

NO EASY EXIT

MIGRATION BANS AFFECTING WOMEN FROM NEPAL



International
Labour
Organization



LABOUR MIGRATION BRANCH (MIGRANT)
FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK BRANCH (FUNDAMENTALS)

NO EASY EXIT

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WOMEN FROM NEPAL**

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FOREWORD

Migration as a means of economic and social empowerment is not a new phenomenon in Nepal. Historically, women and men have migrated both within the country and abroad to find new and better job opportunities. In the past two decades, however, Nepal has seen a dramatic increase in out migration. This can in part be attributed to external factors including globalization and increasing inequality as well as to Nepal's continuing economic and political challenges.

Due to the "care crisis" there is a growing demand for domestic workers in developed economies. Many Nepali women are leaving to take up positions as domestic workers in the Arab States. For many of these women the experience of travelling abroad for work will be the most important journey of their lives. While some will have positive experiences, others will experience exploitative labour arrangements -that are all too common in the domestic work sector- working for long hours and rarely securing adequate social protection. Yet, more so than nationals, they risk experiencing human and labour rights violations at each stage of the migration cycle, during recruitment, the journey across borders, working in a foreign country, and returning to their countries of origin or re-migrating.

The exploitation revolves around a complex web of actors and circumstance often involving unscrupulous labour agents and employers, the concept of wage deductions and the absence of adequate labour law coverage. Most are bound to their employer through a system of sponsorship, and cannot leave, even in situations of abuse. In some cases, such practices may amount to forced labour and trafficking in persons as described in The ILO Forced Labour Convention 1930 (No.29) and its Protocol of 2014.

The ILO's Domestic Workers Convention (No. 189) and the accompanying Recommendation (No. 201), both adopted in 2011, offer a historic opportunity for Nepal and its destination countries to tackle these challenges together. This study is supported by two programmes promoting decent work for migrant Nepalese domestic workers. The Global Action Programme on Migrant Domestic Workers, funded by the European Commission seeks to promote the human and labour rights of migrant domestic workers worldwide by addressing the challenges that make migrant domestic workers particularly vulnerable to the risks of exploitation and abuse. The Work in Freedom Programme, funded by United Kingdom's Department for International Development aims to prevent the trafficking of women and girls within South Asia and to the Middle East. Both programmes operate in cooperation with the Government and social partners of Nepal.

We are grateful to the research team from the Global Alliance Against Traffic in Women (GAATW) and specially to the Director of ILO Nepal José Assalino and his team for their constant support to this research and the work conducted under both Programmes.

The study is especially timely as the Government of Nepal moves forward with the implementation of its new Constitution and Domestic Work Policy. We hope this research base can contribute to the constituent and other key stakeholder's efforts to ensure Nepalese women are able to migrate into situations of decent work.

Beate Andrees

Chief
Branch on the Fundamental Principles and
Rights at Work

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ACRONYMS

ANTUF	All Nepal Trade Union Federation
ABC Nepal	Agro-forestry, Basic Health and Cooperative Nepal
CDO	Chief District Officer
CSO	Civil Society Organization
DOFE	Department of Foreign Employment
FEPB	Foreign Employment Promotion Board
FGD	Focus Group Discussion
GAATW	Global Alliance Against Traffic in Women
GCC	Gulf Cooperation Council
GEFONT	General Federation of Nepalese Trade Unions
ILO	International Labour Organization
MoLE	Ministry of Labour and Employment
MRC	Migrant Resource Center
NAFEA	Nepal Association of Foreign Employment Agencies
NIDS	National Institute of Development Studies
NGO	Non-Government Organization
NTUC	Nepal Trade Union Congress
NRs	Nepal Rupees
PNCC	Pravashi Nepali Coordination Committee
SARTUC	South Asian Regional Trade Union Council
UAE	United Arab Emirates
VDC	Village Development Committee
WOREC	Women's Rehabilitation Centre
WOFOWON	Women's Forum for Women in Nepal

TERMINOLOGY

AGENT

in this report is 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.

ARAB STATES

in this report refers to the following 11 countries in the Levant and the Gulf: Lebanon, Syria, Jordan, Iraq, Kuwait, Saudi Arabia, Yemen, the United Arab Emirates (UAE), Oman, Qatar and Bahrain.

GCC

in this report refers to the economic and political union of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.

GULF COUNTRIES

in this report refers to Iraq, Kuwait, Saudi Arabia, Yemen, UAE, Oman, Qatar, and Bahrain.

RECRUITMENT AGENCY

refers to a registered foreign employment agency based in Kathmandu that has obtained a government permit to send Nepalese for foreign employment. In Nepal recruitment agencies are also referred to as “manpower companies”.

REGULAR MIGRANT

refers to a person who departs Nepal lawfully according to all requirements of the Foreign Employment Act 2007. This includes lawfully obtaining all relevant documents, and departing through the mandated exit point, the Tribhuvan International Airport in Kathmandu.

IRREGULAR MIGRANT

refers to a person who has not departed according to the requirements of the Foreign Employment Act 2007. This may include obtaining documents unlawfully, not obtaining the correct permits and checks, or not departing through the Tribhuvan International Airport in Kathmandu.

EXECUTIVE SUMMARY

Since large numbers of Nepali women began migrating for domestic work, reports have emerged of hardships experienced abroad, ranging from labour exploitation to physical and sexual abuse. Although some women report positive migration experiences, as the number of women migrants grow, so do the reports of exploitation. Many of these negative experiences concern migrant domestic workers in the Arab States.

Prompted by significant public concern, the Government of Nepal has adopted various labour migration policies specifically targeting women and the domestic work sector. Prior to 2010 for example, all women's migration to the Gulf for low skilled work was restricted. After a period of open regular migration channels, in August 2012, the Government of Nepal announced a new ban on women under the age of 30 years from migrating to the Arab States for domestic work. This decision is commonly referred to as 'the age ban'. The age ban was introduced by Nepal's cabinet without official public consultation or publication. An incomplete description of the decision was announced in a press release.

In 2014 the age ban was temporarily expanded, stopping women of all ages from migrating for low-skilled work through the regular channels in Nepal, regardless of the country of destination. This decision is commonly referred to as the 'total ban'. Then, in 2015 the Government of Nepal issued a new directive, reopening regular migration channels for women migrant domestic workers, 24 years of age and older, wishing to work in certain destination countries in the Arab States and South-East Asia.¹

To date, no targeted research has been published on the impact or effectiveness of the migration bans in Nepal, or indeed in other South Asian nations that have also imposed migration bans at various times. The ILO undertook this study with the Global Alliance Against Trafficking in Women (GAATW) to fill this research gap. It explores whether Nepal's age ban deterred younger women from migrating for domestic work and improved working conditions for women migrant domestic workers over 30 years of age. It also explores to what extent the age ban and other bans have had unintended consequences for women, including an increase in irregular migration and trafficking in persons. Finally, it highlights steps the women themselves propose be taken to improve their migration experiences.

The findings are based on 35 interviews with expert stakeholders from the government, trade unions, recruitment agencies and civil society, as well as interviews and focus groups with 108 migrant women. Participants included women who had returned from abroad (returnee migrants) and women considering departing (potential migrants). The study has been supplemented with information from other ILO studies. In particular, findings were cross-referenced with information from recruitment agencies and employers of domestic workers in Lebanon and Jordan.²

The overall lesson of the study was that the migration bans reviewed did not prevent people from migrating and discriminated somewhat arbitrarily based on gender, class and age. Indeed they placed women at greater risk of abuse during the migration journey, and gave them less control over their migration experience. Based on these findings, it is suggested that, to be effective, protective polices must be introduced transparently, be well-publicized, and take a comprehensive and empowering approach. This would include more oversight of recruitment actors, more information and skills training for women, and more assistance services in Nepal and abroad for women in need of assistance.

¹ Government of Nepal, Guidelines Related to Managing Domestic Workers going for Foreign Employment, Article 3(3), 2015. The Guidelines are given authority under Sub-rule (1), Rule 52(a) of the Foreign Employment Regulations, 2064. The effectiveness of the Guidelines as an official migration policy is not examined in this study as they were adopted just prior to publication.

