of rupees (if not more) in fees in order to obtain their jobs abroad (Ibid). Committee officials interviewed recruitment agencies in Gulf destination countries and found that although many of these agencies had followed the stipulations and covered the required fees, recruitment actors farther along the chain in Nepal had added fraudulent surcharges (Ibid). As a result, workers themselves were still required to pay a nominal sum (Ibid). The Committee report accused MoLESS and DoFE of neglecting their duties to enforce the policy (Ibid), and the committee chairperson was quoted by the Kathmandu Post saying that the policy had “never proved to be more than a popular slogan” (Ibid). As early as 2015, recruitment agencies directly lobbied PM Koirala and convinced him that the policy would be detrimental to the economy (Nepali Times, 2015b). The policy was also accompanied with claims of corruption amongst government officials, with then Labour Minister T. Gurung accused of distributing free visa-free ticket job quotas amongst recruitment agencies owned by his relatives (Ibid).

Many informants felt that recruitment agencies in Nepal have benefitted from abundant patronage from government officials and managed to wield significant political power for decades. The failure of the State to pursue enforcement of the “Free Visa, Free Ticket” policy while fervently implementing migration bans on poor migrant women reflects significant gendered power inequalities in the state's activities, and shows that the State is often more willing to exercise power over migrant women themselves, rather than attempting to regulate those who exploit them, and even more importantly, to change the underlying structures which enable exploitation of migrant women in the first place. More meaningful initiatives would include improving the capacities of foreign missions, expanding the role of labour attachés and hiring additional, well-trained embassy and consular staff, extending full assistance and access to redress mechanisms to undocumented workers, eliminating incentives that create the need for intermediation in the first place (e.g. lifting bans, or formalizing the agent system), or improving mechanisms that monitor and respond to the needs of migrant women and domestic workers.

5.6.5 Changes to domestic labour laws in Nepal (2017)

Various stakeholders that participated as key informants in this review cautioned against focusing exclusively on the outcomes for Nepali migrant domestic workers abroad, iterating that a line of

continuum can often be drawn between the conditions faced by Nepali women in domestic spheres abroad and those experienced by domestic workers in Nepal. Much like the prominent destination countries of Nepali migrant domestic workers, Nepal had excluded domestic workers from its national labour laws before 2017. Interviews with Nepali women employed as maids and domestic helpers in Kathmandu found that many worked in excess of 12 hours per day, every day, with various allegations of non-payment of wages and other violations (Kanel, 2016). The director of a CSO and other CSO representatives, as well as the director of a UN agency interviewed for this study noted that advocates had continuously criticized certain governmental and elected entities for hypocritically demanding improved legal standards for its domestic workers abroad while continuing to systematically deny rights to these workers in Nepal. The director of a trade union federation asserted that this reflects the State's tendency to focus on issues facing its workers abroad while demonstrating significant reluctance to discuss employment issues within its own borders.

After decades of sustained activism, Nepal's new Labour Act 2074 (2017) was passed on 1 November 2017. The new labour act covered domestic workers for the first time and conferred the same legal privileges to domestic workers as those received by formal sector workers. The director of a UN agency and a programme coordinator at a prominent migrant rights CSO noted that many activists and labour experts had lauded the State's decision and considered the new labour law to be highly progressive. However, multiple CSOs, three different UN agency representatives an activist / founder of a migrant rights CSO felt that the law would not produce improved outcomes for domestic sector workers due to an overall lack of implementation mechanisms in place. One UN project coordinator noted that there are no SOPs in place in order to direct implementation, while no minimum standard contract is in place domestically that could be applied to domestic workers.

One CSO director specializing in offering assistance to domestic workers both in Nepal and abroad noted that many of the issues faced by Nepali migrant domestic workers abroad were similar to those faced by domestic workers in Nepal, including experiences of SGBV. However, the same informant felt that domestic workers in Nepal were less at-risk because they have knowledge of local languages, are not as isolated in their employers' homes, have more extensive social networks than domestic workers abroad, and are more aware of mechanisms they can access in instances of abuse. In contrast, according to the same informant, while Nepali women migrant domestic workers abroad are far better paid, they do not have the inalienable labour and human rights tied to being a citizen of these countries. This informant noted that many returnee women migrant domestic workers sought employment as domestic workers upon return to Nepal. However, these women were often reluctant to disclose to employers in Nepal that they had previously been abroad, due to the stigma attached to female labour migration and foreign employment.

Despite the reforms made in domestic labour laws, trade unions, CSOs and UN stakeholders reiterated the need for Nepal to ratify the ILO Domestic Workers Convention (C189). Three different CSOs – including Swatantrata Abhiyan, WOREC and POURAKHI – noted that they had been advocating for the ratification of C189 since 2011. However, they noted that despite positive verbal commitments from policymakers, there has been lack of progress in ratification. A number of stakeholders believed it would be advantageous for Nepal to accede to the convention in order to use accession as a bargaining tool with principal destination countries for migrant domestic workers. However, the director of a CSO specializing in national and migrant domestic workers believed that Nepal would not ratify the convention until destination countries had also done so.

Another informant with decades of experience working with government decision-makers, directly with migrant women as the founder of a migrant right's CSO and as an engaged academic in migration, gender and development discussed that when Nepal was originally trying to consolidate its democracy it had committed to a number of international conventions without understanding the implications of accession. Subsequently, the country has received criticism from international bodies for not effectively implementing the provisions of various conventions. The same informant speculated that Nepal likely wanted to avoid having the same dynamics occur with C189 and that the country likely felt that there were too many obligations involved. One UN project coordinator noted that the State was concerned

about ratifying C189 due to concerns about migrant domestic workers (mainly from northern India) in its own territory.

When asked why the government had yet to ratify C189, a section officer in MoLESS stated that many of the elements of the convention had already been incorporated into domestic laws, including the new Labour Law (2017) and FEA (2007). The same official reported that Nepal would “maybe ratify C189 in the future” but that the GoN was “more focused on the main problem, which is in destination countries.”

5.7 Retracing current changes in the policy framework and developments on migration bans (2017 – early 2020)

5.7.1 Continued reforms in legal frameworks in key destination countries and stalled progress on the negotiation of MoUs / BLAs for migrant domestic workers (2017 – 2020)

One of the preconditions to lifting of bans and restrictions on migrant domestic workers re-imposed in 2017 was the signing of MoUs and BLAs with destination countries with specific reference to domestic workers. Nepal achieved early success in this area by solidifying an agreement with Jordan a few months after bans were reintroduced (Himalayan Times, 2017b). Nepal Labour Minister Farmullha Mansur and the Labour Minister of Jordan Ali Ghezawi signed the BLA in Kathmandu on 18 October, which included a range of minimum labour rights and work entitlements for migrant domestic workers (Ibid). The agreement mandated that flights and visa fees be covered by the employer, required health insurance coverage, permitted migrant domestic workers two weeks of annual leave and two weeks of sick leave per year, prohibited employers from withholding workers’ passports established a standard contract and required insurance coverage for all workers (Kumar Mandal, 2018a; Himalayan Times, 2017b). The agreement also established a minimum salary of USD 300 per month (Ibid).

Following signing of the agreements DoFE began issuing labour permits for Nepali migrant domestic workers to take up jobs in Jordan in October 2017 (Adhikari, 2018). By March of 2018 DoFE had reportedly issued approximately 400 preliminary work permits to migrant domestic workers (Kumar Mandal, 2018a). The two governments agreed to form a technical committee with representatives from both countries that would meet annually in order to monitor the implementation of the agreement (Himalayan Times, 2017b).

Numerous informants in civil society, government / Parliament and the recruitment industry attributed the success of the BLA signed with Jordan to the technical assistance provided by the ILO throughout the process, noting that having a third-party present with representation in both countries was beneficial to sealing a deal and establishing implementation mechanisms. Two recruitment industry stakeholders recommended that responsible parties in the GoN and Parliament continue to engage the UN as a partner in order to bridge gaps and speed up the process of agreements with other countries. One recruitment agency director noted that, in the event that agreements are signed, and channels reopened, the GoN and its partners must make an adequate effort to inform migrant women themselves of these changes. This informant noted that following signature of the BLA with Jordan, agencies reportedly encountered many women who had no idea that legal channels had been opened and were continuing to migrate through India onward to Jordan as a result.

When reflecting on the success experienced in Jordan, one MP in the HoR asserted that while the MoU had been an effective tool to introduce more controls and safeguards in the recruitment and employment of Nepali migrant domestic workers, there was reportedly “less demand for workers as a result of this framework.” Another UN labour migration programme director suggested, however, that decreased demand for Nepali migrant workers in Jordan was likely due to sluggish economic performance, with low economic growth, high unemployment rates and a concerning debt-to-GDP ratio, particularly beginning in 2018 and continuing through 2019 (World Bank, n.d.b.). In an interview with a MoFA joint secretary,

the official perceived that migrant domestic workers in Jordan were facing fewer problems as a result of the BLA. Thus far, it seems that there is a lack of research available on what impact BLAs and MoUs Nepal has signed have actually had on the rights enjoyed by its nationals working abroad, highlighting an additional area for exploration.

In June of 2018 a secretary of MoLESS communicated that the government was engaged in talks with additional countries in order to sign BLAs and MoUs, with the objective of lifting the ban on migrant domestic workers (Adhikari, 2018). The secretary was quoted, saying, “once we sign such agreements, we will again allow women to go as housemaids” (Adhikari, 2018). However, since the signing of the 2017 BLA with Jordan, progress on the negotiation of agreements for migrant domestic workers has stalled. In addition, Nepal has yet to hold bilateral technical committee meetings with Jordan to monitor the implementation of the BLA, despite this being an element of the agreement that was signed in 2017 and an integral component in ensuring the efficacy of bilateral agreements. Since 2017, the GoN has succeeded in negotiating agreements with Malaysia, Mauritius, Japan and UAE (see Annex D for more details), but none of these agreements have included stipulations on migrant domestic workers.

A section officer from MoLESS confirmed that despite bans, migrant domestic workers were still allowed to pursue opportunities in Jordan as a result of the agreement. The same informant stated, “the BLA we have with Jordan is what we would want with other countries as well”, but also emphasized that, “if we sign BLAs [on domestic workers] we must also implement them effectively.” However, the same MoLESS informant noted that discussions on the rights of migrant domestic workers often fell by the wayside and were not made a priority during the Ministry’s negotiation of BLAs and MoUs with destination countries. This was also suggested by a joint secretary in MoFA. Both informants reluctantly admitted that Nepal has prioritized negotiating agreements on general workers instead and that this may have been a factor for the lack of progress on negotiation of bilateral agreements on migrant domestic workers thus far. The director of a research institute noted that general workers (who are mostly men) are prioritized given that they constitute the majority of Nepal’s migrant workers abroad and are considered a greater economic priority.

The informant from MoFA, who has been directly involved in negotiations of BLAs and MoUs, noted that a key point of contention in negotiations in the past was the lack of coverage of domestic workers in national labour laws in key destination countries. However, since 2015 in particular, Gulf and other destination countries have signed a number of laws (or reforms to existing laws) that provide for some rights to migrant domestic workers. Now, five out of six GCC countries have a separate law in place that recognizes domestic workers and affords a range of minimum rights (see table 5.3 below). Notably, many of the informants interviewed for this review were unaware of these recent legal and regulatory reforms in destination countries.

► **Table 5.3: Laws and reforms signed on migrant domestic workers and kafala systems in key Gulf destination countries**

Country	Law	Key rights entitlements	Key limitations
Bahrain	Bahrain Labour Law for the Private Sector No. 36; 2017 decree with respect to a model form of contract for domestic help and similar persons	Bahrain was one of the first and only countries in the GCC to incorporate domestic workers (partially) into its labour law; however – domestic workers are excluded from most of its provisions. Current entitlements include: Written contract; on-time payment of wages; penalties for non-payment of wages; one month paid leave; etc. Bahrain reformed its requirements on standard contracts for domestic workers in 2017, which allows for: medical examinations; adequate food and housing; return airfares; weekly day off; etc.	Employer chooses working hours, minimum wage and rest time; lack of enforcement mechanisms; etc. Kafala system in place.

Country	Law	Key rights entitlements	Key limitations
Kuwait	2015 Domestic Worker Law (Law no. 69) and 2016/17 regulations; 2015 reforms to Kafala system	Current entitlements include: weekly day off; 30 days annual paid leave; 12-hour working day with required rest; end-of-service benefits (one month's salary); prohibitions on passport retention; overtime pay; access to complaint mechanisms through the Domestic Labour Department; requiring adequate accommodation and food; treatment at government hospitals; overtime compensation; minimum wage; etc. 2015 – no explicit permission needed from employers to enter and leave country; workers allowed to transfer sponsorship to new employer after three years.	Not equal with rights afforded under regular Kuwaiti labour law; Does not specify specific enforcement mechanisms; prohibits workers from joining unions / engaging in collective action; prohibits workers from transferring to another employer without permission from their employer-sponsor; does not allow for inspections of working conditions; no sanctions on employers for withholding passports or failing to provide other rights, etc. Domestic workers excluded from 2015 kafala reforms.
Oman	2004 domestic workers' regulations (not a law)	Oman is the last Gulf state not to have signed official legal protections for migrant domestic workers, with some guidelines implemented in 2004 used as the only baseline. The 2004 domestic worker regulations require: monthly wage; adequate room, board and medical care; settling of labour disputes in the Manpower Ministry.	No formal law in place; no daily / weekly limits to working hours; no vacation or leave days; no overtime compensation; no minimum wage; no freedom of association or participation in labour unions; no provisions for workplace inspections; etc. Strict kafala restrictions in place.
Saudi Arabia	2013 Ministerial Decision No. 310 of 1434 regulating the employment of domestic workers; 2017 Ministerial Decision No. 605 of 1434; 2019 reforms	2013 Decision: Weekly day off; 9-hour break per day; one month of leave every two years; 30 days sick leave per year; end-of-service gratuity (after four consecutive years of service); suitable healthcare and accommodation; etc. (2017) migrant domestic workers permitted to transfer between employers under certain circumstances; (2019) Requirement of registering new contracts with migrant domestic workers through an online system; new and increased penalties and fines for violations of regulations; increased restrictions on recruitment agencies.	Not equal with rights afforded under regular Saudi labour law; no limit to working hours per day; no requirement to cover airfare; requires domestic workers to respect and follow rules of Islam; no freedom of association or collective bargaining; no minimum wage; no overtime pay; etc. Strict kafala restrictions in place.
UAE	Law on Support Service Workers (Federal Law No. 10), September 2017	Weekly day off; 12 hours rest per day; 30 days paid vacation; 30 days medical leave; round-trip ticket home every two years; prohibits retention of personal documents; requires contracts; prohibits discrimination (based on race, sex, religion, nationality, etc.); requires medical insurance; worker's compensation; access to dispute resolution mechanisms; right to terminate contracts; limited inspections of residence; etc.	Not equal with rights afforded under regular UAE labour law; no prohibitions on charging of recruitment expenses; no minimum wage; no requirement that workers be allowed to leave their workplace during non-working hours; no rights to freedom of association; salary discrimination based on nationality; etc. Kafala system in place.

Country	Law	Key rights entitlements	Key limitations
Qatar	2017 Law No. 15 on Service Workers in the Home (“Domestic Workers Law”)	Maximum 10-hour workday; end-of-service payment equal to at least three weeks of salary; safe accommodation and food, toilets and sufficient living facilities; at least 24 consecutive hours of rest per week; etc.	No equal rights afforded under regular Qatari labour law; No minimum wage; no overtime pay; no freedom of association or collective bargaining; no provisions for sick leave; does not provide that workers can leave the home during non-working hours; few measures for labour inspections; etc. Kafala system in place although numerous reforms being implemented (including removing the requirement for exit visas).

Sources: Much of this information is adapted from ITUC, 2017; other sources include: HRW, 2019a; UAE Government Portal, n.d.; HRW, 2017b; HRW, 2019b; United States Library of Congress, 2017; Anderson; 2017; Clyde & Co, 2017; HRW, 2015; Saudi Gazette, 2019; HRW, 2016b; HRW, 2018b; Migrant-rights.org, 2018; ILO, 2017c.

The representative from MoFA was asked whether some of these reforms included in the table above would have any impact on the negotiation of BLAs and MoUs. In response, the joint secretary acknowledged that while destination countries have been reforming laws and policies related to the domestic sector in recent years, these new frameworks were not yet adequate to address the precarity inherent in domestic work. This argument is understandable given the numerous limitations in legal structures outlined in the table above. One MP (HoR) noted that, although destination countries were eagerly approaching MoLESS to sign BLAs and MoUs on domestic workers, their proposals were still not in line with the State’s objectives, particularly in regard to details outlined in standard contracts.

Other informants seemed more optimistic regarding the reforms. When the section officer from MoLESS was asked about improvements in legal frameworks in Gulf countries for migrant domestic workers, the informant noted that the Ministry was “very happy” with improvements made in domestic laws in UAE in particular, stating, “we are willing to sign the agreement regarding domestic workers [with UAE] now” as a result. A delegation from UAE had reportedly held a Joint Committee meeting in Kathmandu in early 2020 in which domestic workers “were discussed”. The same informant noted that both UAE and Nepal were interested in signing the BLA on domestic workers but that there “were a few remaining issues”.

Commenting on legal reforms in destination countries, one NAFEA senior official pointed out that new regulations on migrant domestic workers in UAE and Kuwait had been particularly progressive and stated that Nepal should sign MoUs on migrant domestic workers with these two countries immediately as a result.

Many informants felt that the negotiation of BLAs and MoUs were a long and arduous process and that signing the necessary agreements with principle destination countries of migrant domestic workers could take many more years. A UN regional labour migration expert questioned the effectiveness of these instruments, noting that implementation was notoriously weak up to this point.

Whether regarding the negotiations of bilateral agreements or any other instruments or negotiations with destination countries, numerous informants expressed concerns over the transnational power imbalances between Nepal and principle destination countries. The majority of informants felt that if Nepal tried to negotiate too many rights for its workers, Gulf countries would bypass Nepal and source workers from “cheaper countries” such as Bangladesh, and increasingly, from Africa. The majority of informants also felt that these power imbalances would affect the successful implementation of bilateral agreements, as destination countries have no true incentive to comply with the stipulations of the agreements after signing them. Many stakeholders felt that Nepal had been reluctant in the past to make too many demands of destination countries out of fear of jeopardizing remittances inflows to the country. Certain KIs voiced the opinion that, at least to some degree, the transnational power imbalances between Nepal and destination countries could have affected migration bans and lengthened the time they were in place, as Nepal has struggled to find alternative approaches. However, one UN agency director asserted that the assumption that Nepal does not have bargaining power with destination

countries is a “huge misconception”. The same informant noted that Nepali workers – particularly migrant domestic workers – are highly regarded and sought after for their working traits and existing skillset and that destination countries were no longer simply looking for the cheapest option, pointing to the high demand for Filipina domestic workers as evidence.

5.7.2 A rebranded Parliamentary Committee takes hold of labour migration matters (2017)

Following the legislative elections held in November and December of 2017, the Communist Party of Nepal (Unified Marxist-Leninist) (CPN UML) won the majority of seats in the HoR. Subsequently, Khadga Prasad Oli was reelected as Prime Minister in February 2018. A reshuffling was made to Parliamentary committee structures later in the year as new elected officials came into power. According to one current MP in the HoR, having labour / foreign employment matters and international relations handled under one committee between 2014 – 2017 had created certain logistical issues. The same MP specified that, as a result, work and foreign employment dealings were transferred to a new committee which would also have a mandate over industry and commerce, in order to keep labour-related matters under one umbrella.

The new Committee on Industry, Commerce, Labour and Consumer Interests (CICLCI) was subsequently formed and given a mandate to monitor the operations of MoLESS, the Ministry of Industry, Commerce and Supplies, as well as matters related to consumer interest (Federal Parliament of Nepal, n.d.). At present, the Parliament’s website reflects that the committee has 21 members. The current chair, Bimal Prasa Srivastav, was appointed committee chair in September of 2018 (Kathmandu Post, 2018a; Federal Parliament of Nepal, n.d.). The CICLCI has replaced the former ILRC as the key committee handling matters related to migration. According to MoLESS, the committee “provides direction and guidance to the government on various matters including labour migration-related issues” (MoLESS, 2020: 48).

Two researchers from a research institute interviewed for this review discussed the importance of geography in influencing political perspectives on female labour migration in Nepal, noting that many politicians with decision-making power in government hail from Tarai communities where female labour outmigration is rare and where perceptions regarding women migrants are usually more conservative. On the other hand, in high Hills communities (where there are many rural poor households) female labour outmigration is more common and is usually perceived more positively. Given these dynamics, some informants were optimistic about the fact that current committee members were well-balanced between Hill and Tarai origin districts. One union director noted that many of the committee members were female. Many informants hoped that the non-homogenous composition of the CICLCI would produce a more fair and balanced approach toward migration policy decisions.

To corroborate these findings, the ILO analyzed the current CICLCI member list published on the Parliament’s website (Federal Parliament of Nepal, n.d.). The review showed that of the 21 current members, 14 are men, while seven are women. Approximately 70 per cent of members hailed from upper caste groups (including Chettri, Brahmin, Madhesi Brahmin) while less than one in five hailed from lower-caste or indigenous groups, including Dalit and Newar / Janajati. The majority – two out of every three – committee members are Nepal Communist Party (NCP) members, four members are from the Nepali Congress (NC) Party, two from the Janta Samajbadi Party and one from the Samajbadi Party. This analysis would show that while there is representation of men and women and some presence of members from lower-castes, the committee composition still tends to skew quite significantly toward upper-caste males.

One expert migration journalist noted that more individuals with experience in labour migration sat on the committee now than on the former IRLC, but independent policy advisors, research institutes and this expert journalist who are familiar with the committee still perceived that the majority of committee members did not have specific background or expertise in these areas. In addition, despite the relatively more diverse composition of the committee, multiple CSOs and independent experts who had interacted directly with its members in the past couple years recalled a number of them expressing negative sentiments toward female labour migration, noting that many committee members (including women)

have expressed the opinion that Nepali women were not safe abroad and should not be allowed to migrate for domestic work.

5.7.3 A new Labour Minister, a multitude of reforms and missed opportunities for action on policies on migrant domestic workers (2018 – 2019)

Nearly every informant interviewed for this review mentioned the name of former Minister of Labour, Gokarna Bista, as a revolutionary political leader and a gamechanger in the migration policymaking sphere. Key informants felt that the most meaningful progressive reforms in the foreign employment industry in recent decades had occurred during Bista's tenure in 2018 and 2019. Bista was widely perceived as a reformist young leader, distanced from the establishment, with a new interpretation on theoretical and political issues facing contemporary Nepali society (Kathmandu Post, 2014d).

Bista was initially appointed Minister of Labour on 17 March 2018 to serve in PM Oli's second cabinet (Pradhan, 2018). While not a migration and employment expert, informants noted that he was open-minded and willing to learn. Just months after taking office, Bista began pursuing significant reforms to foreign employment laws, policies and regulations, some of which included: (1) plans to establish local offices for DoFE around the country in order to decentralize the Department's activities and make foreign employment registration activities more accessible to Nepalis residing outside of the Kathmandu Valley; (2) an increase in the speed and efficiency with which DoFE would hear and address complaints received by migrant workers; (3) commitments to cover the legal fees of Nepali migrant workers jailed abroad; (4) the formation of numerous task forces specializing in a range of foreign employment issues (although migrant domestic workers were notably not one of these); (5) allowing foreign missions to renew work permits of Nepali migrant workers up to two times; (6) allowing foreign missions to authenticate demand letters from recruiting agencies; (7) permitting CDOs to investigate individual complaints made by migrant workers against agents; and (8) new restrictions on the contracting of individual agents by recruitment agencies (Kumar Mandal, 2018b; Kumar Mandal, 2018c; Kumar Mandal, 2018d; Kathmandu Post, 2018b; Kathmandu Post, 2018c).

Under Bista's tenure, MoLESS also amended the FEA (2007) to significantly increase the deposit amount / bank guarantee required for agencies to operate, from anywhere between Rs. 3 million and Rs. 60 million, depending on the size of the agency and the number of workers recruited each year (Kumar Mandal, 2019c; Kathmandu Post, 2018d; MoLESS, 2020). Bista also reformed the FEA (2007) to require certain mergers of agencies who sent too few workers (Nepali Times, 2019a). According to a recruitment agency director and former senior official of NAFEA, these requirements were put in place in order to reduce the number of agencies in operation and prevent the increasingly unhealthy competition between agencies. According to this same official, shortly after implementation of the new rules, the number of registered agencies decreased by roughly 500 from its peak at approximately 1,350. NAFEA at the time came out against the new policy and demanded that the GoN pay interest on the increased bank guarantee, noting that many agencies would need to take out bank loans to make the deposits, while others might resort to illicit practices (e.g. operating informally or charging of illegal fees) as a result of the decision (Kumar Mandal, 2019d).

In numerous public speeches, Bista committed to cracking down on fraudulent recruitment activities and improving the situation for Nepal's millions of migrant workers abroad. In a speech to Parliament in June 2018, Bista stated, "illegally operating agencies, involved in cheating our workers, have been closed down.... A handful of people cannot loot millions of poor workers. The government will end their reign of fraud" (Kathmandu Post, 2018c). In line with MoLESS's new objectives to create jobs in Nepal and decrease dependence on foreign employment, Bista also announced the name change of the Foreign Employment Promotion Board (FEPB) to, simply, the Foreign Employment Board (FEB) in a meeting with the CICLCI in August 2018 (Kathmandu Post, 2018e). At the same meeting, the CICLCI voiced concern about reports of

Nepali women migrant workers migrating to high-risk countries by way of India and asked the Ministry to address concerns about Nepali women migrant workers imprisoned abroad (Kathmandu Post, 2018e).

Bista was also active in pursuing talks on BLAs and MoUs with destination countries, pressuring UAE, Qatar and Malaysia in particular to revise labour agreements and ensure that Nepali workers had access to a decent minimum wage, insurance and other labour entitlements (Kathmandu Post, 2018f; Samiti, 2018; Sapkota and Alhadjri, 2018). The BLA with Malaysia and the events leading up to the agreement attracted significant media attention in particular, after it came to light in mid-2018 that an outsourced recruitment agency from Malaysia based in Nepal – VLN Nepal – had collected nearly Rs. 2 billion in illegal fees from hundreds of thousands of workers between 2013 and 2018 (Sapkota and Alhadjri, 2018). After Malaysia had introduced a requirement for biometric screening of Nepali workers seeking foreign employment in the country, another Malaysian-based firm also became involved in swindling money from workers at medical centers in Nepal providing the biometric tests (Sapkota and Alhadjri, 2018). Further investigation also revealed that a number of bureaucrats, politicians and recruitment middlemen in Nepal were financially benefitting from these illicit schemes (Sapkota and Alhadjri, 2018; Dixit, 2019). As these allegations came to light, the State shut down VLN Nepal and ordered the arrest of numerous recruiters. On the other hand, a number of those who were involved in these activities, including members of the government and elected officials, were reportedly let go without punishment (R. Sapkota, 2019a).

To address the over-charging of Nepali workers migrating to Malaysia, Bista and MoLESS decided to put a total stop on issuing labour permits to all workers on 17 May 2018 (Dixit, 2019). Subsequently, Bista and MoLESS pursued negotiations on a transformative BLA that would eliminate all recruitment fees charged to Nepali workers migrating to Malaysia altogether as part of a new “Employer Pays Principle” (discussed further in Annex D) (Nepali Times, 2018a). The new agreement required Malaysian employers to cover all costs related to insurance, visas, airfare and security clearance, and required leave days and a number of other work entitlements as well. The BLA was lauded by migration and labour rights experts in Nepal and abroad as perhaps the most progressive and worker-centric bilateral agreement reached between an origin and destination country in the region thus far. When commenting on the matter, Bista stated, “those who have been exploiting poor migrant workers probably want to foil this agreement, but I am sure it will be implemented because it reflects the common interests of Nepal and Malaysia, and both are strongly committed to it” (O. Rai, 2018).

The commitment made to zero cost migration in the Nepal-Malaysia deal was reportedly used as inspiration during the fifth ministerial meeting of Colombo Process countries in Kathmandu in November 2018 (Nepali Times, 2018a; Kumar Mandal, 2018g), where member states were set to endorse the Kathmandu Declaration on Labour Migration (Kumar Mandal, 2018g; O. Rai, 2018). Bista was adamant about pursuing greater cooperation amongst origin countries in Asia and had plans to use the CP as an important forum through which to negotiate for migrant worker rights throughout the region, which he iterated in a speech while addressing CP Member State representatives on 16 November 2018 (Himalayan Times, 2018). In an interview with the Nepali Times, the Minister was quoted, saying, “we want to push for a common understanding among labour-sending countries to help each other’s citizens stranded in any corner of the world” (O. Rai, 2018). Bista further criticized destination countries for acting like they were “hiring migrant workers out of charity, making sending countries feel humiliated about exporting manpower” (Nepali Times, 2018a).

Bista’s interest in anti-corruption, worker-centric policy reform, migrant welfare and multi-lateral cooperation on migration policymaking represented a welcome shift in the Ministry of Labour’s traditionally passive approach to managing foreign employment processes. However, a persistent issue not addressed in the multitude of reforms mentioned in this sub-section is the matter of women migrant workers, migrant domestic workers and migration bans. When Bista was asked about the bans during the Colombo Process, he stated:

“A parliamentary committee had directed the government in early 2017 to bar Nepali women from going abroad as housemaids. We need to review this and have already begun discussions with the parliamentary committee. But before taking a decision on the ban, what

we really want is to have exclusive MoUs with countries that want housemaids from Nepal. We want to ensure that Nepali domestics are paid well, have a safe place to live, stipulated working hours and a safe environment in which to work” (Nepali Times, 2018a).

Despite the rights-based rhetoric espoused by Bista at this time, it appears that during the majority of his tenure, he left the topic of bans and reforms on migrant domestic workers largely untouched. According to a government policy advisor and director of a research institute in Nepal, this is because migration bans are often viewed by Ministry bureaucrats as “political suicide”. The same informant noted that, for years, matters related to migrant domestic workers had constituted a “big headache for any Labour Minister when they start... you’ll make people angry by repealing, you’ll make people angry by keeping it in place”. This informant, as well as multiple UN project officers specializing in migration noted that Bista and the MoLESS were widely seen to be passing the buck on the bans to the Parliamentary committee in order to avoid any political fallouts. One former NAFEA senior official asserted that Bista himself was reportedly worried that “his image would be tainted” by getting involved.

One UN project coordinator elaborated on this sentiment, asserting that line ministries are frequently known to ignore recommendations from Parliamentary Committees, and that the Ministry’s willingness to capitulate to this particular demand for the ban was likely because obeying the directive rung with their own political interests – even if they knew that bans were ineffective by this point. A long-term policy advisor and former UN programme specialist indicated that it was not just Bista who was avoiding the issue – it was his entire CPN-UML party who were saying that “if they open and anything happens to any women, all of the blame will come to them... they [the party] were saving their face”. This was criticized by another CSO project officer and CSO founder, who felt that the government should be ready to face criticism when lifting bans and understand that, although there may be some highly-publicized cases of exploitation of women migrant workers in the future, it would be crucial for the State to demonstrate an effective response to these cases through coordinated diplomacy – not through a ban.

Despite Bista’s reluctance to address the bans, virtually all informants who discussed the Minister noted that he had not been in favor of restrictions on migrant domestic workers. Trade union experts, CSOs, research institutes and other informants noted that Bista was aware that bans were ineffective in preventing women from migrating and failed to make them safer. Despite his reluctance to put words into action, he was ready to discuss the vulnerabilities that women migrant workers were facing and openly admitted that there was a connection between bans and increased vulnerabilities and decreased rights for Nepali women.

However, Bista’s passiveness on the matter, according to a former NAFEA senior official that worked closely with him, was also reportedly a product of his wider aversion toward low-skilled labour migration. This informant recalled that Bista believed that migrant workers “needed to go in fewer numbers and for higher-skilled and better-quality jobs only”, while Nepal should focus instead on promoting domestic employment. Bista also wanted to cut agencies out of the process altogether and establish more G2G recruitment schemes. While he was not in favor of limiting women’s mobility, one policy expert, advocate and CSO founder noted that he wanted to change it – by allowing women to access opportunities outside of domestic work in more formal sectors that were better paid – yet this never came to fruition. While numerous CSO, UN, research institute and independent expert stakeholders believed that these aspirations were admirable, they felt that they were overly ambitious given the current economic, living and working conditions in Nepal.

One former NAFEA senior official asserted that Bista never pushed the matter of migrant domestic workers when negotiating BLAs and MoUs with destination countries. This informant reportedly accompanied a delegate from Lebanon to a meeting at MoLESS in order to negotiate signing an agreement on migrant domestic workers between the two countries. The Lebanese delegate reportedly stated that his country was fully willing to embrace Nepal’s stipulations regarding minimum wage and labour rights guarantees, zero cost migration, days off and more. However, when the Lebanese delegate provided MoLESS with a draft of the agreement, MoLESS reportedly never followed up or reverted back with a final draft. While these assertions were not mentioned by other stakeholders, this behavior would largely fall in line with what representatives from MoFA and MoLESS interviewed for this review

had also mentioned – that: (1) bilateral agreements on domestic workers were not being prioritized by MoLESS when at the negotiating table with destination countries; and (2) the Ministry was, overall, more concerned with finalizing agreements on general workers first.

The observations made in this sub-section carry numerous, serious implications. Firstly, they imply that despite numerous public declarations and commitments made by Ministerial officials to pursue improvements in the rights framework for women migrant workers and migrant domestic workers, the Ministry has deprioritized these activities in its actual day-to-day functions. Secondly, the lack of action from bureaucrats like Bista show that even the high performing ‘strongmen’ of Nepali politics who appear to fight for the less fortunate and for those who do not have a voice continue to leave women migrants out of the equation. Instead, the rights of migrant women and migrant domestic workers have been made into a political issue. Such politicians would rather passively allow bans to remain in place and avoid pursuing the mechanisms that would actively lead to their repeal, than risk the potential political fallout – and thus their jobs or reputations – by seeking their repeal.

Notably (and as further sections will discuss), in late 2019 Bista had finally begun rallying the parliamentary committee to lift bans altogether. However, it would be too little too late. As bans on migration to Malaysia began to draw on for over a year, recruitment industry informants noted that industry professionals became infuriated. One current NAFEA senior official noted that while NAFEA and top agencies were in support of limiting overcharging of poor Nepali workers, they became concerned when, even after the BLA with Malaysia was signed, migration channels to the country continued to remain closed for many more months. Reportedly, Bista would not budge on lifting the ban until administrative matters on medical centers and vendors could be finalized.

Former and current NAFEA officials interviewed recalled that agitated recruitment agency heads began to contact the Prime Minister’s office and other allies in government to complain about Bista’s lack of action on opening up recruitment to Malaysia, as well as his decision to increase agency deposit guarantees. These informants noted that recruitment industry actors eventually lobbied CILCI and the Prime Minister (PM) himself on the matter, and both CILCI chair Srivastav and the PM were calling on Bista to reopen channels. In combination with other non-migration related dynamics occurring during Bista’s tenure, PM Oli eventually decided to sack Bista altogether in late November 2019 (R. Sapkota, 2019b). The decision was criticized immensely in media, with numerous newspapers criticizing the GoN of removing one of the few competent Ministers in the Cabinet (Kumar Mandal, 2019c; Nepali Times, 2019a). Bista’s firing would appear to be a warning sign for other bureaucrats and politicians who attempt to disrupt the status quo or challenge traditional power structures in the foreign employment industry.

5.7.4 Ongoing domestic and international concern over the laws and conditions of Nepali women migrant workers and migrant domestic workers (2017 – 2020)

During the period of widespread reforms under Bista’s tenure, the State continued to face sustained criticism for lack of action on women migrant workers and migrant domestic workers. In February 2018, the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, conducted a mission to Nepal from 29 January to 5 February 2018 (UN Human Rights Council, UN OHCHR, 2018). In the interview with the Special Rapporteur following his visit, he stated, “these bans are ineffective and create the consequence that women migrate through irregular channels” and often “become victims of trafficking.... They don’t realize it’s discrimination, but these policies are inconsistent with international law” (*France 24*, 2018). In his final report, the Special Rapporteur wrote, “the solution to the problems faced by domestic workers cannot be to discriminate against them through the imposition of bans or other means of violating their right to leave the country” (UN OHCHR, 2018: 13).

In 2018 and 2019, a number of domestic newspapers in Nepal published pieces decrying the bans and acknowledging that they made migrant women more vulnerable. (Khadka, 2018a). Experts and practitioners noted that as monitoring in airports in India increased, many agents and human traffickers were now using routes through Northeastern states of India to Myanmar (Kamat, 2019). In May 2019,

a group of trafficked Nepali women migrant workers were located working in a club in Nairobi, Kenya (Kathmandu Post, 2019b). Two months later, Nepal received word of over 40 Nepali women who had migrated irregularly with the assistance of smugglers to work in a factory in Northern China, who were reportedly stranded and trying to get back to Nepal (Kathmandu Post, 2019c).

As a result of increased pressure from the international community, in May through July 2019 MoLESS reportedly met with the CICLCI to discuss the pros and cons of lifting migration bans (Kathmandu Post, 2019a). According to an unnamed MoLESS official quoted in the Kathmandu Post, “the ban is an example of the struggle between protecting individuals’ right to mobility and the state’s duty to protect its citizens” (Kathmandu Post, 2019a). The same official then stated, “we have discussed the matter at the committee a few times. Since the ban was enforced as per the directive from the Parliamentary committee, the Ministry cannot do anything. If a clear instruction comes from the committee, we can reconsider it” (Kathmandu Post, 2019a). The MoLESS official, however, reiterated that the Ministry was supposedly pursuing labour agreements with Oman and the UAE with necessary stipulations for domestic workers at the time. These statements clearly show the MoLESS publicly distancing itself from the committee’s decision and deflecting responsibility for the imposition of bans. They also demonstrate a concerning and paradoxical conflation of a State’s “duty to protect” with infringement on citizens’ rights.

In July 2019, the NHRC issued a report on the rights situation of Nepali migrant workers, which included detailed criticisms of the bans. The report again reiterated that bans had not discouraged young Nepali women from migrating and had instead put migrant women at more risk (Himalayan Times, 2019a). The report consequently recommended that the bans be lifted and that the GoN pursue further negotiation of BLAs / MoUs, bring justice to victims of trafficking and action against perpetrators, better monitor recruitment agents and agencies for fraudulent activities, enforce national and international laws and ensure that women with children born out of wedlock abroad have easy access to birth registration for their child upon return to Nepal (Himalayan Times, 2019a; Online khabar, 2019a). The same report estimated that 1,000 Nepali women and girls were rescued from India each year and that over 2,000 Nepalis identified as potential victims of human trafficking had been returned from the Indo-Nepali border in 2018 (Kumar Mandal, 2019e). In response to the report, Pushkar Sapkota, joint secretary at MoHA, iterated that Nepal was responding to these claims by operationalizing its Anti-Human Trafficking Bureau under the Nepal Police and pursuing ratification of the Palermo Protocols, stating, “the government has accepted all the recommendations enlisted in the report for effectively working against the human trafficking crimes” (Kumar Mandal, 2019e).

Despite sustained criticism and activism from domestic and international actors from 2017 through mid-2019, very little had yet been done to implement reforms and better address the needs of migrant domestic workers. When asked why the NHRC report – produced by an agency of the GoN – had not led to a repeal, actors reported feeling that human rights (including the NHRC), CSO and UN advocates were not taking the correct approach in lobbying the government on the matter. A policy veteran and former UN programme specialist stated, “the timeline is the evidence – 21 years of bans – I’m not going to say that advocacy by CSOs and rights organizations has not been *important*, but it has not been *effective*”. Another CSO founder and migrant rights advocate noted that instead of going to meetings and decrying bans and talking *at* officials, advocates needed to focus on joint programming and earning places within decision-making committees “before they unleash their discourse”. A number of experts opined that advocacy has failed in recent years because advocates have been targeting the wrong individuals. While UN and CSO actors continue to lobby MoLESS and other line ministries for change, they should instead direct advocacy efforts to Parliamentarians and to the Parliamentary Committee that now holds the decision-making power on these matters. According to a gender and development policy specialist, “if we do not go directly to politicians and the political parties nothing will ever change – everything will just stay within policy circles of the UN, CSOs and Ministry bureaucrats”.

A MoFA representative interviewed for this review acknowledged the validity of the statements made by the NHRC and acknowledged that irregular migration would proliferate in the absence of formal channels. The same official reported that the NHRC report was one of the principle reasons why the Parliament had decided to revisit their position on the regulations in 2020 (discussed in subsequent subsections).

5.7.5 Controversy over bans on re-entry of domestic workers (2018 – 2019)

By mid-to-late 2018 a number of journalists began to publish stories about Nepali women migrant domestic workers stranded abroad who were unable to return to Nepal for visits as a result of migration bans (Khadka, 2018b). In addition to migrant women who left Nepal through informal channels, there were reportedly thousands of women migrant domestic workers who had legally obtained permission from the GoN to migrate for domestic work during periods when bans were not in place that were unable to return home to visit families, fearing that if they did so, they would be unable to leave Nepal again to return to their jobs abroad (Khadka, 2018b). In October 2018 many women migrant domestic workers expressed the desire to return to Nepal for Dussehra holiday celebrations (Kader, 2018). Responding to these requests, the charge d'affaires at the Nepal embassy in the UAE simply said, "if they [migrant domestic workers] are happy with their job, it is better they continue here. They may leave only if they do not want to come back [to UAE]" (Kader, 2018).

In August and September 2019, reporting on the issue culminated with high-profile media cases published in the Nepali Times and Kathmandu Post, amongst others. One reporter who conducted extensive interviews in destination countries noted that there were potentially thousands of Nepali migrant domestic workers abroad who had positive relationships with their employers and good jobs in the Gulf who were unable to return to Nepal for nearly three years because of the ban (Karki, 2019; Dixit, 2019).

In response to these media stories and reports from foreign missions, the Parliamentary committee (CICLCI), at the behest of requests from MoLESS decided to lift the re-entry ban on certain Nepali migrant domestic workers abroad in August 2019 (Kumar Mandal, 2019f). The decision would only apply to Nepali migrant domestic workers who had originally migrated *with permission* from the GoN and were already in destination countries and excluded those who had left Nepal through informal channels (that is, the majority). To avail of the scheme, migrant domestic workers would need to submit an application to the Nepal embassy in their respective destination countries and get attestation for a re-entry labour permit (Kumar Mandal, 2019f). Those migrant domestic workers obtaining re-entry labour permits would need to return to their same employer / sponsor in their respective destination country once they left Nepal again (MoLESS, 2020).

Arguably, while the State's decision to lift the ban on re-entry of migrant domestic workers was a step in the right direction, it represents a patchwork policy that only addressed a small proportion of the issues that bans have caused. At the same time, making re-entry permits available to only some migrant domestic workers created different classes of workers – between those who happened to migrate during an open migration period, with the correct resources and documentation – and those who did not, most often through no fault of their own. A journalist who had interviewed migrant domestic workers on the matter in Oman, UAE and Qatar noted that part of the decision to lift the re-entry ban came after thousands of migrant workers – some of whom had been with the same employer for 10 to 20 years – submitted complaints to DoFE asking to be allowed to return to Nepal while keeping their jobs. The same journalist noted that in Kuwait especially, migrant domestic workers had reportedly been collectivizing and making demands of the embassy there to allow them to return to Nepal.

