

# research evidence for policy



Then Minister for Foreign Affairs Hon'ble Mr. Upendra Yadav and other stakeholders discuss foreign employment issues in Nepal, as part of an event organised by the Institute of Foreign Affairs in collaboration with the Nepal Institute of Development Studies (NIDS), the NCCR North-South, and others. Photo: South Asia RCO

## Protecting Nepalese women migrant workers



The case study featured here was conducted in Nepal.

### Policy message

- Bans and conditions on Nepalese women's migration are counterproductive in combating trafficking and should be lifted permanently to allow women equal migration rights. Effective mechanisms to ensure safe migration should be developed.
- Major efforts are needed to disseminate up-to-date information on migration policies and procedures. Information from recruiting agencies and migration departments should be accessible to prospective migrants in remote areas.
- Middlemen or brokers should be closely monitored and regulated. Despite their key role in enabling migration, they are neglected by policy. This puts migrants at risk of exploitation.

- **Conditions placed by the Nepalese government on the migration of women have only served to increase their vulnerability. While the conditions were intended to protect women from trafficking, they have had the effect of forcing women to choose riskier paths to employment abroad. In addition, due to a repeated pattern of imposing, lifting, and re-imposing bans, there is widespread confusion about the legality of women's migration, making it easier to coerce women into risky migration practices. Middlemen are the main points of access to migration, and are often key players in trafficking. The climate of confusion facilitates their ability to exploit women in the migration process. Permanently ending bans and creating safe migration mechanisms, effective information dissemination, and strong regulations on middlemen can help protect women from trafficking.**

### Women migrant workers

- Remittances from migrant work make up nearly 23% of Nepal's GDP and continue to be a lucrative opportunity for Nepal's growing labour force. In 2010, a study by NIDS estimated that more than 300,000 migrant workers left Nepal, a figure which does not take into account those who crossed the open border to India for work.
- Officially, only 3% of Nepal's migrant workers are women. However, in 2010 NIDS estimated that women account for as much as 30% of the total number of Nepali migrant workers. Of those recorded, 66% were employed as

domestic workers, an isolated and informal job that may put female migrants at risk of abuse and exploitation. Many reports from NGOs and UN bodies have shown the increased risk of exploitation of domestic workers, including physical and sexual abuse and forced labour. Further, the discrepancies in recorded numbers of female migrants indicate that something is driving these women to engage in risky alternative practices in order to access foreign employment opportunities, thus increasing their vulnerability to trafficking. In 2011, Amnesty International estimated that

## Featured case study

### Kamala Bishwakarma, 27, from Bardiya District

Kamala has two children and is divorced. She is also from an “untouchable caste”. Hardly literate with insufficient land to grow food, she struggled to find jobs on farms, earning meagre wages. She was desperate to find a good job but could not.

One day, she heard about earning NPR 20,000 – 30,000 (US\$ 225 – US\$ 335) per month in Lebanon, so her friend helped arrange a meeting with a local broker. She didn’t have money for a passport or the NPR 20,000 broker fee. The broker told her she could pay this back from the salary she would be earning. She agreed, and they left for Delhi.

Kamala was kept in Delhi for seven weeks, where she was forced to sleep with the broker and his friends. She wanted to return to Nepal but did not know how. If she went to the police she would also be in trouble, as going to Lebanon was illegal under bans by the government of Nepal. She saw no other options than to wait for the visa.

Finally, she flew to Beirut and started work as a domestic helper. Due to the language barrier and her lack of skills in using modern appliances such as vacuum cleaners and toasters, she was badly beaten many times. She never received her three months’ salary. She was told it was used to pay back her broker, and later found he received US\$ 3,000 from her employer.

A year later, Kamala is back in Nepal and again planning to go abroad for a better salary. She is still unable to find any work in the village and her children are grown up and have more needs. Thus, despite her negative experience, she feels going abroad is once again her only option to support her family (Government of Nepal 2011).

- nearly 80% of women's departures from Nepal go undocumented.
- **How conditions and bans have backfired**
- Current and past policies to protect women from trafficking vulnerabilities have had the opposite effect, creating greater vulnerability and forcing women to find other – riskier – ways to migrate. The policies, which are subject to frequent change, range from outright bans on women’s migration to discriminatory limitations. The history of lifting and imposing bans and conditions has created confusion about the legality of women’s migration at a given time (i.e. nobody is sure of the rules), allowing labour brokers to take advantage of women seeking employment. Brokers are now present at every stage of the migration process, creating barriers to women’s safe migration.
- **The role of middlemen**
- In most cases, women are coerced into a trafficking situation through interactions with middlemen who feed them false information. These middlemen are common in the migration process, yet remain unmonitored by current government policies and practices. Migrants rely heavily on the information middlemen provide them, as the middlemen are their main access to migration. As many sources confirm, the government’s frequent policy changes of imposing and removing bans, without adequately spreading the information on the current state of the law, facilitates the ability of middlemen to manipulate migrant women into believing that they have no other option than to take the risky route.
- Research has shown that even some officials at transit points such as the international airport and borders are unclear about the legality of women’s migration at a given time. There are frequent reports of airport officials hassling women going abroad for employment, for example by asking them to pay a “setting fee” (effectively a bribe) in order to migrate. This situation has come about because the history of imposing and lifting bans on women’s migration has created de facto bans, allowing officials to claim that it is necessary to be bribed in order to be let through. As debt is a

strong influencing factor in leading women into exploitative labour conditions, this additional cost increases their overall vulnerability.