² See International Labour Organization. *For a Fee: The business of recruiting Bangladeshi women for domestic work in Jordan and Lebanon*, 2015 and an untitled forthcoming study by the International Labour Organization on Employers of Domestic Workers in Lebanon.

Although the age ban is no longer in place and regular migration has been reopened, it is hoped that this study will provide a useful evidence base for the Government of Nepal as it continues to develop policies for women migrant workers. It is also hoped that this report will be a resource for other countries in South and Southeast Asia who have imposed, or are considering imposing, migration bans.

SUMMARY OF MAIN FINDINGS

1. EFFECTIVENESS OF MIGRATION BANS AS A DETERRENT TO MIGRATION

Opinions on the age ban among stakeholders were mixed. National-level policy-makers described the age ban as an important tool to prevent exploitation, as did some district level civil servants. Yet other district officials, as well as representatives of recruitment agencies, trade unions and non-government organizations, questioned the age ban's effectiveness. Some stakeholders saw the need for a minimum age to migrate but believed that it should have been set lower.

The bans had little effect on the decision-making of the young women who participated in this study, regarding migration, destination country or type of work. Most participants said the age ban would not change their minds about leaving or migrating again. Further, those affected by the total ban on women's migration insisted they would leave nonetheless, even if they had to travel irregularly.

Participants wished to travel despite the bans because "push factors" were perceived as more pressing than the restrictions. These push factors ranged from economic necessity, family violence or broken homes, or pressure from relatives to a simple desire to see other parts of the world. Many women noted the lack of economic opportunities in Nepal, and the higher wages available overseas. A number of women and civil society organizations said that until more training and well-paying jobs are available for women in Nepal, women will continue to leave. It is expected these push factors will become all the more pressing in the wake of the April 2015 earthquake, which left more than 9000 persons dead, 23,000 injured and dramatically increased the economic pressure on many families in Nepal.³

2. IMPACT OF THE AGE BAN ON BETTER WORKING CONDITIONS FOR WOMEN OVER 30 WHO MIGRATE TO THE ARAB STATES

Participants' descriptions of their experiences in the Arab States mirror the findings of other studies on women's migration to the region. Many women experienced hardships ranging from breach of contract (including the nature or conditions of work being different to what was promised) to labour violations such as very long hours, non-payment of wages and denial of holidays. In some cases women suffered verbal, physical and sexual abuse. On the other hand, some women found the overall experience satisfactory and sometimes even rewarding.

The different groups of women interviewed (e.g. those affected by a ban and those who were not) had substantially similar experiences. This suggests that the age ban had little effect on the women's treatment by employers abroad. Instead, many said their experience depended mainly on the nature of their work, their work and language skills, and the character of their employers.

³ See International Labour Organization, Migration and Resilience: Experiences from Nepal's 2015 Earthquake, 2015.

3. IMPACT OF THE BANS ON INCREASING IRREGULAR MIGRATION AND TRAFFICKING IN PERSONS

The migration of Nepalese women affected by either the age ban or the total ban was described by all participants as having been largely hidden, undertaken irregularly through neighbouring countries, India and Bangladesh. These routes are highly risky. Women migrants who use them have little control over their fate and are more prone to experiencing deceptive recruitment.

The fact that many women prohibited from travelling under either the age or total ban planned to travel irregularly suggests that the bans increased irregular migration. Given the choice, however, potential migrants expressed a preference for travelling as regular migrants for reasons of legitimacy and safety. Irregular migration was strongly associated with more dangerous and circuitous routes, lack of information, lack of choice regarding the destination country, and in some cases trafficking in persons.

4. OTHER UNINTENDED CONSEQUENCES

The age ban and total ban had a number of unintended consequences for women, including making potential women migrant workers apprehensive about revealing their plans for fear of being stopped from migrating. Potential migrant women are no longer attending orientation and training and are becoming less active in seeking out information from official sources.

Traveling irregularly also excluded women migrant domestic workers from the benefits of private insurance, and the Welfare fund in Nepal, namely financial compensation in case of accident or death in destination countries.

Additionally, women perceived that both the age ban and total ban had reduced the power of recruitment agencies and strengthened unlicensed migration agents operating out of villages that are associated with deception, fraud and trafficking of women.

Finally, many described migration for work as the only economic opportunity available to women, as well as a personal opportunity to travel, to avoid early marriage or abusive and/or unwanted relationships. The total ban in particular foreclosed these opportunities without providing viable alternatives, limiting women's sense of autonomy.

5. GOING FORWARD: ALTERNATIVES TO MIGRATION BANS

As Nepal moves forward with the implementation of the new Guidelines for migrant domestic workers,⁴ the women themselves proposed several steps that could improve their experiences abroad.

One of the key recommendations was to make skills training before departure more widely available. This would include language training in Arabic or English, to facilitate communication with employers, and training on how to manage a modern household. In addition, some women found that holding the contract and understanding the terms of the contract was useful. It allowed them to know the conditions of work they had been promised and in some cases negotiate the conditions with their employers. A number of women also expressed a direct wish to be covered by insurance and to not be forced to travel outside of the formal system.

⁴ Guidelines Related to Managing Domestic Workers going for Foreign Employment (2015).

Many women also said a strengthened Nepali government presence through embassies in destination countries would offer more protection while abroad. Additionally, some mentioned the need for Nepal to sign bilateral agreements with destination countries that would guarantee a certain wage and rights to annual leave.

These steps require a greater investment by the Government of Nepal in preparing women to migrate safely, and to use recruitment agencies rather than individual agents. The creation of more training schools at the local level, rather than in Kathmandu where attendees must pay accommodation and food costs, and more safe migration information resources would be alternatives to the age ban that would protect women. Encouraging and facilitating the use of recruitment agencies and effectively monitoring those agencies, would also assist women in taking these protective measures.

Moreover, women who participated in this study expressed that, given options and financial viability, they preferred destinations other than the Arab States. Opening migration to countries with a better record of protecting the rights of migrants might lead to more positive experiences.

Finally, the women emphasized that migration can be a positive experience, and can enable them to achieve goals that remained beyond their reach in Nepal. Closing or severely limiting regular migration channels for women workers to protect some from harm is a disproportionate response to the challenges women face and does not recognize the strong impetus for women to migrate, nor the rights of all people to leave their own country. Interventions should instead be based on empowerment, allowing women to exercise agency through making informed choices, obtaining skills and training, upholding women's rights at home and abroad, and improving the overall position of women in Nepal.

It should be noted that many of the women's suggestions, such as the need for skills training, bilateral agreements and a stronger role for registered recruitment agencies are part of the new migration policy as set out in the Guidelines. Others, such the recommendation to have a stronger presence of the Government of Nepal through embassies in countries of destination have yet to be adequately addressed.

METHODOLOGY SUMMARY

This study was undertaken to explore the consequences of the age ban on the protection and empowerment of women migrant workers. Its aims are specifically, to understand:

1. Has the age ban been effective in deterring young women from migrating to the Arab States to undertake domestic work?
2. Has the age ban resulted in better working conditions for women who are over 30 years of age and who migrate to the Arab States?
3. Has the age ban resulted in an increase in irregular migration, and as a consequence, trafficking in persons?
4. Are there any other unintended consequences of the age ban for women, for example financial or social consequences?
5. What alternatives are there to the age ban that would protect women but also allow them to travel abroad for work?

The study was undertaken between April 2014 and September 2015, with field research carried out between June and September 2014. A total of 35 stakeholders and 108 returned or potential migrant women participated. The authors, based out of GAATW, coordinated a team of three field researchers in Nepal who had prior experience working with migrants in Nepal and/or conducting research with women. The field researchers received three days of training in Kathmandu before commencing the research and used standardized research tools developed by GAATW in collaboration with the ILO and the LSHTM. All data gathered by the field researchers was qualitative in nature, and was obtained through a combination of individual interviews and focus groups.⁵

RESEARCH SITES

Data was gathered in three districts of Nepal: Kathmandu, Morang and Rupandehi. Kathmandu is the capital city and the location of all national government agencies and recruitment agencies, and many NGOs and INGOs. All Nepalese wishing to work abroad must pass through Kathmandu to obtain necessary permits, attend mandatory training and both exit and re-enter through the international airport in Kathmandu. As such, a large number of potential and returnee migrants can be located in Kathmandu.