According to a group of representatives interviewed from one migrant rights CSO, while lifting of the re-entry bans was a good initiative, it was not enough. The journalist who investigated these matters asserted that the very narrow parameters given to the decision on re-entry bans was a clever way for policymakers to give the appearance that they were effectively responding to media stories and advocates on the matter, but effectively limiting the number of migrant domestic workers who would actually be able to avail of the scheme. The same journalist pointed out that, had the Nepal government allowed all migrant domestic workers abroad who wanted to return for visits (including those who left irregularly) to avail of the scheme and obtain re-entry / re-departure permits, they would have inadvertently formalized the status of the majority of Nepali migrant domestic workers and *de facto* lifted the migration ban without intending to do so.

A joint secretary from MoFA noted that the decision to lift the re-entry bans came as a recommendation from foreign missions, who reportedly believed that if the workers are safe, enjoying their jobs and their employers, *and had a legal permit before departure*, they should be allowed to go back to visit Nepal. However, the same official noted, “for women who migrated without a permit, no, they should not be allowed to get a re-entry permit”. The MoFA representative also iterated that there were no plans to extend this scheme to workers who had left Nepal irregularly. These beliefs again reinforce notions of “illegality” in the lives of women migrant workers and deny basic labour and mobility rights to Nepal’s own citizens abroad simply because of their migration status.

One former NAFEA high-level official noted that, after receiving reports from embassies and under immense pressure from media and civil society, Labour Minister Bista had paid an official visit to the CILCI asking that they lift the re-entry ban, alongside a formal letter composed to committee chair Srivastav. According to a CSO director engaged in these discussions, the chairperson of NHRC, Anup Raj Sharma, had also been vocal on the issue and pressured MoLESS, MoFA and the Parliamentary Committee to act. An MP (HoR) on the committee noted that there was little pushback on the decision to lift the re-entry ban amongst committee members. However, the same MP (HoR) reported that Bista and MoLESS had also made requests to lift migration bans entirely during the same meeting. The CILCI was reportedly against this suggestion until the Ministry could prove that they had implemented proven mechanisms “to guarantee that these women were safe” (interview, MP, HoR).

A group of representatives from one migrant rights CSO criticized the GoN for not making any information about the scheme widely available to the public. The same CSO questioned how migrant domestic workers would know about the lifting of re-entry restrictions. This CSO, as well as other stakeholders interviewed for this review who work directly with migrant workers, reported that very few migrant domestic workers had actually been able to take advantage of the regulation change since it was passed, noting that it was a lengthy administrative process to impose on workers who were likely in a hurry to get home. Although unconfirmed / speculative, one UN labour migration and development project officer reported hearing that some migrants had paid commissions in order to gain their re-entry permit. An official from MoLESS interviewed for this review said that the lifting of the re-entry bans had been “somewhat successful” but did not have data available on the number of migrant domestic workers who had been able to take advantage of the scheme thus far. The informant did note, however, that “some people have been able to come back”. The MP informant from the HoR believed that the new re-entry permit system was working.

5.7.6 Recent developments related to foreign employment and migrant domestic workers (late 2019 – early 2020)

In September 2019, over a year after the initial ban had been imposed by MoLESS, formal recruitment for jobs in Malaysia was finally resumed (Kumar Mandal, 2019g; Dixit, 2019). Bans on recruitment had persisted despite the signing of the BLA between the two countries in 2018 (Kumar Mandal, 2019g). Many stakeholders remained skeptical over whether the deal could be effectively implemented, while some worried it would lead to decreased demand for Nepali workers (Kumar Mandal, 2019g; Dixit, 2019; various informants, recruitment industry). Reports came out later in the year that despite the BLA, agencies were either not providing jobs to migrants to go to Malaysia, or were requiring workers to pay anyway (Kumar Mandal, 2019b).

According to one UN project coordinator, while the BLA with Malaysia is a welcome tool to better ensure the rights of Nepali migrant workers abroad, the government’s decision to end migration to Malaysia altogether for 16 months “was destructive. You can’t just turn the tap off – you’re shutting down the second largest corridor of migrant workers from Nepal. You decimate livelihoods”.

By November 2019, the CIAA had finally issued the findings from its investigation of smuggling carried out by airport and immigration officials at the Kathmandu Airport, stemming from the IRLC’s call for an investigation in 2017. An immigration officer by the name of Kamal Prasad Parajuli was arrested in July after officials determined that he colluded with smugglers to send Nepali women by putting exit

stamps in their passports (Himalayan Times, 2019c). Parajuli had reportedly enlisted the help of other immigration employees to conduct these operations, collecting Rs. 10,000 from each woman (Himalayan Times, 2019c). After facilitating this process, officials eliminated records of women migrant worker departures in the immigration system.

A UN specialist working on trafficking and smuggling noted that, since these revelations had been made, it had become more difficult for informally sending of women migrant workers to occur at the Kathmandu Airport (his perspective was corroborated by another independent gender and policy expert). On the other hand, the same aforementioned UN specialist noted that smugglers and traffickers were finding other ways of sending women through the airport now, often by arranging for women to be accompanied by male family members – brothers or husbands – and stating that they were embarking on a family vacation. This informant noted that the process is not only happening in the Kathmandu Airport but also at the Indo-Nepali border. Thus, even though policies requiring that women obtain consent from their guardians before migrating were abolished in 1998, the legal and regulatory frameworks that have been put in place to govern the departure of women migrant workers and migrant domestic workers have continued to underscore the dependence of women's mobility on their male relatives.

In early November 2019, the UAE and Nepal held a meeting to discuss the formation of a joint working committee between the two countries on bilateral labour-related matters. At this meeting, the UAE formally requested that Nepal lift restrictions on Nepali migrant domestic workers and open formal recruitment channels for these workers (Himalayan Times, 2019d).

In later November, PM Oli announced a reshuffling of his Cabinet of Ministers on the same day that the NCP agreed to allow him to complete the rest of his five-year term (ANI News, 2019). The next day, the new Minister of Labour, Rameshwar Raya Yadav, was appointed (and Gokarna Bista was sacked) (Online khabar, 2019b).

A former senior official of NAFEA noted that the recruitment industry and politicians have been quite happy with Yadav since he was appointed as Minister. The same informant speculated that this was because Yadav was maintaining the status quo and not trying to implement any radical changes. A migration journalist noted that the new Minister was very sensitive about migration bans and had not publicly voiced any opinion on the matter. This was corroborated by another migration advocate and gender expert who has worked with the Minister, who noted that while he was not in opposition of female labour migration, he was weary of the potential political fallout in getting involved.

In late 2019 and early 2020 the GoN also announced new initiatives to help migrant returnees. In November, the GoN removed certain provisions in the Integrated Guidelines on Interest Exemption of Subsidized Loans (2017) to make it easier for returnee migrants to gain preferential loans for starting new businesses upon return to Nepal (Kumar Mandal, 2019h). By December, the Ministry of Women Children and Senior Citizens (MoWCSC) was reportedly in talks to create a formal rehabilitation and reintegration program – which includes skills-oriented training – for returnee women migrant workers (E. Shrestha, 2019; E. Shrestha, 2020). However, despite these reforms, advocates argued that bans and restrictions on migrant domestic workers would hinder many women's ability to avail of new programmes (B. Rai, 2019).

In early 2020, the Nepal Parliament agreed to pass the Palermo Protocols (Corporate Nepal, 2020). One programme director at an anti-trafficking CSO noted that both houses had formally signed the Protocols shortly before Nepal was ordered to remain on lockdown due to COVID-19, and that the MoHA had forwarded the formal document to MoFA to be submitted to Geneva in order to finalize accession (for further discussion on trafficking, smuggling and the Palermo Protocols see sub-section 6.2 and reference Annex D).

When asked about the reforms occurring from 2018 through 2020, various CSO informants and independent experts stated that while it was clear that the government's approach to labour migration policies were changing significantly, domestic workers and undocumented migrant workers were often being left out of the picture. One Kathmandu Post article in 2018 noted that officials continued to use the term "illegal" to describe the country's own citizens who migrate without formal approval from the GoN (Devkota, 2018). One DoFE spokesperson was quoted in media in late 2019, saying, "helping migrant

workers without labour permits falls outside our jurisdictions. Without document or evidence, we can't act, and how do we trust them?" (B. Rai, 2019). This comment arguably shows that high-level officials believe that undocumented migrants are criminals who cannot be trusted, rather than individuals whose migration status was rendered as irregular largely as a product of the State's own restrictive migration regime and a web of expensive, time-intensive administrative procedures involved in the formal recruitment process. It also reflects a potential lack of political will to address the needs of the most vulnerable migrants.

A number of other informants noted that the greatest challenge facing migration policy reform was the process of decentralization. A long-term gender and development academic and policy expert and founder of a CSO stressed that local governments still did not have the capacity and knowledge in order to implement new frameworks effectively. A trade union senior representative stressed that workers need to be able to go the smallest administrative units in their wards and be able to realize all of the steps to register for foreign employment, without needing to travel long distances to Provincial capitals or Kathmandu. Multiple informants raised concerns that reforms in recent years have not done enough to address challenges migrants face in the Nepal-India migration corridor (Khadka, 2018c).

5.8 New developments in 2020 and a second parliamentary delegation

5.8.1 Planning a second parliamentary delegation visit to Gulf destination countries

In light of the many developments recounted in section 5.7, the CICALCI began making plans in early 2020 to conduct another Parliamentary delegation visit to Gulf countries (Khadka, 2020) in order to reassess the situation for migrant workers, including migrant domestic workers, and gather evidence and conduct stakeholder interviews to inform possible policy reforms. The delegation departed to three countries – Oman, Saudi Arabia and UAE – in late February, returning in the second week of March. According to a high-level NAFAA official who was on the delegation visit, the committee had originally envisioned a full visit to all GCC countries, but due to the outbreak of COVID-19, had decided to only visit the aforementioned three countries, as well as Kuwait. In the end, the scheduled visit to Kuwait was cancelled due to the pandemic. Amongst delegation visit members were representatives of NAFAA, NHRC and DoFE.

When asked why the CICALCI decided to conduct a second visit at this time, a joint secretary from MoFA stated, "they [migrant women] have been facing lots of problems in transit and destination countries", while noting that diplomatic missions had recently been submitting reports concerning the undocumented status of many women migrant domestic workers, outlining that these workers could not avail of the GoN's welfare fund schemes and other protection mechanisms while abroad.

Recruitment industry informants noted that they had spoken directly with the CICALCI committee chair to encourage the visit. One migration journalist noted that the visit was influenced by the fervent media coverage leading up to the lifting of the re-entry ban in Fall 2019. Migrant rights CSO representatives who engaged with policymakers before their departure also speculated that the highly publicized case of 179 Nepali migrant men and women intercepted in Manipur, India in 2019 on their way to the border with Myanmar was alleged to be another important catalyst for a second Parliamentary visit (discussed further in sub-section 6.2). One trade union federation president noted that discussions on the bans had come up in Parliament during negotiations of the ratification of the Palermo protocol, with certain Parliamentarians making statements regarding the nexus between bans and the proliferation of smuggling routes.

Prior to the CICALCI's departure, the committee held a roundtable meeting with CSOs, UN organizations, recruitment industry professionals and government ministries. Many informants consulted for this interview were at said meeting. Committee members reportedly spoke positively about wishing to

uphold the rights of women and acknowledged women's entitlement to employment and mobility. Committee members also mentioned the possible ratification of C189. This meeting reflects an active effort made by Parliamentarians to seek the perspectives of key stakeholders and experts prior to the delegation and reflects a change in the process when compared to previous years. However, multiple informants noted that many committee members present in the meeting – including various female members originating from diverse ethnic and geographic backgrounds – appeared to be against lifting of the ban and felt that it was inappropriate to be sending women for domestic work at this time.

One current policy advisor to the PM's cabinet who spoke with CICLCI chairperson Srivastav before the delegation visit pointed out that the ban had: (1) not prevented women from migrating through Sri Lanka, Bangladesh and India; (2) not eliminated instances of bribery, corruption and coercion, nor women leaving without labour permits through the Kathmandu airport; (3) not prevented sexual or labour exploitation of migrant women or migrant domestic workers; and (4) not prevented the proliferation of sub-agents and recruitment activities occurring across the Indo-Nepal border. The same advisor also pointed out to Srivastav that the State had very little knowledge on the numbers or whereabouts of migrant women as a result of the bans. According to this informant, Srivastav was reportedly unable to offer empirical evidence to negate these statements and responded defensively, reiterating assertions about the plight of Nepali women abroad, including rampant sexual harassment, minimum rights and very low salaries. The government advisor responded by pointing out that many of these dynamics were reflective of the conditions faced by women in Nepal. Based on this interaction, this expert felt that the CICLCI would not move to repeal the ban.

Another recruitment industry executive and agency director who spoke to the committee chair before the delegation visit reported having advocated for Nepal to immediately open migration channels for migrant domestic workers to UAE in light of perceived improvements in legal and policy frameworks governing migrant domestic workers. The same informant reported telling Srivastav that "all of our sisters and daughters are going illegally; it is spoiling Nepal's name. It is better to have women go through manpower agencies and then we can keep record of what is happening". Notably, this statement recalls and reinforces discourses on the protection of Nepali *cheli* that have predominated throughout public and policy discourse for decades but shows that this rhetoric can be repurposed to justify repealing of the bans, even if indirectly perpetuating patriarchal framing of the issue. In fact, many stakeholders who were interviewed that supported lifting of bans still often spoke about migrant women using paternalistic kin-based terminology such as "sister", "mother" and "daughter". Those informants that did so were men.

5.8.2 Dynamics of the parliamentary visit

According to one NAFEA senior representative who was on the delegation visit, Parliamentary officials spoke to and collected feedback from many line ministries in destination countries, as well as Nepali migrant rights groups, non-resident Nepali Associations (NRNAs), recruitment agencies and representatives of Nepal's diplomatic missions in Oman, Saudi Arabia and UAE. Reportedly, the delegation also visited other countries' embassies – including Bangladesh – in order to: (1) discuss the ongoing situation for migrant domestic workers originating from their countries; and (2) to take stock of policy approaches being employed by other origin countries in order to ensure the rights of their migrant domestic workers in the Gulf. These reported consultations with other origin countries also reflect a notable change in the approach that decision-makers have typically taken in assessing policy approaches on migrant domestic workers. Seeking consultation with other origin countries responds to an important criticism made by a number of stakeholders interviewed for this review, who felt that interactions with other origin countries had been too limited leading up to decisions on bans in past years.

The same recruitment industry informant noted that parliamentary delegates were given negative feedback from embassy officials and other counterparts during their visit to Saudi Arabia. Stakeholders reported that the *kafala* system was more stringent in Saudi Arabia and that monitoring mechanisms were less effective as a result of the country's size and given that migrant domestic workers are distributed throughout its territory. The delegation reportedly spoke to a few women during the visit, and those women that were selected for interview were residing in the Nepal embassy's shelter in Riyadh at

the time. Allegedly, one of the principle concerns of delegation members while visiting Saudi Arabia were reports that thousands of Nepali migrant domestic workers were arriving to Kuwait and then migrating irregularly onward to Saudi Arabia. According to this delegation member, stakeholders in UAE were advocating for reopening of regular migration channels and presented positive reviews of the current legal and regulatory framework for migrant domestic workers in the country. The committee heard mixed feedback in Oman.

5.8.3 Stakeholder perceptions of the visit

As with the original IRLC visit conducted in 2017, various stakeholders interviewed in March 2020 criticized the delegation visit for being too narrow and for not adequately consulting the opinions and desires of migrant domestic workers themselves. An informant from MoFA, however, believed that “they [the committee] will have a really clear picture on how to regulate these sectors” as a result of the visit. The informant from MoFA noted that further negotiation of BLAs and MoUs regarding migrant domestic workers with destination countries would be contingent on the decision from the committee: “if they keep the ban, we are not going to work on signing agreements regarding domestic workers. If they decide to open it up, then we can reengage in the process of signing these agreements”.

One MP (National Assembly) interviewed in March 2020 who did not sit on the committee was unsure of what the outcomes of the delegation visit would be but felt that, regardless of the final decision, concrete measures needed to be taken in order to improve the situation for migrant domestic workers in destination countries. Another MP (HoR) interviewed before the delegation visit had taken place expressed that considerations on the repeal of bans would need to go hand-in-hand with whether destination countries had demonstrated legal and policy efforts to formalize migrant domestic workers.

Most interviewees believed that it was unlikely that bans would be lifted. A smaller number, however, including certain trade union, UN and recruitment industry experts, had initially expressed optimism that the restrictions would be reformed, particularly as a result of eagerness amongst stakeholders in UAE to reopen channels and given that NHRC representatives were present in the delegation visit. Various informants noted that greater bilateral cooperation on labour issues was reportedly discussed during the delegation visit, but only in limited terms of negotiating further MoUs and BLAs, with no specific strategies or roadmaps established with destination countries in order to address issues identified during the delegation visit.

Many stakeholders were quick to assert that lifting of bans was only the first step in a large range of policies and frameworks that would need to be introduced in order to meaningfully improve the living and working conditions for women migrant workers and migrant domestic workers abroad. At the same time, actors with many years of experience working on advocacy around the bans reminded that restrictions had been reimplemented on countless occasions even when the lifting of bans appeared to be permanent. One UN agency directed asserted that, without a fundamental change in perceptions of female labour migration and migrant domestic work, and without institutionalized policies that are formally reinforced and supported across parties, migration bans were likely to repeat themselves again in the future.

5.8.4 Outcomes of the Parliamentary visit (March – October 2020)

Despite delays in decisions regarding the ban due to the outbreak of COVID-19, the Parliamentary committee and government officials were engaged in continued dialogue on migration bans since returning to Nepal in March, through meetings with government ministries, CSOs, independent experts and Nepal's foreign ambassadors abroad. Overall, the ILO observed both through direct participation in these meetings and based on comments made by delegation visit members, CILCI officials and Ministry representatives, that the majority *were not* in favor of lifting bans. Many decision-makers continued to voice concerns regarding sexual abuse and exploitation of migrant women abroad. In a virtual meeting conducted between committee officials and Nepal's ambassadors based in key destination countries that

took place in late September, most ambassadors noted that without reforms and additional protection mechanisms in place, bans should remain in place.

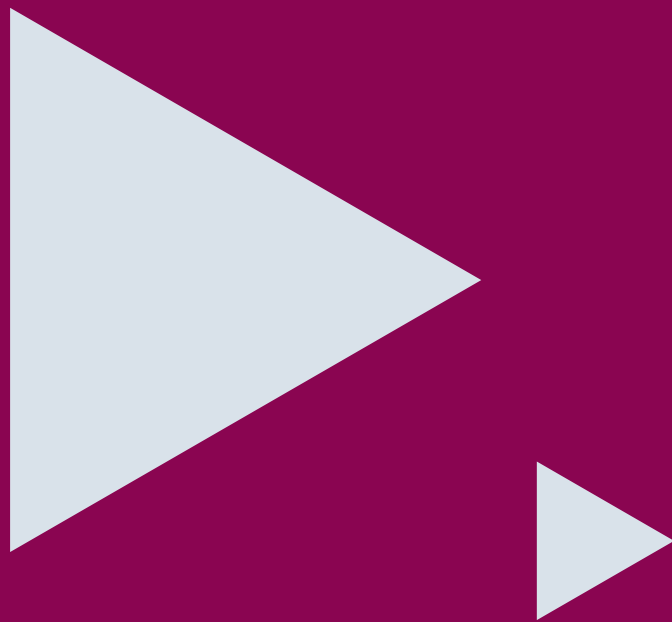
Despite this, at the end of September the Parliamentary committee recommended that the Government repeal the 2017 ban, subject to seven conditions. As with previous ban relaxations, one of these is that Nepal and the destination country must have a bilateral agreement. Destination countries should also have separate, specific labour laws ensuring the protection and rights of workers. Women migrant workers are also required to take part in mandatory training before departure, and should have a solid understanding of the local culture, language, and job requirements.

Whilst the relaxation of the ban is an important first step, meeting the seven conditions prescribed by the Parliamentary committee will be difficult, in part due to the obstacles which have inhibited the signing of bilateral agreements with destination countries in previous decades, as discussed in the above subsections. Of the existing BLAs and MoUs that Nepal has signed, only one – the BLA signed with Jordan in 2017 - includes specific stipulations on the rights of migrant domestic workers.

The commitment to lift bans is welcomed by the review. However while the ban has been lifted, other barriers to migration appear to remain in place. Given that many of the suggested reforms above are repetitions of past commitments that never came to fruition, including those established by the 2015 MDWGs, it remains to be seen whether the verbal commitment to lift restrictions remains purely discursive, or whether the GoN and the Nepali State can demonstrate the political will and reverse past institutional barriers and shortcomings to ensure that these preconditions materialize. At the same time, the proposed preconditions appear to neglect the many socioeconomic, geographical and structural access constraints that migrant women in Nepal continue to face which makes availing of formal migration channels exceedingly difficult, whether a ban is in place or not. The review suggests that the lifting of bans also be accompanied by widespread reforms that make the foreign employment process more gender-sensitive and administratively, geographically and financially accessible to migrant women.

▶ 6

Findings (Part 2) – Further Accessing the Knowledge and Opinions of Key Stakeholders



This section will summarize the key positions of counterparts interviewed for this review regarding female labour migration, migrant domestic work and migration bans. In addition, it will explore other thematic areas closely linked to policies and frameworks on women migrant workers and migrant domestic workers, including the nexus between labour migration, human trafficking and migrant smuggling frameworks and interventions. Finally, this section will look at positioning of the needs of women migrant workers and migrant domestic workers within the State's current and future plans on frameworks related to foreign employment, as well as within its response to the COVID-19 pandemic.

Interviews took place before the Parliamentary committee recommended that the ban be repealed.

6.1 Summarizing key opinions and positions of stakeholders regarding migrant domestic workers, migration bans and their impacts

This section presents a summary of the positions of stakeholders interviewed for this review regarding bans and restrictions on women migrant workers and migrant domestic workers.

6.1.1 Parliament

According to perceptions of stakeholders (both within and working closely with Parliamentarians), there are three key factions amongst politicians regarding the correct approach to migration bans: (1) those that believe the bans should be lifted immediately; (2) those who cautiously agree that bans should be lifted but only after new protection mechanisms are put in place; and (3) those who are completely in favor of a ban.

One MP (National Assembly) interviewed for this review appeared to align with the first group above, and was in favor of immediately lifting the bans, emphasizing that "the role of the government is to be guardians to migrant women, not to control them". The same MP (National Assembly) stressed that if bans were lifted, systems would need to be implemented in order to ensure that women and migrant domestic workers have the tools to make an informed decision about migrating, on where they migrate to and the skills they will need in order to be successful. This informant also expressed concern for mental health issues arising from dynamics of domestic work. The National Assembly official stressed that it was the State's duty to support migrant women in gaining the required skills and knowledge before departure and to ensure safe migration pathways. This MP criticized the lack of voice and representation that women migrants and migrant domestic workers currently have in political spheres.

The other MP (HoR) appeared to align more with the second group and believed that bans should eventually be lifted farther down the line but cautioned that the repeal should be a stepped approach as more protection mechanisms were put in place. The same MP reiterated Parliament's commitment to upholding the rule of law – including the right to mobility and employment – but that it was also the State's responsibility to keep migrants safe, stating, "people should be allowed to go, but with some conditions". This informant reiterated the need to sign MoUs and BLAs and communicated that the Parliamentary Committee's ultimate goal was to formalize domestic workers. This MP (HoR) opined that migration bans were not a gender issue, saying "it is not a matter of male or female", acknowledging that while most migrant domestic workers were female, "it would be the same if they were all men". The same informant opined that "Nepali society is far less gender biased than other South Asian countries" and that the bans ultimately came down to people "having safe earnings and justice at work".

This MP (HoR) also stressed that legal changes in Nepal would only be a first step in the repeal process, as destination countries would need to commit to taking additional steps to formalize domestic workers. At the same time, this informant felt that systematic change would need to include sensitization of employers in destination countries in order to instill the message that domestic maids and caregivers were legitimate workers who are entitled to the same rights as any other worker. The MP was concerned for the conditions that migrant women and migrant domestic workers face abroad, outlining how legal

systems were virtually non-existent and emphasizing that domestic workers lack few if any complaint and retribution channels, and are often at heightened risk of detention and deportation, particularly if they migrated through informal channels. However, the MP noted that undocumented migrant domestic workers cannot avail of insurance or other government protection mechanisms and that this was an important justification for potentially lifting the bans in the future.

When asked to characterize the opinions of the Parliamentary committee (CICLCI) itself, both MPs communicated that opinions were mixed among its members. The MP from the National Assembly expressed the opinion that the majority of politicians – particularly those not directly involved in negotiations of bans or in policymaking on migrant domestic workers – were in favor of the ban. The same MP (National Assembly) felt that support for the ban came in large part from a lack of in-depth knowledge of the dynamics involved in the process, asserting that Parliamentarians tended to fall into the trap of operating off of an unnuanced binary logic whereby if women workers and / or migrant domestic workers are known to be unsafe abroad then they should then be protected from this risk by being forbidden from migrating altogether.

When asked whether support from the ban amongst Parliamentarians came as a result of public pressure from constituents, the same MP (National Assembly) noted that bans were not a topic frequently discussed amongst the public and that it was unclear what the public's opinion on the matter was. These opinions were shared by the head of a CSO that has worked closely with Parliamentarians. This CSO director noted that bans have not been a highly prioritized political issue, and that migrants' issues as a whole are often underrepresented in political spheres given that Nepali workers abroad do not have voting rights. A number of informants noted that those overseas Nepalis who were consulted regarding bans and other migration matters were a small faction of powerful pro-ban Non-Resident Nepalis (NRNs) (foreign citizens of Nepali origin) based in Gulf and other destination countries, who have reportedly been engaged in lobbying the government to keep bans in place over the years. These dynamics were also mentioned by an expert journalist and a research institute director. These dynamics have thus far not been explored in-depth but warrant further research.

6.1.2 Government

Representatives of two out of three government line ministries interviewed for this review – MoFA, and MoLESS – explicitly voiced support for lifting bans, although the National Planning Commission (NPC) representative did not take an official stance. Notably, those government ministries who were contacted lean heavily toward social sectors, while the perspectives of government bodies that are more directed toward security sectors, including MoHA, the army and the police, were not consulted. However, the latter actors may possess significantly different perspectives of migration bans compared with government bodies dedicated to social and economic matters.

The MoLESS representative iterated that, while recognizing and sharing many of the same concerns communicated by the Parliamentary Committee since 2017, and while believing that the MDWGs (2015) should be fully implemented in conjunction, restrictions on migrant domestic workers should be lifted. The MoLESS informant believed that domestic workers were more at risk abroad due to their secluded work environment but acknowledged that Nepali women were migrating due to lack of job opportunities in Nepal. The same official communicated awareness that many Nepali women had positive migration experiences.

The representative of MoFA communicated the opinion that before lifting the bans, additional MoUs and BLAs would need to be finalized with detailed employment procedures and contracts, terms and conditions and minimum rights. According to this representative, “we want domestic sector workers to get the same services and facilities as organized, formal sector workers – including insurance and fair compensation”. The same representative asserted that there was always going to be a risk incurred in sending women workers abroad, stemming from different legal, religious and cultural structures in destination countries. This informant felt that migrant domestic workers would continue to face

challenges in light of deeply embedded cultural practices, particularly in Gulf countries, regarding the way that employers view women migrants and domestic workers.

However, the MoFA informant felt that some of these unequal employer-employee power dynamics could be addressed through improved legal and regulatory frameworks. The MoFA informant noted that bans and restrictions had increased the number of women migrant domestic workers migrating through informal channels, and iterated the belief that women in an informal migration status were at a huge disadvantage compared to those with a work permit, given their lack of access to training, insurance, formal contracts and welfare fund schemes. This individual also recognized that bans were based on highly publicized stories of abuse but that many Nepali migrant domestic workers are known to work for many years for the same family and experience no issues. The MoFA joint secretary stressed that foreign missions did not discriminate against migrant women at embassies and were committed to offering the same assistance to migrant women as migrant men, including those who had migrated while a ban was in place, stating, “their cases will be treated in the same way”.

The senior representative of the NPC interviewed for this review did not take an official stance on the bans but reiterated the need to focus on domestic employment opportunities while expanding access to more “attractive” destination countries for all Nepali workers. The same representative stated, however, that they did not believe the government would restrict people from going abroad for work in the future, and that opportunities should remain open for women if it is determined that foreign employment can be beneficial and empowering.

6.1.3 Recruitment industry representatives

Recruitment experts that were interviewed were in favor of lifting bans. Many of the justifications provided in favor of their repeal appeared to be financially motivated. Two experts iterated that recruitment agencies were losing money by not being able to send domestic workers. All three experts noted that by opening up formal channels and allowing agencies to take control of the recruitment process, the GoN and the recruitment industry could cut unregistered “middlemen” out of the equation entirely. One representative described the need for the entire recruitment system to be systematized, simplified and decentralized to the local level in order to ensure that women migrant workers and migrant domestic workers were aware of legal pathways for migration and were thus less likely to fall prey to unscrupulous recruitment intermediaries. Another expert noted that by lifting bans, agencies and other actors would have an enhanced ability to monitor the working and living conditions of migrant domestic workers while serving as an important information resource for women migrant workers and migrant domestic workers in Nepal, in transit and in destination countries.

6.1.4 Trade unions

Two trade unions interviewed for this review were immediately in favor of lifting the bans. One trade union representative voiced hesitant support but felt that bans could not be lifted suddenly without mechanisms in place. The same trade union representative expressed a desire to have domestic workers formalized in destination countries before they could be permitted to migrate without any restrictions, expressing that it was likely a change that would occur farther down the line.

6.1.5 CSOs / NGOs

CSOs interviewed for this review – including those specializing in migrant rights and anti-trafficking initiatives – were overwhelmingly in favor of lifting bans. A legal representative of one NGO conveyed that it was the collective opinion of the National Network for Safe Migration that migration bans were unconstitutional. One NGO noted that it had filed a petition against the bans in the Supreme Court this year but that the case had not yet been heard. One lawyer stated, “the Parliamentary committee’s voice is not the law. The law is in the courts and in the Constitution. The Committee has broken constitutional law in banning domestic workers, but it will be the duty of the Supreme Court to make a

decision on this matter”. Virtually all CSOs consulted for this review voiced the opinion that bans were discriminatory based on gender and occupation. One CSO director who had sat in consultative meetings with government officials and politicians noted that, even if bans were meant to apply to both men and women, officials continued to frame domestic work and bans as a women’s issue. The same CSO chair noted that government officials needed to fundamentally shift framing of issues around “illegality” in women’s migration process *away* from the actions of women and instead focus on the systems and actors which exploit them and / or disadvantage them.

Discussions with CSOs during this review show that while there may have been a disjuncture between migrant rights CSOs and anti-trafficking CSOs regarding opinions on bans and appropriate interventions in the past, most informants felt that these two groups were well aligned now and that better mutual understanding of objectives had been established in recent years between CSOs working on both issues. Many CSOs felt that they were well informed to take positions on the bans having seen firsthand how these legal and policy structures have negatively affected migrant women.

6.1.6 UN Organizations

All UN organizations interviewed were in favor of lifting bans, although one UN counterpart expressed hesitancy in “lifting the bans overnight”, advocating for a phased approach. The same organization was hesitant about calling bans discriminatory given that they applied to both male and female migrant domestic workers. However, other UN representatives stated that bans were clearly discriminatory and that the decision to open up restrictions to both male and female migrant domestic workers in 2017 had largely been a discursive tool to placate the demands of human rights actors. According to one UN agency director, while the bans ostensibly apply to both men and women, in application it is only women migrant workers who are being affected. Another UN project coordinator criticized policymakers for ignoring the desperation that women are facing in Nepal – including economic hardship and domestic violence – by employing a regulatory framework that inadvertently tries to keep them from escaping or improving on these conditions. One UN project coordinator felt that perceptions of women migrants were changing over time, particularly as women began engaging in other sectors aside from domestic work, such as garment and manufacturing in Malaysia and Jordan.

6.1.7 Independent experts, researchers and academics

Both research institutes who participated in this review were against the bans and believed that they were gender discriminatory. Researchers were under a general consensus that bans demonstrated a lack of understanding amongst policymakers about how the conditions for women in Nepal are pushing them to migrate in the first place. Both research institutes iterated the necessity to have stronger rights-based mechanisms in place to accompany repeals, given that domestic workers were generally seen as particularly vulnerable to exploitation and abuse. One research institute expressed concerns that the circuitous nature of women migrant workers’ migration pathways also further inhibited Nepali women from seeking help from the police or from the government in the event of fraud or harassment, out of fears of being implicated for migrating without documentation. One research institute with knowledge of the existing empirical base stressed that a significantly larger amount of research needed to be realized on female labour migration and on impacts and dynamics of migration bans.

Independent experts consulted for this review were also in favor of lifting bans, although two experts – a former UN programme specialist and long-term policy advisor and gender and development expert, as well as the founder of a migrants rights CSO and ongoing policy advisor and academic – stressed that repealing these restrictions would only be the first step in a very long process of policy and institutional reform, stating the need for women’s empowerment, gender-sensitive policies on skills training, education, childcare and elimination of SGBV, accompanied with largescale initiatives to ensure women’s access to information and decent work opportunities. One expert was optimistic about informal norms and value systems in Nepal shifting over time, noting that more government officials and politicians, as well as other foreign employment and migration policy practitioners were beginning

to understand the dynamics of Nepal's patriarchal society and how these dynamics were controlling women's production, women's mobility and women's bodies in the form of migration bans. According to the former UN programme specialist, academic expert and current government policy advisor, "female labour migration is a product of cumulative frustrations – of not being paid, of not being recognized as a worker. But if you go to the Gulf – you are entitled to cash. Cash is happiness, cash is dignity, cash is what you use to be able to go to the hospital. Cash buys a telephone, gives you a better life. But we rarely ask women what it is that they want".

6.2 The nexus between labour migration, human trafficking and migrant smuggling in the context of Nepali female labour migration

6.2.1 Case Study: 179 Nepalis allegedly "rescued" from Manipur, India in 2019

On 20 February 2019, a group of 179 Nepali nationals – 147 women and 32 men – were intercepted by Indian authorities in Manipur state in northeastern India, alerted by a tip-off from the counter-trafficking NGO Maiti (Kumar Mandal, 2019k). Members of the group were reportedly in transit to the Myanmar border, with plans to embark on further travel to destination countries in order to engage in foreign employment. Roughly forty of the women who were intercepted reported that they were on their way to Iraq (B. Rai, 2019). Maiti and other counter-trafficking NGOs alleged at the time that the group of Nepalis would later be victims of forced labour or sex trafficking once they reached their respective destinations (US DOS, 2019).

According to key informants, once the story broke out that these alleged trafficking victims had been located in India, the MoWCSC called an emergency meeting of the National Committee on Controlling Human Trafficking (NCCHT). In the opinion of a number of anti-trafficking UN agencies and CSOs interviewed for this review, government officials present at the meeting were ill-prepared and unable to devise a concrete response to this case. For years, repatriation of potential trafficking victims to Nepal has been handled principally by NGOs like Maiti, and the State has been accused of being overly reliant on NGOs in order to implement its anti-trafficking initiatives (Ryan, 2017; US DOS 2019). Perhaps as a result, counter-trafficking experts interviewed for this review perceived that key government officials lacked adequate knowledge of the frameworks and processes surrounding effective victim repatriation, identification, referral and retribution.

Eventually, the GoN coordinated with Indian authorities to repatriate all 179 members of the group to Kathmandu. However, the way in which the State handled the incident has since been questioned by numerous trafficking and migrant rights experts (US DOS, 2019). Media reports and statements made by government officials at the time continuously referred to the 179 repatriated individuals as "human trafficking survivors" (US DOS, 2019). When interviewed by the Kathmandu Post, the then under-secretary and chief of Nepal's Human Trafficking Control Section (within MoWCSC) was quoted in the media saying: "they [the repatriated individuals] will be kept here [in Kathmandu] for some time for socio-psycho counseling while the investigation on how they landed up in the trap of human traffickers goes on. We have to find out how they become victim of human trafficking. Some of them might have chosen themselves, others might have been lured while others might have no idea where they were being taken to" (Kumar Mandal, 2019k). However, this public statement issued by the GoN asserting that the repatriated individuals had been trafficked was made before the individuals' testimonies had been collected and assessed. In addition, statements did not make any mention to migrant smuggling and made no acknowledgement that this crime would be duly explored during the investigation.

According to conclusions conveyed in the 2019 US TiP report, "officials' poor understanding of trafficking and the lack of SoPs hindered proactive identification" during Nepal's response to this incident (US DOS, 2019). The report further stated that "law enforcement and labour officials continued to demonstrate

a lack of understanding of the differences between labour violations and labour trafficking, including how to report and investigate allegations” (US DOS, 2019). Trafficking experts interviewed for this review speculated that many of the 179 repatriated Nepalis from Manipur were likely smuggled migrants, and that no proper identification of victims had taken place. First responders were unable to delineate between whether the repatriated migrants were trafficking victims, migrants who chose informal migration channels or victims of another crime. Various counter-trafficking experts feared that due to the mishandling of the victim identification process, legitimate victims of human trafficking within the repatriated group could have been missed – particularly the migrant men.

After two weeks, the government had not succeeded in taking statements from all of the repatriated migrants. Many of those who had been repatriated did not want to deliver their statements. Counter-trafficking CSOs interviewed in this review who were involved in the response recalled that majority of the 179 individuals did not believe they had been trafficked. No individual ended up filing a formal trafficking complaint. One executive director of an anti-trafficking CSO speculated that while this was likely the case for many of the individuals, legitimate victims may have denied that they had been trafficked in order to avoid the stigma of being identified as such. Nevertheless, responders who spoke directly to some of the repatriated individuals recalled that many were frustrated with how the government had handled the incident and felt that they had been returned to Nepal against their will.

Subsequently, CSO and UN agencies involved in the response noted that many of the individuals left Nepal once again to migrate abroad within a few weeks of their repatriation. Many migrant women reported having taken out exorbitant loans in order to obtain foreign employment and said that they had no other choice but to attempt to migrate once again in order to pay off these debts. One CSO director reportedly overheard a conversation between government officials and the intercepted migrants in which officials requested that the men and women not attempt to leave Nepal again. In response to this request, one returned migrant responded: “are you going to give me a job that pays me 500 dollars per month? If so, then I will not go!” One UN agency director asserted that the repatriated individuals were never explicitly asked what their priorities or desires were. Another UN project coordinator noted that multiple women had noted the bans as a factor that influenced them to choose migrating through these channels.

6.2.2 Analyzing current frameworks and responses to human trafficking and migrant smuggling in Nepal

The word ‘smuggling’ is used here as an umbrella term to refer to women’s migration for work through informal migration channels using circuitous routes (e.g., traveling via India and through other transit countries) or migrating through the Kathmandu Airport by collusion with immigration officials, traveling on visit visas, etc. It is important to contextualize this definition of the word ‘smuggling’, which would otherwise have negative connotations and legal implications which are not necessarily applicable for Nepali migrant women whose mobility rights have been compromised by a lack of formal migration channels in the first place.

While constituting separate processes, migration, trafficking and smuggling are inter-related. Particularly for irregular migrants seeking to travel internationally but who do not have the legal means to do so, they may be assisted by a smuggler who is contracted and paid to facilitate irregular travel, sometimes through transit countries, and onward to destination countries (Anti-Slavery International, 2003). This process may also involve the falsification of documents, which is also often carried out by the contracted smuggler. While the smuggled irregular migrant may be charged significant fees and may be exposed to dangers due to the irregular and clandestine nature of their travel, they participate in the process voluntarily and are typically released from their relationship or obligation to their smuggler upon payment and successful arrival to their intended destination.

These aforementioned processes likely describe the outcome for many Nepali women migrant workers who are assisted by a smuggler (who is often times their recruiting agent or another individual or group of individuals contracted by the recruiting agent) in bypassing migration bans in order to migrate through

India and countries farther afield onward to their final country of destination and employment. However, the crimes of smuggling and trafficking can become blurred if a smuggled migrant is subsequently exploited or abused by their smuggler in transit, or are deceived into believing they are migrating for one purpose to later find that the work or conditions they were originally promised are not being offered upon arrival (Anti-Slavery International, 2003). For example, a Nepali migrant woman who is promised a job as a domestic worker in a Gulf country by a recruitment agent under the false promises of a fair salary and adequate benefits, who is then forced to work under difficult and / or degrading working conditions, or whose salary is withheld, would be an example of a victim of human trafficking.

When migrants experience smuggling and trafficking along the same route, this can pose difficulties in the process of victim identification. A person who is migrating may consider themselves a smuggled migrant but unknowingly be a victim of trafficking, only discovering that they are victims of labour, sexual or other forms of exploitation when it is too late (UNODC, 2020). Additionally, smuggled migrants who are potentially (and perhaps unknowingly) victims of trafficking are difficult to identify and assist given that they actively attempt to evade detection from authorities across borders (UNODC, 2020). If victims of trafficking are incorrectly identified as criminals or as irregular migrants, they risk facing drastic violations to their human rights and being prohibited from accessing the justice that they are entitled to under national and international law (UNODC, 2020). On the other hand, and in the case of many women migrant workers attempting to leave Nepal by way of India, some Nepali women are often incorrectly identified as trafficking victims and forced to return to Nepal, deterred from seeking foreign employment against their will (Kharel, 2016; O'Neil, 2001).

Overall, trafficking involves a crime committed against an individual, is exploitation-based, does not necessarily require or entail movement of persons and is involuntary (Human Smuggling and Trafficking Center, 2016). On the other hand, smuggling constitutes a transportation-based crime, requiring movement across international borders and is voluntary. (For the official definitions for "trafficking in persons" and "smuggling of migrants" according to their internationally-recognized definitions reference Annex B).

Since the early years of migration bans and restrictions in Nepal, scholars have documented the frequent conflation of female labour migration – in particular, extra-legal female labour migration – with forced prostitution and slavery (O'Neil, 2001; Kharel, 2016). O'Neil (2001) found that many news publications covering stories of Nepali migrant women in the early years of migration bans described harrowing tales of exploitation and abuse, claiming that Nepali women were clearly being duped and "sold" as prostitutes into brothels in India (O'Neil, 2001). O'Neil (2001) also asserted that many counter-trafficking operations conducted in this period operated off of the same assumptions. Nepali women and girls who were attempting to bypass bans and restrictions were unequivocally being equated to illegally trafficked sex workers. Counter-trafficking actors justified their continual "rescue" of Nepali women and girls from out-migration by asserting that all women migrants were destined for "sexual exploitation and bodily violation" (O'Neil, 2011: 159). This process was further enabled by the fact that very few Nepali women had migrated and returned to Nepal to share positive migration stories by this point. Consequently, practitioners feared that all migrant women would face the same fate that had befallen Kani Sherpa. Fifteen years later, Kharel (2016) found that many of these dynamics were still ongoing.

The prominent anti-trafficking NGO, Maiti, has actively participated in surveillance activities at the border between Nepal and India since the 1990s in order to locate and repatriate Nepali women and girls suspected of being trafficked (Kharel, 2016). The NGO reports stopping thousands of Nepali women at the border each year. However, it also appears that a number of women stopped and repatriated by Maiti are also women migrant workers who are voluntarily leaving Nepal to seek foreign employment, often with the help of a smuggler (Kharel, 2016). One news story published in 2004 recounted the story of a Nepali girl who was desperate to leave Nepal in order to reach Kuwait (Magar, 2004). This girl had attempted to migrate (voluntarily) on numerous occasions by way of India but was stopped on each occasion by NGO officials while trying to cross the border (Magar, 2004).