Bans and conditions placed on women help middlemen and other actors to easily take advantage of women migrants. In a country where migrant labour is one of the most lucrative earning opportunities, it is clear that women will be forced into finding a way to access migration for economic advancement. Bans and conditions create a climate where women must rely on others who can easily lead them down precarious paths that end in trafficking and exploitation.

In short: bans are ineffective in protecting women from trafficking, driving women instead into dangerous migration conditions.

### Removing bans, promoting awareness, and creating safeguards

The first and most obvious move that the government can make is to completely abolish all bans and other discriminatory conditions on women’s mobility. These bans must be replaced by safe migration mechanisms that promote awareness for prospective migrant women and weave safety nets to protect women at each step of the migration process.

Effective information dissemination on new laws is needed to remove confusion about the legality of women’s migration. In the past, when these bans were imposed or lifted, there was little effort to educate the public and promote awareness about the changes. To prevent further confusion, greater effort can be made to make this information accessible to the public, specifically to those sectors of the population most likely to seek foreign employment. These include rural populations with high levels of unskilled and semi-skilled workers, who have few work opportunities in Nepal. Women who are unskilled or semi-skilled are also likely to go abroad as domestic workers, one of the groups most vulnerable to trafficking and exploitation. Information should thus be disseminated in a manner that is accessible to all levels of education and includes information about what to watch for when seeking employment through middlemen and recruiting agencies. Once a woman

chooses to go abroad, mechanisms that can track her movement and allow her to remain in constant contact with officials at home and abroad can help identify any risks or malpractices along the way, and intervene before the woman is trafficked. Again, adequate information dissemination about these mechanisms is key to ensuring their accessibility and effectiveness.

### **Monitoring and regulating middlemen**

The fact that middlemen act as the link for migrants to access foreign labour means that they should be closely monitored in the migration process. At present, the government's migration policies and procedures only reach the level of recruiting agencies, leaving middlemen out of the system of monitoring and checks. Though some effort has been made to register middlemen, implementation is weak and very few have been registered. Furthermore, current policies regarding middlemen actually discourage them from registering, as they have to bear legal responsibility if anything illegal happens to the women who go abroad. This discourages them from taking women abroad legally. Thus, the majority of middlemen continue to operate informally, making it easy for them to traffic women without going through the designated migration paths.

The informal nature of the middlemen's work makes it difficult to monitor them. However, many are linked to the recruiting agencies, and stricter regulations can be placed on these companies to monitor their use of middlemen e.g. by requiring the middlemen to use safe migration practices. Combined with effective information dissemination efforts, this can help lessen the vulnerability of women by creating safer migration paths.



Migrants discussing their problems with representatives from a local NGO in Beirut, Lebanon. Photo: NIDS

### **Definitions**

#### **Recruiting agencies**

More popularly known as manpower agencies, these are private companies which specialise in placing Nepali workers in employment opportunities abroad. The agencies are required to register, and are regulated by the government of Nepal.

#### **Middlemen**

Also known as brokers, these are unregistered individuals who work locally in communities to recruit workers for foreign employment. They are entirely unregulated and work mostly independently.

#### **Trafficking**

The definition of trafficking should be understood as presented in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons: "...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 of a position of vulnerability or 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..."



Nepalese woman migrant working as a domestic maid in Lebanon. Photo: NIDS



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### evidence for policy

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## Policy implications of NCCR North-South research

### Remove bans

Bans and conditions placed on women's migration are not only discriminatory, but also counterproductive in combating trafficking. Because working as a migrant is one of the most lucrative modes of employment for Nepalis, women need the option to work abroad in order to improve their livelihoods. The bans force them to take risky paths that increase their vulnerability to trafficking. If women were allowed to legally migrate for employment, the government could more closely monitor their movement in order to effectively prevent and intervene in trafficking situations. In order to do this, mechanisms must be put into place to facilitate safe migration for women.

### Disseminate information

The pattern of lifting and imposing bans and conditions has created confusion at every level, with widespread uncertainty as to the legality of women's migration at any given time. The government should improve its dissemination of information to ensure that all stakeholders are informed of policy changes: well-informed migrants are less likely to be exploited.

### Regulate middlemen

Current labour migration policies place various safeties and checks on recruiting agencies, but neglect middlemen. Unregulated and informal, middlemen have been identified as key players in the trafficking process. Migration legislation should carefully consider the role of middlemen and implement a strong regulation and monitoring system to prevent malpractices and reduce the risk of trafficking.

### Further reading

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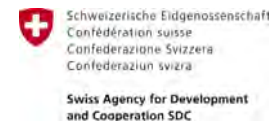
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