Rupandehi and Morang districts are both in the Terai (plains) region of Nepal near the Indian border. This region has traditionally been poorer than the hill regions, and is the major source of youth for foreign employment, including women. The two districts are among the five districts in Nepal with the highest migration, and the ILO has chosen them to receive community-based interventions to promote safe migration.⁶ Both districts, therefore, have an established network of social mobilisers, peer educators and ILO-partner NGOs with experience in counselling women and girls who are interested in migrating abroad.

INTERVIEWS WITH STAKEHOLDERS

The 35 stakeholders interviewed included government officials at policy and implementation levels, as well as members of trade unions and civil society in non-profit and for-profit sectors. Interviews with government officials at the policy level sought to understand motives, intended outcomes and strategy for implementation of the policy. Relevant government ministry officials were interviewed in Kathmandu. Interviews at the implementation level, which included officials at Chief District Offices, Local Development Offices and Women's Development Offices as well as immigration officials, sought to understand interpretation and implementation of the policy.

⁵ For more details on sampling and typology please see Annex 2

⁶ According to DoFE data made available by ILO-Nepal by email 9 July 2014, between 1 Srawan 2063 until 31 Asadh 2070, the five districts with the highest number of women in foreign employment were Morang, Chitwan, Rupandehi, Ilam and Dolakha.

Civil society participants included social service organizations, recruitment agencies and trade unions. These organizations advise government on policy and work closely with women migrants. All interviews with CSOs were recorded, as were most interviews with government officials. Where permission to record was refused, written notes were taken.⁷

INTERVIEWS AND FOCUS GROUPS WITH MIGRANT WOMEN

The principal source of information on the impact of the age ban was women who had travelled or planned to travel to the Arab States for domestic work. Seven focus group discussions were conducted, with six to ten women participating in each. In addition, 72 women gave an in-depth interview about their experiences. The interviews gathered data on individual migration experiences and decision-making. Focus groups gathered information on perceptions of women's migration, the usefulness of the ban, and the impact of the ban.⁸

LIMITATIONS

The findings of this study should be read in light of several limitations. First, comparatively few women were included who had travelled in contravention of the age ban. The usual contract cycle of migrant domestic workers is two years, and thus women, who travelled after August 2012 when the age-ban policy was imposed, would return at the earliest in August 2014 – after the field research was completed. The women who were included had experienced problems abroad and returned early, potentially skewing their perceptions of the age ban's impact.

Ideally, the study would have included interviews with more women who had left after the age ban was imposed and were currently working in the Arab States as domestic workers. However, these women are in private homes and extremely hard to reach for interviews.

Finally, many interviewees were associated with women's groups and lived in districts with extensive safe migration activities. As these networks and activities inform women about migration policies and procedures, it is possible that participants had more awareness and understanding of migration policy than women who were not part of such networks or in different parts of Nepal. To address this challenge, participants reached through NGOs referred the research team to more distant contacts (snowball sampling).⁹

ETHICS

All efforts were made by the authors to protect the rights and wellbeing of the women who participated in this study. The researchers fully disclosed the nature and intent of the study to participants before seeking their consent to participate, and all participants signed a consent form regarding their participation. Participants were guaranteed that their identities would be kept confidential and no names have been used in this report.

All communications with participants, including the preparation for and conduct of the interviews and focus groups, were in Nepali. The researchers, with an additional research assistant, then translated the transcripts into English.

All participants were reimbursed for their travelling expenses to attend the interview or focus group. In most cases, the researchers travelled to participants' communities to conduct the research, but some women preferred to meet at the offices of the NGOs.

³ See Annex 1: Tables 2 & 3 for details

³ See Annex 2: Tables 4 & 5 for details

³ Snowball sampling is a non-probability sampling technique that is used by researchers to identify potential subjects in studies where subjects are hard to locate. This type of sampling technique works like chain referral. After observing the initial subject, the researcher asks for assistance from the subject to help identify people with a similar trait of interest.

1. INTRODUCTION

1. INTRODUCTION

1.1 WOMEN'S MIGRATION FROM NEPAL

Nepal has a history of out-migration for work. Nepalese travelled in the military under the British Empire and have long crossed the open border into India for short- or long-term employment. Others have travelled to countries in Southeast Asia such as Malaysia, Thailand and Myanmar to work in agriculture or business.

Since the 1990s, the dynamics of this movement have changed as new markets have opened and Nepal has liberalized its migrant labour system. The number of workers leaving Nepal each year has grown exponentially and some 1,700 labour migrants now depart from Kathmandu every day, mostly placed by private recruitment companies into two-year temporary labour contracts.¹⁰ Many others may travel irregularly. The number of Nepali migrants who travel to India for employment is not tracked, but it is believed that India is no longer the principal destination for migrant workers; it has been overtaken by countries in the Arab States, and particularly countries in the GCC. These countries have enormous demand for both high- and low-wage labour to fuel the development of the construction industry since the 1980s.¹¹ Accordingly, the value of migration to Nepal's economy has grown tremendously, with official remittances reaching over USD 5 billion per year,¹² comprising up to 25.5 per cent of the national GDP.¹³ This has made Nepal among the highest remittance receiving countries in relation to its national GDP in the world.¹⁴

Until recently, labour migration from Nepal, and indeed all labour force participation outside the home, was mostly the domain of men. Women who left Nepal did so mainly for cross-border marriages, to join family or potentially to work in India.¹⁵

A changing global labour market and changing household structures have opened up new job opportunities in the public sector for Nepali women. In the 1980s, Nepali women began to travel to Southeast and East Asia, and by the 1990s were concentrated in the domestic and service sectors in Hong Kong and Japan.¹⁶ In the 2000s countries in the Arab States began attracting more Nepali female migrants to work as domestic and service workers. By 2007, an estimated 80 per cent of Nepali women working in the Arab States were undertaking domestic work within private households such as cleaning, cooking or caring for children

¹⁰ <http://nepal.iom.int/jupgrade/index.php/en/iom-nepal>; Ghimire, P. (2013). Review of migration and development policies and programmes and their impact on economic and social development, and identification of relevant priorities in view of the preparation of the post-2015 development framework, Nepal Country Statement on Agenda Item 5, Asia Pacific Regional preparatory meeting for GA on HLD on International Migration and Development in Bangkok 29–31 May 2013.

¹¹ Following the Gulf War in the 1990s, countries in the Arab States started importing labour from South and Southeast Asian countries. Most Asian workers are temporary contract workers without the right to family reunification. See Batistella, G (2005). Migration without borders: A long way to go in the Asian region. Draft Article of the Migration Without Border Series, Scalabrini International Migration Institute, 24 January 2005, UNESCO, SS/2005/MWB/6; Castles, S. and Miller, M. J. (2009). Migration in the Asia Pacific Region, 10 July 2009, Migration Information Source, The Online Journal of the Migration Policy Institute. Retrieved on 10 October 2014. <http://www.migrationpolicy.org/article/migration-asia-pacific-region/>; and Pokharel, P. (2011). Labour Migration from Nepal to the Gulf: An analysis of the recruitment system. Graduate Institute of International and Development Studies, Geneva.

¹² World Bank. Annual Remittances Data. Retrieved on 6 June 2014, <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>

¹³ World Bank, 2013.

¹⁴ "Remittances to developing countries to stay robust this year, despite increased deportations of migrant workers, says WB". Press Release 11 April 2014, World Bank. Retrieved on 6 June 2014, <http://www.worldbank.org/en/news/press-release/2014/04/11/remittances-developing-countries-deportations-migrant-workers-wb>

¹⁵ Sijapati, B & Limbu A, (2012). 'Governing Labour Migration in Nepal, An analysis of existing policies and institutional mechanisms', Centre for the Study of Labour and Mobility, Kathmandu; UNIFEM/ Nepal Institute of Development Studies. Nepali women and Foreign Labour Migration, 2006.