After a new bus route was established between Kathmandu and Delhi in 2006, anti-trafficking officials noted increased difficulties in monitoring flows (and potential trafficking routes) of Nepali women

through India, who had previously crossed the border between the two countries on rickshaws or other small vehicles. To this day, NGOs continue to patrol the Indo-Nepal border, rescue Nepali girls, file lawsuits on behalf of victims and demand prosecution of violators (Acharya, 2014). The current approach to detection activities – which aims to prevent Nepali women from migrating altogether as opposed to ensuring that their journey is safe and free from harm or exploitation – is often unsuccessful. This is evidenced by the 2019 Manipur case elaborated upon in the previous sub-section.

Migration bans and restrictions have likely complicated the task of detecting legitimate victims of trafficking at the Indo-Nepal border and further afield. Were women migrant workers and migrant domestic workers granted affordable and accessible channels to foreign employment, this may lead to a reduction in the volume of migrant women crossing each day and decrease migrant women's dependency on intermediaries or overall travel through these routes. This review suggests that instead of deterring all labour migration of Nepali women at the border out of suspicions that these women may later be victims of trafficking, the State and its implementing partners (including CSOs) should instead remain vigilant of Nepali migrant women's travel trajectories and ensure that their travel is conducted safely – including by sending NGO officials along with migrant groups to accompany them to departure points, monitoring and tracking individuals or groups of Nepali women following detection at the border and communicating frequently with them to ensure that they have made it safely to their destination, or encouraging women to report their whereabouts to Nepali or Indian authorities while in transit, without fear of punishment or of being turned back.

Well-designed and comprehensive anti-trafficking frameworks are imperative to ensure the rights of Nepali migrant workers. However, it is also important that anti-trafficking policies do not cancel out other individual rights, including the right to mobility.

6.3 Summary: Discussions with returnee women migrant domestic workers and connections with ILO's previous research of Nepali migrant women

This review has focused on an interpretive approach to policy analysis which looks at the “framing and representation of problems and how policies reflect the social construction of ‘problems’” (Browne et al., 2018: 1032). This analysis has allowed for an in-depth exploration of how and why policymakers have enacted migration bans, and the values, interests and political contexts which have underpinned these decisions. However, in focusing exclusively on policy narratives and the policy development phase itself, it is possible to lose sight of how legal, regulatory and policy frameworks manifest themselves in the lives of individuals and communities.

Migration bans have had paramount influences in shaping the physical, social and economic environments through which Nepali women migrate. While restrictions have not prevented women from migrating, they may have a profound influence on the *ways* in which women migrate – from the physical routes that women embark on in order to arrive to destination countries, to the methods in which women access and use information, the ways in which women prepare for their migration experiences, the attitudes that they hold toward the migration process, and the legal statuses and entitlements afforded to them within and across borders (as explored by Zimmerman et al., 2015; Mak et al., 2019; Pyakurel, 2018; ILO, 2015a; Kharel, 2016 and other studies referenced throughout this report). These dynamics are still under-explored in Nepal's existing body of migration research.

Given that bans and restrictions on women migrant workers and migrant domestic workers have often been constructed in closed-door policy settings which are predominantly occupied by upper-class and upper-caste males, with minimal representation and input from potential, current and returnee migrant women themselves, there is also a risk that policymakers themselves will omit or lose sight of how macro-level policies might profoundly impact the lives of individual women being targeted by these interventions.

In recognition of these realities, the ILO engaged in a documentary project to capture the stories of individual migrant women, in an attempt to shed light on female labour migration, migrant domestic work and migration bans in their real-life settings. A total of 11 returnee migrant women who had worked as domestic workers in the Middle East were contacted, most of them migrating while bans on women migrant workers or migrant domestic workers were in place. This exercise was not intended to contribute to the basis of research findings and is not a representative or robust research sample. Documentary stories included below and in Annex C have been linked to formal research where possible, mainly ILO's 2015 report, *No Easy Exit: Migration Bans Affecting Women from Nepal*, where 108 returned or potential migrant women were interviewed in one-on-one interviews and in focus group discussions (FGDs).

For this documentary project, the ILO aimed to access a variety of women from different social, demographic and migration characteristics (including varied regions of origin, countries of destination, age, marital status, etc.) as well as a mix between first-time and repeat migrants. Conversations explored: (1) reasons for migration; (2) the migration decision-making process; (3) the recruitment process and recruitment actors; (4) migration trajectories; (5) working conditions while abroad; (6) migration outcomes; and (7) perceptions held toward migration. Finally, women were asked to speak about how bans have directly impacted their migration process and were given the opportunity to offer up their own opinions on the regulations. For an in-depth write-up of these conversations, see Annex E.

Most of the women that were interviewed characterized their migration experiences as positive. This is not to misrepresent the realities of female labour migration or create an illusion that each and every woman migrant worker or migrant domestic workers has positive experiences abroad. However, negative outcomes to migration experiences have been comparatively better documented in popular media. The limited voices of migrant women that have been accessed before were those of women migrant workers residing in migrant rehabilitation centres. As such, this documentary project targeted the voices of women not residing in shelters. As a non-representative, non-research-based project, this advocacy piece is intended to highlight the need to access the voices of a wider array of migrant women from more diverse backgrounds and in more diverse locations. It is hoped that these conversations with migrant women will inspire a more nuanced consideration of female labour migration and serve as an impetus to conduct more research targeting migrant women in the future.

Below is a summary of the information that was documented during the project. Where possible, some stories are connected to previous research where more robust samples of migrant women were surveyed.

1. **Economic hardship** - Economic hardship, persistent debt, the inability to earn an adequate income in Nepal and a desire to improve the living conditions for families back home were the reasons that women cited for having decided to migrate in the first place. Various participants noted that they would have preferred to stay in Nepal but were unable to find alternative livelihood options in their communities.

► **Connecting to the research base**

In ILO's interviews of migrant women in 2014, economic hardship was the principle factor cited by respondents for wanting to migrate, including paying for education and medical care, debts and daily expenses. For these women, the strength of economic push and pull factors, gendered labour market deficits, debt burdens and wage differentials served as forces powerful enough to compel them to choose to migrate, despite legal restrictions and in spite of the many risks involved.

2. **Social issues as migration drivers** - Many discussed difficult social conditions at home as a driving force behind their decision to migrate overseas. Two women discussed the loss of a family member as a strong exogenous shock pushing them toward the decision to migrate. A few women discussed changes in familial structures, including divorce or separation, while a few expressed having migrated as a way of distancing themselves from negative relationships with their husbands.

► **Connecting to the research base:**

In ILO's interviews of migrant women, social forces were an important migration push factor for women who were aiming to take control of their lives and escape abusive husbands or parents-in-law. These findings demonstrated why understanding migration as simply a product of economic determinism can ignore the social causes of migration in Nepal – which often manifest themselves at micro, intrafamilial levels. For some women, leaving Nepal for foreign employment was a way of gaining autonomy. For others, it was an escape. Future policy interventions which look to alternatives of foreign employment must factor in unequal power dynamics in intra-familial relationships and the social pressures fuelling migration decisions, in order to ensure that women who stay behind do not face negative outcomes to their safety and wellbeing.

- 3. First-time engagement in remunerated work** - Few of the women noted having worked before their migration experience. Some women were engaging in paid wage labour for the first time in their lives by migrating abroad. Some women noted dealing with the new and unfamiliar demands and stresses associated with work in addition to the stresses involved in living away from their families and leaving their communities and their country of origin for the first time. Various women noted being exposed to new ways of living, including new cultural and religious structures in foreign lands, and needing to learn how to use new appliances, make new cuisines and communicate in new languages in which they had no previous formal instruction.

► **Connecting to the research base:**

The ILO identified a number of women in 2014 that had been employed prior to migrating; however, these women reported not earning enough money to adequately support their families. The majority had never worked outside of their home. As such, potential and returnee women were dealing with the new and unfamiliar demands and stresses of wage labour compounded by the fact that many were living away from their families and leaving their communities and their country of origin for the first time in their lives. The 2015 ILO study underlined the immense degree of resiliency and adaptability that migrant women show in choosing to seek foreign employment. Migration is a transformative and life-altering process. The ability to negotiate these transformations shows both agency and autonomy. Women migrant workers are not helpless, passive participants in their migration journeys. Recognition of these dynamics may help in reframing female labour migration and moving beyond the victim-based rhetoric which has predominated in public and political spheres in past years.

- 4. Migration and social networks** - All of the participants reported having relied on social networks in some way or form in order to inform their decision to migrate. Some participants discussed having decided to migrate after receiving encouragement from other migrant women who had positive experiences abroad. Some women discussed having chosen a specific destination country because it was recommended by a current or former migrant. Many participants spoke about having close relatives and friends abroad who helped facilitate their migration process.

► **Connecting to the research base:**

ILO interviewed multiple women in 2014 who had chosen their respective destination countries based on where friends and relatives were already working. Most women reported having chosen to migrate to Gulf countries upon advice from friends, family and agents. Others chose their specific destination upon hearing opinions from other migrant women about which countries were safer for women. These 2014 interviews showed the strength of social networks in the migration process and the influence of migrants themselves as key sources of information. While smaller-scale projects have been implemented by UN organizations and CSOs to take advantage of the knowledge and experience of returnee women migrant workers (e.g. by hiring them as community volunteers to educate potential women migrant workers on the risks and benefits), this process should be broadened and institutionalized.

- 5. Role of families in the decision-making process** - The women who told their stories noted that the decision to migrate had ultimately been their own. No participant noted having been coerced or forced by others into seeking foreign employment. However, every woman indicated having consulted and sought the opinions and support of their family members before making their decision. Many reported being actively encouraged by family members to go abroad. Some women reported wanting to migrate again in order to further improve their economic conditions but expressed hesitation to leave their children.

► **Connecting to the research base:**

The ILO's interviews of migrant women in 2014 found that many women consulted their husbands and other intermediate and extended family members in order to inform their migration decisions. Some reported being encouraged by husbands who themselves had already migrated abroad for work. There was some speculation that a few migrant women were being pressured into migrating by family members. These dynamics underpinned the notion that while migration should be and often is ultimately the decision of the migrant woman herself, it is often also a collective decision made with inputs from immediate and extended families. Migration can constitute a collective coping strategy employed by families to address lack of resources at a familial level. This highlights the need to target pre-migration interventions to focus not only on women migrant workers themselves but also their families.

- 6. Knowledge of bans and other policies when migrating** - Some interviewed women noted that they were aware of migration bans before migrating and were aware of the reasons why they needed to migrate through India. Other women, however, noted that they had not been aware of any bans or restrictions on women migrants or migrant domestic workers and that they had migrated through India believing it was either cheaper or because it was widely accepted as the way that most women migrated.

► **Connecting to the research base:**

ILO's interviews with migrant women in 2014 found knowledge of migration bans to be mixed, with some potential and returnee migrant women noting that they were aware of bans and wanted to migrate anyway, while others were either finding out about bans for the first time by way of researchers or reporting that they had not learned of bans until after departing for employment abroad. This varied knowledge of policy and legal structures also highlights the need to avoid perpetuating discourses of 'illegality' when discussing women's migration processes, given that women may be unknowingly committing an infraction at no fault of their own.

- 7. Documentation** - Despite migrating through informal channels, many of the interviewed women noted that they had adequate documentation – including a work / residence permit – for their respective destination countries. Almost all women noted that they would have preferred to migrate through regular channels and a few described that they would have felt safer if they had been permitted to obtain a work permit and register their departure.

► **Connecting to the research base:**

During ILO's 2014-2015 study of bans in Nepal, those women who did migrate irregularly expressed a strong preference for migrating through formal channels, with departure from Kathmandu often being discussed synonymously with "traveling legally, quickly and safely" (ILO, 2015a: 30). Many participants stated that they would have preferred departing through Kathmandu but recognized that migrating through India was their only option, either because of bans or because agents informed them that migrating by way of India was cheaper.

- 8. Recruitment costs** - Some women noted being charged recruitment costs by their recruiting agent. Others recalled being able to migrate free of charge. Some women noted borrowing money in order to pay for their recruitment costs, when applicable. Those that did discuss incurring debts reported borrowing money from friends and family.

► **Connecting to the research base:**

ILO's 2014-2015 study of bans found that most women bore the costs of their migration despite not being legally required to do so, largely due to dependency on recruitment agents and due to lack of knowledge regarding the migration process. Some women paid no fees while others paid a range of fees from anywhere between 21,000 NPR (approximately USD 205) to 80,000 NPR (approximately USD 785) (ILO, 2015a). In absence of a systematized, formal recruitment process it appears that costs are charged on a case-by-case basis.

- 9. The recruitment process** - Many women described not being provided with written contracts before departure, while some were. Some communicated that the contract stipulations and working conditions were explained to them verbally while others noted having received very little information on their job duties abroad before leaving. Only one woman who we spoke to reported participating in pre-departure orientation trainings. Few women were aware of insurance schemes or welfare fund schemes and only one woman reported having taken out an insurance plan before migrating. Most women reported being aware of the Nepal embassy in their respective destination country and knew that the embassy could be contacted if they faced any issues.

► **Connecting to the research base:**

Of the 74 returnee women interviewed in 2014 by ILO, only seven had received contracts – these included women who migrated while bans were repealed and while bans were in place. Very few women knew which documents were required in order to migrate, although repeat migrant women had considerably more knowledge and information. Few women – both those migrating while bans were in place and those migrating during open windows – had access to insurance schemes and few had participated in pre-departure orientation and skills trainings prior to their first migration experience.

- 10. Work experiences abroad** – Most women interviewed recalled that working conditions while abroad were largely in line with what they had been promised when accepting the job. A few women noted that they were paid less than originally promised, that the work was tiresome and challenging and that they had to work long hours. Others noted that the work was fair and that they received pay raises during the course of their employment. One woman recalled having a negative experience abroad, having experienced exploitative working conditions and being treated badly by her employers. This woman migrated through irregular channels while bans were in place, and bans had neither deterred her from migrating nor prevented her from facing exploitation.

► **Connecting to the research base:**

ILO's *No Easy Exit* study found that experiences of migrant women abroad were highly varied. Women who characterized their migration experiences as positive typically reported positive relationships with employers, being paid on time and having necessary break time in order to rest. Other women held not-so-favorable views of their migration experiences, with some reporting excess working hours, misalignment between promised and actual working conditions, non-payment of wages, minimal or subpar food and more. Two women reported enduring sexual advances while a few noted physical abuse (ILO, 2015a). These findings showed that positive migration experiences are possible, but also showed that perceptions of a positive experience are strongly tied to the experience of the worker going into the job and the quality of the relationship between the woman and her employer. It is imperative to have mechanisms in place to be able to swiftly address the needs of those women migrant workers / migrant domestic workers who are in abusive and exploitative conditions and provide them with assistance. Knowing who these women are, who they are working for and where they are working would be an important first step in developing these mechanisms.

- 11. Migration outcomes** – Some of the skills and abilities that participants reported gaining while abroad were: (1) working independently; (2) knowledge of new languages; (3) cooking new

cuisines; and (4) using new appliances. Some participants noted that they were able to pay for their children's education. Others reported being able to pay off debts. A few women were able to use some of the money earned abroad toward building their house. Many were able to increase their savings. A few women discussed being employed upon return, while some expressed that they were looking for work, and others expressed no intention of working again. Many of the women reported having migrated multiple times to multiple destination countries.

► **Connecting to the research base:**

Migrant women interviewed by ILO in 2014 noted that the skills they obtained abroad – both in the realm of domestic work and language skills – made them feel safer and more prepared to migrate again. Many felt more willing to negotiate working terms and salaries with their employers during their second migration experience. Interviews noted that experiences differed quite substantially between first-time and repeat migrant women, with greater levels of knowledge, skills and confidence reported by those who had departed more than once (ILO, 2015a).

- 12. Perceptions of migration bans and requests for future interventions** – 10 women who had positive experiences abroad were adamantly against migration bans. Many expressed that bans had not made them feel safer during their journey. Those women who migrated through India iterated that they would have preferred departing from the Kathmandu airport and that being able to fly out from Nepal would have made them feel safer. A few women expressed feeling that the bans were unfair to women and were blind to the difficult realities that they were facing in Nepal which had pushed them to migrate in the first place. Instead of imposing bans, most women suggested that the GoN focus on making migration safer and on creating adequate education and employment opportunities for women in Nepal, in order to reduce the need to migrate in the first place.

► **Connecting to the research base:**

The desperation that many women had to migrate and begin earning an income was evident in the interviews that the ILO conducted in 2014. One potential migrant woman stated, "I cannot earn enough in Nepal to pay off our loans. Our son had mental health problems, so we have a lot of debts from that time. My husband is a migrant worker too. If you go out, you can do something even if you suffer" (ILO, 2015a: 20). Another potential migrant woman, speaking about her employment in Nepal prior to departure, stated, "it is not enough.... If we eat in the morning, then there will be nothing to eat in the evening" (ILO, 2015a: 20). A third woman stated, "if I cannot go, I don't know what to do. I am already in debt..." (ILO, 2015a: 19). These observations demonstrate the importance of consulting the voices and opinions of migrant women themselves when designing policy interventions. They also demonstrate the lived experiences of migration bans through the eyes of Nepali women who have had to negotiate

Consider accessing the following video resources produced by UN organizations and iNGOs that contain additional documentary interviews with returnee women migrant workers, while highlighting programs aimed toward providing information to potential migrant women on safe migration pathways and alternatives to migration, as well as rehabilitation and livelihood programs for returnees:

ILO: Work in Freedom: Making migrant work safer for women from South Asia (2014). Available [here](#).

ILO: Nepal: Labour migration should be a choice (2018). Available [here](#).

GAATW: Justice denied: Stories of Nepali migrant women workers (2018). Available [here](#).

UN Women: a returned migrant woman in Nepal finds a new start (2019). Available [here](#).

these restrictive structures in order to seek foreign employment. Decision-makers in Nepal are encouraged to conduct the policy formulation phase through an iterative process which draws on the experiences and opinions of a diverse array of migrant women and their families and which protects their fundamental rights.

6.4 Nepal's current and future priorities on foreign employment policies

This sub-section briefly analyzes the State's stated current and future objectives in migration and foreign employment policies and positions these objectives within the context of female labour migration, migrant domestic workers and migration bans.

Below are some of the principle current and future objectives regarding foreign employment regulations and policies highlighted by MoLESS in its 2020 report on labour migration (published before the outbreak of COVID-19), as well as other important initiatives recently announced by the GoN:

- **Decentralization** – although not fully operationalized, the GoN foresees further decentralization of the foreign employment process by delegating additional functions to the provincial level, to be carried out by provincial Labour and Employment offices under the Department of Labour and Occupational Health and Safety (MoLESS, 2020). Local offices will be responsible for certain pre-approvals and final approvals of migrant workers, monitoring of local recruitment agencies and branch officers, processing applications and ensuring compliance with foreign employment laws (MoLESS, 2020).
- **Reintegration of returnees** – including employment opportunities, skills and financial literacy training and soft loans for new enterprises (MoLESS, 2020). However, MoLESS notes that implementation of reintegration programs has been challenging, and no robust plan of action has been established in order to ensure that all migrant workers are assisted as per their needs.
- **Migrant resource centers** – Nepal has committed to further developing the capacities and scope of migrant resource centers (MRCs) (MoLESS, 2020). The majority of MRCs throughout Nepal are now run as part of the Safer Migration Project (SaMI), a joint initiative between the Government of Switzerland and the GoN implemented by Helvetas Nepal. SaMI now operates in 39 districts throughout the country (Government of Nepal and Swiss Agency for Development Cooperation, n.d.). Other MRCs are run by ABC Nepal, Samana, Samriddhi Project, WOREC, POURAKHI and Maiti Nepal (MoLESS, 2020). The ILO encourages these MRCs to be linked to employment centers so that Nepalis may access information on both local and foreign employment in one central location.
- **Receiving complaints** – MoLESS will continue to operate its phone line receiving complaints and inquiries from migrant workers (MoLESS, 2020). However, the degree of effectiveness of these services is unknown and it is not clear how MoLESS follows up when grievances that have been received by phone.
- **Further negotiation of MoUs and BLAs** – Nepal has iterated its long-term commitment to signing MoUs and BLAs that reflect “Employer Pays Principles”, standard employment contracts, the roles and responsibilities of contractual parties, access to justice, insurance, equality of treatment and more (MoLESS, 2020). The State has also committed to establishing joint working groups to monitor implementation. Notably, the MoLESS's 2020 report did not include mention of signing MoUs or BLAs *with specific reference to domestic workers*.
- **Opening up labour migration to new destinations** – beginning with Bista's tenure, MoLESS has actively pursued opening up labour migration channels with new destination countries, preferably in locations where decent work and higher paid jobs are available (Kumar Mandal, 2019i). The country's labour agreements signed with Japan, South Korea and Mauritius in 2019 in particular are seen as clear evidence of this push toward diversification of destination countries.

- **Skills training for returnee, unemployed, low-skilled and aspirant migrant workers** – In October 2019, the FEB announced that it would pursue the creation of a skills training program which would provide free training to these aforementioned workers, in as many as 19 different occupational areas. The announcement clarified that skills training would be available to both men and women and would target marginalized groups (Kumar Mandal, 2019j). Upon completion, migrants would be able to choose whether they wanted to work in Nepal or migrate abroad (Kumar Mandal, 2019j). One UN project coordinator noted that these skills trainings were thus far very limited and not available to most potential migrants.
- **Other priorities** – Nepal currently has no residential missions in Mauritius or Jordan, and the Nepal embassy in Japan currently has no labour wing (MoLESS, 2020). The State has continued to make commitments to enhancing diplomatic capacities and presence abroad.

While agriculture is the mainstay of Nepal's domestic economy, the country has relied on foreign employment and migrant remittances as the foundation of its national development strategies since the early 2000s (ILO, 2004) and has actively promoted overseas labour migration for many years. However, despite signs that the country's dependence on sending its workers abroad has not diminished, the State has adopted a radically different narrative regarding foreign employment in recent years, and particularly since Gokarna Bista's tenure as Labour Minister. Nepal's official stance now is to no longer promote foreign employment. In fact, the government changed the name of the Foreign Employment Promotion Board to the Foreign Employment Board to reflect this transformation. Instead, Nepal hopes to shift its priorities to promoting employment and job creation domestically, retain the country's youth and limiting out-migration for employment (Kumar Mandal, 2019i; MoLESS, 2020). The country aims to focus on upskilling foreign labour opportunities, improving safety in the foreign employment process and opening up channels to "better" destination countries (Kumar Mandal, 2019i; Kumar Mandal, 2019j; MoLESS, 2020). However, one UN project coordinator asserted that this transition was "limited to a slogan" given that the GoN continues to negotiate BLAs and MoUs with destination countries and locate new labour migration opportunities.

The country at least appears to be making efforts to implement programmes to reflect this shift in priorities, however. The Prime Minister Employment Programme (established in February 2019), for example, sets out to accomplish a seemingly herculean task of providing at least 100 days of paid work to all Nepali citizens as well as a subsistence allowance (Kumar Mandal, 2019i; Shrestha and Kumar Mandal, 2020). At the time of writing, the government appears to be actively pursuing further implementation of the programme, particularly in light of the outbreak of COVID-19 (Business and Human Rights Resource Centre, 2020).

Amongst the stated initiatives above, there is no strong pillar that focuses specifically on women's employment and on improving conditions for women migrants abroad. Key informants were asked to weigh in on these dynamics as well as the country's overall plan on foreign employment.

When discussing the matter with MoLESS, the agency explained the lack of initiatives regarding women migrants and migrant domestic workers as reflective of the ministry's overall shift away from promoting foreign employment. According to a MoLESS section officer, "the government wants to manage – not promote – but manage migration". The same representative further stated that MoLESS was more concerned with the quality of foreign employment and that the ministry wanted to stop "compelled migration out of desperation" of migrant domestic workers, iterating that migration should be a choice and not a last resort. The same informant noted that MoLESS's primary objective regarding migrant domestic workers moving forward was the further pursual of implementation of the MDWGs (2015). The MoLESS official reported that the Ministry saw recent reforms in laws related to domestic workers in destination countries as promising.

One gender and development specialist and former UN programme specialist noted that the State's paradigm shift was a product of its realization that the glorification of remittances and foreign employment was not a sustainable long-term strategy. This expert feared that the outbreak of COVID-19 would make these realizations increasingly more evident. According to one trade union executive, Nepal

does not have a long-term plan for migrant domestic workers and women migrant workers, and migrant women and domestic workers are not factoring strongly in Nepal's long-term development trajectory. A legal representative of a migrant rights CSO deemed the country's new plans as unrealistic, noting that hundreds of thousands, if not millions of workers – including women - continue to have no viable employment options domestically and will continue to rely on foreign employment for years to come. The same representative believed that adopting a new rhetoric focused on discouraging foreign employment was a scapegoat for the State to shy away from reforming structures in order to improve living and working conditions.

One founder of a CSO and long-term advocate with decades working with policymakers offered similar criticisms, noting that stated objectives were overly ambitious in the current climate. This same expert explained that Nepal's federal system and strengthened form of local governance has only existed for approximately four years, which would not be enough time to implement the broadscale reforms that the GoN has set out to achieve. One UN project coordinator noted that local officials are still not yet adequately trained, lack technical support and are overburdened with responsibilities.

At the same time, the aforementioned expert noted that full realization of these objectives would require further decentralization of the central government's activities. However, while local governments are becoming more powerful, there are widespread perceptions that the central government is reluctant to relinquish power to provincial and district levels. This opinion was communicated by numerous KIs from different stakeholder groups. One UN project coordinator noted that while the federal government appeared willing to share *responsibilities* of managing the foreign employment process with provincial and municipal governments, the GoN was less keen to share *power and authority* over the industry.

A group of representatives from one prominent migrant rights CSO encouraged the Government and elected officials to continue focusing on policy reforms that target the whole-of-migration cycle for women migrant workers, from the decision-making process and pre-migration to post-arrival in destination countries and reintegration upon return. The same CSO cautioned that while the State continues to say it has an alternative to migration through job creation, thus far no viable alternatives have materialized. Finally, one UN agency director offered comments on the State's approach to job creation, outlining that there were widespread misconceptions in Nepal that individuals were migrating due to lack of jobs. However, migration experts believe that many Nepalis migrate because they do not have *decent* jobs – that is, jobs that will pay well enough and provide enough benefits to adequately maintain individual and family wellbeing. This informant stressed that those jobs created by the GoN under the Prime Minister Employment Programme and other initiatives would need to focus on the *quality* of the work being created, not just the quantity.

At the same time, many stakeholders felt that women were not afforded the same access to employment schemes in Nepal as men. An informant from the NPC, however, stated that the GoN “has come up with very good schemes to empower women, and to encourage them to engage in enterprise”. The same informant noted that, “these days, if you look at the qualifications and education levels for women – they are rapidly increasing”. The NPC representative asserted that quotas have been made for women and specific incentives created to allow women to participate in entrepreneurship and gain access to labour markets.

6.5 Discussing concerns regarding the effects of the outbreak of COVID-19 on women migrant workers and migrant domestic workers

Many of the State's previously stated objectives on foreign employment and domestic job creation are currently being put on hold or revised in light of the outbreak of COVID-19. On 4 March 2020, the Nepal government made the decision to suspend the issuing of work permits to all workers going abroad for foreign employment due to the global pandemic, with Labour Minister Yadav announcing that the government would not resume issuing permits until the virus was contained (New Spotlight, 2020). By 24 March 2020, in efforts to control domestic spread of the virus, the government imposed a strict

lockdown with all international and domestic commercial flights cancelled, the majority of businesses closed, internal controls on travel between cities and a ban on most non-essential movement outdoors (US Embassy in Nepal, n.d.) (the lockdown was not lifted until 15 June).

With many internal migrant workers out of a job and unable to support themselves, a significant exodus occurred out of Kathmandu and other cities across the country as Nepalis sought to return to their villages and towns of origin, many of them doing so on foot due to vehicular travel restrictions (Karki, 2020). Lockdowns contributed to the disruption of livelihoods, social isolation and a decreased capacity for households in Nepal to cover essential medical costs (Aacharya and Shah, 2020).

As a result of the outbreak, the migrant remittance inflows which millions of Nepali households depend on were also jeopardized (Shrestha and Kumar Mandal, 2020). Hundreds of thousands of Nepali migrant workers abroad – both men and women – were left in lurch as the outbreak led to significant movement restrictions and ravaged job markets and economies in key destination countries. An ILO rapid assessment published in August 2020 noted that as many as 20 per cent of Nepali workers abroad were at risk of unemployment (ILO, 2020).

Nepal's initial response was to impose a complete ban on re-entry of Nepali overseas workers, including of Nepali migrants in India, announcing that it had no immediate plans to allow for repatriation (Shrestha and Kumar Mandal, 2020; Sharma, 2020). This decision was largely due to fears of a drastic increase in cases spread by repatriated workers, inadequate infrastructures in place to be able to quarantine such a large number of individuals, and fears that the national health system would be overwhelmed (Sharma, 2020). In the aftermath of its decision to close borders, thousands of Nepali migrant workers trying to return to Nepal from India were stranded at the Indo-Nepali border, with many swimming across rivers and entering through clandestine border crossings in efforts to make it home (Badu, 2020). Following intense lobbying by overseas workers, human rights organizations and destination countries, as well as a Supreme Court ruling that deemed bans on repatriation as a violation of constitutional rights, Nepal announced that it would allow for re-entry and begin coordinating the return of stranded workers abroad in April 2020 (Shrestha, 2020; Shrestha and Kumar Mandal, 2020; Sharma, 2020).

The GoN established a taskforce headed by the NPC in mid-April to assess the impact of COVID-19 on foreign employment and incoming remittances, to locate and calculate the number of workers wishing to return to Nepal and draft plans to ensure that they had alternative employment available to them upon return (Shrestha and Kumar Mandal, 2020). The ILO rapid assessment published in August 2020 noted that as many as 127,000 migrant workers, if not more, were in need of repatriation from seven major destination countries in the Gulf and Malaysia (ILO, 2020). Migrant workers abroad were initially hit with exorbitant return flight costs (ILO, 2020).

The GoN has received criticism from certain actors for not focusing adequately on gender and class in its COVID-19 response, both in-country and for its migrant workers abroad (Basnyat and Tamang, 2020). The vast majority of domestic workers – nearly all of them women – in Nepal were found to have lost their jobs in the months following the implementation of lockdown measures (Kumar Mandal, 2020b). With more women confined at home with their husbands and more male migrant workers returning from abroad, the GoN may consider ensuring adequate access to sexual health services and contraceptives, as well as resources for redress and support for victims in the midst of rising cases of domestic violence and abuse (Nepal and Aryal, 2020). Food insecurity in Nepal has also worsened as a result of the outbreak, and women and children from lower castes and lower economic standing are particularly vulnerable (Manohar, 2020). One trafficking expert – a programme officer at an anti-trafficking NGO – interviewed for this review noted that women were at increased risk of being trafficked, particularly internally within Nepal. Two UN labour migration experts suggested that increased risk to trafficking is likely a result of lack of employment opportunities and decent work resulting from the pandemic. These same informants noted that prioritizing decent employment opportunities could thus limit instances of trafficking.

The pandemic also disproportionately affected women migrant workers abroad located throughout the Asia region (UN Women, 2020). In particular, women migrant workers who migrated through informal channels were at greater risk due to lack of access to documentation and essential health and social

protection services (UN Women, 2020). Many women migrant domestic workers lost their jobs in key destination countries as employers feared that domestic workers would bring the virus into the home (UN Women, 2020). Consequently, contracts were terminated and demand for domestic workers plummeted, leaving women without secure access to housing, employment or visas (UN Women, 2020). For those whose employment has not been terminated, fears of infection and movement restrictions mean that many women migrant domestic workers are confined in their employers' homes (UN Women, 2020). This raises numerous concerns about physical violence and SGBV, and social and psychological distress for migrant women. Given that employers are spending more time at home, many women migrant domestic workers in the Gulf are being asked to work excess hours every day (Begum, 2020).

Certain KIs for this review were asked to weigh in on the situation for migrant workers, and women migrant workers and migrant domestic workers in particular, as a result of the COVID-19 outbreak.

A representative of NAFEA noted that there was little information available on the situation for Nepali women migrant workers and migrant domestic workers, and that it had been difficult to reach these workers to assess their current needs. One NGO that works directly with migrant women discussed that many Nepali women migrant workers abroad were initially stigmatized as foreigners and "spreaders of coronavirus", noting that the COVID-19 outbreak has served to further marginalize populations like migrant domestic workers and women migrant workers who were already vulnerable to begin with.

Various CSOs, as well as the ILO, have noted that for those women who lost their jobs and wished to return to Nepal, many were forced to cover the cost of their airfare home. This is because many are unable to provide the necessary evidentiary documentation to the Nepal government to have flights reimbursed, due to their migration status.

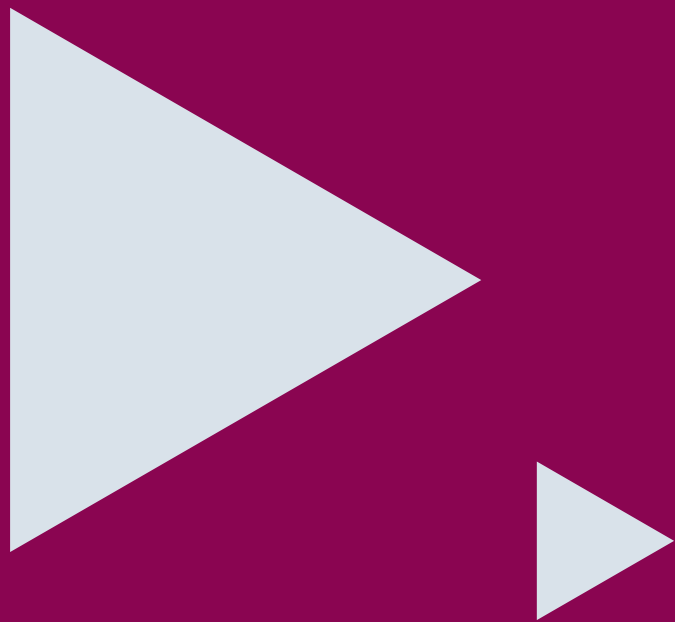
Certain interviewed UN and CSO stakeholders that provided inputs into the GoN's repatriation and rehabilitation plans noted that gender was not adequately considered in the response. A senior NPC official who serves as a member of the taskforce formed to manage repatriation and rehabilitation of returnee workers was interviewed for this review. However, this stakeholder continuously bypassed gender-specific questions related to the country's COVID-19 response during the interview and could not name any specific measures that the GoN was taking to specifically address the needs of women migrant workers and migrant domestic workers. When the interviewee was probed to provide additional details on how the taskforce was incorporating gender into its response, they responded by saying, "it's not only the case of women it's all the labourers – you have to look to the rights of all the labourers".

Finally, controversy was generated around the GoN's decision on 22 June 2020 to reopen channels for labour migration and again allow for migrant workers (both new and repeat) to register for foreign employment opportunities, roughly three months after the initial ban. According to a representative from MoLESS, "the decision applies to all those migrant workers who are home on leave as well as first-timers. We will have to slowly learn and live amidst the COVID-19 and carry on our daily life and economic activities too" (Kumar Mandal, 2020c). The move was initially criticized by some labour migration experts in Nepal, who deemed the decision as premature given that Nepal was still in the process of planning and coordinating mass-repatriation efforts of stranded workers abroad (Kumar Mandal, 2020c). At the same time, health and migration experts feared that allowing workers to migrate too soon would jeopardize their health and safety. Other experts iterated however, that even in light of COVID-19, workers should not be prevented from migrating if they choose to do so (Kumar Mandal, 2020c).

One UN project coordinator speculated that the decision to reopen migration channels was a product of the economic strains that COVID-19 has imposed on Nepal's fragile economy and following a continued realization that, even in times of a global pandemic, the country is dependent on its foreign employment industry in order to stay afloat. The decision to maintain open migration channels during the pandemic was also used as justification by numerous informants for the need to apply continued pressure on policymakers regarding the reform of migration bans and restrictions. One deputy chief of party at an iNGO described the COVID-19 outbreak as an opportunity for the GoN to "reset" and adopt a more gender-inclusive, rights-based framework for women migrant workers and migrant domestic workers moving forward.

▶ 7

Discussion: Summarizing Key Findings



This section presents a discussion of key findings for this review as described in sections 5 and 6 of this report.

Key observations

1. As opposed to most migrants around the world in an irregular situation who are afforded this status by the destination countries they are seeking to enter or have already entered, irregularity and the condition of being undocumented is a reality being conferred upon Nepali women migrant workers and migrant domestic workers by their own country of citizenship / origin.
2. The status of irregularity for women migrant workers and migrant domestic workers extends itself extra-regionally to apply to all women who left Nepal through informal migration channels, regardless of whether or not they are living and working legally in their respective destination countries.
3. These actions appear to be inherently non-democratic and contrary to the new liberal paradigms embodied in Nepal's 2015 Constitution which commit to the values of gender equality, equal access to employment, the right to mobility and non-discrimination. Bans and restrictions represent an increasingly apparent internal contradiction to Nepal's democratization efforts.
 - Article 13(2) of the Universal Declaration of Human Rights (UDHR) clearly states that "everyone has the right to leave any country, including his own, and to return to this country" (Harvey and Barnidge, 2007). This right has also been enshrined in Art. 12 of the International Convention on Civil and Political Rights (ICCPR); in Art. 8 of the 1990 Migrant Worker Convention, Art. 5 of CEDAW and Art. 10 of the Convention on the Rights of the Child (ICCPR) (see Annex D for further information).
4. Policy structures imposed in Nepal which systematically deny legal migration status to Nepali women co-interact with immigration exclusions and restrictions implemented by destination countries to further marginalize women and relegate them to liminal and precarious "third spaces", where they experience differential rights and work entitlements, transnationally.
5. Until this point, initiatives imposed by the State to ostensibly improve the safety and security of migrant women abroad have been largely restrictive, focusing on preventing women from migrating altogether rather than making migration safer. Bans and restrictions have been a quick-fix solution rather than a method of solving complex problems related to abuse, exploitation and trafficking. At the same time, they operate off of the untested and likely inaccurate assumption that women are safer from exploitation and abuse by staying in Nepal.
6. Bans are also the cheapest option, requiring no financial input or commitment from Nepal to redesign / reform institutions or structures to better accommodate the needs of migrant women and migrant domestic workers. This extends to Nepal's foreign missions, where the country has not invested sufficient resources in enhancing diplomatic capacities, both in general and specifically to address the needs of Nepali women.
7. Bans operate off of a paradox / miscalculation that citizens can be protected by having limitations placed on certain fundamental rights.
8. As elaborated in more detail in Annex D, the majority of the commitments that Nepal has made to improving the situation for women migrant workers and migrant domestic workers outlined in instruments such as the Foreign Employment Policy (2012), National Employment Policy (2016), FEA (2007), and the 2015 Directive on the Management of Sending Domestic Workers for Foreign Employment remain unfulfilled. Decision-makers have pursued bans instead of pursuing the more meaningful reforms outlined in these and other instruments;

- While policymakers frequently discuss the conundrum of “finding alternatives to the ban”, the State in fact has already devised many alternatives in its national policies. For example, the FEP (2012) commits to analyzing foreign employment laws and policies from a gendered perspective, providing information to women migrant workers, incorporating the safety of women migrant workers into BLAs and MoUs, taking action to prevent human trafficking and smuggling in the foreign employment process, preferential loans for potential and returnee women migrant workers, engaging women’s rights activists and CSOs in the policymaking process, and providing gender-specific training for recruitment agencies (amongst other initiatives). However, most of these mechanisms remain underdeveloped or unimplemented;
 - A review of the FEP (2012) was meant to take place in 2017 but never occurred. MoLESS has acknowledged that the objectives outlined in the policy have not been realized (MoLESS, 2020).
9. Bans and restrictions operate in contravention of commitments Nepal has made to reduce the risks to and occurrences of human trafficking outlined in the HTTCA (2007), which as a legal instrument in itself is limited in its scope and definition (focusing narrowly on sex trafficking of women) and needs to be reformed.
 10. Nepal has yet to ratify a number of international legal instruments which could better protect the rights of Nepali women migrant workers and migrant domestic workers, including: CO97 Migration for Employment Convention, C143 Migrant Workers (Supplementary Provisions) Convention; C181 Private Employment Agencies Convention; C189 Domestic Workers Convention; and the 1990 Migrant Worker Convention.
 11. Most stakeholders attribute Nepal’s recurrent use of migration bans as evidence that the State is either unable to or lacks the will to operationalize alternative mechanisms to protect the rights of migrant women. At the same time, frequent on-again and off-again bans demonstrate that the State does not have a real long-term plan regarding migrant women and migrant domestic workers (Pyakurel, 2018) – an opinion shared by many KIs who participated in this review. Instead, most actions designed to protect the rights of women migrant workers / migrant domestic workers, particularly prior to 2015, have been *ad hoc* and incident-based, responding to strong exogenous shocks rather than long-term institutional needs.
 12. There was cross-sectoral support amongst many independent experts, research institutes, trade unions, CSOs, UN organizations, recruitment industry experts and governmental institutions interviewed for this review to repeal migration bans.
 13. Many ministerial officials and bureaucrats are now aware of the linkages between migration bans and increased vulnerability and exploitation of women migrant workers and migrant domestic workers, but actively choose not to challenge bans or push for their reform out of fears that it will negatively affect their political careers.
 14. Bans and restrictions have been implemented without public consultation and with minimum transparency and information disseminated regarding policy parameters and legal restrictions, contributing to a general atmosphere of confusion amongst foreign employment, recruitment, trade union, CSO and UN practitioners, as well as migrant women themselves.
 15. Certain government and elected entities in Nepal have not responded to criticism from national and international human rights bodies regarding the discriminatory and unconstitutional parameters of migration bans and continue to operate in contravention of national and international law by choosing to (re)implement restrictive emigration regimes on their own citizens.
 16. Certain administrative entities in Nepal have actively externalized securitized migration policies by enlisting foreign governments – mainly, that of India – in monitoring the movements of Nepali women and preventing them from engaging in onward travel at key points of departure – mainly, international airports.

17. Steps taken to enforce bans both domestically and in India have actively led to the proliferation of more circuitous smuggling routes through India and other countries within the sub-region.
18. Migration bans have allowed for formal and informal actors to reap additional profits off of the illicit recruitment and transport of migrant women for jobs in domestic work abroad. This has extended to officials at the Tribhuvan International Airport in Kathmandu and employees of government bodies.
19. Policymakers have made the repeal of migration bans and restrictions contingent on the negotiation and implementation of further legal and policy instruments – including BLAs and MoUs – which they have subsequently made minimal efforts to pursue, creating a cycle of circular aversion and inaction.
20. During the past two decades, even when bans and restrictions were lifted (e.g. in 2003, between 2010 and 2012, and in 2016), the State has implemented other active and passive legal and administrative barriers in the foreign employment recruitment process that have continued to prevent many women migrant workers and migrant domestic workers from availing of legal migration channels. These include, but are not limited to: requirements that visiting Nepali women migrant domestic workers obtain re-approval from the GoN before being allowed to return to their countries of destination; complex, convoluted and financially-restrictive recruitment frameworks which have not taken into account the specific needs of women migrant workers and migrant domestic workers; discriminatory age minimums (including the age ban of 2012 as well as the persisting age minimum of 24 outlined in the 2015 MDWGs); and more.
21. Bans and restrictions have not prevented women from migrating – the number of women migrant workers and migrant domestic workers departing for foreign employment opportunities has only continued to increase while bans have been in place. Bans and restrictions have only succeeded in informalizing the migration process, not in curtailing it.
22. Bans do not take into account the strength of social networks in the migration process and the influence of migrants themselves as key sources of information and conduits in connecting women migrant workers and migrant domestic workers with job opportunities overseas. The strength of these social networks and other push and pull factors far outweigh the State's efforts to stem outflows of these migrants.
23. The State has rendered women migrant workers and migrant domestic workers as hidden and hard-to-reach populations by systematically denying them channels for legal migration. As women migrant workers and migrant domestic workers continue to migrate informally and consequently make efforts to evade detection by authorities in Nepal, in transit countries and in destination countries, the amount of information and data that the GoN and its foreign missions possesses on migrant women are minimal. The State and non-governmental entities lack knowledge on who the Nepali women are that are living abroad, where they are located, who they are working for, what their terms of work are, as well as their general conditions and wellbeing. This makes it more difficult to respond to the needs of Nepali women abroad and understand their protection risks.
24. By affording different rights to different migrant workers in different periods, the State has created and further entrenched different classes of workers with different legal privileges – between those who migrated during an open window versus those who did not, between migrant domestic workers and other occupations, between men and women, and more. This has led to the creation of a system of inequality in the foreign employment / migration process for Nepali citizens.
25. Migration bans have been implemented at a moment's notice often with little consideration of the impact that these decisions will have on women migrant workers and migrant domestic workers – women who have already paid and invested in the migration process during open

periods suddenly lose access to livelihoods and employment if bans are imposed before they have departed, while women migrant domestic workers currently abroad were unable to return to Nepal for years out of fears of losing their employment.

Characterizing policy narratives and the policy formulation process

1. Decision-makers paradoxically justify bans by voicing their concerns regarding the growth and / or continuation of irregular migration, trafficking and exploitation, and absence of rights for women workers in transit and destination countries, but fail to recognize that high levels of informality and the proliferation of illicit activities in women's migration processes is in part a direct product of migration bans and restrictions.
2. Saving Nepali *cheli* (sisters and daughters, kin) is both a dramatic and morally compelling argument and is cognitively plausible in political circles and amongst the general public – whose main exposure to information and dynamics of overseas female labour migration until this point is based on negative media reporting. These factors may explain why bans have been used recurrently over the past two decades without fundamental reform.
3. While the deaths of Kani Sherpa in 1998, Dolma Sherpa in 2008 and the high profile suicides of Nepali women migrant domestic workers in key destination countries during the initial years of migration bans appear to have generated strong public demand for action from policymakers, there is no clear evidence that voters have demanded a ban in recent years. Instead, the decision to implement new restrictions appears to have come as a result of intense pressure from within the government and Parliament, as well as from foreign missions and Non-Resident Nepali Associations (NRNAs) abroad.
4. The abuse of women also occurs in Nepal. However, narratives in migration policymaking spheres in Nepal continue to attach to stories of abuse and exploitation in destination countries while neglecting to address or pursue origin-side interventions that would address the exploitation and vulnerabilities that women face in Nepal - particularly in regard to SGBV, forced labour, lack of access to social security and safe working conditions, and more. This dynamic is reflected in a statement made by the MoLESS representative interviewed for this review: “[we are] more focused on the main problem, which is in destination countries”. While there is no doubt that there are significant issues to be dealt with in destination countries, there are numerous improvements that Nepal can pursue domestically to change structural inequalities and inadequacies.
5. Narratives about women and migration in policymaking spheres tend to be overly simplified and fatalistic, painting the outcomes for migrant domestic workers and women migrant workers as inevitably negative without recognizing the diversity of migration experiences and the possibility for personal, familial and community growth and empowerment.
6. Despite empirical findings, migration bans and restrictions continue to be highly politicized in Nepal – there is a general lack of consensus amongst different stakeholders involved in the policymaking process.
7. Discussions on migration and foreign employment are dominated by a “thicket of informal behaviors and deep-seated norms and values and networks of political alliances and obligations” (Bennett, 2005) in Nepal – between ministries and recruitment agencies, between recruitment agencies and politicians, between ministerial officials and elected politicians, and more.
8. There is a general lack of understanding in policy spheres about the distinction between trafficking and smuggling, which has led to difficulties in identification of victims. These issues are exacerbated by a lack of distinct, established, tried-and-tested SOPs to deal with both crimes in Nepal and assist victims in obtaining redress. This has contributed to the perpetuation of unfounded narratives that all migrant women are victims of trafficking.

9. Blame has been a notable characteristic of narratives used by decision-makers – whether it is policymakers blaming migrant women for seeking foreign employment despite a ban being in place, or policymakers blaming destination countries for the failures of negotiations of BLAs and MoUs on domestic workers, or blaming airport and customs officials for the trafficking and smuggling of Nepali women; or past Parliamentary committees blaming MoFE and MoLESS for failing to respond to reported abuses and exploitation of Nepali women migrant workers and migrant domestic workers abroad; or government ministries placing blame for bans and restrictions on the Parliamentary committee. These politics of blame show an inability of certain decision-makers to comprehend the complexity of migration processes and take responsibility for the consequences of policy decisions.

How policy narratives and approaches have changed over time

1. Particularly prior to 2010, empirical findings did not chime with the perceived interests of policymakers, who were predominantly against female labour migration and felt that Nepali women were better off staying home. These perceptions have shifted over time, particularly amongst bureaucrats in line ministries like MoLESS who are increasingly aware of the drawbacks and discriminatory nature of bans, and whose opinions are becoming increasingly more aligned with empirical realities. However – frequent turnover in government, continued lack of expertise and changes in the political decision-making structures on bans and restrictions have prevented this growth in expertise amongst bureaucrats from taking hold and becoming institutionalized.
2. The iterative process that MoLESS engaged in in 2014 and 2015 to devise the MDWGs (2015) and implement a new framework governing foreign employment for domestic workers shows that actors were actively trying to create an institutionalized approach to policymaking on women migrant workers and migrant domestic workers leading up to the 2016 repeal of bans.
3. In recent years, MoLESS and the GoN have implemented a number of important reforms in the recruitment process in efforts to protect the rights of migrant workers, while implementing more stringent measures to regulate recruitment agencies and penalize those who violate the rights of workers. However, these reforms have widely excluded the views of women migrant workers and migrant domestic workers.
4. State entities have made attempts at shielding themselves from national and international outcry regarding migration bans and restrictions by reforming them slightly to apply to all migrant domestic workers, and not women migrant workers, since 2017. However, this did little to change how the bans operated in practice, as they continued to almost exclusively affect women migrant workers, who do not have other foreign employment options available to them and who constitute the vast majority of all Nepali migrant domestic workers.
5. During the Parliamentary IRLC's first visit to Nepal, officials pursued minimum engagement with civil society and independent experts, conducted minimal consultative processes and did not meet with other origin countries. The first delegation visit did not consist of representatives from NHRC. The few women migrant workers / migrant domestic workers that the delegation interacted with were those residing in shelters run by embassies in destination countries.

The influence of gender, class, caste, race, ethnicity and geography

1. Bans and restrictions on women migrant workers and migrant domestic workers over two decades demonstrate that a woman's right to migrate and to seek employment has not yet been accepted as an inalienable right in Nepal.
2. Women choose migration as a way of negotiating the unequal distribution of reproductive labour in families, pressures to meet familial needs, lack of access to education and skills development,

lack of access to jobs, sex segmentation in labour markets, and lack of access to decent livelihoods and income; yet then face state-imposed restrictions to try to overcome these limitations through foreign employment. In the process, the State is not fully acknowledging the agency and resiliency that women migrant workers and migrant domestic workers demonstrate in negotiating the complexities of the migration process, whilst neglecting to recognize Nepali women's role as development agents.

3. The voices of migrant women themselves have systematically been left out of policy discussions, and very few efforts have been made to reconcile this gap. The limited knowledge that decision-makers possess on the immediate needs of women migrant workers and migrant domestic workers is obtained by proxy through CSOs working with potential, current and returnee workers. However, the perspectives and recommendations of CSO actors – both those dedicated to counter-trafficking and migrant workers' rights – are often deprioritized and ignored during the policy formulation phase.
4. Mid-level and senior-level government officials and Parliamentarians act as “moral guardians” of migrant women and their families and assume the paternalistic role of “protecting” the female kin, or *cheli*, of the Nepali state. Male informants for this review, as well as politicians and bureaucrats interviewed by media publications, have frequently used words like “daughters” and “sisters” to refer to migrant women, often making sweeping statements that generalize the experiences of women migrant workers and migrant domestic workers abroad but without ever having interviewed or spoken to migrant women.
5. High-level officials frequently use powerful, de-legitimizing and fatalistic language to describe migrant women, as “psychologically exploited”, “pathetic” or “sexually abused”. This language leads to the perpetual representation of women migrant workers as helpless victims rather than as individuals whose rights must be enforced.
6. Policymaking spheres are dominated by urban-dwelling, upper-caste and upper-class Nepali males residing in political centers in Kathmandu, who then implement and design policies that affect lower-class, lower-caste women living far away from policy centers in rural and often remote areas. These dynamics point to the geospatial power imbalances that permeate decision-making structures. The mobility of poor women becomes a site of state regulation.
7. Migrant women who do choose to migrate in circumvention of migration bans are then characterized as untrustworthy, as criminals or as “illegal”, and undeserving of the rights and protections of the State.
8. Many informants for this review – regardless of their support or lack thereof for bans – did not make a connection between gender discrimination and migration bans and restrictions. Certain government and parliamentary KIs actively denied that bans were discriminatory. This operates in contravention of official statements made by the UN Special Rapporteur on the Human Rights of Migrants and demonstrates a lack of sensitization and awareness of the legal and definitional parameters of non-discrimination.
9. Concerns over the trafficking of migrant men are virtually absent from policy discourses across the board. Few if any informants pointed out the gendered framing that policymakers continue to perpetuate when discussing trafficking as primarily a “woman's issue” and as a sexual issue. There are minimal signs that the rhetoric is changing amongst policymakers. Numerous cases of abuse of male migrant workers abroad have not been met with the same mobility restrictions, and the right to migrate for men has never been fundamentally called into question. The trafficking of migrant men continues to be unrecognized.
10. Age bans and other age restrictions sexualize and infantilize migrant women and call the maturity of women into question, whereas young migrant men depart the country in the hundreds of thousands, uninhibited by the same discourses.

11. Justifications of migration bans have often centered on sexual assault and exploitation of migrant women abroad. While ILO research in certain destination countries has demonstrated that sexual harassment, assault and rape are concerning issues reported by women migrant domestic workers, instances of sexual exploitation of migrant women tend to be over-estimated and sensationalized in Nepal, and used to generalize the migration experience for all women workers. Women migrants who are victims of sexual violence tend to be blamed and stigmatized. Additionally, labour violations and other abuses, including withholding of wages, excess working hours or violations in the recruitment process are far less cited in policy spheres, despite these issues being much more widespread. Discussions on sexual assault and exploitation in policy spheres are often exclusively perceived as a “female issue”.
12. The inability to pursue enforcement of the “Free Visa, Free Ticket” scheme, as well as other schemes designed to reign in the power and operations of Nepal’s recruitment industry, while fervently implementing migration bans on poor migrant women reflects significant gendered power inequalities in the State’s activities, and shows that decision-makers are often more willing to exercise power over migrant women themselves, rather than attempting to regulate the wealthy and well-connected recruitment actors that may exploit them in the first place.

Gaps in the institutional process

1. Meaningful policy reform has been hindered by frequent changes in government and frequent turnover of Government Ministers and Secretaries. Officials with limited experience working in migration and foreign employment matters are often appointed to key decision-making positions where they subsequently implement policies and frameworks in absence of strong regulatory expertise. As ministerial and government officials subsequently gain knowledge and experience working in these areas, they are soon removed to be transferred to another Ministry or voted out as a new Government comes into power.
2. The cycling in of new and inexperienced officials provides the opportunity for the perpetuation of policy decisions based on traditional informal behaviors and deep-seated norms. This is further enabled by the lack of institutionalization of policymaking – on migration and otherwise – that persists in decision-making circles. The product of the lack of institutionalization are disjointed and frequently oscillating policy decisions which often contradict the frameworks or decisions made by previous Ministers and officials and which largely reflect the views of a select few key powerholders.
3. On repeated occasions, powerholders have justified bans by iterating that foreign embassies and consulates do not have the capacities to address the needs of women migrant workers and migrant domestic workers. However, despite statements made to this regard on numerous occasions, Nepal can do more to meaningfully improve the human, training and financial resources and capacities of Nepal’s diplomatic missions in order to better respond to the needs of all migrant workers, and particularly women migrant workers and migrant domestic workers. This includes, for example, the appointment of female labour attachés in key destination countries.

The evolution of decision-making structures on frameworks related to women migrant workers and migrant domestic workers

1. For years, decisions on migration bans were taken unilaterally by the Ministry of Labour and Cabinet of Ministers, with minimal involvement from civil society, trade unions or other stakeholders, including Parliament. However, decision-making power on migration policies has shifted gradually since 2014 to fall under the purview of the Parliament and its thematic committees. This became evident during the IRLC’s initial Gulf delegation visit in 2017 and its subsequent decision to implement a new ban. The Parliament has now fully solidified itself as

the key decision-making body on migration bans and other policies related to women migrant workers and migrant domestic workers with the ICLICLI's involvement in the lifting of the re-entry ban in 2019 and the most recent repeal of the ban in September 2020:

- ▶ This process was enabled by Parliament's ability to consolidate power following the signing of the 2015 Constitution, which also gave committees more specific mandates;
 - ▶ Parliament's increasing involvement in issues related to the ban was also influenced by the growing importance of migration policies in political spheres in recent years;
 - ▶ Committees became involved after speculation that the Ministry was working too closely with / had established too close of a relationship with recruitment agencies. Certain Parliamentarians sought to break up this new / emerging coalition. This was particularly fueled by the naming of a select few recruitment agencies who would be permitted to send domestic workers for jobs abroad following signing of the MDWGs (2015). As such, it was not simply concern for migrant women and migrant domestic workers that spurred Parliament's involvement, but also political maneuvering aimed at disrupting an emerging syndicate within MoLESS.
2. Nepal's foreign missions abroad have consistently played a role in the decision-making process on migration bans and restrictions, with documented evidence dating back to as early as 2008 of foreign diplomats urging decision-makers in Nepal to restrict the migration of women migrant workers and migrant domestic workers. The power and influence that Nepal's diplomatic representatives in key destination countries have played in influencing outcomes on migration bans has continued to this day.
 3. Particularly since 2008 and the signing of the FEA (2007) and FER (2008), CSOs and UN organizations have played an important role in lobbying policymakers to repeal bans and restrictions; however, this progress has often been reversed once new and less-experienced policymakers have come into power.
 4. For those individuals who have challenged the status quo and sought to disrupt the power structures which permeate migration and other policymaking spheres – these “dissidents” have sometimes been quickly ousted. On many occasions, those dissidents who are ousted are targeted by recruitment industry professionals who are entrenched with power and influence over the political processes in Nepal and who sometimes actively campaign for their removal.
 5. The composition of the Parliamentary committee has also changed over time. The original IRLC had few sitting members that were knowledgeable of migration and employment. Stakeholders reported that the new ICLICLI had a more diverse set of members, with a more balanced representation of actors from various thematic areas of expertise. However, the ICLICLI was still criticized for having few sitting committee members that were experts in migration, gender and foreign employment.

Use of empirical evidence

1. Findings indicate that empirical evidence has played limited if no role in shaping interventions, but may have become relatively more important over time, particularly as MoLESS engaged in its iterative process to design the MDWGs in 2014 and 2015 and once the total ban was lifted in 2016 following consultations with expert stakeholders. However, these improvements have been undermined by the entry of new stakeholders (Parliament) in the decision-making process, which has taken away the Ministry's ability to make decisions on the matter.
2. Empirical evidence presented to policymakers has often actively been ignored, particularly when findings did not “chime” with predetermined interests or represent policymakers' own framing of migration “problems” and appropriate interventions.

3. Overall, there is a tendency to move on migration policy decisions without adequate study and without appropriate rationale.

The role of media in influencing policy frames and interventions

1. Many of the exogenous political shocks leading to the implementation of bans and restrictions have come as a result of high-profile media reports covering the suicide or death of Nepali women abroad, which have generated public outcry and demands for action. While this was the case particularly during the first decade of bans, populist pressure has been less prominent in influencing the decision-making process since the total ban of 2014.
2. Media reports have sometimes served to portray women's labour migration as a sexualized and violent process, focusing on women's victimhood and their bodies and neglecting to accurately portray the diversity of migration experiences or outline the many positive outcomes of overseas labour migration for Nepali women.
3. Unnuanced media reporting has contributed to the perpetuation of predominantly negative (and skewed) notions and beliefs on women's work and mobility in the Nepal public and has informed protectionist approaches in migration policy spheres. Nearly all informants believed that media coverage focused overwhelmingly on negative aspects and outcomes of female labour migration.
4. At the same time, while media reports focus predominantly on sex trafficking and sexual abuse of migrant women, other difficulties that Nepali migrant women face abroad that are more widespread – such as barriers to sending remittances, violations of contractual agreements, withholding of pay, etc. – received comparatively less attention.
5. Popular outlets have shifted their rhetoric and coverage of female labour migration and migration bans over time, with numerous publications in the Kathmandu Post, Nepali Times, Himalayan Times and other outlets vocalizing support for lifting of the bans in recent years.
6. Media also play a fundamental role in sharing up-to-date information on policy developments and in disseminating key information on the migration process.

Transnational dynamics

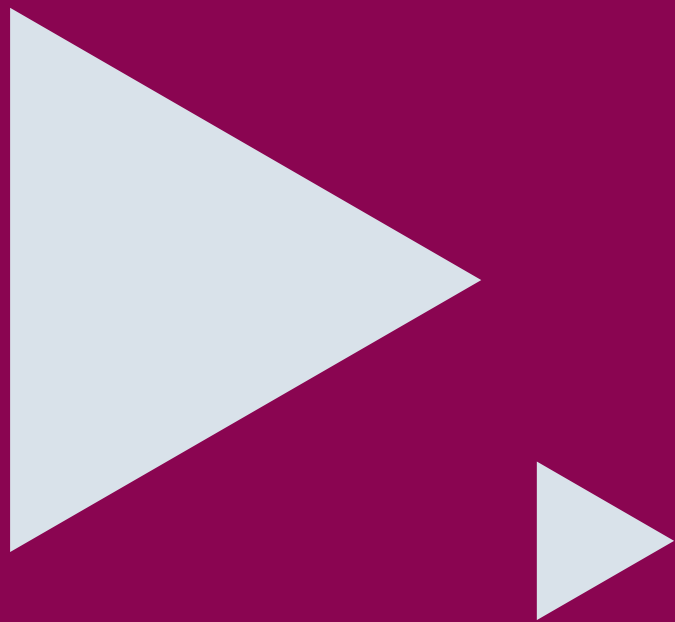
1. As former chair of the Colombo Process, the State invested resources and interest in consulting and cooperating with other origin countries in the Asia region in order to identify best practices in responding to the needs of migrant workers; however, many stakeholders felt that women migrant workers and migrant domestic workers had not been given adequate consideration during these activities. Many stakeholders noted that it may be more productive for policymakers to send political delegations to other principal origin countries of women migrant workers / migrant domestic workers as opposed to Gulf destination countries.
2. Thus far, there has been a lack of buy-in from origin countries in South Asia and elsewhere to collectivize and multilaterally demand better rights for migrant women and migrant domestic workers.
3. According to some KIs, transnational dynamics and unequal power balances between origin and destination countries have played a role in the formation and perpetuation of bans and restrictions, with many actors citing that Nepal has struggled in bilateral negotiations with destination countries in order to avoid jeopardizing remittances inflows to the country.
4. Some informants discussed the limited impact that pre-departure training and origin-country interventions have on migrant women once they are abroad, citing conditions in destination

countries as the principle determinants of outcomes for women migrant workers and migrant domestic workers.

5. Some stakeholders questioned the efficacy of BLAs and MoUs, which policymakers have until this point cited as a “golden ticket” to securing better conditions for overseas workers. Certain experts pointed out that there are minimal mechanisms in place to ensure that these agreements are adequately enforced once passed.
6. Some stakeholders expressed concerns that if Nepal were to pursue too radical of reforms in the rights and privileges afforded to Nepali workers abroad, destination countries would forego Nepali workers to source “cheaper workers” from other origin countries that make fewer demands, including Bangladesh and emerging origin countries in Africa.
7. On the other hand, destination countries have made some reforms in domestic labour laws concerning migrant domestic workers, particularly in the past five years. In addition, increased demand for domestic and care workers in destination labour markets has made Gulf countries and other destinations in the Middle East, South-East and East Asia more willing to make legal concessions and negotiate separate BLAs and MoUs specifically covering migrant domestic workers.
8. However, despite genuine interest from a number of Middle East destination countries, the GoN and MoLESS has deprioritized the signing of BLAs and MoUs specifically covering domestic workers once at the negotiating table. The Ministry has been more concerned with finalizing agreements on general workers which are seen as a greater economic priority. This is in spite of numerous commitments made by ministerial officials to negotiating these and other frameworks to improve the rights and outcomes for Nepali women migrant workers and migrant domestic workers abroad.

▶ 8

Conclusion and Recommendations



8.1 Conclusion

Per the objectives set out at the beginning of this report, this review has identified and characterized the ways in which stakeholders (governmental and otherwise) in Nepal formulate policy narratives, negotiate policies and regulations, and invoke knowledge claims in order to justify regulatory and policy interventions related to women migrant workers and migrant domestic workers – in particular, migration bans and restrictions – and associated thematic areas (e.g. anti-trafficking frameworks, frameworks combatting forced labour, elements governing domestic work and its form and function, and more). The review has also identified and described the roles and perspectives of non-governmental actors – including CSOs, trade unions, UN organizations, independent experts, research institutes and recruitment industry professionals – that are engaged in these processes.

In presenting a key analysis of the migration policymaking process in Nepal and the informal norms, ideas and beliefs that exist in policy spheres about women, work and migration, this review has also provided a more clear explanation of the drivers for the continuation of migration bans, while identifying the ongoing concerns of stakeholders in support of, or against, these restrictions. This review has also explored the degree to which key stakeholders rely on empirical findings to inform policymaking and the degree to which policy interventions align with empirical evidence until this point. The discussion has also measured the negotiation (or lack thereof) of BLAs and MoUs and other bilateral and multilateral instruments on women migrant workers and migrant domestic workers between origin and destination countries. The influence of media and highly publicized news publications as exogenous shocks spurring the decision to implement bans, as well as influencing the discourse and framing of female labour migration and women's work in Nepal overall, has also been explored.

When Kani Sherpa's body was repatriated to Nepal in 1998, her family went to the Kathmandu Airport to receive her remains. However, instead of blaming Sherpa's employers in Kuwait, or systemic shortcomings in Kuwait's legal systems and in its treatment of foreign workers, Kani Sherpa's mother told media at the time that it was the poverty of Nepal that had killed her daughter (O'Neil, 2001). Each year, thousands of Nepali women choose to migrate abroad, primarily for domestic work opportunities in Gulf countries, other destinations in the Middle East, as well as Southeast and East Asia. Many of these women seek out overseas employment as a survival mechanism to cope with lack of access to jobs and decent employment, inadequate incomes and poverty at home. These push factors are exacerbated by significant gendered deprivations in health, education, skills development and protection that disproportionately affect Nepali women, as well as community-based and intra-familial social constraints and dynamics which hinder them from achieving prosperity at home. The strength of these economic and social push and pull factors serve as forces powerful enough to compel women to choose to leave, in spite of legal restrictions imposed by the State, in spite of stigma and discrimination and in spite of the many risks involved.

The findings suggest that decision-makers in Nepal have not paid attention to the domestic conditions that are pushing women to migrate in the first place by continuing to pursue restrictive gendered migration policies. The findings also suggest that Nepal has implemented restrictions without conducting sufficient research or consulting meaningfully with existing empirical evidence. Migration bans operate off of the incorrect assumption that the mobility of Nepali women can effectively be controlled, and that women are better off staying behind in Nepal. However, these narratives have not been sufficiently tested and justified by policymakers, and insufficient attention has been given to the vast structural safety and security limitations and labour rights violations that Nepali women face at home. Furthermore, comprehensive analyses of the outcomes of migration bans show that, instead of protecting women migrant workers and migrant domestic workers, bans have exacerbated their vulnerabilities. Bans have not prevented women from migrating but have instead changed the way in which they migrate – through informal channels instead of legal channels, without access to protection mechanisms and through increasingly circuitous routes where reliance on intermediaries is increased. In addition, bans have continuously been justified through an anti-trafficking discourse; however, there is little evidence that trafficking can be addressed through migration control.

The reconstruction of dominant policy narratives in this review has clearly demonstrated that powerful norms of patriarchy, gender, class, caste and geography (mainly, rural vs. urban) have deeply embedded themselves within state structures and have directly influenced government institutions and policy narratives and approaches surrounding female labour migration. Women have been stripped of their rights to mobility and employment which they are entitled to under national and international law. At the same time, migrant women are only just beginning to gain better political representation in order to have their voices heard in policymaking spheres. Class and caste-privileged Nepali lawmakers, government bureaucrats and diplomats abroad, the majority of whom are men, have made the mobility of poor women a central site of state regulation. The product of this long-term exclusion is the perpetuation of policymaking which is informed not by rational evidence but rather by a complex web of informal ideas, social institutions and values which over-simplify and infantilize women, their work and their migration experiences. This has reified the notion that women are passive participants in their migration experience and are victims in need of protection, rather than individuals whose rights must be upheld. Concurrently, bans effectively shift the blame to migrant women themselves, who are often described as “illegal” or “criminal”.

At the same time, it must be acknowledged that bans and restrictions are dramatic and morally compelling and have resonated with the public audiences in the past as a strong (albeit ineffective) response to abuse and exploitation of Nepali women migrant workers and migrant domestic workers. However, by recurrently resorting to bans, the State has shirked responsibility in pursuing more meaningful interventions which could improve the rights for women migrant workers and migrant domestic workers, including reducing the need to seek informal pathways, making formal pathways safer, addressing information, knowledge and training gaps, regulating recruiters, addressing poor access to fair migration financing, fixing gaps in law enforcement and other initiatives of the FEP (2012) or NEP (2016) which have yet to come to fruition. Most importantly, the State has pursued restrictive migration policies over more meaningful interventions which could address the structural economic and social inequalities and lack of access to decent and safe employment for Nepali women back home – all factors which push women to migrate in the first place.

Additionally, as this report has demonstrated, the GoN has de-prioritized the signing of BLAs and MoUs on domestic workers, despite making the repeal of migration bans contingent on having these mechanisms in place. Negotiations with destination countries over time have also been hampered by significant power imbalances between Nepal and key destination countries that employ their workers.

While the perspectives of certain bureaucrats and line ministries appear to have changed over time, policy reform is hindered by frequent political turnover, which sees individuals with growing knowledge of migration and foreign employment policies frequently replaced by Ministers and secretaries who are unaware of the intricacies, nuances and dynamics of female labour migration. At the same time, even as a liberal conscience has begun to emerge at a technocratic level in the Government, leading to many Ministries actively voicing support for lifting of bans, changing political power structures have seen a significantly-more conservative faction of Parliamentarians take hold of matters related to bans and other frameworks governing female labour migration and migrant domestic work. Due to the highly politicized and contentious nature of bans in Nepal, no bureaucrats or politicians are willing to risk their political standing by lifting restrictions, particularly since it is not a significant policy priority for most officials to begin with.

Despite undergoing significant social, economic and political turmoil over the past few decades, including numerous changes in regimes and radical reforms to political systems, Nepal has made immense strides in socioeconomic development in recent years and has implemented a vast array of legal and regulatory reforms designed to respect and uphold the dignity, prosperity and human rights of its citizens. Although additional reforms are necessary, Nepal has demonstrated continued engagement with and commitment to policy reform, reflected in the considerable improvements in the rights and socioeconomic outcomes for Nepali women witnessed in the past two decades.

Irrespective of the policy approaches that Nepal has taken to inhibit women’s right to mobility and employment, it is important to place bans and restrictions into the context of the transnational

process through which female labour migration takes place. It is not Nepal's singular responsibility to ensure the rights of migrant workers. Destination countries of women migrant workers and migrant domestic workers enable and perpetuate systems that treat migrant workers as second-class citizens and perpetuate liminality and precarity in their lives, readily recognizing them as labourers but failing to accept them as human beings. The most meaningful progress in securing the rights of women migrant workers and migrant domestic workers will take place at a destination country level, and for this to occur, the same amount – if not more – of research and advocacy by international partners is required in destination countries as well. The UN and other donors must pursue interventions at the destination-country level and support bilateral and multilateral efforts amongst origin countries to negotiate better rights and privileges for migrant workers in the region, while lending all necessary knowledge and resources possible to origin countries to assist in the development and maintenance of rights frameworks.

The goal of ILO's WiF Programme is to contribute to the creation of a world where girls and women can work free from fear, violence and abuse. While the ILO shares Nepal's ultimate vision of creating adequate decent employment in Nepal to levels which eliminate women's need to seek foreign employment, it recognizes that these objectives may be far off. This may particularly be the case in light of the global outbreak of the COVID-19 pandemic. The ILO suggests that key decision-makers identify the ongoing needs of women migrant workers and migrant domestic workers affected by the COVID-19 pandemic and ensure that women and other vulnerable migrants have equal access to resources and relief. At the same time, the focus should be on creating pathways which make migration *safer* for women, rather than preventing their access to legal channels for foreign employment altogether. The following section presents a range of recommendations to reform the current frameworks governing foreign employment for women migrant workers and migrant domestic workers, informed by participants in this review and findings from secondary research.

8.2 Recommendations

Based on secondary research and feedback from migrant women and expert stakeholders interviewed for this review, below is a list of recommendations for decision-makers in Nepal's GoN, elected officials in Parliament and other partners to implement in order to improve the framework governing foreign employment for women migrant workers and migrant domestic workers and related areas, including on trafficking and smuggling.

(a) De-politicize female labour migration and improve institutional mechanisms governing foreign employment:

- Decision-makers are encouraged to deconstruct and eliminate current "protectionist" approaches to migration policymaking on women migrant workers and migrant domestic workers and shift away from using victim-based rhetoric to describe migrant women, which affects the everyday treatment that they receive as well as policy narratives and interventions;
- It is recommended that policymakers seek to de-politicize migration bans and recognize that the safety and wellbeing of women migrant workers and migrant domestic workers should be prioritized above concerns over political risks or concerns over how the repeal of bans will affect the images of individual politicians and political parties;
- The State is encouraged to continue pursuing the opening up of channels to a more diverse array of destination countries and in a wider array of employment sectors, investing in skills, education and vocational and life skill training of women migrant workers in order to facilitate this process;
- Invite migrant women to the table to share their desires and concerns during the policy formulation process and when assessing the outcomes of policy interventions;
- Acknowledge that migration can generate positive outcomes for migrant women and access these experiences when assessing conditions for women migrant workers and migrant domestic workers abroad;

- It is recommended that State acknowledge and factor in Nepali women into its long-term development plans, and contextualize and place female labour migration within this process;
- Ensure that migrant women and migrant domestic workers know their rights and are aware of how to exercise these rights during the entire migration process / cycle.
- In general, strengthen institutional mechanisms to govern labour migration;

(b) Focus on the promotion and advancement of decent work opportunities for women in Nepal in order to decrease pressures to migrate:

- The State is encouraged to further pursue adequate implementation of the Decent Work Country Programme (DWCP) in Nepal, with the following recommendations previously outlined by the ILO (ILO, 2018c):
 - Focus on sustainable, inclusive and gender-responsive economic growth;
 - Strengthen institutional capacities, promote fundamental principles and rights at work, ratify and apply fundamental conventions, focus on implementation of international labour standards and enhance social dialogue surrounding female Nepali workers;
 - Mobilize resources and focus on development cooperation;
 - Ensure adequate tripartite implementation and enforcement of the Labour Act (2017) and Labour Regulations (2018);
 - Ensure that improved job opportunities are accessible to displaced, marginalized, minority, disabled and particularly vulnerable and disadvantaged Nepali women in rural and urban areas;
 - Devise job creation policies and strategies in line with latest labour statistics, research and analysis;
 - Ensure access to social security for all Nepali female workers;
 - Strengthen networks of workers' organizations throughout the country;
- Engage in efforts to recognize female informal sector workers in Nepal, identify these workers and confirm that their labour rights are being guaranteed.

(c) Formulate Plan of Action on women migrant workers and migrant domestic workers:

- It is recommended that policymakers host a formal conference that explores bans and restrictions, and discusses other frameworks related to women migrant workers, migrant domestic workers and the nexus of labour migration, informal migration and human trafficking. This conference may be attended by labour migration academics and independent experts, UN and CSO practitioners, ministerial officials, Parliamentarians, trade union representatives, recruitment industry experts and migrant women activists and returnee women migrant workers;
- A potential product of the conference might be a comprehensive Plan of Action drafted by policymakers, with assistance from participants, that outlines short, medium and long-term policy objectives on female labour migration and migrant domestic work, with one-year, five-year and ten-year milestones established outlining measures to be pursued at local, provincial and national levels.
- Upon completion of this conference, decision-makers can hold annual technical meetings on female labour migration in Nepal, supported by UN organizations and other partners, which monitors ongoing progress on the Plan of Action and assesses other important developments within this field.

- ▶ A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers

(d) Pursue further bilateral and multilateral cooperation on women migrant workers and migrant domestic workers with other origin countries in South Asia and the Asia and Pacific Region:

- ▶ Nepal is encouraged to take the lead in multilateral cooperation on women migrant workers and migrant domestic workers amongst principle origin countries in the region, including by pursuing a sub-regional level SAARC declaration on women migrant workers and migrant domestic workers, as well as collective declarations in regional fora such as the Colombo Process, which lay out collective demands for minimum wages, standard contracts, health insurance, written contracts, access to justice and more. These mechanisms may then be brought to other multilateral platforms where principle destination countries are also represented, including the Abu Dhabi Dialogue.
- ▶ In tandem, Nepal is encouraged to sign MoUs with other origin countries that outline commitments to information sharing and technical cooperation on women migrant workers and migrant domestic workers.

(e) Meaningfully pursue further negotiation of BLAs and MoUs on migrant domestic workers with destination countries:

- ▶ Recent success in the past three years on the negotiation of BLAs and MoUs on general workers demonstrates that Nepal is successful in negotiating these instruments when proper resources and attention are given to them. The State is encouraged to renew its commitment on the negotiation of BLAs and MoUs that specifically reference the rights of migrant domestic workers. This includes pursuing incorporation of the rights of migrant domestic workers in instruments that are currently in the negotiation phase;
- ▶ The GoN is encouraged to publish periodic quarterly press releases which describe in detail the actions that it has taken to pursue negotiation of agreements on migrant domestic workers in the months preceding. This activity may assist in increasing accountability and transparency in the process;
- ▶ Following on recommendations from MoLESS's annual report (MoLESS, 2020), the GoN is encouraged to draft best practices and a standard operating manual that covers the entire cycle of negotiating MoUs/BLAs, including preparation, drafting, negotiation and implementation (MoLESS, 2020);
- ▶ While BLAs and MoUs are frequently cited as the "golden ticket" in securing the rights of migrant workers abroad, decision-makers are reminded that without proper implementation and enforcement mechanisms, these instruments will do little to improve the rights and working privileges enjoyed by Nepali workers abroad, including for migrant domestic workers and women migrant workers. As such, Nepal is encouraged to establish bilateral monitoring mechanisms with destination signatories, including joint committees, and measure progress of implementation through its diplomatic representatives abroad as well as with help of UN partners based in origin and destination countries. In addition, the GoN is encouraged to improve coordination between Nepal line ministries working on drafting and negotiating of these instruments (principally, MoLESS and MoFA). The BLA between Nepal and Jordan established a joint committee to monitor its implementation, however it has not been convened. ILO recommends that Nepal activates the committee.

(f) Improve information dissemination and awareness-raising campaigns on labour migration and the foreign employment process, including campaigns that specifically target women:

- ▶ Widespread public information campaigns available through multiple media sources (radio, television, newspaper) which provide comprehensive and nuanced information on migration practices. Information dissemination can be facilitated by community members, mirroring Nepal's current system of community health volunteers. Communities where female labour migration is particularly prevalent should be targeted;
- ▶ Information campaigns might target not only potential migrant women themselves but also include differentiated strategies to target their families, recognizing that women's decision to migrate is often taken collectively alongside immediate and extended relatives;

- ▶ Relevant national and local counterparts are encouraged to provide immediate and thorough information to local communities on changes in laws and policies which may affect the foreign employment process for women migrant workers and migrant domestic workers, including migration bans;
- ▶ Invest in information campaigns which provide information on SGBV and violence against women and girls, and reporting mechanisms and resources for support. The state may consider targeting communities where SGBV is particularly prevalent;
- ▶ Engage local authorities in this process;
- ▶ Ensure that information campaigns include rural, displaced, indigenous and Dalit women.

(g) Improving the safety of women migrant workers and migrant domestic workers once abroad:

- ▶ The GoN is encouraged to appoint and adequately train female labour attachés in countries of destination where Nepali women are present, to provide assistance to migrant women regardless of their documentation status. MoFA may consider including regular consultations with workers as part of job description of labour attachés. Issue labour permits to women migrant domestic workers who do not have them.
- ▶ Provide remote resources to women migrant workers and migrant domestic workers abroad, including occupational health and safety information phone lines staffed by qualified professionals, appointed at Nepal's embassies and consulates in principle destination countries;
- ▶ Provide women migrant workers and migrant domestic workers with reliable contacts who they can call in the event of emergency – including names and contact numbers for representatives of Nepal's diplomatic mission in their respective destination countries. Advise women prior to departure about the difficulties in accessing assistance once outside of the country;
- ▶ Provide more information to women migrant workers and migrant domestic workers on their specific rights and redress mechanisms available to them in destination countries;
- ▶ Although challenging, work with destination governments and partner agencies in destination countries to foster improved recognition of workers' rights amongst employers and recruitment agencies. While this is admittedly difficult, it is possible over time with sustained advocacy and cooperation;
- ▶ Ensure that women migrant workers and migrant domestic workers have a better understanding of their conditions of employment and their employment contract before and while working abroad. Assist them in developing the skills to identify when contract stipulations are not being honoured or are being actively violated;
- ▶ Continue pressure and advocacy on destination countries to increase labour inspections and give access to collective bargaining to women migrant workers and migrant domestic workers. Collectivize with other origin countries to advocate for further repeal and / or reform of the *kafala* system in Gulf destination countries. Nepal's foreign missions are encouraged to advocate for more frequent health and safety checks of firms and employers in destination countries.

(h) Enhance access to justice and compensation at home:

- ▶ Expand access to the Migrant Worker Welfare Fund Scheme to include women migrant workers and migrant domestic workers, regardless of migration status;
 - ▶ Expand use of the Welfare Fund (e.g. use it to fund redress mechanisms for migrants in destination countries, build consular capacities, invest in trainings and more);

▶ A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers

- ▶ Ensure compensation to injured or disabled women migrant workers, including migrant domestic workers, and compensation to family members of women migrant workers / migrant domestic workers in case of death;
- ▶ Decentralize redress mechanisms in Nepal to the local level;
- ▶ Further to recommendations from the CEDAW Committee – amend provisions of the Criminal Code so that sexual violence, rape and forced abortion are recognized as forms of torture. In addition, the State is encouraged to revise the Criminal Code in order to bring the definition of rape into line with Rome Statute of the International Criminal Court;
- ▶ Improve protections for Nepali women in civic life and ensure that they are treated with dignity and respect by authorities.

(i) Reform procedures and approaches to managing and implementing counter-trafficking and counter-smuggling laws and initiatives:

- ▶ Support women migrant workers and migrant domestic workers in filing claims even in absence of certain forms of evidence;
- ▶ Adopt standard operating procedures to ensure early and correct identification of victims of trafficking and smuggling;
- ▶ Train judicial and law enforcement officers and service providers on these SOPs (further to recommendation from the CEDAW committee);
 - ▶ Include comprehensive trainings into the curricula at the Nepal Policy Academy and Judicial Academy on national minimum standards for victim protection (also further to recommendations from the CEDAW committee);
- ▶ Ensure that victims of trafficking offenses and abuses during smuggling are exempted from liability and that legal responses do not just focus on identifying and punishing perpetrators but also on providing adequate justice to victims;
- ▶ Take a victim-centric approach in responding to trafficking incidents;
- ▶ Design and implement a national referral system;
- ▶ Relevant national and local authorities are encouraged to ensure that other trafficking and smuggling-related recommendations from CEDAW, as well as US TIP reports and NHRC are recognized and acted upon.

(j) Changing the language on female labour migration and migrant domestic workers:

- ▶ Policymakers are encouraged to better explore and recognize the power of pejorative language in dehumanizing or ‘othering’ marginalized groups, including women migrants. By continuing to employ the use of the term “illegal” in describing those women who circumvent bans in order to migrate, women migrant workers may inadvertently be labeled as ‘criminals’;
- ▶ Migration policymakers and practitioners often describe women migrants as “abused”, “sexually exploited”, “pathetic”, or “victims”, amongst a plethora of other phrases. This language may serve to victimize migrant women and does not recognize the diversity of migration experiences that women migrant workers and migrant domestic workers experience, nor the agency that migrant women hold over their migration process. It is recommended that practitioners practice mindfulness in the speech that they use and recognize the power of the words that they use in constructing and reifying “fields of truth” around female labour migration.

(k) Design and implement a new Foreign Employment Policy (FEP):

- ▶ Given that a review and update to the FEP (2012) was meant to take place in 2017 but has not yet been realized, the GoN is encouraged to design and implement a new FEP through an iterative and consultative process with a diverse array of stakeholders;
- ▶ The new FEP should give equal weight and consideration to migrant women as is given to migrant men, and should focus on a whole-of-migration process, from the decision-making process and pre-migration to post-arrival in destination countries and reintegration upon return;
- ▶ The new FEP should introduce additional safeguards to ensure that objectives are attached to actionable implementation plans, to avoid similar outcomes of the FEP (2012), which remains largely unimplemented eight years later. The GoN might explore assigning each objective outlined in the new FEP to a specific Ministry, division, body or focal point to ensure accountability;
- ▶ Relevant national authorities are encouraged to conduct rapid annual periodic reviews of progress made on the FEP, and large-scale reviews every five years.