¹⁶ Seddon, D (2005). Nepal's dependence on exporting labour, 1 January 2005, Migration Information Source, The Online Journal of Migration Policy Institute. Retrieved on 10 June 2014. <http://www.migrationpolicy.org/article/nepals-dependence-exporting-labor>

or elderly family members.¹⁷ Other Nepali women migrants worked in hotels, restaurants, catering and manufacturing, as well as health and medical services and beauty parlours both within Asia and abroad.

Officially the number of women migrants is still small – amounting to just over 5 per cent of all migrant workers departing Nepal. Yet several studies suggest that a large number of women travel irregularly and put the figure in 2011 closer to 30 per cent of total migrants.¹⁸ The Nepal statement at the preparatory meeting for the UN General Assembly High-level Dialogue on International Migration and Development in 2013 estimated that 90 per cent of the irregular migrant workers from Nepal were women.¹⁹

The reasons why such large numbers of women migrate irregularly include restrictions on the legal migration of women, as well as socio-cultural perceptions of their roles and acceptable conduct. The migration of unaccompanied women has traditionally been stigmatized and associated with sexual exploitation or, at the very least, a loss of innocence for young women. Arguably, anti-trafficking narratives that emphasize the harms women face abroad and highlight cases of sexual exploitation only increase this stigma.²⁰ Hence, women who do migrate have until recently done so quietly, using mainly irregular channels.

Nepali women migrants also face structural challenges that can make them more likely to experience poor working conditions in their home country. For example, Nepali women tend to control fewer resources than males - while females comprised 52 per cent of Nepal's population in 2011, they owned only 20 per cent of land or houses.²¹ The laws on inheritance favor male children, limiting women's access to resources.²² Lower levels of education and experience in the workforce also limit the types of jobs that women can take up both at home and abroad. Girls receive less schooling than boys, and female literacy stands at just 52 per cent.²³ Most women are typically employed in the informal sector, such as farming or home-based businesses and are simultaneously responsible for labour-intensive household work. The Annual Household survey 2012/2013 shows while 75 per cent of women are in the labour force, more than half of those (60 per cent) work in agriculture. Women hold just 0,7 per cent of public sector jobs, such as professional, public administration and defence positions.

At least one survey has identified domestic violence, whether by husbands or other family members, as a major “push factor” for Nepali women migrants.²⁴ Harmful cultural practices

¹⁷ Bhadra, C. (2007). 'International Labour Migration of Nepalese women: Impact of their remittances on poverty reduction. Asia Pacific Research and Training Network on Trade', Working Paper Series, No. 4, September 2007 (Rev. Jan 08).

¹⁸ See Amnesty International. False promises: Exploitation and forced labour of Nepalese migrant workers, 2011; Siddiqui, T. (2008). Migration and Gender in Asia, presented at the UN Expert Group Meeting on International Migration and Development in Asia and the Pacific. It noted the difference between official statistics of female migration from Nepal and the estimate by UNIFEM.

¹⁹ Ghimire, P. (2013). Review of migration and development policies and programmes and their impact on economic and social development, and identification of relevant priorities in view of the preparation of the post-2015 development framework, Nepal Country Statement on Agenda Item 5, Asia Pacific Regional preparatory meeting for UN General Assembly High-level Dialogue on International Migration and Development, Bangkok 29–31 May 2013.

²⁰ See e.g. Devries, S. M. (2012). Mobility Matters: Tamang women's gendered experiences of work, labour and migration and anti-trafficking discourses in Nepal. The University of Guelph, Ontario, Canada; UNIFEM/ NIDS. Nepali Women and Foreign Labour Migration, 2006.

²¹ National population and Housing census, National Report 2011, Central Bureau of Statistics, November 2012.

²² Under Nepali law, a woman is entitled to inherit parental property only if she has remained unmarried until the age of 35. If she marries after 35 she has to return her share of the parental property. <http://www.ekantipur.com/the-kathmandu-post/2013/12/25/top-story/laws-on-inheritance/257374.html>. The new Constitution of Nepal has addressed this inequality in Article 18(5), which states “There shall be no gender discrimination regarding the right to parental property with regard to all family members”. Article 38(6) establishes equal rights of both spouses in property and family affairs. Its implementation and impact on women's access to resources remains to be seen.

²³ Annual Household Survey 2012/ 2013. Central Bureau of Statistics. May 2014.

²⁴ Bhadra, C (2013). Final Report on Impact of Foreign Labour Migration to Enhance Economic Security and address VAW among Nepali Women Migrant Workers and Responsiveness of Local Governance to Ensure Safe Migration, submitted to MoWCSW, MoLE, MoFALD of GoN.

and negative stereotypes of women such as *chaupadi*²⁵ and witchcraft continue to persist. Despite the Citizenship Act of 2006, women face problems transferring citizenship to their children in their own capacity.²⁶ The dependence on male relatives for citizenship then extends to women's forced reliance on male relatives to obtain a passport for migration. Although the new Constitution states citizenship can be conferred through on the basis of either parent, provided both parents are Nepali citizens²⁷, other provisions remains discriminatory towards women.

The ecological and ethnic diversity of the country may also have an impact on a woman's migration experience: depending on her geographic location (mountain, hill, Terai, urban areas), class, caste, ethnicity and religion, she may experience different limitations and opportunities.²⁸

The growing number of women migrating has challenged gender norms of women's dependence on fathers and husbands and their role in the home. But the existing disadvantages described above also limit opportunities for women to work abroad and give rise to negative attitudes to their migration. Without education, training, and work experience, as well as financial resources, most women wanting to migrate are limited to 'low-skill' and low-wage jobs such as domestic work.

1.2 NEPAL'S DOMESTIC AND INTERNATIONAL COMMITMENTS TO EQUAL RIGHTS FOR WOMEN

Nepal is committed to ensuring equal rights for all and eliminating gender discrimination. The interim constitution and the recently promulgated Constitution of Nepal 2015²⁹ uphold basic human rights for its citizens and ensure elimination of discriminatory policies and practices and gender equality. The constitution also provides for the state to take measures for the protection, empowerment and advancement of the interests of women.³⁰ The new Constitution prohibits discrimination in wages based on gender.³¹ The government has enacted a multitude of laws to address gender equality.³²

Nepal has also signed a number of international conventions committing to ensuring human rights according to international standards. Nepal has signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obligates it to take steps to eliminate discrimination against women on the basis of gender and to realise women's rights through equal access and opportunities. CEDAW also has specific provisions related to non-discrimination in work, including the right to equal employment opportunities and selection criteria for work.³³

²⁵ A tradition where women are required to stay away from the home, usually in a shed, during their menstruating period.

²⁶ See Independent Report prepared by the National Women's Commission of Nepal to supplement the Combined 4th and 5th Periodic Report Submitted to the CEDAW Committee by the Government of Nepal, 26 June 2011.

²⁷ Article 11 (2), (3). Constitution of Nepal, 2015.

²⁸ UNIFEM. (2009). An In-depth Studies of Realities and Concerns of Nepalese Domestic Workers in Hong Kong. Retrieved from: http://www.migration-unifem-apas.org/docs/Realities_and_Concerns_of_Nepalese_Domestic_workers_in_HK_SAR.pdf

²⁹ Constitution of Nepal, 2015. Promulgated on 20 September 2015. <http://kathmandupost.ekantipur.com/news/2015-09-20/people-celebrate-constitution-promulgation-in-photos.html>

³⁰ Interim Constitution of Nepal 2007, Article 13.

³¹ Article 18 (4), Constitution of Nepal 2015

³² This includes Gender Equality Act 2006 and Domestic Violence Act 2008 among others.

³³ CEDAW Article 11.

The CEDAW Committee's General Recommendation 26 regarding migration states:

“...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 (articles 2 (a) and 3)”

GR 26 also specifically calls on origin countries to ensure the “lifting of discriminatory bans or restrictions on migration: States parties 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 (article 2 (f)).”³⁴

Nepal is also party to the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which requires the government 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”.³⁵

1.3 MIGRATION POLICIES AND THE AGE BAN

The Foreign Employment Act of 2007 (the ‘Act’) and subsequent Foreign Employment Policy in 2012 are the key documents regulating labour migration in Nepal. The Act purports to ensure good governance of labour migration, promote safe migration and addresses rights violations during the migration process through the Ministry of Labour and Employment (MoLE). The MoLE carries out its activities through the Department of Foreign Employment (DoFE) and Foreign Employment Promotion Board (FEPB). Foreign Employment Regulation 2008 sets out parameters for implementation of the Act.

The Foreign Employment Act prohibits any form of gender discrimination in its implementation, and provides special provision of reservation for women, Dalits, indigenous nationalities, oppressed sections of the society, victims of natural calamities, and people from remote areas who migrate for employment abroad. At the same time, Nepal’s state policies and practices show a hesitation to fully embrace women migration.

In particular, Nepal has issued numerous restrictions on the migration of women for work over the past 20 years since the first legislation creating the foreign employment system was passed (the Foreign Employment Act, 1985). These restrictions were imposed with the intention of protecting women from perceived dangerous and exploitative working conditions abroad, especially for domestic workers. Yet they also constrained women’s movement and underscored their dependence on male relatives. For example, until 1998 women were not able to migrate without the written approval of a responsible male figure, such as a father or husband.

³⁴ CEDAW General Recommendation 26.

³⁵ ILO Convention 111, Article 2 and 3 (c).

³⁶ Article 8 of Foreign Employment Act, 2007.

³⁷ Article 9 of Foreign Employment Act, 2007.

³⁸ UN Women. Migration of Women Workers from South Asia to Gulf, 2012.

In response to the death of domestic worker Kani Sherpa in Kuwait in 1998, the government imposed a complete ban on the migration of women to work in the Gulf countries. This ban was partially lifted in 2003 to allow women to migrate for work in the formal sector, but not into informal work such as domestic work. Other restrictions were still in place or were added.

TABLE 1. Timeline of Government Restrictions imposed on migration of Nepali women for work

Conditions imposed on women's migration for work	Month/Year
Requirement for female migrants to get re-approval from the government for continuation of foreign employment after returning home for the holidays or other reasons.	March 2003
Requirement that women obtain prior approval to migrate from both their local government and their family.	May 2003
Ban imposed on embarking to Gulf countries and Malaysia.	September 2008
Ban imposed on migration to Lebanon.	November 2009
Lifting of ban on migration to Gulf countries for all women, and new protection measures put in place.	December 2010
Ban lifted for Nepali women to migrate for work to any country in the world as per Foreign Employment Regulation 2064, 2008.	May 2011
Ban imposed on women less than 30 years of age from migrating as domestic workers to the Arab States.	August 2012
Ban on all women migrating as domestic workers (worldwide) except for those who have already obtained a visa.	Mid-April 2014
Total ban on women migrating as domestic workers.	September 2014
Lifting of total ban on migration of women for domestic work; new age ban of 24 years of age and new protection measures put in place.	April 2015

³⁹ Kani Sherpa was a domestic worker in Kuwait who died in November 1998. It was alleged that she committed suicide due to repeated physical violence and rape from her employer.

⁴⁰ Siddiqui, T (2008). Migration and Gender in Asia. United Nations Expert Group Meeting on International Migration and Development in Asia and the Pacific, 19 September 2008, UN/POP/EGM-MIG/2008/6.

⁴¹ This was a "de facto ban" that was not embedded in policy and no clear information about the policy has been disseminated. Due to the lack of official documentation, various reports refer to slightly different dates that the ban was imposed. Anti-Slavery, Kafa& GEFONT. (May 2014). Into the Unknown: Exploitation of Nepalese migrant domestic workers in Lebanon, suggests it was imposed in March 2010. Another study, Hamill, K. (2011). Trafficking of Migrant Domestic workers in Lebanon: A legal analysis, uses the date of January 2010. Yet another study, Gurung, G. (2013). Living the golden dreams: The Gulf and Nepalese women, dates the Lebanon ban to November 2009. This is the date used in this report.

In December 2010, the ban on migration to Gulf countries for domestic work was lifted.⁴² New protection measures were also put in place for female international migrants, such as a training course for domestic workers, a requirement that employers provide written assurances that the worker will be safe, and will have regular contact with the family and embassy including, an approval from the embassy.⁴³ The following 21 months (December 2010 to August 2012) are referred to in this report as “the window period” during which women could freely migrate abroad as domestic workers or into other industries such as the service industry or manufacturing.

On 8 August 2012 (24 Srawan, 2069) the cabinet ended the window period by reinstating a partial ban on women’s migration, specifically banning young women (under the age of 30) from undertaking domestic work in the Gulf. This restriction was triggered reportedly by several highly publicized cases of abuse of Nepali domestic workers in these countries. The cabinet decision is referred to in this report as “the age ban”.

The FEPB publicized the decision on the age ban through its press release dated 3 September 2012,⁴⁴ but to date has not released any other state record of the decision. The press release stated that the Nepal government determined 30 years as the minimum age for women migrating for domestic work. The release did not specify the banned countries, but the decision reportedly restricted migration to four countries in the Gulf (Saudi Arabia, the United Arab Emirates, Kuwait and Qatar). Furthermore, women over 30 years of age were allowed to migrate for domestic work on an individual basis, but recruitment agencies were not permitted to send women as domestic workers.⁴⁵

The government argued the measure was necessary because of the increasing number of younger women migrating for work and a perception that an increasing number of women migrants are victimized in destination countries. It defended the policy in the media by suggesting that women are more mature and confident by the age of 30 and are able to avoid or deal with exploitative situations better than women younger than 30 years of age.⁴⁶ Government authorities also reportedly argued that the measure addressed the forging of documents by women below 18 years of age.⁴⁷

No formal consultation about the policy was undertaken, but stakeholders indicated that the government had informal discussions with some civil society groups and the recruitment industry.

In mid-April 2014, the government imposed a ban on the issuance of labour permits for all women wanting to migrate for domestic work, excepting those women who had already obtained their foreign work visas. In September 2014 the ban was further extended to include all women wanting to migrate for domestic work. The “total ban” covered women who have their work visas and those who have completed mandatory training.

⁴² Smith-Gary, L. ‘Nepal lifts ban on female domestic workers in Gulf states’. 9 December 2010. Retrieved on 8 June 2014, <http://www.care2.com/causes/nepal-lifts-ban-on-female-domestic-workers-in-gulf-states.html>.

⁴³ Sijapati, B. and Limbu, A. *Governing Labour migration in Nepal: An analysis of existing policies and institutional mechanisms*. Centre for the Study of Labour and Mobility, Kathmandu, 2012.

⁴⁴ “Information for those wishing to migrate for domestic work” (translated). Press Release 03 September 2012, FEPB. Retrieved on 8 June 2014 <http://fepb.gov.np/newsdetail.php?id=27>.

⁴⁵ According to interviews with the ILO, migrating for domestic work for women above 30 years since 2012 was possible only on individual basis. It also said that the government recognised the use of agents and agencies by women and at the time of writing a committee was examining ways to regularize the use of agencies for overseas domestic work placements by women. This was also confirmed by NAFEA Chairperson who said the Association is discussing with the recruitment agencies to regularise migration of women for domestic work through recruitment agencies. Interview conducted on 25 May 2014, Kathmandu.

⁴⁶ “Age bar on migrant maids draws rights flak”. *The Himalayan Times* 9 August 2012; “Nepal bans women under 30 from working in Gulf”. *Hindustan Times* 9 August 2012.

⁴⁷ Anti Slavery International. *Into the Unknown: Exploitation of Nepalese migrant domestic workers in Lebanon*, 2014.

The Government of Nepal did explain that the total ban was a temporary measure, in place while revisions were made to the country's labour migration policies, including the age ban. During the period of the total ban, the Government of Nepal conducted visits to destination countries and consulted with NGOs and INGOs in Nepal. The government said it was making efforts to assess its policies and plans to introduce a mechanism for the safer migration of women. The media reported⁴⁸ that the government had set up a five-member committee chaired by MoLE to study the issue of migrant domestic workers and make policy recommendations based on the Committee findings.