(l) Aside from the repeal of bans, pursue a wide range of other legal reforms on female labour migration, migrant domestic work, trafficking and smuggling:

- ▶ Nepal is encouraged to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); ILO Convention C189 on Domestic Workers (2011); ILO Convention C190 on Violence and Harassment (190); ILO C097 – Migration for Employment Convention (Revised) (1949) (No. 97); ILO C143 – Migrant Workers (Supplementary Provisions) Convention (1975) (No. 143); ILO C181 – Private Employment Agencies Convention (1997) (No. 181); and the Protocol of 2014 to the Forced Labour Convention (1930);
- ▶ Although some reforms have been made, the FEA (2007) is not fundamentally a rights-based instrument and still views migrant workers as passive participants in the recruitment and foreign employment process. Nepal is encouraged to reform the FEA in order to provide specific, tailored protections to women migrant workers and irregular migrant workers, with mechanisms introduced to ensure that amendments to the FEA (2007) are equally available to migrant women.
- ▶ Introduce safeguards whereby the cases of potential trafficking victims are tried not under the FEA (2007) but under the relevant human trafficking act;
- ▶ Reform the HTTCA (2007) to reflect international standards included under the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000;
- ▶ The State is encouraged to adopt more thorough anti-discrimination legislation which specifically defines discrimination against women, and which includes direct and indirect, as well as intersecting forms of discrimination;
- ▶ Decision-makers in Nepal are also encouraged to adopt more thorough legislation which recognizes women's work and care work as legitimate work and establish centres in the country where women can receive tailored support to enter the labour market.
- ▶ The state is encouraged to repeal all constitutional and legal provisions that continue to discriminate against women and girls – including in regard to nationality / citizenship, marriage and property.

(m) Reform legal and administrative processes governing the recruitment process in Nepal, with specific consideration of the needs of women migrant workers and migrant domestic workers:

- ▶ Ensure that labour intermediaries are held accountable in respecting the rights and dignity of women migrant workers and migrant domestic workers during the recruitment process;

▶ A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers

- ▶ Reduce the administrative burdens that permeate the current recruitment process, making registration as simple, low-cost and accessible as possible;
- ▶ Prioritize further decentralization of the foreign employment registration process to the local and provincial levels, reducing the need to travel to Kathmandu. Create systems that allow workers to realize all registration activities in one single location;
- ▶ Throughout decentralization, build the capacities of local authorities in understanding and managing local migration processes, in order to ensure that patriarchal practices and stereotypes are not reproduced at the local level;
- ▶ Introduce specific safeguards and entitlements in the registration process for women migrant workers which will account for and recognize women's socio-economic realities, including lower access to education, lower literacy rates, fewer financial resources, varying medical needs, and increased risk of facing stigma and discrimination, recognizing that these factors may affect their capacity to safely navigate the registration process;
- ▶ Ensure that registration procedures are provided free from discrimination based on gender, caste or ethnicity group, and provide trainings to local, provincial and national government officials as well as recruitment agency personnel on effectively abiding by these principles.

(o) Greatly improve the financial, human resources and administrative capacities of Nepal's foreign missions in principle destination countries for women migrant workers and migrant domestic workers:

- ▶ Relevant government authorities are encouraged ensure that attachés have been properly trained and sensitized on the specific needs of women migrant workers, and women migrant domestic workers, specifically – and appoint attachés with knowledge and experience working in migration and foreign employment;
- ▶ Significantly increase the number of qualified labour counselors assigned to each diplomatic mission abroad, who possess knowledge and expertise in local legal and administrative systems, redress mechanisms and handling of worker complaints;
- ▶ Increase financial resources of foreign missions to hire additional qualified advisors and legal representatives practicing in destination countries, and assist in covering the legal and administrative fees for women migrant workers and migrant domestic workers in seeking redress for labour and other rights violations;
- ▶ Increase the number of staff and personnel at foreign missions overall, including administrative staff, in order to handle the volume of incoming requests from Nepali men and women;
- ▶ Ensure that women migrant workers and migrant domestic workers and their cases and requests are handled by Nepal's embassies and consulates on an equal basis and without discrimination based on gender, race, or caste and irrespective of the individual's migration status;
- ▶ Open up diplomatic missions in additional destination countries.
- ▶ Enhance the trainings and services offered to women migrant workers and migrant domestic workers and invest in skilling migrant women:
- ▶ Improved and more accessible language, vocational, and life-skills training for potential and registered women migrant workers – which also focus on building intrinsic and intangible skills on negotiation, bargaining, interacting with officials in origin and destination countries, and interacting with employers;
- ▶ Provide women migrant domestic workers with specific instruction on how to manage a modern household, in use of appliances and expectations in a professional workplace;

- ▶ Provide financial literacy training to women migrant workers and migrant domestic workers both prior to departure and upon return to Nepal, with a focus on servicing debts and loan repayment, as well as long-term savings and spending plans, budgeting, secure channels for sending remittances and storing money, and more;
- ▶ Invest in better frameworks for the return and reintegration of women migrant workers – and in particular – women migrant domestic workers – including the establishment of business start-up centers for women, as well as streamlined processes for new business registration. Engage with the private sector and create employment partnerships to provide jobs to returnee women migrant workers and migrant domestic workers. Provide greater (and formal) recognition of skills earned abroad;
- ▶ Tailored savings and investment products for women migrant workers and migrant domestic workers, such as a private pension, long-term insurance schemes, collateral-free loans, etc.;
- ▶ Targeted programs which engage with migrant associations and community organizations.

(p) Opportunities for further research, data collection and growth of the evidence base:

- ▶ Undertake research on the scale and characteristics of irregular migration from Nepal, with a particular focus on Nepali women, their characteristics, their methods of migration and travel trajectories, the facilitators assisting with their migration process, their planned destination countries and occupations, the risks involved, as well as their migration preferences;
- ▶ Undertake research on locating better employment opportunities and sectors for women migrants, as well as more varied destination countries;
- ▶ Undertake research on local government perspectives of migration bans and female labour migration, to complement this study;
- ▶ Develop a periodic national migration survey which gives adequate attention to collecting data on gender and the needs of migrant women and their families;
- ▶ Conduct cross-border surveys of Nepali migrant workers crossing the Indo-Nepali border, focusing on adequately sampling Nepali migrant women in data collection activities;
- ▶ Organize and implement additional research on migrant women's goals for wealth accumulation and on the contribution of remittances sent by migrant women to national and local-level development, as well as socioeconomic outcomes for the families of women migrant workers;
- ▶ Design integrated recruitment systems and sharing of labour market information specifically related to women migrant workers and migrant domestic workers;
- ▶ Improve data sharing in general – between Ministries, between different administrative sources, through population censuses and thematic surveys and between Nepal and destination countries.

References

Abramsky, T.; Mak, J.; Zimmerman, C.; Kiss, L.; Sijapati, B. 2018. "Migration planning among female prospective labour migrants from Nepal: A comparison of first-time and repeat migrants" in *International Migration*, Vol. 56, No. 4, pp. 197-216.

Aacharya, R.; Shah, A. 2020. "Ethical dimensions of stigma and discrimination in Nepal during COVID-19 pandemic", in *Ethics, Medicine and Public Health*, Pre-proof.

Acharya, A. 2012. "They don't count, and are uncounted", 8 March. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=19064#.XqyWUi-z2uV> [01 May 2020].

___. 2014. "The absent state", 11 September. *Nepali Times* (Kathmandu). Available at: <https://archive.nepalitimes.com/regular-columns/by-the-way/failed-to-protect-citizens-within-nepal-and-abroad,354> [01 May 2020].

Adhikari, N. 2014. "No solution in prohibition", 28 October. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/10/28/no-solution-in-prohibition> [01 May 2020].

Adhikari, R. 2014. "Women workers are doubly vulnerable", 12 June. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/page/women-migrant-workers-are-doubly-vulnerable> [01 May 2020].

___. 2018. "Why women defy Nepal's travel ban to take on domestic work overseas", 20 June. Available at: <https://www.newsdeeply.com/womensadvancement/articles/2018/06/20/why-women-defy-nepals-travel-ban-to-take-on-domestic-work-overseas> [01 May 2020].

Afsar, R. 2011. "Contextualizing gender and migration in South Asia: Critical insights" in *Gender, Technology and Development*, Vol. 15, No. 3, pp. 389-410.

Aljazeera. 2016. "Increasing number of deaths among Nepali workers", 26 December. *Aljazeera* (Doha). Available at: <https://www.aljazeera.com/news/2016/12/increasing-number-deaths-nepali-workers-161221093347701.html> [01 May 2020].

Anderson, B. 2012. "Where's the harm in that? Immigration enforcement, trafficking, and the protection of migrants' rights" in *American Behavioural Scientist*, Vol. 59, No. 9, pp. 1241-1257.

Anderson, R. 2017. "Saudi labour ministry allows transfer of domestic workers", 20 February. *Gulf Business*. Available at: <https://gulfbusiness.com/saudi-labour-ministry-allows-transfer-domestic-workers/> [15 May 2020].

ANI News. 2019. "Nepali Prime Minister Oli reshuffles cabinet", 20 November. *ANI News* (New Delhi). Available at: <https://www.aninews.in/news/world/asia/nepali-prime-minister-oli-reshuffles-cabinet20191120233521/> [01 May 2020].

Anti-Slavery International. 2003. *The migration-trafficking nexus: Combating trafficking through the protection of migrants' human rights*. Anti-Slavery International (London).

Asian Development Bank (ADB). n.d. "Poverty data: Nepal". ADB (Manila). Available at: <https://www.adb.org/countries/nepal/poverty> [21 Apr. 2020].

Badu, M. 2020. "Nepalis stranded in India continue to brave Mahakali River to return home", 29 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/sudurpaschim-province/2020/04/29/nepalis-stranded-in-india-continue-to-brave-mahakali-river-to-return-home> [15 June 2020].

Baldwin-Edwards, M. 2011. *Labour immigration and labour markets in the GCC countries: National patterns and trends*. Kuwait Programme on Development, Governance and Globalization in the Gulf States, London School of Economics and Political Science (LSE) (London).

The Bali Process. 2016. *Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime: The Sixth Ministerial Conference, 23 March*. Bali Process (Bali).

Baniya, N. 2019. "GEFONT support groups in destination country", December. *General Federation of Nepalese Trade Unions (GEFONT)* (Kathmandu). Available at: https://www.ilo.org/wcmsp5/groups/public/--asia/---ro-bangkok/documents/meetingdocument/wcms_732653.pdf [02 Apr. 2020].

Basnyat, K.; Tamang, D. "2015 Nepal Earthquake lessons for COVID-19: How to put women at the forefront of the crisis and recovery", 25 April. *South Asia at the London School of Economics*. LSE (London).

Begum, R. 2020. "Domestic workers in Middle East risk abuse amid COVID-19 crisis", 6 April. *Human Rights Watch* (New York). Available at: <https://www.hrw.org/news/2020/04/06/domestic-workers-middle-east-risk-abuse-amid-covid-19-crisis#> [20 June 2020].

Bennett, L. 2005. "Gender, caste and ethnic exclusion in Nepal: Following the policy process from analysis to action". Draft working paper for New Frontiers of Social Policy Conference, 12 – 15 December. *The World Bank* (Arusha).

Berman, S. 2001. "Review article: Ideas, norms, and culture in political analysis", in *Comparative Politics*, Vol. 33, No. 2, pp. 231-250.

Bhadra, C. 2007. "International labour migration of Nepalese women: The impact of their remittances on poverty reduction" in *ARTNeT Working Paper Series*, No. 44, Asia-Pacific Research and Training Network on Trade. United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP) (Kathmandu).

Bhattarai, D. 2017. "Inshallah", 16 July. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/2017/07/16/insallah/> [01 May 2020].

Bhattra, R. 2007. *Open borders, closed citizenship: Nepali labour migrants in Delhi*. Part of the series: *International migration, multi-local livelihoods and human security: perspectives from Europe, Asia and Africa*.

___ . 2017. "The long road to gender equality in Nepal", 8 Mar. *World Bank Blogs*. Available at: <https://blogs.worldbank.org/endpovertyinsouthasia/long-road-gender-equality-nepal> [20 Mar. 2020].

Blanchet, T.; Watson, S. 2019. "Learning to swim in turbulent waters: Women's migration at the agency-exploitation nexus" in *Journal of Contemporary Asia*, DOI: 10.1080/00472336.2019.1612935

Bosc, I. 2018. "The political economy of anti-trafficking", 22 August. *OpenDemocracy* (London). Available at: <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/political-economy-of-anti-trafficking/> [02 Feb. 2020].

Boswell, C.; Geddes, A.; Scholten, P. 2011. "The role of narratives in migration policy-making: A research framework" in *The British Journal of Politics and International Relations*, Vol. 13, No. 1, pp. 1-11.

Browne, J.; Coffey, B.; Cook, K.; Meiklejohn, S.; Palermo, C. 2018. "A guide to policy analysis as a research method", in *Health Promotion International*, Vol. 34 No. 5, pp. 1032-1044.

Budathoki, S; Sharma, M. 2012. "Even slaves are treated better", 14 June. *Nepali Times*. Available at: <http://archive.nepalitimes.com/news.php?id=19374#.XqyIiC-z2uV> [01 May 2020].

Budig, M.; Misra, J. 2011. "How care-work employment shapes earnings in cross-national perspective" in *International Labour Review*, Vol. 149, No. 4.

Budlender, D. 2011. *Measuring the economic and social value of domestic work*, Domestic Work Policy Brief No. 3. ILO (Geneva).

Business and Human Rights Resource Centre. 2020. "Nepal: Govt to establish a labour bank to increase employment and help address concerns of workers at home and abroad", 25 May. *Business and Human Rights Resource Centre* (London). Available at: <https://www.business-humanrights.org/en/nepal-govt-to-establish-a-labour-bank-to-increase-employment-and-help-address-concerns-of-workers-at-home-and-abroad> [05 June 2020].

- Butler, C. 2019. "Kuwait union opens doors to all migrant workers", 26 Mar. *Solidarity Center*. Available at: <https://www.solidaritycenter.org/kuwait-union-opens-doors-to-all-migrant-workers/> [15 Mar. 2020].
- British Broadcasting Company (BBC). 2010. "Nepal lifts ban on its women working in the Gulf", 9 December. *BBC South Asia* (Delhi). Available at: <https://www.bbc.com/news/world-south-asia-11955863> [01 May 2020].
- Caritas Internationalis. n.d. *The female face of migration: Background paper* (Rome).
- Carvalho, R. 2020. "Nepal to probe why 1,000 migrant workers die in Asia, Middle East each year", 1 February. *SCMP* (Hong Kong). Available at: <https://www.scmp.com/week-asia/economics/article/3048493/nepal-crack-down-why-1000-nepalese-workers-die-malaysia-and> [01 May 2020].
- Castles, S.; Davidson, A. 2000. *Citizenship and migration: Globalization and the politics of belonging*. Routledge (New York).
- Castles, S.; Delgado, Wise (eds.). 2008. *Migration and Development: Perspectives from the South*. IOM (Geneva).
- Castles, S.; de Haas, H.; Miller, M.J. 2014. *The age of migration: International population movements in the modern world* (5th ed.). Guilford Press (New York).
- Central Bureau of Statistics (CBS). 2019. *Report on the Nepal Labour Force Survey: 2017/18*. CBS (Kathmandu).
- Centre for the Study of Labour and Mobility (CESLAM). 2013. "KC at DoFE helm as 'high achiever' Bhattarai transferred", 05 April. *CESLAM* (Kathmandu). Available at: <https://www.ceslam.org/news/3568> [01 May 2020].
- Chami, R. 2008. "Remittances and institutions: Are remittances a curse"? *IMF Working Paper* WP/08/09. International Monetary Fund (Washington DC).
- Chaurasiya, S.; Pravana, N.; Khanal, V.; Giri, D. 2019. "Two thirds of the most disadvantaged Dalit population of Nepal still do not deliver in health facilities despite impressive success in maternal health" in *PLoS One*, Vol. 14, No. 6.
- Clyde & Co. 2017. "New rights for domestic workers in the GCC", 15 November. *Clyde & Co* (London). Available at: <https://www.clydeco.com/insight/article/legal-rights-for-domestic-workers-in-the-gcc> [15 May 2020].
- Coburn, N. 2018. *Under contract: The invisible nature of America's global war*. Stanford University Press (Stanford).
- Colombini, M.; Mayhew, S.; Hawkins, B.; Bista, M.; Joshi, S.; Schei, B.; Watts, C. 2016. "Agenda setting and framing of gender-based violence in Nepal: How it became a health issue" in *Health Policy and Planning*, Vol. 31, No. 4, pp. 493-503.
- Connell, R. 1987. *Gender and power: Society, the person, and sexual politics*. Stanford University Press (Stanford).
- Corporate Nepal. 2020. "National Assembly passed Palermo Protocol", 03 January. *Corporate Nepal* (Kathmandu). Available at: <https://english.corporatenepal.com/national-assembly-passed-palermo-protocol/> [14 Apr. 2020].
- Constituent Assembly Secretariat. 2015. *Constitution of Nepal 2015: Unofficial English Translation by Nepal Law Society, Institute for Democracy and Electoral Assistance and the United Nations Development Programme (UNDP)*.
- COVID-19 Support Nepal. 2020. *Feminist and queer charter of demands in response to COVID-19 in Nepal*. COVID19 Support Nepal (Kathmandu).
- Coyle, D.; Shrestha, R.; Thapa, C. 2014. *Women's insecurities and the workplace in Nepal: A study from Banke and Bara districts*. Forum for Women, Law and Development; Informal Sector Service Center; Institute of Human Rights Communication Nepal; International Alert; National Business Initiative; Saferworld (Kathmandu).

Department of Foreign Employment (DoFE). n.d. "Recruitment agency". DoFE, MoLESS (Kathmandu). Available at: <http://www.dofe.gov.np/Recruiting-Agences.aspx> [22 Mar. 2020].

Department of Labour (DoL). 2012. *Foreign Employment Policy 2068*. DoL (Kathmandu).

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and International Labour Organisation (ILO). 2015a. *Labour market trends analysis and labour migration from South Asia to Gulf Cooperation Council countries, India and Malaysia* (Kathmandu).

___. 2015b. *Analysis of labour market and migration trends in Nepal* (Kathmandu).

Devkota, A. 2017. "Unscrupulous intermediaries", 3 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2017/11/03/unscrupulous-intermediaries> [01 May 2020].

___. 2018. "Undocumented – not illegal", 4 December. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2018/12/04/undocumented-not-illegal> [01 May 2020].

Dixit, K. 2019. "Nepal and Malaysia rewrite rules for migrant labour", 25 September. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/here-now/nepal-and-malaysia-rewrite-rules-for-migrant-labour/> [01 May 2020].

Federal Parliament of Nepal. n.d. "Committee on Industry and Commerce and Labour and Consumer Interest". House of Representatives, Federal Parliament of Nepal. Available at: <https://hr.parliament.gov.np/np/committees/Industry-Commerce-Labour-and-Consumer-Interest-Committee> [05 May 2020].

Folbre, N. 2006. "Demanding quality: Worker / consumer coalitions and 'high road' strategies in the care sector", in *Politics & Society*, Vol. 34, No. 1, pp. 11-32.

___. 2018. "The care penalty and gender inequality". In: *The Oxford handbook of women and the economy* (eds. S. Averett, L. Argys and S. Hoffman).

Food and Agriculture Organization of the United Nations (FAO). 2019. *Country gender assessment of agriculture and the rural sector in Nepal* (Kathmandu).

Forum for Women, Law and Development (FWLD). 2018. *Concluding observations on the sixth periodic report of Nepal on CEDAW*. FWLD and UN Women (Kathmandu).

Foucault, M. 1980. *Beyond structuralism and hermeneutics*. Chicago Press (Chicago).

France 24. 2018. "Nepal ban on women migrants violates rights: UN", 5 February. *France 24* (Paris). Available at: <https://www.france24.com/en/20180205-nepal-ban-women-migrants-violates-rights-un> [01 May 2020].

Freedom United. 2018. "Kathmandu: Nearly 6,000 Nepali workers have died abroad", 30 April. *Freedom United* (Kathmandu). Available at: <https://www.freedomunited.org/news/kathmandu-nearly-6000-nepali-workers-died-abroad/> [01 May 2020].

Gamburd, M. 2000. *The kitchen spoon' handle: Transnationalism and Sri Lanka's migrant housemaids*. Cornell University Press (Ithaca).

Ghimire, B. 2014. "House elects chairpersons in 12 parliamentary committees", 28 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2014/08/28/house-elects-chairpersons-in-12-parliamentary-committees> [01 May 2020].

___. 2017. "Ensuring the rights of women migrant workers of Nepal; need of integrated approach beyond the protectionist ban", 16 August. *Law and Policy Forum for Social Justice (LAPSOJ)* (Kathmandu). Available at: <https://lapsoj.org/ensuring-the-rights-of-women-migrant-workers-of-nepal-need-of-integrated-approach-beyond-the-protectionist-ban/> [15 Mar. 2020].

Ghosh, B. 2006. *Migrants' remittances and development: Myths, rhetoric and realities*. IOM (Geneva).

Gioli, G.; Maharjan, A.; Gurung, M. 2017. *Neither heroines nor victims: Women migrant workers and changing family and community relations in Nepal*, Progress Report No. 18. UN Women (Kathmandu).

Global Alliance Against Traffic in Women (GAATW). 2009. *GAATW Asia regional consultation: Consultation report*. GAATW (Bangkok).

___. 2017. *Enabling access to justice: A CSO perspective on the challenges of realising the rights of South Asian migrants in the Middle East* (Bangkok).

Global Compact for Migration (GCM). n.d. "Global compact for migration". GCM (New York). Available at: <https://refugeesmigrants.un.org/migration-compact> [15 Apr. 2020].

___. 2018. *Global Compact for Safe, Orderly and Regular Migration: Final Draft, 11 July 2018*. GCM (New York).

Global Forum on Migration and Development (GFMD). n.d. "Background". GFMD (Geneva). Available at: <https://www.gfmd.org/process/background> [15 Apr. 2020].

___. 2012. *Checklist to protect and support domestic workers*. GFMD (Geneva).

Gnawali, P. 2014. "Danger: Men at work", 17 July. *Nepali Times* (Kathmandu). Available at: <https://archive.nepalitimes.com/page/highrise-danger-men-at-work> [01 May 2020].

Goldstein, J; Keohane, R.O. 1993. "Ideas and foreign policy: An analytical framework", in J. Goldstein and R.O. Keohane (eds.), *Ideas and foreign policy: Beliefs, institutions, and political change*. Cornell University Press (Ithaca).

Government of Nepal and Swiss Agency for Development and Cooperation (SDC). "Safe Migration Project (SaMI)". GoN and SDC (Kathmandu). Available at: <https://www.sami.org.np/> [05 June 2020].

Gurung, G. 2008. "International domestics: The renewed ban on Nepali women to work in the Gulf is ill-conceived and unworkable", 06 November. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=15343#.XrGnSi-z1n5> [01 May 2020].

Gurung, T. 2017. "Nepalis caring for Israel", 13 July. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/article/Nepali-Times-Buzz/nepali-caregivers-in-israel,3809> [01 May 2020].

Hagan, J.; Hernandez-Leon, R.; Demonsant, Jean-Luc. 2015. *Skills of the unskilled: Work and mobility among Mexican Migrants* (1st ed.). University of California Press (Bekeley).

Harvey, C.; Barnidge, R. 2007. "Human rights, free movement, and the right to leave in international law: Liberty of movement is an indispensable condition for the free development of a person", in *International Journal of Refugee Law*, Vol. 19 No. 1.

Haviland, C. 2015. "Why is Nepal's new constitution controversial?", 19 September. *BBC News* (Kathmandu).

Hennebry, J. 2014. "Falling through the cracks? Migrant workers and the global social protection floor" in *Global Social Policy*, Vol. 14, No. 3, pp. 369-388.

Hennebry, J.; Williams, K.; Celis-Parra, D.; Daley, R. 2017. *Mis/representations of women migrant workers in the media: A critical analysis*. UN Women (New York)

Himalayan Times. 2006. "Migrant women workers relate tales of miseries", 17 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/nepal/migrant-women-workers-relate-tales-of-miseries/> [01 May 2020].

___. 2008a. "Campaign to seek UN help to save Dolma", 27 February. *Himalayan Times* (Kathmandu). Available at:

<https://thehimalayantimes.com/kathmandu/campaign-to-seek-un-help-to-save-dolma/> [01 May 2020].

___. 2016. "Nepalis can seek security guard jobs abroad", 22 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/nepal/nepalis-can-seek-security-guard-jobs-abroad/> [01 May 2020].

___. 2017a. "Nepali immigration officials may be involved in trafficking women to Gulf", 31 March. Available at: <https://thehimalayantimes.com/nepal/nepali-immigration-officials-may-involved-trafficking-women-gulf/> [01 May 2020].

___. 2017b. "BLA paves way for Nepali maids to work in Jordan", 3 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/business/bilateral-labour-agreement-paves-way-for-nepali-maids-to-work-in-jordan/> [01 May 2020].

___. 2018. "Minister Bista stresses social security, human rights of workers", 16 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/business/minister-bista-stresses-social-security-human-rights-of-workers/> [01 May 2020].

___. 2019a. "Govt told to ensure safe migration, protect rights of women migrants", 20 July. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/kathmandu/government-told-to-ensure-safe-migration-protect-rights-of-women-migrants/> [01 May 2020].

___. 2019b. "Minister Yadav expresses concern about functioning of House panel", 23 August. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/business/minister-yadav-expresses-concern-about-functioning-of-house-panel/> [01 May 2020].

___. 2019c. "Immigration staffers sending women workers to restricted countries", 1 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/kathmandu/immigration-staffers-sending-women-workers-to-restricted-countries/> [01 May 2020].

___. 2019d. "United Arab Emirates implores Nepal to lift restrictions on housemaids", 5 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/business/united-arab-emirates-implores-nepal-to-lift-restrictions-on-housemaids/> [01 May 2020].

Hindustan Times. 2012. "Nepal bans women under 30 from working in Gulf", 09 August. *Hindustan Times* (Kathmandu). Available at: <https://www.hindustantimes.com/world/nepal-bans-women-under-30-from-working-in-gulf/story-6SSHum5EzYCqG8dJGviZO.html> [01 May 2020].

Hoschild, A. 2000. "Global care chains and emotional surplus value" in: *On the edge: Living with global capitalism* (eds. Giddens, A. & Hutton, W). Jonathan Cape (London).

Human Rights Watch (HRW). 2008. "Lebanon: Migrant domestic workers dying every week: Most deaths from suicides or in botched escapes", 26 August. *Human Rights Watch* (Beirut). Available at: <https://www.hrw.org/news/2008/08/26/lebanon-migrant-domestic-workers-dying-every-week> [01 May 2020].

___. 2012. "Nepal: Protect, don't ban young women from migrating to Gulf", 14 August. *HRW* (New York). Available at: <https://www.hrw.org/news/2012/08/14/nepal-protect-dont-ban-young-women-migrating-gulf> [01 May 2020].

___. 2015. "Saudi Arabia: Steps toward migrant workers' rights", 15 November. *HRW* (Beirut). Available at: <https://www.hrw.org/news/2015/11/15/saudi-arabia-steps-toward-migrant-workers-rights> [15 May 2020].

___. 2016a. *Nepal: Events of 2016*. HRW (Kathmandu).

___. 2016b. *Oman: domestic workers trafficked, trapped: Reform system, laws to protect migrant women*. HRW (Beirut). Available at: <https://www.hrw.org/news/2016/07/13/oman-domestic-workers-trafficked-trapped> [15 May 2020].

___. 2017. *Nepal: Events of 2017*. HRW (Kathmandu).

___. 2018a. *Kuwait: Events of 2018*. HRW, Beirut. Available at: <https://www.hrw.org/world-report/2019/country-chapters/kuwait> [18 Mar. 2020].

___. 2018b. *Domestic workers' rights in Qatar: Human Rights Watch commentary on Qatar's laws and regulations on domestic workers*. HRW, Beirut.

___. 2019a. *United Arab Emirates: Events of 2018*. HRW (Beirut). Available at: <https://www.hrw.org/>

world-report/2019/country-chapters/united-arab-emirates [15 May 2020].

___. 2019b. *Kuwait: Events of 2018*. HRW (Beirut). Available at: <https://www.hrw.org/world-report/2019/country-chapters/kuwait> [15 May 2020].

Institute for Human Rights and Business. 2018. *Responsible recruitment: Addressing gaps in protection for migrant workers*, IHRB (East Sussex).

International Development Partners Group Nepal (IDPG). 2017. *A common framework for gender equality & social inclusion*. Gender Equality and Social Inclusion (GESI) Working Group, IDPG (Kathmandu).

International Domestic Workers Federation (IDWFED). 2016. "Nepal: Domestic workers are also workers! NTUC urges the Government to ratify ILO Convention 189", 16 June. *IDWFED* (Hong Kong). Available at: <https://idwfed.org/en/updates/nepal-domestic-workers2019-are-also-workers-ntuc-urge-government-to-ratify-ilo-convention-189> [08 Apr. 2020].

___. 2017. "Nepal: Domestic worker is included in newly adopted labor act", 13 Aug. *IDWFED* (Hong Kong). Available at: <https://idwfed.org/en/updates/nepal-domestic-worker-is-included-in-newly-adopted-labor-act> [08 Apr. 2020].

International Federation of Gynaecology and Obstetrics (FIGO). 2019. "Think equal: Women's health, Nepal", 8 March. *FIGO* (London).

International Foundation for Electoral Systems (IFES). 2015. "Promoting gender inclusion with Nepal's Election Commission", 19 March. *IFES* (Arlington). Available at: <https://www.ifes.org/news/promoting-gender-inclusion-nepals-election-commission> [05 Apr. 2020].

International Labour Organisation (ILO). n.d.a. "ILO-FCDO Partnership Programme on Fair Recruitment and Decent Work for Women Migrant Workers in South Asia and the Middle East, 'Work in 'Freedom'' (New Delhi). Available at: https://www.ilo.org/newdelhi/whatwedo/projects/WCMS_416396/lang--en/index.htm [08 Apr. 2020].

___. n.d.b. "Ratifications for Nepal". NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva). Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103197 [15 Mar. 2020].

___. n.d.c. "Up-to-date Conventions and Protocols not ratified by Nepal". NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva). Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103197 [15 Mar. 2020].

___. n.d.d. "Bilateral agreements and regional cooperation". ILO (Geneva). Available at: https://www.ilo.org/asia/areas/labour-migration/WCMS_226300/lang--en/index.htm [06 Apr. 2020].

___. 1958. *C111 – Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*. NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva).

___. 2000. *Nepal Child Labour (Prohibition and Regulation) Act (No. 14 of 2000)*. NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva).

___. 2002. *Bonded Labour (Prohibition) Act, 2002 (Act No. 21 of 2002)*. NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva).

___. 2004. *An overview paper on overseas employment in Nepal*. ILO (Geneva). ___. 2007. *Foreign Employment Act, 2007 (Act no. 26 of the year 2042)*. NATLEX Database of national labour, social security and related human rights legislation, ILO (Geneva).

___. 2013. *Work in Freedom - Preventing trafficking of women and girls in South Asia and the Middle East: Promoting education, fair recruitment, safe migration and decent work*. ILO, UK Department for International Development (FCDO) and the London School of Hygiene & Tropical Medicine (LSHTM) (Geneva).

- ___ 2015a. *No easy exit: Migration bans affecting women from Nepal*. ILO (Geneva).
- ___ 2015b. *Bilateral Agreements and Memoranda of Understanding on migration of low skilled workers: A review*. ILO (Beirut).
- ___ 2015c. *Protecting the rights of migrant domestic workers: Good practices and lessons learned from the Arab Region*. ILO (Beirut).
- ___ 2015d. *Employers' perspectives towards domestic workers in Jordan: A qualitative study on attitudes, working conditions and the employment relationship*. ILO (Beirut).
- ___ 2015e. *Employers' perspectives toward domestic workers in Kuwait: A qualitative study on attitudes, working conditions and the employment relationship*. ILO (Beirut).
- ___ 2016a. *Brief on Work in Freedom Programme in Nepal: Women and girls on the move in Nepal* (Kathmandu).
- ___ 2016b. *When the safety of Nepali migrant workers fails: A review of data on the numbers and causes of the death of Nepali migrant workers* (Kathmandu).
- ___ 2016c. *A study of the working and living conditions of MDWs in Lebanon: "Intertwined: The workers' side"*
- ___ 2016d. *Intertwined: A study of employers of migrant domestic workers in Lebanon*. ILO (Geneva).
- ___ 2017a. *Migrant women workers and overt migration policies in Nepal: A law and policy baseline study* (Geneva).
- ___ 2017b. *Exploratory study of good policies in the protection of construction workers in the Middle East* (Beirut).
- ___ 2017c. *Domestic workers and employers in the Arab states*. ILO (Beirut).
- ___ 2017d. *Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies*. ILO (Geneva).
- ___ 2018a. *The definition of domestic work and domestic workers for statistical purposes: 20th International Conference of Labour Statisticians, Geneva, 10-19 October 2018, Room Document 8 (ICLS/20/2018/Room document 8)* (Geneva).
- ___ 2018b. *International labour migration statistics in South Asia: Establishing a subregional database and improving data collection for evidence-based policymaking*. ILO (Delhi).
- ___ 2018c. *Federal Democratic Republic of Nepal: Decent work country programme: 2018 – 2022*. ILO (Kathmandu).
- ___ 2018d. *Care work and care jobs for the future of decent work*. ILO (Geneva).
- ___ 2019a. *Lessons learned: by the Work in Freedom Programme*. ILO (Delhi).
- ___ 2019c. *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*. ILO (Geneva).
- ___ forthcoming. *Assessment of recruitment pathways in hospitality sector from Nepal*. ILO (Kathmandu).
- ___ 2019d. *The social construction of migrant care work: At the intersection of care, migration and gender*. ILO (Geneva).
- International Organisation for Migration (IOM). n.d.a. "Regional Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia". IOM (Colombo). Available at: <https://www.iom.int/regional-consultative-process-overseas-employment-and-contractual-labour-countries-origin-asia> [12 Apr. 2020].
- ___ n.d.b. "Abu Dhabi Dialogue". IOM (Abu Dhabi). Available at: <https://www.iom.int/abu-dhabi-dialogue> [12 Apr. 2020].

- ___, 2019a. *Migration in Nepal: A country profile 2019*. IOM (Kathmandu).
- ___, 2019b. *Debt and the migration experience: Insights from South-East Asia*. IOM (Bangkok).
- ___, 2019c. *Migrants and their vulnerability to human trafficking, modern slavery and forced labour*. IOM (Geneva).
- ___, 2020. *Rapid impact assessment report – COVID-19 and Nepali labour migrants, impacts and responses*. ILO (Kathmandu).
- International Organisation for Migration (IOM) and International Agency for Source Country Information (IASCI). 2017. *Maximizing the development impact of migration in Nepal: Comprehensive market study* (Kathmandu).
- International Trade Union Confederation (ITUC). 2017. *Facilitating exploitation: A review of labour laws for migrant domestic workers in Gulf Cooperation Council countries – 2017 update*. ITUC, Brussels.
- Jain, C.; Oommen, G. 2017. *South Asian migration to Gulf countries: History, policies, development*. Routledge (New York).
- Jaiswal, N. 2017. "Preying on disaster: How human trafficking has spiked in quake-shattered Nepal", 26 April. *The New Humanitarian* (Geneva). Available at: <https://www.thenewhumanitarian.org/feature/2017/04/26/preying-disaster-how-human-trafficking-has-spiked-quake-shattered-nepal> [01 May 2020].
- Joshi, S.; Simkhada, P.; Prescott, G. 2011. "Health problems of Nepalese migrants working in three Gulf countries" in *BMC International Health and Human Rights*, Vol. 11, No. 3.
- Kader, B. 2018. "Nepalese domestic workers left in limbo in UAE", 13 October. *Gulf News* (Dubai). Available at: <https://gulfnews.com/world/asia/nepalese-domestic-workers-left-in-limbo-in-uae-1.2289418> [01 May 2020].
- Kamat, R. 2019. "Ban on women from working as maids in Gulf countries unfair", 12 May. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/nepal/ban-on-women-from-working-as-maids-in-gulf-countries-unfair/> [01 May 2020].
- Kanel, T. 2016. "Toil and trouble", 2 October. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2016/10/02/toil-and-trouble> [01 May 2020].
- Karki, B. 2020. "Nepal's COVID-19 struggle continues amid a concerning surge", 14 May. *The Diplomat* (Washington DC). Available at: <https://thediplomat.com/contact-us/> [15 June 2020].
- Karki, H. 2019. "Migrants abroad left in lurch", 2 August. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/from-the-nepali-press/migrants-abroad-left-in-lurch/> [01 May 2020].
- Kaspar, H. 2005. *"I am the head of household now": Gender aspects of out-migration for labour in Nepal*. Nepal Institute of Development Studies (NIDS) (Kathmandu).
- The Kathmandu Post. 2014a. "Call for concerted efforts to stop female labour exploitation", 13 February. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2014/02/13/call-for-concerted-efforts-to-stop-female-labour-exploitation> [01 May 2020].
- ___, 2014b. "Govt to lower migrant women age bar to 25", 19 December. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/12/19/govt-to-lower-migrant-woman-age-bar-to-25> [01 May 2020].
- ___, 2014c. "Committee asks MoFA to fill ambassadorial posts", 3 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2014/05/03/committee-asks-mofa-to-fill-ambassadorial-posts> [01 May 2020].
- ___, 2014d. "Nepal to battle Oli for party helm", 20 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/04/20/nepal-to-battle-oli-for-party-helm> [01 May 2020].

___, 2015. "The unending woes of women workers", 19 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2015/09/19/the-unending-woes-of-women-workers> [01 May 2020].

___, 2016a. "Members commit to improving protections for migrant workers", 4 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2016/05/04/members-commit-to-improving-protections-for-migrant-workers> [16 Apr. 2020].

___, 2016b. "Ban on women going for domestic jobs lifted", 13 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2016/05/13/ban-on-women-going-for-domestic-jobs-lifted> [01 May 2020].

___, 2016c. "The Nepali labour sector is going in a sad and wrong direction", 27 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/interviews/2016/06/27/the-nepali-labour-sector-is-going-in-a-sad-and-wrong-direction> [01 May 2020].

___, 2016d. "Stop smuggling of Nepalis to high risk zones: House panel", 23 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2016/06/23/stop-smuggling-of-nepalis-to-high-risk-zones-house-panel> [01 May 2020].

___, 2016e. "Rights groups against age limit for women migrant workers", 25 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2016/06/25/rights-groups-against-age-limit-for-women-migrant-workers> [01 May 2020].

___, 2016f. "Officials put through wringer over VLN Nepal", 23 February. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2016/02/23/officials-put-through-wringer-over-vln-nepal> [01 May 2020].

___, 2017a. "Just victims?", 25 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2017/08/25/just-victims> [01 May 2020].

___, 2017b. "Human distress", 10 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/editorial/2017/08/10/human-distress> [01 May 2020].

___, 2017c. "House panel says immigration officials involved", 29 March. Available at: <https://kathmandupost.com/valley/2017/03/29/house-panel-says-immigration-officials-involved> [01 May 2020].

___, 2017d. "Punish human traffickers, House panel directs govt", 3 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2017/04/03/punish-human-traffickers-house-panel-directs-govt> [01 May 2020].

___, 2017e. "Slaving away", 10 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/editorial/2017/11/10/slaving-away> [01 May 2020].

___, 2017f. "MoFA failed to act, says house panel report", 9 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2017/08/09/mofa-failed-to-act-says-house-panel-report> [01 May 2020].

___, 2017g. "Migrants' problems will be resolved soon: Mahara", 28 July. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2017/07/28/migrants-problems-will-be-resolved-soon-mahara> [01 May 2020].

___, 2018a. "Ten parliamentary panel chiefs sworn in", 22 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/09/22/ten-parliamentary-panel-chiefs-sworn-in> [01 May 2020].

___, 2018b. "Experts doubt new labour offices will ease centre's load", 24 March. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/03/24/experts-doubt-new-labour-offices-will-ease-centres-load> [01 May 2020].

___, 2018c. "Crackdown on agencies halts migrant workers departure", 28 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2018/06/28/>

crackdown-on-agencies-halts-migrant-workers-departure [01 May 2020].

___. 2018d. "Government hikes recruiting agencies' guarantee money", 16 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/09/16/government-hikes-recruiting-agencies-guarantee-money> [01 May 2020].

___. 2019a. "Two years on, Nepali women still barred from working in the Gulf as housemaids", 14 May. Available at: <https://kathmandupost.com/valley/2019/05/14/two-years-on-nepali-women-still-barrred-from-working-in-the-gulf-as-housemaids> [01 May 2020].

___. 2019b. "Nepali women abroad", 19 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2019/05/19/nepali-women-abroad> [01 May 2020].

___. 2019c. "Migrant workers trapped abroad", 11 July. *Kathmandu Post* (Kathmandu). Available at: <http://kathmandupost.ekantipur.com.np/news/2019-07-11/migrants-workers-trapped-abroad.html> [01 May 2020].

K.C., L. Van der Haar, G.; Hilhorst, D. 2017. "Changing gender role: Women's livelihoods, conflict and post-conflict security in Nepal" in *Journal of Asian Security and International Affairs*, Vol. 4, No. 2, pp. 175-195.

Kelly, A.; McIntyre, N.; Pattisson, P. 2019. "Revealed: Hundreds of migrant workers dying of heat stress in Qatar each year", 2 October. *The Guardian* (Doha). Available at: <https://www.theguardian.com/global-development/2019/oct/02/revealed-hundreds-of-migrant-workers-dying-of-heat-stress-in-qatar-each-year> [01 May 2020].

Kern, A.; Müller-Böker, U. 2015. "The middle space of migration: A case study on brokerage and recruitment agencies", in *Geoforum*, Vol. 65, pp. 158-169.

Khadka, U. 2018a. "Ban the ban", 9 March. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/here-now/ban-the-ban/> [01 May 2020].

___. 2018b. "Homes away from home", 27 April. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/banner/homes-away-from-home/> [01 May 2020].

___. 2018c. "Changing the headlines on migration", 11 December. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/opinion/changing-the-headlines-on-migration/> [01 May 2020].

___. 2020. "Lift the ban on domestic workers", 25 February. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/latest/lift-the-ban-on-female-domestic-workers/> [01 May 2020].

Kharel, A. 2016. *Female labour migration and the restructuring of migration discourse: A study of female workers from Chitwan, Nepal*. Kansas State University (Manhattan).

Kiss, L.; Bosc, I. 2017. "What role can empowerment play in preventing exploitation of migrants?", 18 December. London School of Hygiene and Tropical Medicine and International Labour Organization. Available at: <https://www.lshtm.ac.uk/newsevents/expert-opinion/what-role-can-empowerment-play-preventing-exploitation-migrants> [11 Apr. 2020].

Kralley, E.; Hovy, B. 2020. "Data and research to inform global policy: The global compact or safe, orderly and regular migration" in *Comparative Migration Studies*, Vol. 8, No. 11.

Kumar, S. 2019. "Nepal confirms 'many deaths' in Qatar as show says figure as high as 1,400", 11 June. *Arab News* (New Delhi). Available at: <https://www.arabnews.com/node/1509121/sport> [01 May 2020].

Kumar Mandal, C. 2017. "'Free visa free ticket' scheme a dud: Panel", 10 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2017/08/10/free-visa-free-ticket-scheme-a-dud-panel> [01 May 2020].

___ 2018a. "Work begins for sending Nepali domestic helps", 17 March *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/03/17/work-begins-for-sending-nepali-domestic-helps> [01 May 2020].

___ 2018b. "Grievances of migrant workers: Minister Bista orders daily hearing of cases", 19 March. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/03/19/minister-bista-orders-daily-hearing-of-cases> [01 May 2020].