In April 2015 the Committee submitted a report on migrant domestic workers to the Council of Ministers. The Government of Nepal adopted a policy based on this report entitled Guidelines Regarding Sending of Domestic Workers on Foreign Employment, 2015. The Guidelines lower the age bar for women to migrate for domestic work to 24 years for the following eight countries: Saudi Arabia, Qatar, Kuwait, the UAE, Oman, Bahrain, Lebanon and Malaysia (Article 3(3)). As the provisions do not state a minimum age for men domestic workers or for those women travelling as domestic workers to countries other than those stated in Article 3(3), a minimum age of 18 years would apply.

The Guidelines also state that the Government of Nepal will send workers for foreign employment only after signing bilateral agreements with destination countries (Article 4). It has already started engaging with the countries of Lebanon, Jordan, Kuwait, Saudi Arabia, and Malaysia for this purpose.⁴⁹ As an alternative, recruitment agencies can send domestic workers to countries of destination without a bilateral agreement, so long as they have an agency to agency agreement in the destination country. In the absence of a bilateral agreement, this secondary option can only be exercised for a maximum of one year (Article 4).

The Guidelines facilitate the sending of domestic workers through a limited number of licensed recruitment agencies. In total, 100 agencies will be authorized to send domestic workers abroad. Selection will be based on a set of evaluation criteria, ranging from the professional experience of the agency to the number of branch offices (Article 6 and Schedule 2). The emphasis on branch offices is arguably meant to shift the power balance away from unregistered agents to licensed recruitment agencies. The provision also places a duty of care on recruitment agencies in countries of destination to monitor the working conditions of Nepali domestic workers every four months (Article 21(4)). It is not clear how this article will be implemented since Nepali law is not binding in countries of destination. It is possible the Government of Nepal will seek to duplicate this cause in bilateral agreements or request Governments of destination to include this in their own country's normative framework.

Finally, the Guidelines have a provision on the training of domestic workers (Article 16). The training will be provided by the FEPB, an autonomous body set up under the Foreign Employment Act to ensure the protection and welfare of migrant workers.⁵⁰ The training curriculum and manuals have recently been updated and the course length extended from 21 to 30 days. This brings the skills training program in line with the national competency framework and allows for a stronger balance of both hard and soft skills. Following the adoption of the new curriculums, the FEPB ran a training of trainers for 17 authorized training institutes from Kathmandu and one based in the far Eastern Region in Nepal. This indicates the Government is considering decentralizing the training to at least one region. The training will be mandatory and offered free of cost to participants.

⁴⁸ "When women chose to travel from India for the Gulf.." (translated) 26 Baishakh 20171 (9 May 2014) Retrieved on 8 June 2014, <http://setopati.com/chapa-bata/11156/>.

⁴⁹ See <http://thehimalayantimes.com/business/govt-preparing-to-sign-labour-pact-with-jordan-2/> accessed on 30 September 2015

⁵⁰ Foreign Employment Act (2007), S. 38.

1.4 OTHER STUDIES ON MIGRATION RESTRICTIONS

Few studies have specifically explored the impact of migration bans, either in general or in Nepal, but some general studies of migration have provided relevant information.

For example, an in-depth survey of 86 migrant women published in 2006 considered the first ban on women's migration imposed in 1992 in Nepal. It found that the ban did not prevent women migrating, but rather led them to seek out unofficial channels for departure.⁵¹ A similar pattern was found with later bans. A 2011 study in Lebanon found that, despite Nepal banning Lebanon as a destination for migrant domestic workers in January 2010, the Lebanese government issued 3,895 new labour permits to Nepali domestic workers that year.⁵² The study argued that the ban was ineffective precisely because it was not enforceable in the destination country, and destination countries often choose not to honour origin country restrictions.

Most women in the above studies travelled through India to reach the destination country. A 2012 study of migrant workers in South Asia conducted by The Asia Foundation confirmed that major cities in India, as well as Dhaka in Bangladesh, were used as exit points for irregular Nepali migrants. It found that more Nepali women than men transited through India, and that the majority of Nepali migrant women travelling via India were under 30 years of age (and therefore subject to the age ban) and were looking for work as domestic workers.⁵³ The women included in the survey mentioned the age ban as one of the reasons for using India as a route, the other reason being that the route was cheap and easy.⁵⁴ Before the age ban, a qualitative study with returnee women showed that most women travelling for work from Kathmandu airport were less than 30 years of age.⁵⁵

Several reports have noted that frequent changes to the rules for women's migration have created an environment of confusion for women who want to travel for work and the government has rarely taken steps to clarify the changes it introduces.⁵⁶ Anecdotal reports included in these studies suggest that the changes have resulted in increasing corruption at Kathmandu airport, harassment by officials and more agents encouraging women to pursue unofficial routes that expose them to risk, including making them susceptible to trafficking.

In addition, several reports suggest that migration costs for women who wish to travel directly from Nepal are higher as result of having to pay "setting fees" to airport officials in Kathmandu.⁵⁷ Amnesty International, in a 2011 study of Nepali migrant workers,⁵⁸ said that leaving women with no other option than taking an irregular route might increase the risk of trafficking. The same study documented the cases of three women who were taken to India with promises to be sent to the Arab States as domestic workers but ended up being trafficked into the sex sector in India.

⁵¹ UNIFEM Nepal and the Nepal Institute of Development Studies. *Nepali Women and Foreign Labour Migration*, 2006.

⁵² Hamill, K. *Trafficking of Migrant Domestic Workers in Lebanon, A Legal Analysis*. KAFA (enough) Violence and Exploitation, 2011.

⁵³ The Asia Foundation. *Labour Migration Trends and Patterns: Nepal, India and Bangladesh*, 2013

⁵⁴ The Asia Foundation. *Labour Migration Trends and Patterns: Nepal, India and Bangladesh*, 2013

⁵⁵ Gurung, G. *Living the Golden Dreams: The Gulf and Nepalese women*. Maiti Nepal, Kathmandu, 2013

⁵⁶ Amnesty International. *False promises: Exploitation and forced labour of Nepalese migrant workers*, 2011; and Gurung, G. (2013). *Living the golden dreams: The Gulf and Nepalese women*. Maiti Nepal, Kathmandu, among others.

⁵⁷ Sijapati, B. & A. Limbu. *Governing Labour Migration in Nepal: An analysis of existing policies and institutional mechanisms*. Centre for the Study of Labour and Mobility, Kathmandu, 2012; ILO. *Tricked and Trapped*, 2013; and Amnesty International. *False Promises: Exploitation and forced labour of Nepalese migrant workers*, 2011.

⁵⁸ Amnesty International. *False Promises: Exploitation and forced labour of Nepalese migrant workers*, 2011.

Feminist scholars in India have provided a theoretical perspective on a similar age ban for Indian female migrant domestic workers. Ratna Kapur argues that support for the ban is linked to concern about the sexual exploitation of domestic workers, but that it instead “serves to reinforce assumptions about women as weak and vulnerable, and in need of state (or male) protection.”⁵⁹ Others argue that such interventions, which have roots in colonial policies, are based on assumptions regarding the sexuality of unmarried working-class women (it is assumed most women will be married by 30). Crucially, they note that the government has not imposed such restrictions on more affluent and socially privileged women who wish to migrate as nurses.⁶⁰

These earlier studies are overwhelmingly critical of migration restrictions, arguing that they don’t work and push women into irregular paths of migration while creating shadow economies for the production of false documents and circumvention of administrative requirements. However, no study has yet explored the impacts of age bans in more detail to understand how women take them into account when making migration decisions, and how they change behavior. These issues are explored in the current study.

⁵⁹ Kapur, R. *Makeshift Migrants and Law: Gender, Belonging and Post-Colonial Anxieties*. Routledge, New York, 2012.

⁶⁰ Kodoth, P. and V. J. Varghese. (2012). Protecting Women or Endangering the Emigration Process: emigrant women domestic workers, gender and state policy. *Economic and Political Weekly*, vol. 47, no. 43.

2. RATIONALE, COMMUNICATION & PERCEPTIONS OF THE AGE BAN

2. RATIONALE, COMMUNICATION AND PERCEPTIONS OF THE AGE BAN

2.1 RATIONALE FOR THE AGE BAN

Interviews with government officials revealed three reasons for the ban. First was the need to protect women in certain destination countries from exploitation or harm that has received much media and public attention. The Director of the Foreign Employment Promotion Board in Kathmandu, said, for example: “It is clear why the government introduced the ban. Women going as domestic workers have suffered physical, mental and sexual exploitation.”

Second was an assumption that women 30 years and older would be married with children and therefore, be more competent to handle difficult situations. The MoLE spokesperson noted that young rural women with limited education were particularly susceptible to being “lured” into abusive situations, adding, “If they are more mature, married, even if they are not educated, they can analyse their household situation and also the situation outside.”

Government Officials also recognized that girls below legal working age were using falsified documents to travel abroad. They reasoned a higher age bar would curb this practice, as a 14 year old might be able to pass as 18, but not as 30. This implied the ban may have been put in place to primarily prevent teens from migrating, rather than women in their twenties.

In general, government representatives interviewed for this study appeared genuinely concerned about the stories of abuse from returnees and the media, and believed the ban would protect women from being exploited.

2.2 COMMUNICATION ON THE AGE BAN

Following the reinstatement of the age ban, the government undertook several actions to communicate its decision. First, the cabinet disseminated the decision through regular government channels. The Ministry of Labour and Employment (MoLE) and the Foreign Employment Promotion Board (FEPB) both shared the information downward to officials in district and local government. Nepal’s embassies in destination countries were asked to consider requests by companies abroad to hire Nepali women domestic workers very carefully, presumably to ensure that young women or girls would not be hired.

At the district level, district officials included information on the ban in their awareness raising and information programmes. In Morang District, the district government established an information desk in the district administrative office that targeted women migrant workers, in partnership with the NGO WOREC. Desk staff distributed brochures and information on safe migration, and advised women about the ban. The local Department of Social Development informed women through village groups and social mobilizers.

Women who participated in this study had a high level of awareness of the age ban. However, they mainly learned of it informally. Many heard about it from community organizations working to stop trafficking and/or promote the rights of migrants at the district level. NGOs such as Pourakhi, ABC and WOREC, informed women they encountered through their programmes. These organizations provided information on migration issues to women through trainings and networks of peer educators⁶¹ – most of whom were returnee migrants.

⁶¹ Peer Educators are volunteers providing door-to-door information and trainings on safe migration at community levels. They are trained by the government Social Mobilisers and NGOs working in the district levels. They will also be trained under the ILO Work in Freedom project in the districts.

A number of women, both potential migrants and returning migrants, had heard about the age ban directly from their agents. Indeed, some NGOs were providing information about the ban directly to agents so that agents could better inform their clients. The Programme Coordinator of ABC Nepal said that, "Orientation should be given to agents and potential agents...[Women] trust local agents."⁶²

Third, women heard about the ban from returning migrants. The returnees often had more information about migration procedures and barriers to migration than first-time migrants. Some returnees learned about it through networks of migrants established by Nepal-based NGOs, such as Pourakhi, WOREC and ABC Nepal. In addition, some returnee migrants had become peer educators in their communities and had been trained about the migration process, including the various restrictions. Returnee migrants also shared information with friends through Facebook while they were still abroad.

Finally, some heard about the ban from the media, citing government-run radio and television programmes as sources of information. One potential migrant interviewed in Kathmandu referred to news reports on the suffering of women migrants and said she felt "scared about" the possibility.

The above suggests that the information was disseminated in a variety of ways, most of which were informal. Unfortunately, while most women knew of the age ban, many were also confused about its scope and application. Participants expressed uncertainty about, for example, the cut-off age, the countries affected or the type of work affected.

2.3 POSITIONS OF STAKEHOLDERS REGARDING THE BAN

The "age ban" like other bans on movement, has been controversial in Nepal and abroad. The researchers sought out a variety of opinions on the ban.

GOVERNMENT

Officials at the national level remained committed to the age ban and saw it as essential to protect women from harm. An interviewee from the MoLE⁶³ noted that the proportion of women migrating for work, as compared to men, was over 5 per cent in 2013, whereas in 2010/2011 it was less than 3 per cent. This, he argued, suggested that more women were choosing to migrate through regular channels as a result of the ban, and that the age ban was "on the right track". However, he also acknowledged that this data did not specify the age of migrants or the type of work being done, and whether it is improving the treatment of domestic workers specifically (see discussion on data below).

At the implementation level – namely district and village levels, views on the age ban were mixed. Some members of Village Development Committees (VDCs) were strongly in support, noting that it was "good and relevant", "necessary", and "practical".⁶⁴ One VDC Secretary said that "women are suffering a lot" and that below 30 is a "naïve age" and so it is better for young women to stay in Nepal.⁶⁵ They drew on cultural assumptions on the role of women within the home, and that most women would be married with children by the age of 30, when they are "matured and understand responsibilities ... even if they are not educated enough".

⁶² Interview with ABC-Nepal, Programme Coordinator, Kathmandu, 18 June 2014.

⁶³ Interview with Spokesperson of MoLE, Kathmandu, 8 July 2014.

⁶⁴ Interviews with VDC Secretary, Haraicha VDC, Morang, 1 July 2014, and VDC Secretary, Rajghat VDC, Morang 1 July 2014.

⁶⁵ Interview with VDC Secretary, Haraicha VDC, Morang, 1 July 2014.

However, others were concerned about the fairness of the ban and the cut-off age of 30. A Chief District Officer (CDO) from Morang thought it should be reduced to 20 because 20 to 30 is the “productive age” and suggested that women work for 10 years abroad and then settle back in Nepal.⁶⁶ Another said the age ban was “inappropriate” and that it caused women hardship to have to wait until the age of 30 to earn a wage overseas.⁶⁷ Noting that travel to the Arab States by young women was continuing, a VDC Secretary said the ban was not working and more women were migrating “secretly” and “quietly.”

RECRUITERS

Two recruitment agency representatives interviewed for this study believed that the age ban was ineffective, and in fact harmful to women. Their experience was that the age ban wasn’t reducing the number of women travelling to the Arab States for domestic work, but was only increasing the number of women migrating through India. The head of one recruitment agency also said that bans perpetuate the stigma associated with women migrating for work. The Chairperson of the National Association of Foreign Employment Agencies (NAFEA) thought the ban had also increased the number and influence of unregistered independent agents and felt that it would have been better to address the migration of under-aged girls through a less restrictive or lower age bar.⁶⁸

Interviews with other key stakeholders pointed out that the government was in the process of regularizing migration for domestic work through recruitment agencies.

TRADE UNIONS

The trade unions interviewed (representing ANTUF, GEFONT, NTUC and SARTUC) were generally opposed to the age ban because it facilitated irregular migration channels.

According to SARTUC, a federation of national trade union centres, trade unions were uncertain how to react to the age ban when it was first enacted. On the one hand they recognized the good intentions of the government to protect Nepalese women migrant workers from abuse; on the other, they were uncertain it would reduce migration. During the period following the age ban, they noted, women, particularly those in difficult financial or family situations, continued to migrate using irregular channels. In addition, they said the age ban meant women could only migrate at an age when most had small children and spouses.

The trade unions generally felt the age ban should be removed because it violated the basic human rights of women and perpetuated irregular migration.⁶⁹ According to a representative from GEFONT, the logic of the 2012 age ban, that at 30 years a woman will have family and children and hence will be able to tolerate exploitation, disempowered women and only encouraged irregular migration. In addition, NTUC felt that facilitating greater access of migrant workers to skills training and information and implementing stronger reporting/monitoring systems in destination countries would be more effective in protecting migrant women workers.

NON-GOVERNMENTAL ORGANIZATIONS

Finally, NGOs that assist migrant workers were universally against the age ban. Representatives agreed that steps have to be taken to address abuses faced by women migrant workers, but disagreed with curtailing their right to migrate for work. Although some of the NGOs agreed that the age ban may have reduced the migration of under-aged girls for work,⁷⁰ others said women

⁶⁶ Interview with Assistant CDO, Morang, 20 June 2014.