___ 2018c. "Govt sets new rule to protect Nepalis working abroad", 9 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2018/05/09/govt-sets-new-rule-to-protect-nepalis-working-abroad> [01 May 2020].

___ 2018d. "Ministry relief for migrant workers", 17 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/valley/2018/04/17/ministry-relief-for-migrant-workers> [01 May 2020].

___ 2018e. "Bista moots employment board name change to spur local jobs", 24 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2018/08/24/bista-moots-employment-board-name-change-to-spur-local-jobs> [01 May 2020].

___ 2018f. "Minister discusses labour issues with Qatar envoy", 19 July. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2018/07/19/minister-discusses-labour-issues-with-qatar-envoy> [01 May 2020].

___ 2018g. "Fifth Colombo Process meet kicks off in Kathmandu", 16 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/11/16/fifth-colombo-process-meet-kicks-off-in-kathmandu> [01 May 2020].

___ 2019a. "Recruitment agency with scrapped licence found still operating", 25 October. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/10/25/recruitment-agency-with-scrapped-licence-found-still-operating> [10 Mar. 2020].

___ 2019b. "Labour market reforms", 31 December. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/12/31/labour-market-reforms> [15 Mar. 2020].

___ 2019c. "He was one of the few ministers who delivered. Then the prime minister sacked him.", 25 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/politics/2019/11/25/he-was-one-of-the-few-ministers-who-delivered-then-the-prime-minister-sacked-him> [01 May 2020].

___ 2019d. "Recruiting agencies want interest on their cash deposit", 11 May. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/05/11/recruiting-agencies-want-interest-on-their-cash-deposit> [01 May 2020].

___ 2019e. "Nearly 1.5 million Nepalis at risk of human trafficking, report says", 6 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/08/06/nearly-1-5-million-nepalis-at-risk-of-human-trafficking-while-35-000-trafficked-last-year-nhrc-report> [01 May 2020].

___ 2019f. "New provision to allow Nepali domestic help in Gulf to return home during break", 23 August. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/08/23/new-provision-to-allow-nepali-domestic-help-in-gulf-to-return-home-during-break> [01 May 2020].

___ 2019g. "Government formally resumes labour migration to Malaysia after nearly 16 months", 16 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/09/16/government-formally-resumes-labour-migration-to-malaysia-after-nearly-16-months> [01 May 2020].

___ 2019h. "Revision in policy makes it easier for returnee migrant workers to access soft loan", 29 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/11/29/revision-in-policy-makes-it-easier-for-returnee-migrant-workers-to-access-soft-loan> [01 May 2020].

___ 2019i. "Gokarna Bista: Foreign employment is not our main agenda, job creation inside the country is", 3 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/>

interviews/2019/09/03/gokarna-bista-foreign-employment-is-not-our-main-agenda-job-creation-inside-the-country-is [01 May 2020].

___. 2019j. "Foreign Employment Board to impart skill training for free to the unemployed, unskilled and aspirant migrant workers", 17 October. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/10/17/foreign-employment-board-to-impart-skill-training-for-free-to-the-unemployed-unskilled-and-aspirant-migrant-workers> [01 May 2020].

___. 2019k. "Nepalis rescued from Manipur brought to Kathmandu", 21 February. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/02/21/nepalis-rescued-from-manipur-brought-to-kathmandu> [01 May 2020].

___. 2019l. "Japan opens its door for Nepali skilled workers", 25 March. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/03/25/japan-opens-its-door-for-nepali-skilled-workers> [01 May 2020].

___. 2020a. "Hundreds of young, healthy Nepalis die sudden deaths in foreign lands. No one knows what's killing them", 29 February. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2020/02/29/hundreds-of-young-healthy-nepalis-die-sudden-deaths-in-foreign-lands-no-one-knows-what-s-killing-them> [01 May 2020].

___. 2020b. "Out-of-job domestic workers are struggling for survival even as lockdown is relaxed", 21 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2020/06/21/out-of-job-domestic-workers-are-struggling-for-survival-even-as-lockdown-is-relaxed> [22 June 2020].

___. 2020c. "Labour migration experts criticize government decision to resume foreign employment", 22 June. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2020/06/22/labour-migration-experts-criticise-government-decision-to-resume-foreign-employment> [22 June 2020].

Lama, S. 2019. "Govt getting ready to ratify Palermo Protocol", 15 May. *MyRepública* (Kathmandu). Available at: <https://myrepublica.nagariknetwork.com/news/govt-getting-ready-to-ratify-palermo-protocol/> [15 Apr. 2020].

Law Commission of Nepal. 2007. *Human Trafficking and Transportation (Control) Act, 2064*. Nepal Law Commission of the Ministry of Law, Justice and Parliamentary Affairs (Kathmandu).

___. 2008. *The Foreign Employment Rules, 2064 (2008)*. Nepal Law Commission of Ministry of Law, Justice and Parliamentary Affairs (Kathmandu).

Lightman, N. 2018. "The migrant in the market: Care penalties and immigration in eight liberal welfare regimes", in *Journal of European Social Policy*, Vol. 29, No. 2, pp. 182-196.

Liljas, P. 2014. "Nepalese World Cup worker dies every other day in Qatar", 24 December. *Time* (Kathmandu). Available at: <https://time.com/3646505/world-cup-qatar-nepalese-worker-dying-soccer-football/> [01 May 2020].

Lindquist, K.; Xiang, B.; Yeoh, B.S.A., 2012. "Opening the black box of migration: Brokers, the organization of transnational mobility and the changing political economic in Asia", in *Pacific Affairs*, Vol. 85, No. 1, pp. 7-19.

Liu, S. "Exploitation of overseas migrant labour: Analysis of migration policy in Nepal and the Philippines", in *Social Impact Research Experience (SIRE)*, 36.

Logan, M. 2005. "Slavery with a capital S", 17 November. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=3892#.XwbhSi-z3Ea> [01 May 2020].

Lokaantar Sanchar Pvt. Ltd. n.d. "Technical and vocational education and training in Nepal", n.d. *Lokaantar Sanchar Pvt. Ltd.* (Kathmandu).

Magar, J. 2004. "Manpower agencies and women's power", 5 August. Available at: <http://archive.nepalitimes.com/news.php?id=1981#.XrGpeS-z1n5> [01 May 2020].

Mahato, R. 2012. "To hell and back", 05 April. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=19121#.XqyN8y-z2uV> [01 May 2020].

Mak, J.; Kiss, L.; Zimmerman, C. 2019. *Pathways to prevent labour exploitation in Nepal: Do pre-migration interventions work*. SWiFT Research report. London School of Hygiene & Tropical Medicine (London).

Manohar, S. 2020. "Blog 25: Covid-19's discriminating path: The inequities and vulnerabilities of a pandemic in Nepal", 21 May. *Nutrition Connect* (Geneva). Available at: <https://nutritionconnect.org/resource-center/blog-25-covid-19s-discriminating-path-inequities-and-vulnerabilities-pandemic-nepal> [20 June 2020].

March, J.; Olsen, J. 2011. "The logic of appropriateness". *The Oxford Handbook of Political Science* (Oxford).

Matthei, L. 1999. "Gender and international labour migration: A networks approach" in *Social Justice*, Vol. 23, No. 3, pp. 38-53.

McGovern, P. "Who are you calling unskilled", 6 March. *London School of Economics*. LSE (London). Available at: <https://blogs.lse.ac.uk/brexit/2020/03/06/long-read-who-are-you-calling-unskilled/> [02 Jun. 2020].

McQue, K. 2020. "How Nepal's migration ban traps female 'modern day slaves' in the Gulf", 14 February. *The Guardian*. Available at: <https://www.theguardian.com/global-development/2020/feb/14/how-nepals-migration-ban-traps-female-modern-day-slaves-in-the-gulf> [10 Mar. 2020].

Merriam-Webster Dictionary. n.d. caste. Available here: <https://www.merriam-webster.com/dictionary/caste> [01 Apr. 2020].

Mezzadra, S. 2004. "The right to escape", in *Ephemera*, Vol. 4, No. 3, pp. 267-275.

Migrant Forum in Asia (MFA). 2012. *Reform of the Kafala (sponsorship) system*. Policy Brief No. 2. MFA (Quezon City).

___. 2015. *Universal Periodic Review on Nepal: Written submission of the Migrant Forum in Asia network to the 23rd session of the Universal Periodic Review, 4 November 2015*. MFA (Quezon City).

___. 2017. *Stand firm with Nepal: Zero fees as a first step towards migrant worker empowerment*. Open Working Group on Labour Migration & Recruitment, Policy Brief No. 6. MFA (Quezon City).

___. 2018. *Nepal: A documentary on the role of sub-agents in the recruitment of migrant workers* [online]. Bautali, Nepal. CIMS Kerala.

Migrant-rights.org. 2018. "Assessing Bahrain's new standard contract for domestic workers", 15 March. *Migrant-rights.org*. Available at: [https://www.migrant-rights.org/2018/03/assessing-bahrains-new-standard-contract-for-domestic-workers/#:~:text=Bahrain%20has%20long%20required%20contracts,\(ILO\)%20domestic%20worker%20standards.](https://www.migrant-rights.org/2018/03/assessing-bahrains-new-standard-contract-for-domestic-workers/#:~:text=Bahrain%20has%20long%20required%20contracts,(ILO)%20domestic%20worker%20standards.) [15 May 2020].

Mindo, K. 2019. "Why are so many Nepali workers in Korea committing suicide?", 15 October. *IPS News* (Seoul). Available at: <http://www.ipsnews.net/2019/10/many-nepali-workers-korea-committing-suicide/> [01 May 2020].

Ministry of Agricultural Development (MoAD) 2015. *Agriculture Development Strategy (ADS) 2015 to 2035*. MoAD (Kathmandu).

Ministry of Labour, Employment and Social Security (MoLESS). 2016. *National Employment Policy 2071*. MoLESS (Kathmandu).

___. 2018.. *Labour migration for employment: A status report for Nepal – 2015/2016 – 2016/2017*. MOLESS (Kathmandu).

___. 2020. *Nepal labour migration report 2020*. MoLESS (Kathmandu).

Murphy, R. 2008. "The impact of socio-cultural norms on women's experiences of migration and the implications for development". *SSRC Migration & Development Conference Paper No. 17. "Migration and Development: Future Directions for Research and Policy"*, 28 February – 01 March. *Social Science Research Council* (New York).

MyRepública. 2018. "Homework needed to ratify ILO C189, UN C1990", 27 December. *MyRepública* (Kathmandu). Available at: <https://myrepublica.nagariknetwork.com/news/homework-needed-to-ratify-ilo-c189-un-c1990/> [10 Apr. 2020].

Nair, A. 2010. "Nepal lifts ban on its women working in the Gulf", 10 December. *One India* (Delhi). Available at: <https://www.oneindia.com/2010/12/10/nepallifts-ban-on-its-women-working-in-thegulf.html> [01 May 2020].

National Human Rights Commission (NHRC). 2018. *Trafficking in Persons in Nepal: National Report*. Office of the Special Rapporteur on Trafficking in Persons (OSRT), NHRC (Lalitpur).

___. 2019. *2019 migrant worker newsletter*. NHRC (Lalitpur). Available at: http://www.nhrcnepal.org/nhrc_new/doc/newsletter/Migrant_Workers_Rights_and_NHRC_Nepals_Initiative_Brochure_2075-11-19.pdf [16 Apr. 2020].

Nepal, S.; Aryal, S. 2020. "COVID-19 and Nepal: A gender perspective", in *Journal of Lumbini Medical College*, Vol. 8 No. 1.

Nepali Times. 2003. "Back to the Gulf", 13 Feb. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=4627#.XrGrnC-z1n5> [01 May 2020].

___. 2011. "Ministers sworn in", 13 April. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/2011/04/13/ministers-sworn-in/> [01 May 2020].

___. 2012a. "Womanpower", 29 March. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=19120#.X2ajHC-z0ym> [01 May 2020].

___. 2012b. "Prime Minister sacks Labour Minister Giri", 23 March. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/2012/03/23/prime-minister-sacks-labour-minister-giri/> [01 May 2020].

___. 2013. "HRW: Collective push for migrants rights", 18 December. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/2013/12/18/south-asia-migrant-workers-gulf-hrw-saarc/> [01 May 2020].

___. 2015a. "Israel calling", 7 August. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/page/106/> [01 May 2020].

___. 2015b. "Mission unaccomplished", 3 August. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/blogs/thebrief/page/106/> [01 May 2020].

___. 2018a. "Win-win migration", 15 November. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/here-now/win-win-migration/> [01 May 2020].

___. 2019a. "Blood, sweat and tears", 25 November. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/editorial/blood-sweat-and-tears/> [01 May 2020].

Neupane Law Associates. 2017. "Labour Act 2074: Key Changes", 29 December. Neupane Law Associates (Kathmandu). Available at: <https://www.neupanelegal.com/news-detail/labour-act-2074-nepal-key-changes.html> [02 Apr. 2020].

New Era and Nepal Ministry of Health. 2017. *2016 Demographic and Health Survey: key findings*. New Era and Nepal Ministry of Health (Kathmandu).

New Spotlight. 2020. "Nepal suspends issuing work permit to migrant Nepalese worker", 4 March. *New Spotlight* (Kathmandu). Available at: <https://www.spotlightnepal.com/2020/03/04/nepal-suspends-issuing-work-permit-migrant-nepalese-worker/> [05 June 2020].

O'Neill, T. 2001. "'Selling girls in Kuwait': Domestic labour migration and trafficking discourse in Nepal" in *Anthropologica*, Vol. 43, No. 2, pp. 153-164.

Online khabar. 2019a. "From the Kathmandu Press: Wednesday, July 17, 2019", 17 July. *Online khabar* (Kathmandu). Available at: <https://english.onlinekhabar.com/from-the-kathmandu-press-wednesday-july-16-2019.html> [01 May 2020].

___. 2019b. "New ministers take oath", 21 November. *Online khabar* (Kathmandu). Available at: <https://english.onlinekhabar.com/new-ministers-take-oath.html> [01 May 2020].

Overseas Filipino Worker Guide (OFW Guide). 2014. "Beware of employment contract substitution", 03 December. Available at: http://www.ofwguide.com/article_item-1010/Beware-of-Employment-Contract-Substitution.html [25 Mar. 2020].

Oxford English Dictionary. n.d. "Intersectionality". *OED* (Oxford). Available at: <https://www.oed.com/view/Entry/429843> [24 Apr. 2020].

Pandey, G.; Oyama, T. 2019. "Long read: How equal is Nepal's Parliament", 29 November. *London School of Economics and Political Science (LSE)* (London). Available at: <https://blogs.lse.ac.uk/southasia/2019/11/29/long-read-how-equal-is-nepals-parliament/> [25 Mar. 2020].

Paoletti, S.; Taylor-Nicholson; E. Sijapati, B.; Farbenblum, B. 2014. *Migrant workers' access to justice at home: Nepal*. Open Society Foundations and Centre for the Study of Labour and Mobility, Social Science Baha (New York).

Parreñas, R. 2008. "Transnational fathering: Gendered conflicts, distant disciplining and emotional gaps", in *Journal of Ethnic and Migration Studies*, Vol. 34, No. 7: pp. 1057-1072.

___. 2015. *Servants of globalization: Migration and domestic work (2nd ed.)*. Stanford University Press (Stanford).

Piper, N. 2008. "Feminisation of migration and the social dimensions of development: the Asian case" in *Third World Quarterly*, Vol. 29, No. 7, pp. 1287-1303.

Pockock, N.; Kiss, L.; Oram, S.; Zimmerman, C. 2016. "Labour trafficking among men and boys in the greater Mekong subregion: Exploitation, violence, occupational health risks and injuries" in *PLoS ONE*, Vol. 11, No. 2.

Polaris. n.d. "Myths, facts, and statistics". *Polaris* (Washington DC). Available at: <https://polarisproject.org/myths-facts-and-statistics/> [20 Apr. 2020].

Pandey, J. 2018. "Govt ignoring parliamentary panels' directives", 16 November. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/nepal/government-ignoring-parliamentary-panels-directives/> [01 May 2020].

Pradhan, K. 2020. "Law-making: Role of parliamentary committees", 24 March. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/opinion/law-making-role-of-parliamentary-committees/> [01 May 2020].

Pradhan, T. 2018. "PM Oli appoints 15 ministers", 17 March. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2018/03/17/pm-oli-appoints-15-ministers> [01 May 2020].

Pravasi Nepali Coordination Committee (PNCC). n.d. "PNCC: Supporting migrant workers in destination countries". PNCC (Kathmandu). Available at: <https://www.pncc.org.np/?content&id=137> [29 Mar. 2020].

Preiss, D.; Shahi, P. 2017. "Two years after the devastating earthquake, Nepal's women have become easy prey for traffickers", 26 April. *Time* (Kathmandu). Available at: <https://time.com/4442805/nepal-earthquake-anniversary-poverty-women-trafficking/> [01 May 2020].

Pyakurel, U. 2015. "Waiting to leave", 7 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2015/04/07/waiting-to-leave> [01 May 2020].

___. 2018. "Restrictive labour migration policy on Nepalese women and consequences" in

Sociology and Anthropology, Vol. 6, No. 8, pp. 650-656.

Rai, H. 2003. "Why can't 'manpower' agencies find jobs for women?", 16 Jan. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=4816#.XstDFi-z3we> [01 May 2020].

Rai, D. 2009. "Modern day slaves", 01 October. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=16350#.Xqx8Yi-z2uV> [01 May 2020].

Rai, O. 2015. "Qatar is reforming labour laws, but is Nepal?", 12 November. *Nepali Times* (Kathmandu). Available at: <https://archive.nepalitimes.com/article/nation/Nepal-not-reforming-labour-laws,2687> [01 May 2020].

___. 2017. "Never heard from again: Hundreds of Nepali migrant workers never return home, not even in coffins. They simply disappear", 02 February 2017. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/article/nation/nepali-migrants-missing-abroad,3503> [05 May 2020].

___. 2018. "Labour pain", 15 November. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/here-now/labour-pain/> [01 May 2020].

Rai, B. 2019. "Nepal's labour migration policy: By men, for men", 30 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/11/30/nepal-s-migration-labour-policy-by-men-for-men> [01 May 2020].

Rai, B.; Pandey, S. 2013. "Too little, too late?", 19 September. *Nepali Times* (Kathmandu). Available at: <https://archive.nepalitimes.com/article/nation/nepal-corruption-airport-immigration,758> [01 May 2020].

Rajan, S. 2016. *South Asia migration report 2017: Recruitment, remittances and reintegration*. Routledge (New York)

Rimal, S. 2020. "Nepali labor migrants, COVID-19, and the state", 1 April. *The Asia Foundation* (San Francisco). Available at: <https://asiafoundation.org/2020/04/01/nepali-labor-migrants-covid-19-and-the-state/> [20 June 2020].

Robinson, H. 2015. "Chaupadi: The affliction of menses in Nepal", in *International Journal of Women's Dermatology*, Vol. 1, No. 4, pp. 193-194.

Rothman, B. 1989. *Recreating motherhood: Ideology and technology in a patriarchal society*. Norton (New York).

Ryan, K. 2017. "Internal need", 10 August. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/article/nation/need-government-help-to-address-internal-trafficking,3870> [01 May 2020].

Samiti, R. 2017. "Ban sending Nepalis to Gulf as domestic workers: House panel", 2 April. *Himalayan Times* (Kathmandu). Available at: <https://thehimalayantimes.com/nepal/ban-sending-nepalis-gulf-domestic-workers-house-panel-govt/> [01 May 2020].

___. 2018. "Nepal and UAE agree to revise labour pact", 28 September. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2018/09/28/nepal-and-uae-agree-to-revise-labour-pact> [01 May 2020].

Sapkota, B. 2019. "The trafficking Nepal's girls into India: A narrative study", 07 February. *Homeland Security Today* (Oakton). Available at: <https://www.hstoday.us/exclude-from-homepage/the-trafficking-of-nepals-girls-into-india-a-narrative-study/> [04 Apr. 2020].

Sapkota, R. 2019a. "Punished in Malaysia, ignored in Nepal: Even as Malaysia prosecutes minister involved in labour scam, no one is investigated in Nepal", 12 July. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/here-now/punished-in-malaysia-ignored-in-nepal/> [01 May 2020].

Sapkota, R. 2019b. "Some honest heads roll in Nepal shuffle", 21 November. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/latest/honest-heads-roll-in-nepal-reshuffle/> [01 May 2020].

Sapkota, R.; Alhadjri, A. 2018. "Kleptocrats of Kathmandu and Kuala Lumpur: Politicians and recruiters

in Nepal and Malaysia collude to loot poor Nepali migrant workers", 20 July. *Nepali Times* (Kathmandu). Available at: <https://www.nepalitimes.com/banner/kleptocrats-of-kathmandu-and-kualalumpur/> [01 May 2020].

Saudi Gazette. 2019. "New recruitment guidelines for domestic workers cause unease", 25 May. *Saudi Gazette* (Riyadh). Available at: <https://www.saudigazette.com.sa/article/567181/SAUDI-ARABIA/New-recruitment-guidelines-for-domestic-workers-cause-unease> [15 May 2020].

Sedhai, R. 2014a. "Domestic help: The plight continues", 28 January. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/01/28/domestic-help-the-plight-continues> [01 May 2020].

___. 2014b. "Nepal pressed to allow female domestic helps", 9 November. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/11/09/nepal-pressed-to-allow-female-domestic-helps> [01 May 2020].

___. 2014c. "Female migrant workers: Govt may lift ban, on safety condition" 5 December. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2014/12/05/female-migrant-workers-govt-may-lift-ban-on-safety-condition> [01 May 2020].

___. 2015a. "No country for women", 9 January. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/opinion/2015/01/09/no-country-for-women> [01 May 2020].

___. 2015b. "Govt set to revise restrictions on age", 24 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/miscellaneous/2015/04/24/govt-set-to-revise-restrictions-on-age> [01 May 2020].

___. 2017. "Travel ban on Nepali maids: Has it really helped?", 29 March. *MyRepública* (Kathmandu). Available at: <https://myrepublica.nagariknetwork.com/news/17258/> [01 May 2020].

Sharma, G. 2016. "Nepali migrants banned from working in Afghanistan, Iraq, Libya and Syria", 24 June. *Reuters* (Kathmandu). Available at: <https://www.reuters.com/article/us-nepal-migrants-ban/nepali-migrants-banned-from-working-in-afghanistan-iraq-libya-and-syria-idUSKCN0ZA2UG> [01 May 2020].

___. 2020. "Nepal's top court orders rescue of migrant workers stranded abroad", 17 April. *Reuters* (Kathmandu). Available at: <https://www.reuters.com/article/us-health-coronavirus-nepal-migrants-trf/nepals-top-court-orders-rescue-of-migrant-workers-stranded-abroad-idUSKBN21Z2DO> [15 June 2020].

Shrestha, D. 2006. "Women work", 16 Nov. *Nepali Times* (Kathmandu). Available at: <http://archive.nepalitimes.com/news.php?id=12746#.XrMNoZNKgyk> [01 May 2020].

Shrestha, E. 2019. "No help at home for women migrants who come back with babies", 25 December. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2019/12/25/no-help-at-home-for-women-migrants-who-come-back-with-babies-1577238297> [01 May 2020].

___. 2020. "Finally free abroad, social constrained at home", 12 March. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2020/03/12/financially-free-abroad-socially-constrained-at-home> [01 May 2020].

Shrestha, M.; Basu, M. 2012. "Nepal bans women under 30 from working in Gulf states", 10 Aug. *CNN* (Kathmandu). Available at: <https://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html> [16 Apr. 2020].

Shrestha, P.; Kumar Mandal, C. 2020. "With hundreds of thousands of migrants predicted to return home, Nepal needs to brace for a crisis", 22 April. *Kathmandu Post* (Kathmandu). Available at: <https://kathmandupost.com/national/2020/04/22/with-hundreds-of-thousands-of-migrants-predicted-to-return-home-nepal-needs-to-brace-for-a-crisis> [15 June 2020].

Sijapati, B.; Limbu, A. 2017. *Governing labour migration in Nepal: An analysis of existing policies and institutional mechanisms (updated edition 2017)*. Centre for the Study of Labour and Mobility, Kathmandu.

Sijapati, B.; Limbu, A; Khadkha, M. 2019. *Trafficking and forced labour in Nepal: A review of the literature*. Centre for the Study of Labour and Mobility (CESLAM) (Kathmandu).

South Asian Association for Regional Cooperation (SAARC). n.d. "About SAARC". SAARC (Kathmandu). Available at: <http://saarc-sec.org/about-saarc> [12 Mar. 2020].

___. 2016. *SAARC Plan of Action on Labour Migration*. Consultative Workshop on the SAARC Plan of Action for Cooperation on Matters Related to Migration (Kathmandu).

Subedi, M. 2011. "Caste system: Theories and practices in Nepal" in *Himalayan Journal of Sociology & Anthropology*, Vol. 4, pp.134 – 159.

Swatantrata Abhiyan. 2015. *Defending labour rights in Nepal*. Submission to the United Nations' Human Rights Council's Universal Periodic Review (Lalitpur).

Thieme, S.; Bhattra, R.; Gurung, G.; Kollmair, M. 2005. "Addressing the needs of Nepalese migrant workers in Nepal and in Delhi, India" in *Mountain Research and Development*, Vo. 25, No.2, pp. 109-114.

Thieme, S. 2006. *Social networks and migration: Far west Nepalese labour migrants in Delhi*. LIT (Münster).

Timilsina, K.; Sawangdee, Y.; Hunchangsith, P.; Rittirong, J. 2018. "Female labor force participation, paid maternity, caste system and under-5 mortality in Nepal" in *Journal of Health and Research*, Vol. 33, No. 1, pp. 57-67.

Timothy, R.; Sasikumar, S.K. 2012. *Migration of women workers from South Asia to the Gulf*. UN Women (Delhi).

TRT World. 2017. "Nepal immigration officials traffic women, says parliamentary report", 8 August. *TRT World* (Istanbul). Available at: <https://www.trtworld.com/asia/nepal-immigration-officials-traffic-women-says-parliamentary-report-417868> [01 May 2020].

United Arab Emirates (UAE) Government Portal. n.d. "The UAE's policy on domestic helpers". Government Portal of the UAE. Available at: <https://u.ae/en/information-and-services/jobs/domestic-workers/uae-policy-on-domestic-helpers> [24 Mar. 2020].

University of California Davis (UC Davis). 2011. *South Asia*. Vol. 18, No. 1. UC Davis (Davis).

United Nations (UN). n.d.a. "Sustainable Development Goal 8". United Nations (New York). Available at: <https://sustainabledevelopment.un.org/sdg8> [14 Apr. 2020].

___. n.d.b. "Goal 10: Reduce inequality within and among countries". United Nations (New York). Available at: <https://www.un.org/sustainabledevelopment/inequality/> [14 Apr. 2020].

United Nations Department of Economic and Social Affairs (UN DESA). n.d.a. "Least developed country category: Nepal profile". *UN DESA* (New York). Available at: <https://www.un.org/development/desa/dpad/least-developed-country-category-nepal.html> [21 Apr. 2020].

___. n.d.b. "Sustainable Development Goal 17". *UN DESA* (New York). Available at: <https://sustainabledevelopment.un.org/sdg17> [24 Apr. 2020].

___. 2019. *International migrant stock: The 2019 revision* (New York).

United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). 1979. *Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)*. UN Women (New York).

___. 2015. "Working to stem the tide of post-earthquake migration in Nepal", 24 September. UN Women (Kathmandu). Available at: <https://www.unwomen.org/en/news/stories/2015/9/nepal-post-earthquake-migration> [01 Apr. 2020].

___. 2017. *Returning home: challenges and opportunities for women migrant workers in the Nepali labour market*. UN Women (Kathmandu).

___. 2020. *Guidance note for action: Addressing the emerging impacts of the COVID-19 pandemic on migrant women in Asia and the Pacific for a gender-responsive recovery*. UN Women (Bangkok).

United Nations Development Programme (UN DP). 2007. *The Interim Constitution of Nepal, 2063 (2007) with the English and Nepali side-by-side*. UNDP (Kathmandu).

___. 2019. *Human development report 2019 – Country Profile, Nepal*. UNDP (New York).

United Nations Office of the High Commissioner for Human Rights (UN OHCHR). 1990. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. OHCHR (Geneva).

___. 2018. *Report of the Special Rapporteur on the human rights of migrants on his mission to Nepal*. Thirty-eight session, 18 June – 6 July 2018. OHCHR (Geneva).

United Nations Office on Drugs and Crime (UNODC). 2000. *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*. UNODC (Vienna).

___. 2020. *Multi country study on the smuggling of migrants and trafficking in persons from Nepal*. UNODC (Kathmandu).

United Nations Population Fund (UN FPA). 2017. *Population situation analysis of Nepal (with respect to sustainable development)*. UNFPA (Kathmandu).

United States Agency for International Development. 2019. *2018 civil society organization sustainability index*. USAID (Washington D.C.).

United States Department of State (US DOS). 2019. *Trafficking in Persons Report: Nepal*. US DOS (Washington D.C.).

United States Embassy in Nepal. n.d. "Nepal COVID-19 information page". US Embassy in Nepal (Kathmandu). Available at: <https://np.usembassy.gov/covid-19-information/> [01 June 2020].

United States Library of Congress. 2017. "United Arab Emirates: New law to support Domestic Workers", 9 November. Available at: <https://www.loc.gov/law/foreign-news/article/united-arab-emirates-new-law-to-support-domestic-workers/> [15 May 2020].

Van der Velder, M.; van Naerssen, M. 2016. *Mobility and migration choices: Thresholds to crossing borders*. Routledge (New York).

Watkins, F. and Nurick, R. 2002. *Migration in South Asia in policy and practice: A regional overview*. University of Edinburgh and Development Focus International (Edinburgh).

Wickramasekara, P. 2012. *Something is better than nothing: Enhancing the protection of Indian migrant workers through Bilateral Agreements and Memoranda of Understanding*: Migrant Forum in Asia (Quezon City).

The Women's Foundation Nepal. 2020. "Divorce". WFN (Kathmandu). Available at: <https://www.womenepal.org/womens-and-childrens-issues/divorce/> [10 Apr. 2020].

The World Bank. n.d.a. Migration and remittances data (Washington, DC). Available at: <https://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> [22 Mar. 2020].

___. n.d.b. "The World Bank in Jordan". *The World Bank* (Washington, DC). Available at: <https://www.worldbank.org/en/country/jordan/overview>

___. 2017. *Climbing higher: Toward a middle-income Nepal*. Nepal Country Economic Memorandum. World Bank (Washington DC).

Yeates, N. 2004. "Global care chains" in *International Feminist Journal of Politics*, Vol. 6 No. 3, pp. 369-391.

___. 2005. "Global care chains: A critical introduction", in *Global Migration Perspectives*, 44. Global Commission on International Migration (GCIM) (Geneva).

Zimmerman, C.; McAlpine, A.; Kiss, L. 2015. *Safer labour migration and community-based prevention of exploitation*. The Freedom Fund and London School of Hygiene & Tropical Medicine (LSHTM) (London).



Annexes

Annex A: Definitions of Key Terms

Agent	For the purposes of this report, an agent is considered an independent broker who provides migration services to aspiring migrants, either linking them to recruitment agencies in Kathmandu, recruitment agencies in transit or destination countries, or directly to employers in destination countries. An agent may or may not have a legal entity and may or may not be associated with a recruitment agency.
Care Work	Care work and care activities are comprised of: (1) “direct, face-to-face, personal care activities... such as feeding a baby, nursing a sick partner, helping an older person to take a bath, carrying out health check-ups or teaching young children”; as well as (2) “indirect care activities, which do not entail face-to-face personal care, such as cleaning, cooking, doing the laundry and other household maintenance tasks”. Care work “always takes place within a care relationship between a caregiver and a care receiver”. It can be both paid and unpaid. <i>(ILO, Care work and care jobs: For the future of decent work, 2018: p.6).</i>
Debt Bondage	Exists when “labourers (sometimes with their families) are forced to work for an employer in order to pay off their own debts or those they have inherited” <i>(ILO, “Business and forced labour”, n.d. – available at: https://www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_FL_EN/lang--en/index.htm [11 Apr. 2020].</i>
Domestic Work	“Work performed in or for a household or households” <i>(ILO, Domestic Workers Convention, 2011 (No. 189)</i>
Domestic Worker	“Any person engaged in domestic work within an employment relationship”. Further, “A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.” <i>(ILO, Domestic Workers Convention, 2011 (No. 189).</i>
Forced Labour	“All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily” <i>(ILO Forced Labour Convention, 1930 (No.29)</i> The definition consists of three elements: “1. Work or service refers to all types of work occurring in any activity, industry or sector including in the informal economy; 2. Menace of any penalty refers to a wide range of penalties used to compel someone to work. 3. Involuntariness – the term ‘offered voluntarily’ refers to the free and informed consent of a worker to take a job and his or her freedom to leave at any time. This is not the case for example when an employer or recruiter makes false promises so that a worker take a job he or she would not otherwise have accepted” <i>(The Forced Labour Protocol, Article 1(3))</i> *Note: See Article 2(2) of Convention No. 29 for exceptions to this definition of “forced labour” as well as the Abolition of Forced Labour Convention No. 105 for information concerning forced labour imposed by state authorities.
International Migrant	“Any person who changes his or her country of usual residence” <i>(United Nations Department of Economic and Social Affairs (UN DESA), recommendations on the statistics of international migration, revision 1 (1998) para. 32).</i>
Irregular Migration	“Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country” <i>(IOM, Key Migration Terms, n.d.).</i>
Migrant for employment	“A person who migrates from one country to another with a view of being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment” <i>(ILO, Convention on Migration for Employment (No. 97), 1949).</i>

Migrant Worker	<p>"A person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national." <i>(UNTC, Article 2(1), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990).</i></p>
Recruitment agency	<p>For the purposes of this report, a recruitment agency refers to a registered foreign employment agency that has obtained a government permit to send Nepali workers for foreign employment. In Nepal recruitment agencies are also referred to as "manpower companies".</p>
Remittances	<p>"Household income from foreign economies arising mainly from the temporary or permanent movement of people to those economies. Remittances include cash and non-cash items that flow through formal channels, such as via electronic wire, or through informal channels, such as money or goods carried across borders. They largely consist of funds and non-cash items sent or given by individuals who have migrated to a new economy and become residents there, and the net compensation of border, seasonal, or other short-term workers who are employed in an economy in which they are not residents." <i>(IMF, International Transactions in Remittances: Guide for Compilers and Users, 2009).</i></p>
Reproductive labour	<p>"Comprises remunerated as well as unpaid activities that reproduce the work force – this includes daily activities as cooking, washing clothes but also bearing children". <i>(Exploring Economics, "Reproductive Labour and Care", 2016. Available at: https://www.exploring-economics.org/en/discover/reproductive-labour-and-care/ [13 Apr. 2020].</i></p>
Smuggling of migrants	<p>"[...] the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. "Illegal entry" shall mean crossing borders without complying with the necessary requirement for legal entry into the receiving State; "Fraudulent travel or identity document" shall mean any travel or identity document: (1) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or (2) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (3) that is being used by a person other than the rightful holder". <i>(UNODC, Article 3 (a) (b) and (c), Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, 2000).</i></p>
Trafficking in Persons	<p>"The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" <i>(OHCHR, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3 (a), 2000).</i></p>

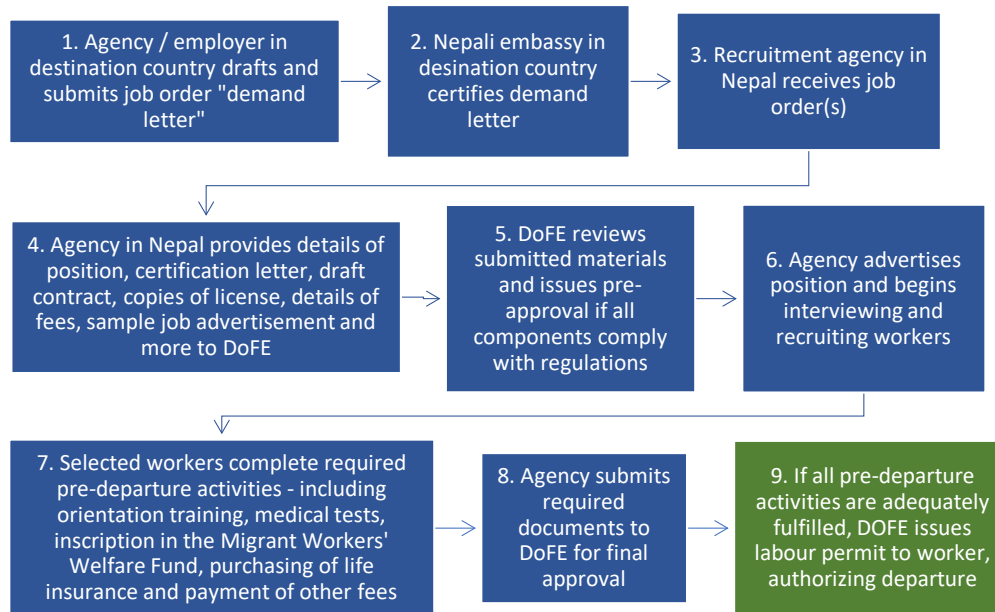
Annex B: List of Key Informants Interviewed

	Institution	Body / Agency	No. of individuals interviewed
1	Government ministry	Ministry of Labour, Employment and Social Security	1
2	Government ministry	Ministry of Foreign Affairs	1
3	Government ministry	National Planning Commission	1
4	Parliament	Elected Member – National Assembly	1
5	Parliament	Elected Member – House of Representatives, Member – Parliamentary Committee on Industry, Commerce, Labour and Consumer Welfare	1
6	Trade Union	General Federation of Nepalese Trade Unions (GEFONT)	1
7	Trade Union	All Nepal Trade Union Federation (ANTUF)	4
8	Trade Union	South Asian Regional Trade Union Congress (SARTUC)	1
9	UN organization	International Labour Organization (ILO)	4
10	UN organization	UN Women	2
11	UN organization	International Organization for Migration (IOM)	2
12	UN organization	UN Office on Drugs and Crime (UNODC)	1
13	CSO	Women's Rehabilitation Center (WOREC)	1
14	CSO	POURAKHI	5
15	CSO	Swatantrata Abhiyan	1
16	CSO	People Forum	1
17	CSO	Alliance Against Trafficking of Women in Nepal (AATWIN)	1
18	CSO	Winrock International	1
19	Research institute	Social Science Baha / Centre for the Study of Labour and Mobility (CESLAM)	2
20	Research institute	Nepal Institute of Development Studies (NIDS)	1
21	Independent expert	Nepali journalist specializing on gender, migration and foreign employment	1
22	Independent expert	Activist, government advisor, decades of experience as a UN programme specialist, worked with government and CSOs, development and gender expert	1
23	Independent expert	Activist, founding member of migrant rights CSO, government advisor, academic expert	1
24	Recruitment actor	Nepal Association of Foreign Employment Agencies (NAFEA)	1
25	Recruitment actor	Top Jobs (Pvt) Ltd (recruitment agency)	1
26	Recruitment actor	Crown Overseas Consultancy / Domestic Workers Society	1

Annex C: Brief Overview of the General (Formal) Recruitment Process In Nepal

While the typical (legal) recruitment process for Nepali workers is a complex and often lengthy procedure, the below Figure 3.5 gives a high-level overview of the principle steps involved.

► **Figure C: Brief step-by-step overview of migrant worker recruitment process in Nepal**



Sources: Paoletti et al., 2014; MoLESS, 2020.

In order for a recruitment agency to operate legally in Nepal, the firm must be registered with and obtain a license from the GoN / DoFE. DoFE keeps an updated list of these agencies on their website.²⁶ As of March 2020, there were a total of 827 active recruitment agencies included on DoFE's website. There were 406 inactive agencies, as well as 208 agencies who were blocked / suspended (DoFE, n.d.).

There are numerous ongoing concerns regarding the structure and actions of formal recruitment agencies involved in the foreign employment industry. Firstly, powerful recruitment agencies in Nepal have been accused in the past of engaging in public-private collusion, bribing officials, having suspicious political affiliations in government, forging work permits and other documents, contract substitution, providing loans to workers at exorbitantly high interest rates, overcharging of fees, misrepresentation of job conditions and salaries, and more (GAATW, 2017; IHRB, 2018; MFA, 2017; Paoletti et al., 2014). In addition, the Nepal MoLESS acknowledges that there are too many agencies focused on too few destination countries for migrant workers, which in turn has produced unhealthy competition in the recruitment industry and subsequently led to increases in recruitment costs and decreases in the wages and amenities offered to workers (MoLESS, 2020).

The majority of registered agencies are based in Kathmandu, whereas most of the migrant workers that are recruited are located outside of the Kathmandu Valley. To access workers all over the country recruitment agencies typically rely on individual contractors, or "agents", of which there are thousands operating in villages all over Nepal (Paoletti et al., 2014). However, the sub-agent system is until this point not well-regulated. It is common knowledge that there are thousands of unregistered individual recruitment agents operating all over Nepal, some of whom who are tied to multiple agencies, a single

²⁶ The recruitment agency list may be located [here](#). (DoFE, n.d.) [accessed 24 Mar. 2020].

agency, or are operating independently. Paoletti et al. (2014) finds that there is no adequate system in place in order to penalize any agencies who use unregistered agents.

Recruitment agencies typically earn income through the charging of recruitment (service) fees, commissions paid by clients overseas for the placement of workers, as well as charges covered for pre-departure services. However, some of the charges to workers can be exorbitant, especially for male migrant workers, to the point where many migrants are forced to take out loans in order to cover their migration costs. These practices of debt-financed migration can produce the conditions for debt bondage, forced labour and exploitation recounted briefly in section 3.4. Concerns over the price-gouging of migrant workers led the GoN to approve the “Free Visa-Free Ticket” policy in 2015, which obligated employers to bear the costs of visas and roundtrip flights for all workers departing to Oman, Saudi Arabia, Bahrain, UAE, Kuwait, Qatar and Malaysia, and limited agencies to charging a maximum Rs.10,000 service fee (MFA, 2017). Before this, the government had set a fee ceiling of between roughly NPR 70,000-80,000, but there were numerous reports of workers paying between two and four times this maximum limit (MFA, 2017).

Since the signing of this policy, however, implementation has been largely unsuccessful. The policy was highly disputed by powerful recruitment actors, and agencies argued that this would significantly decrease demand for Nepali workers abroad (MFA, 2017). NAFEA even halted their recruitment operations for a period while they demanded policy revisions. Since the law was signed, there have been no strong mechanisms in place to oversee transactions between workers and agencies. Workers report paying higher fees and subsequently being issued false receipts that show the fees which are legally permissible (IHRB, 2018; MFA, 2017). There are no mechanisms in place to ensure that employers in destination countries do not later try to reclaim fees they have paid from workers’ wages (Ibid). There is also limited public awareness of the policies.

Steps 5 and 8 of Figure C above outline DoFE’s role in giving pre-approval and final approval of jobs and recruitment procedures. While this section has highlighted some of the shortcomings in this process, it is important to acknowledge that there is some oversight of formal recruitment agencies and that some degree of the process can be reviewed by governmental authorities to ensure compliance. DoFE may refuse approval for jobs on a number of grounds, including if the job seems to pose a risk to workers, for security reasons, if there are inconsistencies in documents or stipulated conditions, if jobs do not pay the minimum amount set by the GoN, if there are mismatches between the profile of worker sought by the agency and the nature of the position itself, or if a Nepali mission abroad notifies DoFE of any issues with the prospective employer in the destination country (Paoletti et al., 2014).

DoFE can also punish recruitment agencies with fines, imprisonment and revocation of licenses for sending workers without a license, sending workers without permission, falsifying or concealing information in documents or reports, for charging excess fees or for providing foreign employment under conditions that violate work contracts (Sijapati and Limbu, 2017). However, enforcement of these procedures has historically been lax (Paoletti et al., 2014), and retribution processes through any of the available channels for migrant workers – including Nepal’s Foreign Employment Tribunal, through DoFE, or through the regular court system (amongst others) - are known to be administratively complicated, expensive and non-transparent (Paoletti et al., 2014). Recruitment agencies whose licenses are revoked for malpractice or illegal activity are often found to continue operating even without a license (Kumar Mandal, 2019a).

Notably, many of the elements described above represent key violations of ILO’s *General Principles and Operational Guidelines for Fair Recruitment*, which advocate for recruitment practices which respect internationally-recognized human rights and labour standards, urge for an efficient and timely recruitment process which simultaneously protects workers, and call for clear and transparent regulations of recruitment activities that are effectively enforced (ILO, 2019c).²⁷

27 Additional information on this ILO fair recruitment initiative may be located [here](#). (ILO, 2019c) [accessed 08 Apr. 2020].

Annex D: Domestic and International Frameworks Governing Migrant Domestic Work and Mobility of Nepali Women

This annex will outline key domestic, regional and international governance structures that collectively outline rights, rules and procedures related to female labour migration and migrant domestic work. It will also outline broader frameworks relevant to employment, non-discrimination and gender equality, and instruments related to forced labour and human trafficking. Where relevant, laws, policies and other regulations will be discussed in relation to their compatibility with bans and restrictions on foreign employment for migrant domestic workers.²⁸

Domestic laws and policies

► Constitution of Nepal (2015)

The Preamble of the Constitution of Nepal (2015)²⁹ provides specific commitments to reaffirm and advocate for the rights of marginalized groups and eliminate “*discriminations relating to class, caste, region, language, religion and gender discrimination including all forms of racial untouchability...*” (Constituent Assembly Secretariat, *Constitution of Nepal*, 2015). In addition, the document contains the following protections and guarantees related to equal employment, non-discrimination, gender equality and foreign employment (amongst others):

- *Article 17* - provides for the “*freedom to practice any profession, carry on any occupation, and establish and operate any industry, trade and business in any part of Nepal*” (Art. 17 (2));
- *Article 18* - ensures that there “*shall be no discrimination in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical conditions...*” (Art. 18(2));
- *Article 33* - stipulates that “*every citizen shall have the right to employment*” / “*shall have the right to select employment*” (Art. 33(1); Art. 33(2));
- *Article 38 - rights of women*, cites “*equal right to lineages without discrimination based on gender*”, to safe motherhood and reproductive health, proportional inclusion in state structures and bodies, equal rights with male spouses in property and family affairs, *special opportunity in education, health, employment and social security*, and prohibits “*any kind of oppression based on religious, social and cultural tradition, and other practices*” (Art. 38 (1) – Art. 38 (6));
- *Article 50* - outlines the State’s principles in “*protecting freedom, equality, property and all citizens through rule of law; by embracing the norms and values of fundamental rights and human rights, gender equality, proportional inclusion*” (Art. 50);
- *Article 51* - outlines the State’s obligation in “*regulating and managing foreign employment in order to make this sector exploitation free, safe and well-managed to guarantee laborers’ rights and employment*” (Art. 51 (5)) and “*encouraging the use of the capital skill, technology and the experience gained in foreign employment in the productivity sector of the country*” (Art. 51 (6)).

The Constitution prohibits forced labour (Art. 29) and exploitation. It also prohibits discrimination between men and women in regard to salaries / remuneration and access to social security (Sijipati and Limbu, 2017; ILO, 2017a).

The document has been criticized for being hastily drafted, with only one week of consultations with the public (HRW, 2016a). When signed, members of lower-caste and indigenous groups expressed fears that the document did not do enough to give representation to marginalized communities in Nepal (HRW,

28 This section provides a narrower overview of key legal and policy instruments directly related to foreign employment, migrant domestic work, forced labour, and human trafficking, albeit recognizing that there are a plethora of other economic and social laws and policies that affect dynamics of women’s mobility and generate further out-migration of migrant domestic workers.

29 The 2015 Constitution supersedes the 2007 Interim Constitution.

2016a). Women's rights groups criticized the document for perpetuating discriminatory laws in regard to the conferring of citizenship. Although the Nepal Citizenship Act (2006) allows citizenship to be conferred to children of Nepali women born out of wedlock, the Constitution still codifies into law that if a Nepali woman marries a foreign man she will be unable to confer citizenship to her child unless her spouse takes Nepali citizenship, whereas this is not the case for Nepali men (Haviland, 2015; Sijapati and Limbu, 2017).

Citizenship laws enshrined in the Constitution have important implications for migrant women who have children out of wedlock while abroad, with frequent reports that these women have had difficulties acquiring citizenship for their child upon return to Nepal (Kharel, 2016; Sijapati and Limbu, 2017). There also appear to be clear discursive gaps between the commitments to non-discrimination, gender equality and equal access to employment / the right to choose employment enshrined in the Constitution and bans and restrictions on foreign employment for migrant domestic workers.

► 2007 Human Trafficking and Transportation (Control) Act (HTTCA)

The HTTCA (2007), which supersedes the Human Trafficking Control Act of 1986, stipulates that any of the following actions are considered acts of *human trafficking*:

- "(a) to sell or purchase a person for any purpose; (b) to use someone into prostitution, with or without any benefit; (c) to extract human organ except otherwise determined by law; (d) to go for in prostitution" (Law Commission of Nepal, HTTCA, 2007).

Individuals committing the following acts are considered to have committed *human transportation*:

- "(a) to take a person out of the country for the purpose of buying and selling; (b) to take anyone from his / her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abductions, hostage, allurement, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or custodian and keep him / her into ones custody or take to any place within Nepal or abroad or hand over him / her to somebody else for the purpose of prostitution and exploitation" (Law Commission of Nepal, HTTCA, 2007).

The offence of trafficking is also penalized under Nepal's General Code, Part 4, Chapter 11, Article 4 (1-3) and addressed in a number of policy instruments, including Nepal's periodic Development Plans, the 2012 National Plan of Action Against Trafficking in Children and Women for Sexual and Labour Exploitation (NPA), and its 2014 Implementation Plan (NHRC, 2018). These laws and policies are accompanied by a range of guidelines and standards that aim to provide uniformity in the ways that various institutions provide services to trafficking victims (NHRC, 2018).³⁰

The HTTCA (2007) has been criticized for a number of reasons. Its very definition of human trafficking focuses narrowly on sexual exploitation of women and girls. There is no mention of forced labour made in any of its provisions, and it indirectly conflates prostitution itself with human trafficking (even if the prostitution is voluntary) (ILO, 2017a; GAATW, 2017; FWLD, 2018). Partly due to shortcomings in the legal framework, the Committee on the Elimination of Discrimination against Women (CEDAW)'s recommendations voiced concern for underreporting of cases, low conviction rates and lenient sentences for trafficking perpetrators in Nepal (FWLD, 2018).

The 2019 US TiP report has also criticized the lack of standard operating procedures for both the identification of victims and the provision of rehabilitation services, fewer efforts to protect male victims and concerning reports implicating government officials in trafficking offenses (NHRC, 2018); US DOS,

³⁰ For a more in-depth analysis of legal and policy frameworks related to anti-trafficking in Nepal, progress on implementation and current gaps and opportunities, reference NHRC's *Trafficking in Persons Nepal National Report, 2018* (available [here](#)) (NHRC, 2018) [accessed 10 Apr. 2020].

2019). The same report also highlighted that a large number of trafficking-related offenses were being registered and tried under the Foreign Employment Act (FEA) (2007) rather than under the HTTCA (2007) (NHRC, 2018; US DOS, 2019). This is often because it is quicker and less arduous for victims to file claims under the FEA (2007). One interviewee working for an anti-trafficking NGO interviewed for this review also noted that victims of trafficking may prefer to seek redress under the FEA (2007) in order to avoid the stigma associated with having been trafficked. These dynamics are concerning, however, given that the FEA (2007) provides only a limited form of compensation concentrated on fraudulent practices in recruitment and foreign employment, but does not provide compensation for pain and suffering of trafficking victims (GAATW, 2017; NHRC, 2018).

The objectives of HTTCA (2007) appear to be contradicted by bans and restrictions on foreign employment for migrant domestic workers. While HTTCA (2007) and other anti-trafficking legislation and policies outlined above commit to reducing the vulnerability of women and girls to trafficking, it has been observed on numerous occasions by the NHRC in Nepal, as well as the ILO, other UN organizations and CSO partners that migration bans are increasing the vulnerability of Nepali migrant domestic workers to being trafficked and leading to a flourishing migrant smuggling industry of migrant domestic workers through India and other countries in the sub-region (ILO, 2015a; NHRC, 2018; NHRC, 2019). The limited definition of trafficking that HTTCA (2007) provides, which focuses almost entirely on sexual exploitation, also overlooks other forms of trafficking that migrant domestic workers may face in transit and in destination countries, including forced labour.

► Foreign Employment Act (FEA) (2007) and subsequent amendments³¹

The FEA (2007) supersedes the FEA of 1985 and represents a comprehensive law outlining all rules and regulations related to foreign employment, with the stated goal in its Preamble of amending and consolidating “laws relating to foreign employment in order to make foreign employment business safe, managed and decent and protect the rights and interests of the workers who go for foreign employment and the foreign employment entrepreneurs, while promoting that business” (Preamble (1)) (ILO, FEA 2007, 2007). The document contains the following provisions related to equal employment, non-discrimination and gender equality:

- *Article 8: Prohibition on gender discrimination*, states that “no gender discrimination shall be made while sending workers for foreign employment pursuant to this Act” (Art. 8(5));
- *Article 9: To provide special facility and reservation*, states that “The Government of Nepal may provide special facility to the women, Dalit, indigenous nationalities...” (Art. 9(1)(5)) and that institutions sending workers should do so as well (Art. 9(2)(6)).

In addition, the FEA (2007) outlines requirements on licensing of recruitment agencies (Chapter 3); the prior approval and selection of workers (Chapter 4); the classification of training and workers (Chapter 5); the Foreign Employment Welfare Fund (Chapter 6); provisions related to monitoring and complaints (Chapter 7); the functions, duties and power of the FEB (Chapter 8); penalties for legal violations (Chapter 9); the investigation of complaints (Chapter 10); trial and settlement of cases (Chapter 11); and other miscellaneous provisions (Chapter 12). Since 2007, the FEA has been amended multiple times to include a number of changes related to the security deposit amount paid by agencies, reforms to the system for registering of complaints, procedures for the renewal of labour approvals from Diplomatic missions abroad, the claiming of welfare benefits at the local level, decentralization of functions, requirements for all migrant workers to have bank accounts, and more (MoLESS, 2020). Institutional implementation

³¹ For an in-depth description of the roles and functions of various ministries and departments involved in institutional implementation of the FEA (2007) and other associated legal and policy instruments, reference *Governing Labour Migration in Nepal: An analysis of existing policies and institutional mechanisms (updated edition 2017)* (Sijapati and Limbu, 2017).

of the FEA (2007) as well as other foreign employment-related laws, policies and frameworks is the responsibility of DoFE and FEB, two bodies housed under the MoLESS.

The FEA (2007) was welcomed as a significant improvement over its 1985 predecessor and removed certain gender-discriminatory provisions of the 1985 law (ILO, 2017a; Sijapati and Limbu, 2017). However, many have argued that it still does not go far enough. Critics have observed that:

- Provisions still do not do enough to counter the wealth and power of recruiting agents vis-à-vis the rights afforded to migrant workers themselves (Sijapati and Limbu, 2017);
- Arduous and bureaucratic administrative procedures and legal provisions for recruitment agents render it difficult for them to comply with the law (ILO, 2017a);
- There are no strong penalties on agencies who use unregistered agents (Liu, 2015);
- The law makes no specific reference to the HTTCA (2007) (and vice versa) (Paoletti et al., 2014);
- In most cases, the provisions are applicable only to documented migrant workers (ILO, 2015a; Sijapati and Limbu, 2017);
- Women and irregular migrants are not provided with a specific set of rights or tailored mechanisms for protection (ILO, 2015a; Sijapati and Limbu, 2017);
- Laws do not take into account specific measures that will mitigate women's lower access to education, lower literacy rates, fewer financial resources, varying medical needs, and increased risk of facing stigma and discrimination (ILO, 2015a; Sijapati and Limbu, 2017).

Bans and restrictions on foreign employment for migrant domestic workers appear to operate in direct contravention with commitments made to non-discrimination based on gender outlined in the FEA (2007). It appears that instead of making "special facility" for women and other marginalized groups to make foreign employment safe, decent and accessible, the GoN has attempted to distance itself altogether from involvement in topics related to migrant domestic work (and therefore, most women migrant workers) by imposing blanket restrictions. At the same time, the FEA (2007) is largely a procedural law regulating migration industry actors and does not include adequate provisions to protect the rights and welfare of migrant workers as a whole.

► Foreign Employment Rules (FER) (2008) and subsequent amendments

The FER (2008) outline the rules and regulations for implementation of the FEA (2007) (Sijapati and Limbu, 2017). The Regulations include provisions relating to: the Nepal government's selection of institutions or workers (Chapter 2); licensing (Chapter 3); prior approval and selection of workers (Chapter 4); approval for sending workers (Chapter 5); training (Chapter 6); the Welfare Fund and uses for the welfare fund scheme (e.g. for compensation, as well as for public awareness programs) (Chapter 7); an outline of the powers of the Foreign Employment Board and its Executive Director (Chapter 8); the Foreign Employment Tribunal (Chapter 9); and other miscellaneous items (Chapter 10) (Law Commission of Nepal, FER 2008, 2008). They also provide templates for license applications for agencies, workers' applications and recordkeeping templates for agencies to keep track of the workers they have sent for foreign employment. The FER (2008) have been amended on numerous occasions to reflect amendments to the FEA (2007) and clarify changing requirements for agency registration, labour permit renewals, welfare claims and more (MoLESS, 2020).

► Foreign Employment Policy (FEP) (2012)

The FEP (2012) is a holistic document that focuses on the entire migration cycle (pre-departure, departure, the migrant's experience abroad and conditions upon return) through a seven-pillar policy approach

(IOM, 2019a). The document focuses more on the rights and needs of women and girls beyond what was included in either the FEA (2007) or FER (2008) (IOM, 2019a; ILO, 2017a).

The FEP (2012) recognizes the challenges present in protecting the rights of women migrant workers and migrant domestic workers (section 4 (b)) but makes a number of commitments to address their needs (Department of Labour – DoL, FEP 2012, 2012). Specifically, Strategy 9.4: (1) advocates for an analysis of foreign employment laws, policies and programs from a gendered perspective; (2) ensures skills-based training and orientation for women; (3) outlines the need for strong information dissemination to women interested in foreign employment; (4) urges the elimination of violence and discrimination against women; (5) encourages the incorporation of women migrant worker safety in bilateral and multilateral agreements; (6) introduces mechanisms to support returnee women migrant workers; (6) encourages efforts to prevent human trafficking and smuggling in the foreign employment process; (7) advocates for increasing women’s access to foreign employment opportunities through preferential loans; and (8) outlines the appointment of female labour attachés / female welfare officers in countries where there are more than 1000 Nepali women migrant workers, amongst other stipulations (Ibid). Strategy 9.5 of the FEP (2012) commits to allowing women rights activists from foreign employment sectors and CSOs to participate in the lawmaking and implementation process, while also advocating for gender-specific training for foreign employment agencies. Strategy 9.2.3 outlines that *the GoN shall make efforts to promote laws related to migrant domestic workers in destination countries* (Ibid).

The FEP (2012) also recognizes women migrants’ overwhelming involvement in and dependence on domestic work and acknowledges that “migrating abroad through illegal channel[s]”, “especially for domestic work”, is “increasing vulnerability” as well as “physical and sexual exploitation and harassment” (section 4 (a)) (DoL, FEP 2012: 2012: 6).

While the above stipulations provide a welcome number of commitments to ensure decent, fair and equitable access to foreign employment for migrant women, commitments to improving conditions for migrant domestic workers abroad, recognition of the precarity and abuse that women migrant workers face in transiting irregularly, and objectives to combat human trafficking and migrant smuggling, these stipulations are rendered empty commitments in light of widespread non-implementation. Bans and restrictions appear to do little in honoring these commitments as they seek to end the process of foreign employment for migrant domestic workers (and thus, most women migrant workers) altogether, as opposed to making the process safer and more transparent. The MoLESS itself, in its 2020 Nepal Labour Migration Report, admitted that the policy had not been implemented effectively until this point. While a comprehensive review of the policy was meant to take place in 2017, this review has yet to be conducted (MoLESS, 2020).

► **2015 Directive on the Management of Sending Domestic Workers for Foreign Employment (or, Migrant Domestic Worker Guidelines, MDWGs)**

Awarded its mandate by the FER (2008), the MDWGs (2015) set forward a number of stringent guidelines related to the recruitment, employment and migration of Nepali migrant domestic workers. The directive was passed at a time when foreign employment for migrant domestic workers was being reopened following the repeal of the age ban of 2012 and total ban of 2014. These directives set a minimum age of 24 years for Nepali women wanting to work in the domestic sector in GCC countries, Lebanon and Malaysia (ILO, 2015a).

With the goal of making the foreign employment process more transparent and safer for migrant domestic workers, the MDWGs (2015) also: (1) prohibited the migration of domestic workers on individual labour permits (e.g. only allowing migration through a recruitment agency); (2) only permitted domestic workers to migrate to countries with which Nepal has signed a Bilateral Labour Agreement (BLA) or Memorandum of Understanding (MoU); or (3) in the absence of a BLA or MoU, to countries with adequate

laws covering domestic workers; (4) set up an entirely separate registration system and application structure for recruitment agencies sending Nepali domestic workers, including different escrow requirements; (5) required a mandatory 35-day pre-departure orientation training for migrant domestic workers; (6) prohibited recruitment costs; and (7) required agencies in destination countries to perform periodic monitoring and inspection of working conditions for domestic workers and submit reports to the Nepal mission in the destination country, amongst other provisions (MoLESS, 2020; ILO, 2017a).

The 2015 Directive was criticized for creating a complex regulatory process for agencies that made it difficult for migrant domestic workers to be recruited and sent for employment through legal channels (Sijapati and Limbu, 2017). The law was also criticized for maintaining discriminatory age provisions for women migrants (in light of the age minimum of 24 years). However, this criticism is overshadowed by the reinstatement of the ban on foreign employment of migrant domestic workers in 2017, which essentially renders the MDWGs (2015) non-operational and unimplemented. Agencies cannot currently recruit or send migrant domestic workers abroad to most countries and most migrant domestic workers who do migrate cannot do so with the approval of the GoN. Their recruitment fees are not being monitored and they are unable to participate in pre-departure orientation trainings, nor benefit from reporting structures which monitor their working conditions in destination countries.

► Other relevant domestic laws and policies

Below is a brief overview of other relevant domestic laws and policies related to forced labour, gender equality, non-discrimination and equal employment.³²

- **Bonded Labour (Prohibition) Act (2002) and Child Labour (Prohibition and Regulation) Act (2000)** – The Bonded Labour (Prohibition) Act (2002) prohibits forced labour and bans work realized without any wages or at low wages in order to repay loans (a practice known as *Kamaiya* labour in Nepal) (ILO, 2002). The Child Labour (Prohibition and Regulation) Act (2000) prohibits work for minors under the age of 14 and prohibits children of any age from being forced to work against their will (Chapter 2, Section 3, Arts. 1 and 2) (ILO, 2000).
- **Technical and Vocational Education and Training Policy (2012)** – commits to expanding training programs to women, Dalits and other marginalized communities to enable their increased participation in income generating activities (Lokaantar Sanchar, n.d.).
- **Nepal Employment Policy (2016)** – The NEP (2016) supersedes previous policies such as the Labour Policy (1999) and the Labour and Employment Policy (2005). NEP (2016) makes a number of commitments related to foreign employment, including strengthening capacities of foreign missions, providing foreign employment opportunities to marginalized communities (Objective 4, Policy 13.8), and *ensuring safe and decent foreign employment for women* (Objective 4, Policy 13.9) (MoLESS, 2016).
- **Labour Act (2017)** – The new Labour Act replaces the 1992 Nepal Labour Act and implements a number of key changes. In particular, employers are now: (1) mandated to issue contracts regardless of the nature of employment; (2) obligated to deposit funds into the Social Security Fund; (3) obligated to obtain accidental and health insurance for their employees; and (4) to provide mandatory annual leave and holidays, amongst other changes (Neupane Law Associates, 2017). Most relevant to this review however, is that the *new Labour Act finally recognizes domestic work and the rights of domestic workers*, who had previously been excluded

³² See also, National Strategic Action Plan (2015-2020), which discusses the need for successful socio-economic reintegration of migrant returnees, as well as the National Youth Policy, which recognizes the lack of decent employment and educational opportunities in Nepal and sees these as push factors for migration. The NYP advocates for safety and decent employment for Nepali women who seek overseas employment (IOM, 2019).

from other labour laws and were not included in Nepal's Civil Code Bill (International Domestic Workers Federation - IDWFED, 2017) (domestic workers have since been added to the Civil Code Bill as well).

The recognition of the rights of domestic workers at home is an important step and useful bargaining tool in being able to advocate for the rights of these workers abroad. However, as discussed in the next sub-section, Nepal has yet to sign and ratify the ILO Domestic Workers Convention (2011) (C189) and its domestic laws are still not on par with the rights afforded in this convention. Like the FEP (2012), the NEP (2016) advocates for special attention given to ensuring safe foreign employment opportunities for women – but most stakeholders interviewed for this evaluation believe that these commitments remain unrealized.

In addition, Nepal has made an effort to mainstream gender into many elements of its development agenda (K.C. et al., 2017). MoWCSW has developed and implemented a Gender Equality Policy that is applicable to the entire GoN, and gender equality and social inclusion (GESI) has become a centerpiece of Nepal's Three-Year Plans (IDPG, 2017). For example, the achievement of gender equality serves as a key component of Nepal's Agriculture Development Strategy (2015-2035), while the Gender and Social Inclusion Policy (2013) of the Election Commission aims to establish greater gender equality in all levels of Nepal's election process (Ministry of Agricultural Development, 2015; International Foundation for Electoral Systems, 2015).

The GoN also adopted its first National Plan of Action against GBV in 2010 which focuses on prevention, protection and prosecution, and recognizes the need for multi-sectoral engagement, including of health sectors, in order to address GBV (Colombini et al., 2016). In 2015, Nepal also signed the Sexual Harassment at the Workplace (Elimination) Act, and later the Safe Motherhood and Reproductive Health Rights Act (2018).

These legal and policy frameworks are important considerations in the context of foreign employment for women and migrant domestic workers, given that gender inequality, social exclusion and SGBV are significant factors that drive women to pursue overseas employment, as highlighted in section 3.4. Nepal's signing of these instruments shows efforts to address some of the social root causes of female labour out-migration. Nevertheless, despite regulatory advancements, Nepali women who are victims of rape or other forms of sexual violence face numerous limitations in seeking justice, not only because they lack awareness of available remedies, but also due to lack of training for officers to assist in registration of cases and due to legal limitations in which the statute of limitations for these crimes is only one year (FWLD, 2018).

Despite the gaps in the domestic legal framework on foreign employment, trafficking, labour and related areas highlighted throughout this section, there are signs that Nepal is actively working to improve these frameworks through frequent amendments and legal reforms to its labour law, the FEA (2007) and other instruments. However, despite these improvements, there is widespread consensus amongst experts and practitioners in Nepal, including those interviewed for this review, that laws and regulations have experienced minimal success in the implementation phase, evidenced by the gaps and challenges present throughout the recruitment and employment process outlined in section 3. Still, while numerous instruments address issues of discrimination based on gender, or based on caste, or ethnicity, the CEDAW Committee's review of Nepal's legal and policy framework found that Nepal's approach to discrimination does not do enough to account for multiple, overlapping / intersecting forms of discrimination (FWLD, 2018).

International laws, policies and frameworks

The Nepal Treaty Act (1990) establishes that any international treaties which the country has ratified are considered on-par with domestic laws, and that where inconsistencies are present between the international treaty and its corresponding domestic law, the treaty provisions shall take precedent (Paoletti et al., 2014).

The ILO maintains an up-to-date list of the international conventions and protocols related to labour and employment which have been ratified (available [here](#)) (ILO, n.d.b) and not ratified (available [here](#)) (ILO, n.d.c) by Nepal.³³ So far, the country has ratified 11 ILO Conventions, including seven of eight of the fundamental ILO Conventions, shown below.

► ILO Fundamental Conventions ratified:

- C029 – Forced Labour Convention (1930) (No. 29);
- CO98 – Right to Organize and Collective Bargaining Convention (1949) (No. 98);
- C100 – Equal Remuneration Convention (1951) (No. 100);
- C105 – Abolition of Forced Labour Convention (1957) (No. 105);
- C111 – Discrimination (Employment and Occupation) Convention (1958) (No. 111);
- C138 – Minimum Age Convention (1973) (No. 138);
- C182 – Worst Forms of Child Labour Convention (1999) (No. 182) (ILO, n.d.b).

Nepal's ratification of C111 (above) means that the country has an obligation to ensure "equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination" and "repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy" (Art 2 and 3 (c)) (ILO, 1958).

► ILO Conventions not yet ratified:

Nepal has yet to ratify the fundamental C087 – Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). In addition, Nepal has also not ratified the below ILO instruments which are related to domestic work and migration for employment:

- C097 – Migration for Employment Convention (Revised) (1949) (No. 97);
- C143 – Migrant Workers (Supplementary Provisions) Convention (1975) (No. 143);
- C181 – Private Employment Agencies Convention (1997) (No. 181);
- C189 – Domestic Workers Convention (2011) (No. 189);
- Protocol of 2014 to the Forced Labour Convention (1930); (ILO, n.d.c).

Despite intense pressure from CSOs and UN organizations in joint roundtables with the GoN which have led the Government to make loose commitments for accession, C189 has yet to be ratified (MyRepública, 2018; IDWFED, 2016). This hesitation could be due in part to the large number of obligations that C189 gives to both origin and destination countries in ensuring the rights and fair recruitment of migrant domestic workers. As discussed in section 6, stakeholders interviewed for this review also theorized that part of the hesitation to implement C189 was tied to a reluctance to offer the same rights to migrant workers in Nepal's own territory, the administrative costs involved, and the perceived inability to honor the stipulations of the Convention for Nepal's own citizens in its own domestic labour market.

³³ "Ratifications for Nepal" (ILO, n.d.c.); "Up-to-date Conventions and Protocols not ratified by Nepal" (ILO, n.d.b) [accessed 12 Apr. 2020].

► **Other ratified instruments relevant to the present review**

In addition to these ILO instruments, Nepal is also party to a number of other key international conventions related to gender equality, non-discrimination, labour migration, human trafficking and forced labour included below:

- Universal Declaration of Human Rights (UDHR) (1948);
- International Covenant on Civil and Political Rights (ICCPR) (1966) and International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965);
- The Global Compact for Safe, Orderly and Regular Migration (GCM) (2018) (non-binding);
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979);
- South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002);
- Convention on the Rights of the Child (CRC) (1991);
- Convention Against Transnational Organized Crime (2000) (UNTOC);

Nepal's ratification of CEDAW signifies that the country is legally obligated to engage in measures which eliminate discrimination based on gender and ensure for equal access to employment and other opportunities for women (UN Women, 1979). In particular, the Convention's General Recommendation No. 26 states that:

1. The signatory State shall "... formulate a gender-sensitive, rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers" (arts. 2 (a) and 3);
2. And, that signatory origin countries should "repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel" (Art. 3 (f)) (UN Women, 1979).

These stipulations clearly advocate for the lifting of current bans and restrictions on foreign employment for migrant domestic workers in Nepal, which disproportionately affect Nepali women.

► **Other relevant instruments not yet ratified by Nepal**

Nepal has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) (1990), which includes extensive commitments to improve the rights of migrant workers and provide them with equal treatment and equal working conditions on par with nationals, and advocates for honoring the human rights of migrant workers in an irregular situation (OHCHR, 1990). In Part II of the Convention (Non-discrimination with Respect to Rights), Article 7 obligates states to "ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status" (Art. 7) (OHCHR, 1990).

Nepal has received pressure in recent years to ratify the ICMW (1990) (MFA, 2015; ILO, 2017a). However, as is the case with other origin countries, Nepal is reluctant to ratify ICMW (1990) and other migration-related conventions (like C97 (1949) and C143 (1975)) out of fears that it will cause destination countries to redirect recruitment of migrant workers toward non-ratifying origin countries (Sijapati and Limbu,

2017). In addition, ratification of these instruments often poses significant administrative and financial burdens for origin countries, whose domestic frameworks require significant overhauls in order to meet Convention requirements (Sijapati and Limbu, 2017).

Finally, while Nepal has ratified UNTOC (2000), until mid-2020 it had not signed or formally ratified its three Protocols, including the two directly related to trafficking in persons and migrant smuggling below:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000);
- Protocol Against Smuggling of Migrants by Land, Sea and Air (2000).

Nepal faced pressure for years from both international and domestic actors to ratify both protocols in conjunction with amendments to the HTTCA (2007), which also came as a key recommendation of the CEDAW Committee (Lama, 2019). Finally, in early March 2020 both protocols were ratified with widespread support in Nepal's Parliament. A trafficking expert interviewed for this review indicated that steps to implement the newly ratified protocols would involve updating and reforming the HTTCA (2007).

Bilateral and multilateral tools for labour migration governance

(a) Bilateral tools

The most significant and widely used tools for bilateral cooperation on labour migration governance pursued by Nepal are BLAs and MoUs with destination countries.³⁴ BLAs are formal, binding agreements that ensure migration “takes place in accordance with agreed principles and procedures” (ILO, n.d.d). They are legally-binding, specific and usually outline a set of concrete actions (Sijapati and Limbu, 2017). On the other hand, MoUs are non-binding agreements that are “easier to negotiate and implement – and to modify according to changing economic and labour market conditions” (ILO, n.d.d). For origin countries, the primary objective of BLAs and MoUs “is to extend maximum protection and welfare to migrant workers in cooperation with the destination country” (MoLESS, 2020: 66), for which the binding nature of BLAs would likely be preferred.³⁵ On the other hand, destination countries often prefer MoUs due to their flexible nature, and because they usually entail less state involvement (ILO, n.d.d; MoLESS, 2020). BLAs and MoUs are important mechanisms through which the rights of workers abroad can be upheld, to facilitate knowledge dissemination, establish joint procedures and increase the accountability of institutions (including in destination countries) involved in governing labour migration (ILO, n.d.d.).

So far, Nepal has signed nine bilateral agreements (either BLAs, MoUs or a hybrid) with destination countries as of the end of 2020. The below table outlines these agreements in chronological order:

► **Table D: BLAs and MoUs signed by the Government of Nepal**

Destination country	Year(s) agreement was made	Nature of agreement
Qatar	2005	General Agreement (BLA)
Republic of Korea	2007	MoU
UAE	2007 / 2019	MoU
Bahrain	2008	MoU
Israel	2015	Joint Pilot Program
Jordan	2017	General Agreement (BLA)
Malaysia	2018	MoU

34 For an in-depth discussion on these instruments, please consult the MoLESS's *Nepal Labour Migration Report 2020* (MoLESS, 2020).

35 Due to the Nepal Treaty Act previously discussed, BLAs are also considered a “treaty” under Nepali law (Paoletti et al., 2014).

Destination country	Year(s) agreement was made	Nature of agreement
Mauritius	2019	MoU
Japan	2009 / 2019	JITCO Agreement / Memorandum of Cooperation (MoC) for Specialized Skilled Workers

Source: Table adapted from a version presented in the MoLESS 2020 Nepal Labour Migration Report (MoLESS, 2020).

MoLESS describes that Nepal has modified the way in which it pursues negotiations of MoUs and BLAs in recent years in order to “incorporate strong and comprehensive provisions centered on worker protection and welfare” (MoLESS, 2020: 66). Some of the mechanisms included in these instruments to that effect have included: (1) The Employer Pays Principle, whereby all recruitment fees are covered by the employer in the destination country; (2) standard employment contracts; (3) skills and orientation; (4) health examinations; (5) equality of treatment; (6) insurance; (7) special leave for workers; (8) end-of-service benefits; (9) workers maintaining possession of personal documents; (10) occupational health and safety; (11) the right to change employers; (12) access to justice; and (13) coverage of fees related to return (MoLESS, 2020).

MoLESS also outlines its commitment to negotiating BLAs and MoUs which include “special provisions for female workers”, including emphasizing the “safety, security and welfare of the female workers, with due regard to their special needs” (MoLESS, 2020: 67).

MoUs and BLAs also represent a last-resort legislative tool to include types of work and types of migrant workers who would not usually be covered under the destination signatory country’s labour laws. Some of these frequently excluded workers include domestic workers. However, many MoUs and BLAs either do not mention domestic workers whatsoever, or only make a general statement in support of addressing the problems of these workers but without putting forth concrete measures (ILO, 2015b; citing Wickramasekara, 2012).

The only instrument included in the above Table D that makes special stipulations for the rights of domestic workers is the BLA signed with Jordan in 2017, which includes a standard contract for women migrant domestic workers with the minimum rights requested by the GoN (this was confirmed in an interview conducted with MoLESS for this review). At the same time, Jordan is one of the first destination countries to create its own legislation related to domestic workers and is one of the few to include provisions on domestic workers directly in its national labour law (and not in a separate legal instrument), following an amendment to its labour law made in 2009 (ILO, 2015b). Stipulations regarding the rights of Nepali migrant domestic workers have not featured in other BLAs and MoUs.

MoLESS, in an interview conducted for this review, also noted that it was currently engaged in discussions for additional BLAs/MoUs with three major destination countries. As of mid-April 2020, a representative of MoLESS noted that they had “approved a draft of the MoU to sign with Oman, and that we have been waiting for an appropriate time to sign [the document]”. MoLESS also discussed that it had been engaged in talks on a BLA/MoU with UAE in the first few months of 2020, noting that they had conducted a joint committee meeting with representatives from UAE in Kathmandu.

Finally, while BLAs and MoUs are often cited as the “golden ticket” to effective bilateral labour migration governance, these instruments carry a number of limitations:

- While BLAs/MoUs can bring additional protections to workers, they can also “lead to situations where labour is treated as a commodity and where agreements are made on subpar minimum wage levels and working conditions” (ILO, 2017a: 8);
- The process of negotiating is time-intensive and slow (Sijapati and Limbu, 2017; IOM, 2019a);
- Provisions are difficult for Nepal to enforce given its weaker bargaining power vis-à-vis the power of destination countries. Nepali workers continue to migrate through informal channels that fall outside of the realms of protection offered by these instruments (Paoletti et al., 2014);

- BLAs / MoUs are not very effective in reshaping migration dynamics in well-established corridors where the process is driven largely by networks and private agencies (MoLESS, 2020);
- There are few mechanisms in place to ensure that any of the provisions of BLAs or MoUs that are signed are actually being honored by governments or private actors (Sijapati and Limbu, 2017; IOM, 2019a).

Nepal's success (or lack thereof) in negotiating BLAs/MoUs that specifically refer to migrant domestic workers is directly related to the bans and restrictions on foreign employment, given that these regulations are a pre-condition of the repeal of the 2017 ban.

However, an analysis of the progress on negotiation of BLAs/MoUs which include specific reference to domestic workers conducted above and in Section 5 show that Nepal has done little to set the necessary groundwork. As discussed in Section 5, some experts interviewed for this evaluation indicated that the lack of inclusion of items related to migrant domestic workers in BLAs/MoUs has not only been due to the reluctance of destination countries to do so, but also reflects reservations by stakeholders in the GoN.

(b) Multilateral tools

► Regional tools

► South Asian Association for Regional Cooperation (SAARC)³⁶

- Nepal is a member and current chair of SAARC, which is also headquartered in Kathmandu.
- SAARC's 'SAARC Charter' (1985) makes a number of commitments to inter-state cooperation on labour migration issues (Art. 21) and human trafficking (Art. 19) (MoLESS, 2020).
- SAARC also drafted a Plan of Action on Labour Migration at a consultative workshop in May 2016 (Kathmandu Post, 2016a) outlining a number of commitments to "strengthen the capacity of government authorities to respond to the needs as well as improve the policy impact of migration" (SAARC, 2016: 1). While the draft committed to a number of collaborative efforts on labour migration, it has yet to be approved, as the Nineteenth SAARC Summit has yet to take place (MoLESS, 2020).
- While collaborative action at the SAARC level on labour migration (and other policy areas) has been slow, the forum holds an immense amount of potential for further multilateral cooperation on labour migration from an origin-country level, given that many of the concerns that Nepal has for women migrant workers and migrant domestic workers are shared by other prominent origin countries in the sub-region.

► Colombo Process

- Nepal is also a member and former chair of the Regional Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia (Colombo Process, CP), which consists of 12 Member State migrant origin countries in the Asia Region (as well as a number of observer states and organizations) (IOM, n.d.a).³⁷ As a regional tool for migration governance specifically focused on addressing issues related to overseas employment and ensuring the rights

36 SAARC is a regional intergovernmental organization and geopolitical union of nations consisting of eight Member States: Afghanistan, Bangladesh, Bhutan, India, Nepal, Maldives, Pakistan and Sri Lanka. More information on the regional bloc may be accessed [here](#) (SAARC, n.d.) [accessed 15 Apr. 2020].

37 Member States of the Colombo Process (est. 2003) include: Afghanistan, Bangladesh, Cambodia, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Viet Nam. A list of Observer States and Organizations and information on the Colombo Process Secretariat may be located [here](#) (IOM, n.d.a) (accessed 15 Apr. 2020).

of overseas workers, the CP represents an important resource through which to approach multi-lateral migration governance. However, it remains untapped for its potential as a medium through which to explore multilateral negotiations on the rights of women migrant workers and migrant domestic workers. Many stakeholders interviewed for this review expressed that Nepal should aim to approach more collective engagement with CP members to adopt a regional position regarding the rights of migrant domestic workers, given that bilateral tools like BLAs and MoUs can often fall through in light of intense competition between migrant worker origin countries in the region.

▶ Abu Dhabi Dialogue (ADD)

- The ADD (est. 2008) consists of the CP Member States (including Nepal) as well as key migrant destination countries in the Middle East and South-East Asia – Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia and UAE (IOM, n.d.b). The ADD serves as a key multilateral forum in the region to share knowledge and information on migrant workers, remittances, skills and labour market trends. The ADD not only represents a key forum through which Nepal could bilaterally access key destination countries to negotiate mechanisms to protect the rights of women migrant workers and migrant domestic workers, but, in the same vein as the CP, represents a potential forum through which origin countries can collectivize their negotiating power in order to advocate for minimum standards for these vulnerable workers (a strategy also mentioned by numerous interviewees who participated in this review).

▶ Bali Process

- Finally, the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) (est. 2002) is an important regional multilateral tool of which Nepal is also a member. Other Member States include other SAARC members (including India) as well as prominent Middle East destination countries (UAE, Jordan) and Malaysia. Its 2016 Declaration urges Member States to address “the needs of vulnerable groups including women and children” (Bali Process, 2016: 2). The Bali Process represents an important avenue through which Nepal can learn from best practices and cooperate with other South Asian Member States to address issues related to trafficking and smuggling of Nepali migrants, particularly women migrants, through the sub-region.

▶ Global tools

Nepal frequently participates in the Global Forum on Migration and Development (GFMD).³⁸ Through this venue Nepal has the opportunity to engage with other countries, organizations and expert stakeholders with knowledge and expertise in global migration and development, and more specifically, with regulatory expertise relating to foreign employment for migrant domestic workers. The GFMDs *Checklist to Protect and Support Domestic Workers* offers forth a number of recommendations for origin and destination countries and urges governance structures for migrant domestic workers that are “free from sex-specific bans and restrictions on women’s migration” (GFMD, 2012: 2).

In addition, Nepal is part of the Global Compact for Safe, Orderly and Regular Migration (GCM)³⁹ and was an active participant in consultations during the drafting of the document. The GoN is now in the process of drafting a national strategy for the GCM’s implementation (MoLESS, 2020). The GCM Final Draft document (2018) makes numerous mentions to migrant domestic workers, advocating for a review of policies, laws and working conditions for migrant domestic workers, and encouraging the use of

38 The GFMD, established in 2006, is a global consultative forum and an informal, non-binding, voluntary and government-led process that focuses on the interaction between migration and development. More information may be located [here](#) (GFMD, “Background”, n.d.) [accessed 13 Apr. 2020].

39 The GCM is the first “intergovernmentally negotiated agreement, prepared under the auspices of the United Nations, to cover all dimensions of international migration in a holistic and comprehensive manner” (GCM, n.d.)

bilateral, subregional and regional platforms to identify best practices and facilitate dialogue focused on ensuring their rights (GCM, 2018).

Finally, many of the frameworks elaborated upon in this annex play fundamental roles in ensuring Nepal's trajectory toward fulfilment of the 2030 SDGs, which include a number of commitments related to labour migration and the rights of migrant workers (MoLESS, 2020). Goal 8 of the SDGs in particular aims to "promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all" (UN, n.d.a). Under Goal 8 are the following targets relevant to the current topics under review:

- *Target 8.5* – "By 2030, achieve full and productive employment and *decent work for all* women and men, including for young people and persons with disabilities, and equal pay for work of equal value";
- *Target 8.6* – "By 2020, substantially reduce the proportion of youth not in employment, education or training";
- *Target 8.7* – "Take immediate and effective measures to *eradicate forced labour, end modern slavery and human trafficking....*";
- *Target 8.8* – "*protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment*" (UN, n.d.a).

In addition, under Goal 10, "Reduce inequalities within and among countries" are the following targets related to migration:

- *Target 10.7* – "Facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies";
- *Target 10.c* – "Reduce to less than three per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than five per cent" (UN, n.d.b).

Perhaps by nature of fulfilling the targets under these above goals, Nepal can also produce positive outcomes in regard to SDG Goal 1 (elimination of poverty and reduction of poverty by half) and SDG Goal 5 (gender equality and empowerment of women and girls). Importantly, SDG Goal 5 includes Target 5.4 – "recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate", which has important implications for the topics being studied in this review.

The SDG objectives and targets included above must be recognized as co-dependent and interconnected. Enabling safe and decent foreign employment opportunities is an important way for countries like Nepal in particular (with an economy that relies significantly on migrant remittances) to fulfill Target 8.5 and ensure adequate access to viable job alternatives for the growing number of young men and women in the country who are increasingly reaching working age (Target 8.6).

Nepal must also consider critically the ways in which shortcomings in domestic and international legal and policy frameworks governing female labour migration and migrant domestic work in the country (outlined in this section) may be addressed to ensure fulfilment of Targets 8.7 and 8.8. This includes an evaluation of how bans and restrictions on foreign employment for migrant domestic workers may exacerbate risks to forced labour and human trafficking (Target 8.7) while falling short in protecting the rights of women migrants (Target 8.8).

Annex E: Exploring Migration Journeys and the Effects of Bans on Women Migrant Domestic Workers through In-Depth Case Study Interviews with Returnees

List of interviewees

Anjana Rai

Country of destination: **Kuwait, Iraq**
 Number of years worked abroad: *7 years*
 Current residence: Morang
 District of origin: Morang

Sushila Rana

Country of destination: **Lebanon**
 Number of years worked abroad: *10 years*
 Current residence: Kathmandu
 District of origin: Myagdi

Shrijana Oli

Country of destination: **Saudi Arabia**
 Number of years worked abroad: *6 years*
 Current residence: Machhapokhari
 District of origin: Palpa

Kumari Chaudhary

Country of destination: **Kuwait**
 Number of years worked abroad: *2 years*
 Current residence: Morang
 District of origin: Jhapa

Bimala Adhikari

Country of destination: **Kuwait**
 Number of years worked abroad: *6 months*
 Current residence: Kathmandu
 District of origin: Morang

Sarda Rai

Country of destination: **Kuwait, Saudi Arabia, United Arab Emirates (UAE)**
 Number of years worked abroad: *10 years*
 Current residence: Morang
 District of origin: Morang

Kopila Prasai

Country of destination: **Israel**
 Number of years worked abroad: *11 years*
 Current residence: Bhaktapur
 District of origin: Sankhuwasaba

Kumari Tamang

Country of destination: **Kuwait**
 Number of years worked abroad: *3 years*
 Current residence: Morang
 District of origin: Morang

Mina Acharya

Country of destination: **Israel**
 Number of years worked abroad: *8 years*
 Current residence: Bhaktapur
 District of origin: Kotang

Sabita Rai

Country of destination: **Kuwait**
 Number of years worked abroad: *7 years*
 Current residence: Morang
 District of origin: Morang

Sunita Lama

Country of destination: **Kuwait**
 Number of years worked abroad: *3 years*
 Current residence: Kathmandu
 District of origin: Kathmandu

Anjana Rai

Countries of destination: **Kuwait, Iraq**

District of origin: Morang

Current residence: Morang



Background

Anjana Rai was born and raised in Nepal's Morang district. She is married and has two children, one boy and one girl. She first migrated to Kuwait as a domestic worker in 2006 where she remained for four years. In Kuwait, she performed household chores including cleaning, cooking and washing. She then decided to migrate to Erbil, Iraq in 2013, where she worked for an additional three years.

In Erbil, Rai was responsible for taking care of an elderly woman, including helping her with household tasks and cooking for her. She returned to Morang in 2017 where she has since been residing with her family. She is not currently working or looking for work and mainly performs tasks related to childcare and general upkeep in her home. Rai says she had a positive experience abroad and wants to migrate again once her daughter is older.

The decision to migrate

Rai was motivated to migrate in order to earn money and improve the living conditions for herself and for her family. Prior to migrating Rai was a housewife and had never worked outside of her home before. When she finally decided to seek employment abroad, she iterates that the decision regarding where to migrate was entirely her own. She recounts choosing Kuwait because she knew relatives and friends in her community who had worked there previously. She says that her family was very supportive in her decision to migrate and that she consulted them and sought their approval on both occasions.

Migration trajectory

Rai says that she was aware of migration bans on domestic workers when she chose to migrate. Due to these restrictions she reports having first migrated to Kuwait by crossing the border into India and departing on a flight from Delhi. She recalls the process being quite hectic because she had to cross the border through hidden means and could not use an official crossing.

When Rai chose to migrate again to Iraq, she departed from the airport in Kathmandu. However, because it was prohibited for migrant workers to go to Iraq in this time, she says that she first had to obtain a visa for Dubai. Once in Dubai, Rai underwent the process of obtaining her visa for Erbil and subsequently boarded a flight to Iraq. She was instructed by her recruitment agent to keep her final destination confidential and to not disclose any information about migrating to Iraq to immigration or other airport officials.

The recruitment process

When asked about how she financed her migration experience, Rai explains that she had not paid any money in order to migrate to Kuwait. When she decided to migrate a second time to Iraq, she borrowed money from her sister in order to cover fees, which she subsequently repaid.

Rai's travel itinerary, as well as the work position were both facilitated by an agent from her community. Rai reports that although she was informed of the conditions of employment, the salary, the country of destination and other relevant elements of the job, she was never issued formal contracts. Because she was not able to migrate through formal channels, she says that she was unable to take part in any pre-departure orientation trainings. She also mentions that she had not been aware of, nor did she have access to any insurance schemes prior to migrating.

Still, Rai feels that she had the necessary knowledge and resources before she left. She says that her agent informed her of the Nepal embassy's services abroad and on how to reach them. She also recounts obtaining the necessary medical examinations prior to departure. Despite not seeking formal approval from the Nepal government prior to migrating, Rai iterates that she had valid work permits for both Kuwait and Iraq.

Work experiences while abroad

Rai feels that she had a very positive experience in both countries where she worked:

"I had a positive relationship with my employer. They treated me very well as I also performed my tasks properly. I was able to save money and the experience generated many positive economic outcomes for me and my family."

While she was abroad Rai says that she also periodically received salary raises in both countries. The work conditions, job duties, stipulated salary and location of work were the same as those which were promised to her prior to departure. Notably, she says performing domestic work in Kuwait and Iraq was easier for her compared to Nepal, because she had household and cleaning appliances that she does not have access to back home.

Perceptions in Nepal

Rai believes that the media in Nepal has a tendency to exaggerate negative aspects of the migration process for migrant women and domestic workers. However, she also believes that many of the negative stories reported are true. She believes that different people can have different experiences abroad, and that some of these can be positive while others may be negative.

Opinions on bans and restrictions on migrant domestic workers

Rai strongly believes that bans and restrictions on foreign employment for migrant domestic workers are unfair. Using her own experience and the experiences of other women in her community, she believes that migration restrictions do not prevent women from migrating. Rai says that migration restrictions did not make her feel safer during her own journey. Instead, Rai believes that the Nepal government should focus on improving employment and education opportunities for women in Nepal, mentioning that living expenses are very high but that income-generating activities for women are few and far between.

Sushila Rana

Country of destination: **Lebanon**

District of origin: Myagdi

Current residence: Kathmandu



Background

Sushila Rana migrated as a domestic worker to Lebanon in 2007, where she remained for approximately 10 years. In Lebanon, Rana worked in a family home performing household chores. She returned to Nepal in 2016 and now resides in Kathmandu with an adopted baby girl. She works for the International Labour Organization (ILO)'s *Work in Freedom* programme and runs an information phone line for migrant workers at the Department of Foreign Employment (DoFE). She is an activist and frequently advocates for the rights of Nepali migrant workers abroad, focusing on mental health and suicide prevention. Although Rana says she was unable to save much money while abroad, she feels very positively about her migration experience and reports that she was able to improve her English and learn Arabic as a result. Rana plans on remaining in Nepal for as long as she still has access to decent employment. However, she says that she would be open to migrating again, particularly if she finds a good work opportunity abroad.

The decision to migrate

Rana recounts deciding to migrate shortly after her mother passed away. During this period the Maoist insurgency was also still active in Nepal and she felt frustrated by the circumstances under which she was living and the sense of insecurity that existed in Nepal at that time. She first tried to migrate to the United States and Japan but her applications for both countries were rejected, so she settled on Lebanon. She iterates that she made the decision to go to Lebanon by herself. Like many other migrant women, Rana had never worked prior to migrating.

Migration trajectory and recruitment process

Rana reports that she migrated from the Kathmandu Airport. At this time in 2007, she was not aware of any restrictions in place on the departure of migrant domestic workers.

The entire process was facilitated by an agent operating independently, who helped her decide on a destination country, plan her travel itinerary and secure her visa. She reports having obtained a written contract for three years and having been informed of the conditions of employment, salary, destination country and other information prior to migrating. Rana also recalls obtaining a domestic worker visa for Lebanon before departure. In order to finance her migration experience, she had to take out a loan from a friend of hers for roughly NPR 32,000.

Rana says that she was not aware of any pre-departure orientation trainings and did not partake in any before she migrated. Rana was never told about insurance coverage and was never aware of having purchased a policy, but later found out that her recruitment agent had purchased a policy for her on her behalf, without informing her. Rana expresses that she felt fairly well-equipped with the necessary tools and resources prior to migrating but perhaps would have liked to have additional physical items to bring with her (including clothing), as many goods were more costly to purchase in Lebanon.

Work experiences while abroad

Rana recalls having a very positive experience with her employer and feels that they treated her as if she were a family member. However, Rana acknowledges that the work was very difficult and draining. She

recounts that the salary she received in Lebanon to begin with was less than what she had been promised while in Nepal, although her employer later increased her monthly wages. Rana comments that she was also required to work more hours than what was initially agreed upon.

Perceptions in Nepal

Rana is quite proud of her migration experience and views it quite positively, and she feels that her community does as well. She mentions that her family members also held positive perceptions of her experience and that her family and community noticed that she had become more independent and learned many new skills as a result.

Opinions on bans and restrictions on migrant domestic workers

Rana offers strong criticism regarding current bans and restrictions on foreign employment for migrant domestic workers:

"I feel that the government has deprived me of my right to work abroad. I feel like most people have to go abroad to earn money as there are no employment opportunities in Nepal. Some women come from very difficult economic backgrounds and they will find any means necessary to earn money, including by migrating through India or a different country."

Rana also believes that bans and restrictions on migrant domestic workers puts women at greater risk, commenting that she thinks women who go through India are more vulnerable to facing fraudulent practices or falling victim of human and labour trafficking. Instead of a ban, she recommends that the government provide women with adequate employment opportunities in Nepal so that women do not feel the pressure to migrate anymore.

Shrijana Oli

Country of destination: **Saudi Arabia**

District of origin: Palpa

Current residence: Machhapokhari



Background

Shrijana Oli spent six years working as a domestic worker in Saudi Arabia between 2008 and 2014. In Saudi Arabia, Oli cared for two young children, cleaned, washed clothes and performed other household chores. Oli feels very satisfied with her migration experience. She returned with savings and is now working as a farmer and tending to livestock in Machhapokhari alongside her three daughters. Oli does not have any immediate plans to migrate again but says she is open to doing so in the future if a good work opportunity arises, as she would also be interested in exploring and experiencing a new country.

The decision to migrate

Oli was a housewife before migrating and had not worked outside of the home before. She says that she was married at a very young age and feels that she never had the choice to seek employment outside of her home. Her decision to migrate was motivated by the desire to maintain adequate living standards for herself and her daughters. At the same time, she says that part of her decision was also influenced by the urge to distance herself from her husband, who was an alcoholic and did not treat her well. When Oli finally decided to migrate, she notes that she discussed the idea with her relatives and was encouraged to do so. She mentions that friends and relatives of her employers in Saudi Arabia also had Nepali domestic workers in their homes and that her own aunt had worked for 11 years in Saudi Arabia.

Migration trajectory

Oli's migration experience reflects the diversity of migration trajectories that women migrant domestic workers often embark on in order to arrive to their respective destination countries. She recounts migrating through India because she did not have to pay any money in order to do so. After transiting through India, Oli then arrived in Pakistan, from where she then flew to Saudi Arabia. Oli mentioned that she would have preferred to depart from the Kathmandu airport when she first migrated. She says that she had no knowledge of any restrictions on foreign employment for migrant domestic workers whatsoever and was motivated by financial reasons to migrate through India.

The recruitment process

In order to migrate Oli relied on the help of an individual agent, who helped her in arranging her position, deciding upon the destination country, the travel itinerary and in obtaining a domestic worker / caretaker visa for Saudi Arabia. Oli notes that she did not have to pay any money to her agent either as her employer had financed the entire process.

While Oli's agent informed her of relevant aspects of the job, including the conditions of employment, the salary, the country of destination and other relevant information, she was never provided with a written contract. She also was not made aware of any pre-departure orientation training and did not participate in any training exercises before departing. Oli states that she had no knowledge of the Nepali embassy in Saudi Arabia and had no knowledge of the services that the embassy offered or of how to contact them. She also did not purchase any insurance policy prior to migrating.

Work experiences while abroad

Oli specifies that the job duties, salary, location and other aspects of her employment experience once in Saudi Arabia were similar to the conditions promised to her when she was in Nepal. She also recounts having a very positive experience with her employer and that the family treated her very nicely. She does not feel that the work was too difficult, and she says that the working conditions were good. However, Oli had a number of language difficulties at the beginning and could not understand her employers. These dynamics later changed as she was able to significantly improve her Arabic skills over time.

Oli says that she was able to gain a number of new skills and capabilities while she was abroad.

“Migration gave me skills to use technologies such as home appliances, to cook food, fold clothes and increase my earning capacity. I experienced positive economic impacts as a result of my migration experience.”

With the money she earned abroad, Oli was able to purchase land back in Nepal, make improvements to her home and buy a vehicle.

Perceptions in Nepal

Oli is not sure how her migration experience was viewed by her community but did not mention experiencing any negative sentiment from her neighbours or family since returning.

Opinions on bans and restrictions on migrant domestic workers

Because Oli was not aware of any bans or restrictions on migrant domestic workers, she does not have any comments to offer according to her own experience. However, she does feel that, if these policies are still in place, that they should be repealed and that women should be able to migrate abroad if they want to. She believes that the Nepal government should improve employment opportunities inside of the country as well.

Kumari ChaudharyCountry of destination: **Kuwait**

District of origin: Jhapa

Current residence: Morang

**Background**

It has been 15 years since Kumari Chaudhary returned from Kuwait, where she worked for two years as a domestic worker, performing household chores and looking after children. She now runs a local hotel in Morang district. Chaudhary feels that her migration experience was very positive overall and allowed her to save money. While she wishes that she could migrate abroad again, she says that she is unable to because she needs to be in Nepal to take care of her son and be with her husband.

The decision to migrate

Migration was not the first time that Chaudhary had engaged in employment outside of the home. Similar to her current occupation, she also managed a local hotel prior to her departure. Chaudhary's decision to migrate was mostly motivated by family reasons. She notes that at the time she migrated she had many relatives living and working in Kuwait and wanted to go there to join them.

Migration trajectory

Chaudhary recalls feeling that she did not have very much decision-making power regarding her migration journey, although it was her decision to migrate to Kuwait. Instead, an individual agent handled almost all aspects of the process. While she migrated through India and departed from Delhi, she was not familiar with the reasoning for doing so. During the process she was not told where she would be departing from or why she was unable to migrate from the Kathmandu airport. When she did migrate, she was not aware of any restrictions on foreign employment for domestic workers.

The recruitment process

Chaudhary did not have the necessary funds upfront to fund her migration. Instead, she took out a loan from her agent for roughly NPR 30,000 which she then repaid with her first month's salary. Part of this fee paid for the domestic worker / caregiver visa that she obtained in order to work in Kuwait.

Chaudhary comments that she was not made aware of any predeparture orientation trainings and did not partake in any before departure. She also did not purchase any insurance and was not aware of any insurance schemes available to her before migrating. While she was given basic information on her conditions of employment, salary and other elements of the job, she says she was never provided with a written contract. Her agent informed her of the Nepali embassy, the services they offered and how to contact them prior to migrating.

Work experiences while abroad

In regard to her work experience overseas, Chaudhary has very few complaints. Overall, she expresses that the experience was positive and allowed her to save money. She thinks that the work conditions were good. However, she acknowledges now that she did not feel that she was able to gain very many new skills or capabilities by working as a domestic worker.

Perceptions in Nepal

Chaudhary says that her family had no issues with her decision to migrate. She feels that negative stories on migrant domestic workers are not always accurate, and that migration experiences vary from person to person.

Opinions on bans and restrictions on migrant domestic workers

Although Chaudhary was not aware of any bans on migrant domestic workers seeking foreign employment when she migrated, she is aware of them now. While she does not believe that the restrictions are effective in preventing women from leaving Nepal to seek domestic work abroad, and does not think that restrictions necessarily made women safer, she does support the idea of trying to limit the amount of out-migration overseas due to the suffering that many Nepali workers are known to face in foreign lands.

Bimala AdhikariCountry of destination: **Kuwait**

District of origin: Morang

Current residence: Kathmandu

**Background**

Originally from Morang district, Bimala Adhikari now resides in Kathmandu with her husband and children. She migrated to Kuwait in May of 2018 as a domestic worker but only ended up staying in Kuwait for roughly six months before returning to Nepal. While in Kuwait, Adhikari washed clothes, cooked meals and did household dishes, while also taking care of an eight-month-old baby and two other children. Since returning, Adhikari says she has not worked and is not looking for employment outside of her home. She perceives her overall migration experience negatively and had a negative relationship with her employer. She supports the Nepal government's ban on migration for domestic workers.

The decision to migrate and migration trajectory

Before migrating, Adhikari had never worked outside of her home. Her decision to migrate was motivated by her family's poverty and financial issues in Nepal. She recalls her experience migrating through India and says that when she first migrated, she had not been aware of the ban on migrant domestic workers and was not aware of the implications involved in not obtaining an exit permit from the Nepal Government. She says she that she would have preferred to migrate from the Kathmandu airport because it would have made the process significantly easier.

The recruitment process

An individual agent organized all of Adhikari's travel, work and visa arrangements. Adhikari's decision to migrate to Kuwait was her own. Luckily, she did not have to pay anything in order to migrate. She says that her agent had sponsored all of her expenses. In preparation for her employment experience she did receive a written contract which stipulated that she was not allowed to change employers for a minimum of six months once in Kuwait. She was informed of all the terms and conditions of her job before she left.

Prior to migrating, Adhikari does not recall having participated in any pre-departure orientation trainings. She recounts not having any knowledge of insurance before migrating and did not purchase or enroll in any insurance schemes. However, she says that she was aware of the Nepali embassy and the services it offered, after speaking with some friends who had already migrated to Kuwait.

Work experiences while abroad

Adhikari recalls having a number of issues while working abroad. Firstly, she was paid significantly less per month than the amount which had originally been stipulated in her contract. She did not have a good relationship with her employers. She says that her employers were very unkind to her and made her work excess hours with very little rest. Adhikari recalls only sleeping between three and four hours every night. Due to the brief period in which she worked abroad she was not able to save any money and feels that she did not really learn any new skills or capabilities. Overall, she feels that her migration experience made her fearful of working abroad again and that she would prefer to work in her own country.

Perceptions in Nepal

Owing to her negative experience abroad, Adhikari believes that her family perceives negatively of her migration experience as well. Despite her own negative experience, she discusses how negative perceptions of migrant domestic workers in Nepal and in the media are not always accurate, recognizing that the process can differ significantly from person to person.

“Now I am working as a housemaid and would love to work in my own country. I believe community and family perceptions toward migration as an unsuccessful venture is not always accurate and we should accept everyone’s experiences”, given that “everyone has their own migration experience and these experiences can vary.”

Opinions on bans and restrictions on migrant domestic workers

Adhikari believes that bans and restrictions on foreign employment for migrant domestic workers are fair. She believes that the restrictions, to some extent, prevent women from migrating and that they do make women safer. She supports the continuation of migration bans.

Sarda Rai

Countries of destination: **Kuwait, Saudi Arabia and United Arab Emirates (UAE)**

District of origin: Morang

Current residence: Morang



Background

Sarda Rai is a very experienced migrant following years of overseas work in a number of countries. She spent over two years working as a domestic worker in Kuwait before obtaining a job in Saudi Arabia where she lived and worked for over three-and-a-half years. After returning to Nepal for one year in 2011, she again migrated to the UAE in 2012 where she spent an additional five years. While working in Kuwait and UAE, Rai cared for children and performed household chores. In Saudi Arabia she cared for an elderly woman. She returned to Nepal from Dubai in 2017.

When Rai returned to Nepal, she had only planned to stay for a brief period to take care of family matters, but the process took longer than she expected and her visa for Dubai ended up expiring in the meantime. Rai recalls having a positive experience in each of the three countries that she worked in. While she is open to migrating again, she says that because her son is going to work abroad soon, she will stay put for now. She is not currently working but says that she has begun looking for work in her district. In the meantime, she has been tending to some animals that she owns while learning how to tailor clothing.

The decision to migrate

Rai was pushed to migrate when conditions for her family deteriorated rapidly in Nepal. She recounts getting married at a very young age to a man with whom she did not have a positive relationship. The situation between Rai her husband eventually deteriorated to the point where she was forced to file for a divorce. As a result of her marital separation, Rai says that she faced an immense amount of judgement from other members in her community, and recounted being treated badly by many of her own relatives.

The situation was made worse for Sarda's family when her father suddenly left them. As a result, she became financially responsible for taking care of her elderly mother, her sister and her son. While Sarda was gainfully employed working two jobs as a teacher in a private school in Morang and as a private tutor, her local wages were not enough to maintain adequate living standards for herself and her family. She gravitated to the higher wages that she felt she could earn by migrating for domestic work.

Ultimately, Sarda's decision to migrate was taken following consultation with her family. In particular, she recalls receiving a lot of support and encouragement from her cousin's sister, who also lent her money to cover migration costs.

Migration trajectory

In order to migrate to Kuwait, Rai crossed the border into India and traveled to Mumbai, where she eventually boarded a flight. At the time, she says she was aware of the restrictions on foreign employment for migrant domestic workers and was aware that she was migrating by way of India as a result of these barriers.

Sarda migrated directly to Saudi Arabia from Kuwait for her second job. However, when she decided to migrate for a third time after returning to Nepal, she again was pushed to migrate to Dubai by way of India due to ongoing restrictions. Sarda would have preferred to migrate from the Kathmandu airport. She says that above all she would have felt safer in doing so, and more confident given that she would have been able to speak to airport and other officials in her native language.

The recruitment process

When Rai first migrated to Kuwait, the entire process was facilitated by an agent in her community who helped her arrange the job, travel itinerary and visa. After arriving to Kuwait, she discovered that a domestic worker visa had been arranged for her. She was told that she needed to pay NPR 35,000 to the agent, which she ended up deducting from her first month's salary and with loans from relatives. Once in Kuwait, however, she found out that all of these fees had already been paid by her employer upfront.

When Rai eventually decided to migrate to Saudi Arabia from Kuwait, she financed the process with her own money and did so individually. Her decision to migrate to Dubai was entirely her own and was facilitated by a friend of hers who lent her money to cover the fees. In order to migrate to Dubai, she obtained a tourist visa which she subsequently converted into a work visa once she arrived in UAE.

Rai says she never received contracts for her work but was told the amount that she would be paid, the destination country and the job duties expected of her. She never completed any pre-departure trainings prior to migrating and she did not purchase insurance nor have knowledge of any insurance schemes available to her. However, she feels that had she ever experienced any issues, she would have been able to seek reclamation as she had evidence of her travel and legal documentation of her work permit and employment. Because she had documentation in the destination countries where she worked, she did not feel at-risk and believes she had the necessary tools and resources available to her prior to migrating. Before departing, a friend of hers gave her the contact phone number for the Nepali embassy in Kuwait, and she says that she was aware of the services that they provided.

Work experiences while abroad

Rai expresses that she had a very positive experience in all of the countries she migrated to. In particular, she enjoyed working in Saudi Arabia: *"I had to take care of an elderly lady in Saudi, and she treated me very well, as if I were family"*. For each of the positions, the work conditions, salary and job benefits reflected what had been promised to her in Nepal. Rai was able to save quite a lot of money. She recounts that she received salary raises during all of the jobs she completed abroad:

"I progressed after migrating to Dubai in particular. I maintained my economic status. I was able to buy property in Nepal after returning. I was also able to learn many new skills – I learned about new cultures and languages and learned how to interact with new people. I learned how to cook new cuisines including Indian and Arabic dishes". With her new cooking skills, she hopes to open a new hotel in the future.

However, she notes that the working conditions were quite different for her abroad when compared with Nepal. She feels that the profession she had as a schoolteacher in Nepal before migrating was more respected than the type of work she was realizing as a domestic worker abroad. As a domestic worker, Sarda says she frequently felt like a lower-skilled labourer, despite the fact that her salary was higher.

Perceptions in Nepal

Rai feels that her migration experience gave her the chance to distance herself from the negative perceptions she faced in her community that resulted from her divorce. In fact, she feels that her community views her very positively now and recognizes how migrating allowed her to become more independent and economically stable. However, she feels that media reports regarding domestic maids in the Gulf are not very representative of the actual phenomenon. She feels that while some of the negative stories recounted in news stories reflect realities for some, they are not representative for the majority of migrant women. She feels that everyone has different experiences with the process.

Opinions on bans and restrictions on migrant domestic workers

Rai does not think that bans and restrictions on migrant domestic workers are fair. She stresses that many Nepali men and women have not been provided with the resources to access decent employment in Nepal and do not have the necessary educational qualifications to access higher-skilled, higher-paying jobs. For women who do not have adequate levels of education, migrating as a domestic worker provides one of the few opportunities to earn a good income. She does not support the restrictions and feels they should be repealed, as she does not believe that they make women safer.

Kopila Prasai

Country of destination: **Israel**
District of origin: Sankhuwasaba
Current residence: Bhaktapur



Background

Kopila Prasai first migrated to Israel at the beginning of 2009. She ended up remaining in Israel for nearly 11 years, returning in mid-2019 to Nepal. While in Israel, Prasai worked various jobs as a domestic worker. For her last position, she cared for an elderly woman, waking her in the morning, preparing her meals and completing household chores and accompanying her out of the house. She recounts experiencing many positive social and economic outcomes as a result of her migration experience. Since returning to Nepal she has not worked. While she has no immediate plans to migrate again, she says she is open to migrating again in the future should she find a good opportunity abroad.

The decision to migrate

Before her decision to migrate, Prasai had never worked formally outside of her home, with the exception of occasionally helping her husband run his shop. Her primary reason for deciding to migrate was the encouragement she received from a number of her relatives who were already living and working in Israel. These relatives shared a number of positive stories about Israel and about their own migration experiences with her. Prasai recounts being told that Israel was a safe country and that the incomes offered there were high, which sounded appealing to her.

Migration trajectory

Prasai notes that she migrated from the Kathmandu airport with a labour permit issued by the Nepali government. She mentions that she was able to migrate during a period when migration for domestic work to Israel was open. However, she recalls hearing that bans were reimposed again shortly after she had already left Nepal. She recounts that she returned on three separate occasions while working in Israel to visit Nepal and that she did not encounter any issues entering or exiting the country on any of those occasions.

The recruitment process

Perhaps unlike the majority of women migrant domestic workers from Nepal, Prasai's recruitment process was organized by a formal recruitment agency registered in Kathmandu. This agency helped her organize her employment, determine her travel itinerary and obtain a visa for Israel.

In order to fund her migration costs, Prasai says that she used her personal savings, took loans from her relatives and sold jewelry. As part of her formal recruitment process she engaged in a 15-day pre-departure orientation training specifically designed for domestic workers. She does not recall purchasing an insurance policy in Nepal or enlisting in any insurance schemes but notes that she had arranged for a policy in Israel once she arrived. She recalls receiving a written contract of employment which stipulated the destination country, employment conditions and salary. However, she says that she was not aware of the Nepali embassy in Israel and did not know how to contact them – however, she stresses that the place where she stayed was safe and that she never felt any need to contact the embassy while in Israel.

Prasai feels that she was well-equipped for her migration experience and that she did not lack any tools or resources prior to departing Nepal.

Work experiences while abroad

Once abroad, Prasai iterates that her job duties, location and other aspects of employment (including salary) were all in line with what she had agreed upon in her original contract. She also recalls having no difficulties in changing her employer and was given full liberty to do so.

Prasai says that she had a very positive relationship with all of her employers while in Israel. In particular, the elderly woman who she cared for before returning to Nepal was kind and treated her like a family member. With that being said, she acknowledges that providing care work required a lot of diligence and patience. Nevertheless, she was able to save a significant amount of money, noting that she spent very little while living in Israel and was able to send the majority of her earnings back home. She feels that she has been able to meet the needs of her children over the long-term with the money that she made abroad.

Prasai feels that it was easier to work in Israel than in Nepal. She says that Israelis in her community had respect for all professions and that she did not feel judged for working, or for her occupation. While Prasai faced difficulties at the beginning of her migration experience because she did not speak Hebrew, over time she was able to learn the language and interact regularly with her employers. She is proud of the new experiences she gained and was glad to experience living in a foreign country. In addition to improved foreign language skills, Prasai notes that she was able to learn how to use a number of household appliances, including washing machines and kitchen equipment.

Perceptions in Nepal

When discussing how she felt her decision to migrate was perceived by those around her, Prasai says that most of her family and community perceived her migration experience positively. She knows that some people expressed judgement toward her decision but does not feel that this affected her.

Opinions on bans and restrictions on migrant domestic workers

Prasai is aware of bans and restrictions on migrant domestic workers but said she does not have a lot of knowledge about the specific dynamics of the regulations. With that being said, she does not feel that limitations on foreign employment for domestic workers are fair. She feels that it is a right for women and domestic workers to migrate should they choose to do so, and that women's mobility should not be restricted. To improve the situation for migrant women and for domestic workers she expressed that there should be more information available for migrants before they depart.

"I feel that the government should not restrict women from going.... people should have full liberty to choose to migrate. Israel was safe for women and it was a safe place for me. I returned three times and did not experience any problems."

Kumari Tamang⁴⁰

Country of destination: **Kuwait**

District of origin: Morang

Current residence: Morang

Background

Born and raised in Morang, Kumari Tamang decided to migrate to Kuwait in 2017, where she then spent three years working as a domestic worker. Her main tasks included cooking, cleaning and performing other household chores. Tamang feels positively about her migration experience and about the economic benefits that it provided for her and her family. After returning to Nepal in late 2019, Tamang has yet to find employment. Instead, she works in her family home and on her family's farm, while tending to her goats. Tamang says she is currently conflicted about whether to migrate again or not. While she wants to be present in order to raise her daughter, she feels pressure to migrate again because she is worried for her daughter's future and wants to send her daughter to a good school.

The decision to migrate and migration trajectory

Before migrating, Tamang had not worked outside of her home. She chose to migrate because she wanted to improve the economic conditions for her family.

Tamang migrated through India, and stayed one night in Delhi before boarding a flight to Kuwait. Tamang recalls migrating with a group of between eight or nine women, many of whom she knew and were friends of hers. Tamang describes how her original preference was to migrate to Oman because she already had a relative who was residing and working there. However, she discusses ultimately taking the risk to go to Kuwait given that the other women who she was migrating with had all secured jobs there. She iterates, however, that the decision to migrate was entirely her own.

Tamang feels strongly that she would have preferred to depart from the Kathmandu Airport. Above all, she feels that this would have made her feel more secure in her migration process given that she would have had documented evidence of her migration by doing so. She expresses that she had been aware of restrictions on the departure of migrant domestic workers when she left and knew that these restrictions were the principal reason why she and the other women were required to migrate through India. Despite the added risks, she recounts that she felt a lot of pressure to migrate anyway, due to the difficult economic circumstances that her family was facing at the time.

The recruitment process

Tamang says that her recruitment process was very rushed. She feels that she had very little time to prepare and thus was unable to gather a lot of information or knowledge about the process. Part of this was motivated by her own urgency to migrate as soon as possible and to not delay the process any longer. As a result, she did not participate in any pre-departure orientation trainings nor did she report having enrolled in any insurance scheme before she departed. She regrets not taking out an insurance policy prior to migrating because she feels that this too would have provided evidence of her migration process while also serving as an additional safety mechanism in transit and once abroad.

Tamang mentions that she was aware of the Nepali embassy in Kuwait prior to migrating because she had a brief conversation about it with her friend before she left – however she did not know how to contact them. Nevertheless, she says that she knew that if she had any difficulties while she was abroad, she would be able to reach out to the embassy for assistance.

40 Ms. Tamang did not wish to have her photo taken.

The entire recruitment process was handled by a woman working as an agent that Tamang and the other group of women knew personally. This woman had previously been to India and Kuwait and accompanied the group of women during the journey. All aspects of the recruitment process were managed by this recruitment agent and Tamang reports not having had to pay any fees, with the exception of covering the costs for her passport.

Tamang never received a written contract. She reports only receiving vague information about the salary and country of destination but was not very familiar with other elements of the position. She says that she only gathered more information once she had already arrived in Kuwait, where the group of women were then taken to the recruiting office in Kuwait City and given more information about their salaries and employers.

Work experiences while abroad

Tamang mentions that she had a very positive relationship with her employers and that they were very friendly and treated her well. She says that she is still in touch with them to this day.

While most of the job duties, location and other elements of the job were in line with what Tamang was originally promised, she notes that at the beginning the salary she was given was lower than what she had been promised (75 Kuwaiti Dinar compared with the 100 Kuwaiti Dinar originally stipulated in her contract). However, she says that her employer raised her salary to 100 Kuwaiti Dinar soon after. She recounts having to follow the schedule of the family she lived with and that the hours were not fixed, but that she performed the work as requested without any issues.

With the money that Tamang made abroad she was able to pay off her home loan back in Nepal, although she notes that she did not have very much money leftover as a result. She was glad to learn new cooking skills and learn how to prepare new dishes.

Perceptions in Nepal

Although Tamang had a positive migration experience, she believes that the representation of migrant domestic workers in popular media in Nepal can be accurate at times, recognizing that many women face difficulties abroad, and that not everyone has positive outcomes.

Opinions on bans and restrictions on migrant domestic workers

Tamang was very clear in stating that she believes the bans and restrictions on foreign employment for domestic workers to be unfair. She does not think that these regulations prevent women from leaving and she does not feel that they have made herself or other migrant women safer. She believes that women struggle a lot in Nepal and sometimes have no other option but to migrate. She hopes that the government will understand this and try to do more to create decent employment opportunities for women.

Mina Acharya

Country of destination: **Israel**

District of origin: Bhaktapur

Current residence: Kotang



Background

Mina Acharya first migrated to Israel in September of 2008. In Israel, she provided care to an elderly gentleman and helped him move about his house. Acharya feels very happy with her migration experience and believes it benefitted both herself and her family back home. She is now living in Kathmandu with her family and working in her home. She does not have any plans to migrate again.

The decision to migrate

Before migrating, Acharya used to run a grocery shop. However, the money that she made in the shop was not enough to address her family's financial woes. At the time, Acharya's husband was also living and working in Israel and he encouraged her to migrate as well in order to earn a higher salary. Acharya feels that the fact that her husband was already living and working safely in Israel before her departure instilled her with the confidence to leave and made her feel safer throughout the process.

Migration trajectory and recruitment process

Acharya migrated from the Kathmandu airport with an exit permit issued by the Nepal government. The entire process was organized by a formal recruitment agency registered with the Nepal government and based in Kathmandu. This agency helped locate her job and negotiate with her employer, plan her travel itinerary and obtain a caregiver visa for Israel. In order to finance her migration Acharya reports having taken out a loan from her relatives, which she has since repaid.

Before departing, she says that she did not complete any pre-departure trainings and was not aware of them. While she was provided with details regarding the salary and work conditions, she never received a written contract of employment. While Acharya was not made aware of the Nepali embassy's presence in Israel or the services that it offered, she mentions that her husband had knowledge of these matters. Acharya expresses that when she migrated, she wishes that she had brought more personal items and clothing with her because it is expensive to go shopping in Israel.

Work experiences while abroad

While abroad, Acharya says that the working conditions, job duties and salary were as she had been promised in Nepal. She feels that her employers treated her like a member of their family and that the working conditions were good. She feels that working in Israel is more difficult and that there is more competition for fewer jobs, at the same time that salaries are lower. She was able to save money in Israel and learn a number of new skills, including using household appliances and other new technologies. She was also able to learn Hebrew and make significant improvements in her English-speaking skills.

Perceptions in Nepal

Acharya does not feel that negative perceptions of migrant domestic workers in Nepal are accurate, as she believes that there are a multitude of women that do experience positive outcomes. She does feel that her migration experience was widely accepted by her family and community back home and that her family was able to benefit as a result.

- ▶ A comprehensive analysis of policies and frameworks governing foreign employment for Nepali women migrant workers and migrant domestic workers

Opinions on bans and restrictions on migrant domestic workers

When Acharya migrated in 2008, she was not aware of any restrictions regarding the departure of migrant domestic workers to Israel. She is aware of these regulations now and feels that they are unfair. She knows women who have migrated to various countries as domestic workers despite the bans, and says:

"I feel that restrictions are making it tougher and more dangerous for women. A ban is not a solution." She further discussed how it was not an easy decision to "leave our loved ones behind" to migrate, and that if there were better work opportunities in Nepal, women would feel less pressure to migrate.

Sabita RaiCountry of destination: **Kuwait**

District of origin: Morang

Current residence: Morang

**Background**

Rai currently works and lives in Morang district as an information officer. It has now been nearly 10 years since Rai returned from Kuwait, where she worked as a domestic worker from 2004 until 2011. While she has no plans to migrate again, Rai looks back positively on her migration experience. She says she had a positive relationship with her employer and was able to earn money for her family back in Nepal.

The decision to migrate and migration trajectory

Before migrating, Rai worked in Morang district as a schoolteacher. While she enjoyed her job, she notes that the salary she earned was not enough to keep herself and her family from experiencing significant financial problems. Motivated by the prospect of earning a higher salary abroad, Rai decided to migrate to Kuwait, where a relative of hers was already living and working. She iterates that the final decision to migrate was her own.

In order to reach Kuwait, Rai departed through India. She recalls being taken across the border into India to Bihar, where she then waited for 21 days while her work visa was being processed. Rai says that she was aware of bans and restrictions on foreign employment for migrant domestic workers at the time but chose to migrate anyway. However, she would have preferred to migrate from the Kathmandu airport as it would have made the process significantly easier for her.

Recruitment process

Rai's job in Kuwait, her travel itinerary through India and onward to her destination country, and her domestic worker visa for Kuwait were all handled by an individual agent from her community. In order to cover her migration fees, she says that she had to take out a loan of NPR 35,000 from one of her relatives, which she subsequently repaid.

Rai did not participate in any pre-departure orientation trainings prior to migrating. She mentions that she was informed about the conditions of her employment, the salary and other elements related to the job verbally. While she did receive a contract, the document was written in Arabic and she was not able to understand it prior to signing it. She recalls her agent describing the contract process as a "formality". Rai did not purchase an insurance policy or enroll in any welfare schemes before she departed. She was, however, aware of the Nepali embassy's presence and location in Kuwait and knew that she could call them if she ever experienced any issues.

When asked whether there were any resources or tools that she would have liked to be given or have access to prior to migrating, Rai again referenced the migration bans. She feels that the Nepal government should have provided her with an exit labour permit in order to migrate legally and avoid the high risks associated with traveling through India.

Work experiences while abroad

Once abroad, Rai says that the job duties and salary matched what she was originally promised in Nepal. She says the working conditions were very good overall and that the salary she earned was significantly higher as a domestic worker in Kuwait than what she earned as a schoolteacher in Nepal.

Due to the positive relationship she had with her employer, Rai remained in the same household in Kuwait for nearly eight years. With the money she earned abroad, she was able to purchase land back in Nepal and increase her family's savings.

Rai feels that she was a pioneer in her community by deciding to migrate to Kuwait. At the time when she first left, she was the first woman from her village to migrate to a foreign land. Given her successful experience, she reports that many women have come to her over the years asking for her advice and recommendations, and that other women from her village have since migrated and improved their economic conditions as well.

Perceptions in Nepal

Rai does not feel that negative perceptions of female labour migration and migration for domestic work in Nepal are always warranted. Like the other women interviewed for this review, she feels that each individual person can have their own experience while abroad and that the outcomes of these experiences can vary significantly.

Opinions on bans and restrictions on migrant domestic workers

When asked about what opinions she held in regard to restrictions on migration for domestic workers, Rai mentioned feeling that these regulations were unfair. According to Rai:

“The government of Nepal is putting women at risk by putting mobility restrictions in place. As a result, they are departing through hidden, riskier channels”.

She says that the restrictions will continue to be unjust as long as Nepal is unable to provide decent employment opportunities to women in the domestic labour market.

Sunita Lama

Country of destination: **Kuwait**

District of origin: Kathmandu

Current residence: Kathmandu



Background

Sunita Lama has a gift with languages. She speaks Nepali, Hindi, English, Arabic, Newari and Tamang. She mentions that her Arabic skills came as a result of her migration experience while living and working as a domestic worker in Kuwait, where she arrived for the first time in 2016. While working abroad, Lama recalls caring for three children in her employer's home, in addition to washing and pressing clothes and housecleaning. Since returning to Nepal, Lama says she has not looked for work because she is planning to migrate again. She is currently undergoing the process of applying for employment and obtaining a visa to work in Dubai, United Arab Emirates.

The decision to migrate

Before migrating to Kuwait, Lama ran a hotel and owned a small grocery shop. She says that the main reason she chose to migrate was due to problems she was facing with her family at the time. She iterates that her decision to migrate was entirely her own and that she decided to go to Kuwait herself.

Migration trajectory

Lama says that she migrated to Kuwait by way of India. This decision was motivated mostly by cost considerations given that she did not have to pay any money. She says that she had no knowledge of bans or restrictions on foreign employment on migrant domestic workers at the time that she departed.

Recruitment process

All elements of Lama's recruitment process were handled by an individual agent. This agent organized her employment, her travel plan and her domestic worker visa for Kuwait. She says that her agent covered all of the expenses of her migration and that she did not have to pay any fees.

Lama was provided with a written contract which she signed prior to leaving Nepal. She says that the contract informed her of the conditions of employment, the benefits, salary and destination country. The same contract also stipulated that she would be unable to change her employer during her first three months in Kuwait, after which time she was free to change her employer / household in the event that she was not satisfied with her working conditions.

She discusses knowing about pre-departure orientation trainings available to migrants and migrant domestic workers in Nepal but says that she never completed any trainings before she left. She did not take out an insurance policy prior to migrating but had knowledge of the Nepali embassy in Kuwait and had the embassy's contact number. She does not feel that she lacked any tools or resources prior to migrating and feels that she was generally well prepared.

Work experiences while abroad

While in Kuwait, Lama says that the job duties and salary were as promised to her in Nepal. However, she says that her employers promised early on that they would increase her monthly wages but neglected to do so for the first two years. Nevertheless, she says that they treated her very well and that she had a positive experience with her employers. She also believes that the work was not that difficult.

With the money she saved abroad, Lama reports being able to pay off half of a loan that she had incurred back in Nepal. At the same time, she feels that her migration experience allowed her to distance herself from the multitude of family issues she was facing back in Nepal before departure. Finally, she says that her employment abroad taught her to be more disciplined in her work and gave her the opportunity to learn how to use new household and kitchen appliances and technology that she had not been exposed to whilst living in Nepal.

Perceptions in Nepal

Lama feels that her family viewed her migration experience positively, particularly because the money she earned abroad produced positive economic improvements for them as well. She does not think that negativity toward the foreign employment process for women is necessarily justified because she feels that the experience can be positive for women. However, she knows that there are women who migrate and are not being paid on time or are having their identity documents seized by their employers.

Opinions on bans and restrictions on migrant domestic workers

Lama is not in support of bans and restrictions on foreign employment for migrant domestic workers. She does not believe it is fair to restrict mobility of Nepal's citizens. She uses herself as an example of the fact that bans do not prevent migrant women from leaving. Instead, she says:

“These restrictions will not make women safer but will instead increase migration from Nepal by way of India and through other countries. I think the government should focus on providing more employment opportunities for women here in Nepal”.

ILO Country Office for Nepal
P.O.Box No: 8971, Dhobighat - Nayabato, Lalitpur
Kathmandu, Nepal

T: + 977 1 5555 777, 5550 691
F: + 977 1 5550 714
E: kathmandu@ilo.org