⁶⁷ Interview with VDC Secretary, Madhuwalia VDC, Rupandehi, 4 July 2014.

⁶⁸ Interview with Chairperson of NAFEA, Kathmandu, 25 May 2014.

⁶⁹ Interview with General Secretary, GEFONT, Kathmandu, 19 August 2014.

⁷⁰ Interview with Chief Executive of WOREC Nepal, Kathmandu, 2 June 2014.

have continued to migrate because of the lack of viable opportunities available at home. As one programme officer reported, women say 'If I die, I die, if I live, I will earn a little bit.'⁷¹ This represents their limited options.

As noted by other stakeholders, NGO staff believed that making women's labour migration illegal helped to perpetuate stigmatization of migration of women, saying that "[A] kind of mind set is developed at the community level that there is definitely something wrong for women to work in another country."⁷²

They also dismissed the argument that age indicates a woman's capacity to address violence faced at work. NGOs emphasized that migrant women needed greater protection to make their migration safer stating that: "Violence has no relation to age."⁷³

At the same time, stakeholders were clearly concerned about the high rates of abuse in certain countries covered by the age ban and that Nepali women continued to leave despite being told of these risks. One organization representative labelled Lebanon, Kuwait and Saudi Arabia as "injury countries" because of the severity of abuses faced by women. He said other employment opportunities should be available for women so they don't go to these countries to work.⁷⁴

Concerns about migration restrictions also emerged during earlier bans. Women's rights activists have raised concerns that imposing restrictions on the mobility of women and their right to choose a profession are discriminatory and an affront to equality and the rights of women. These organizations argued that bans contravene not only Nepal's obligation to international laws but also its own laws against the discrimination of women. In a letter to the government dated 24 January 2008, the Alliance Against Trafficking in Women and Children in Nepal stated that such policies force migrating women to find alternative unofficial channels that increase the risk of exploitation. The letter⁷⁵ urged the government to review its policies to ensure safe migration for women. Similarly, Pourakhi, an organization of women migrant workers, filed a gender discrimination case against the Government on 13 May 2007 for not lifting the ban.

Amnesty International, together with Pourakhi and Kav La O'ved, argued in a 2011 briefing paper to the CEDAW committee that bans have not only been unable to curb trafficking but have actually increased the risks for women in the process of migration.⁷⁶ Women continue to migrate by finding ways to circumvent such bans, which make their status undocumented. Undocumented status drives them further away from seeking assistance from authorities should they find themselves in exploitative situations. The organizations also argued that such policies infringe upon the right of women to mobility and fail Nepal's commitment towards rights and equality for women.

The Coalition of Right to Mobility of Women, a group of women's rights organizations and human rights defenders also came together to denounce the recent complete ban on migration of Nepali women for domestic work.⁷⁷ They asked for this decision and the age ban policy to be examined and evaluated, arguing that it violates the equal treatment clause in the Interim Constitution and Foreign Employment Act and has led to women being undocumented. They demanded that the government take urgent action to ensure safe migration for women.

⁷¹ Interview with Programme Officer, ABC-Nepal in Morang

⁷¹ Interview with District Officer, WOREC in Morang

⁷¹ Interview with Programme Officer, ABC-Nepal in Morang

⁷¹ Interview with Chairperson of Pravashi Nepali Coordination Committee (PNCC)

⁷¹ Letter sent by Alliance Against Traffic in Women and Children (AATWIN) in Nepal, 24 January 2008, made available by AATWIN on 18 April 2014.

⁷¹ Amnesty International, Kav La O'ved and Pourakhi. Nepal: Briefing to the Committee on the Elimination of Discrimination against Women. 49th Session, July 2011.

⁷¹ "Denouncing the Government's Decision to Ban Women from Working as Domestic Workers in GCC Countries" Press Release, 11 May 2014, Coalition of Right to Mobility of Women, coalition of seven women's rights organizations in Nepal.

3. IMPACTS OF THE AGE BAN ON NEPALI WOMEN MIGRANTS

3. IMPACTS OF THE AGE BAN ON NEPALI WOMEN MIGRANTS

The following section addresses impacts of the age ban, from the point of decision to leave to the point of return, from the perspectives of migrant women. Women were asked directly about the age ban's effects but as understanding of the ban was relatively low, most questions explored their migration experience and decisions made along the way. The perceptions and experiences of women were compared according to when they departed:

1. Pre-2011, during which time various restrictions on women's migration operated to prevent most women from legally taking up domestic work positions abroad;
2. The migration "window period" period in 2011 and early 2012, during which most restrictions were lifted (except for the on-going ban on Lebanon); and,
3. The age ban period from August 2012 to the time of writing when women under 30 are prohibited from migrating to the Arab States for domestic work.

BOX 1. WHAT DOES THE DATA SAY ABOUT THE IMPACT OF MIGRATION RESTRICTIONS?

Data on female labour migration from Nepal is inherently incomplete. Official data, held by the Department of Foreign Employment (DoFE) in Kathmandu, includes only the number of labour permits issued by DoFE, disaggregated by gender. Women who travel without obtaining a permit, or who travel from a third country, are not included. So it is difficult to obtain a full picture of the impact of the restrictions from data alone.

That said, the data does indicate a correlation between changes in policies such as migration restrictions, and the number of regular female migrants – namely that bans on specific countries shift the migrant population to other destinations. For example, until 2008/9, Lebanon was the most popular destination for women migrant workers and migration to Kuwait was relatively rare (only 870 permits for Kuwait were issued in 2008/9). In January 2010 the government banned migration to Lebanon and travel to the country decreased, while labour permits issued for Kuwait increased dramatically. In 2011/12, DoFE permitted 21,742 women to travel to Kuwait⁷⁸

A few years later, following the ban on women under the age of 30 migrating to the Gulf, permits for Kuwait plummeted to just 7,890 in 2012/2013 and 8,989 in 2013/ 2014⁷⁹. Presumably these were all women over the age of 30, and not subject to the ban. According to data compiled by ABC-Nepal, at the time of writing, Malaysia was emerging as the preferred destination for potential migrant women because of the limits on migration to the Gulf.⁸⁰

Conversely, data suggests that lifting restrictions could increase formal migration. Following the lifting of all bans on women's migration in late 2010, the proportion of women as a total number of labour migrants approximately doubled, from 2.94 per cent in 2010/2011 to 5.97 per cent in 2011/2012⁸¹. It remained above 5 per cent in 2012/2013 suggesting that the age ban did not have a significant effect on the total number of regular women migrants as a proportion of all migrants.

These relationships are interesting and are ripe for further research, for example into who these migrants are (their age and occupation) and where they are travelling. Further quantitative research should also be conducted into irregular migration to determine whether the same number of women are leaving but more are travelling irregularly. The qualitative data gathered in this study suggests this is the case.

⁷⁸ Note that the data does not capture the age of women migrants, or their professions. The Foreign Employment Promotion Board stated that in their experience, the vast majority of women migrants are traveling for domestic work, with some also traveling to work as commercial cleaners. Interview with Executive Director at FEPB, Kathmandu, 2 July 2014.

⁷⁹ Ministry of Labour and Employment, Department of Foreign Employment. *Labour Migration for Employment: A status report for Nepal 2013/ 2014*, 2014.

⁸⁰ Interview with ABC-Nepal, Programme Coordinator, Kathmandu, 18 June 2014. According to her, the report which will reflect the data is in progress.

⁸¹ From the data of Nepali migrant workers that have acquired labour permits since 2063/ 64 to 2068/ 29, available on www.dofe.gov.org. Annual report of the Ministry of Foreign employment for the year 2011/2012, can be downloaded from: www.dofe.gov.np.

3.1 IMPACT ON DECISION-MAKING

Before migrating for work, the potential migrant must make a number of decisions. These include: whether to migrate at all, the country of destination, the kind of work to undertake and whether to depart from Kathmandu (often a proxy for regular migration) or via a third country (essentially irregular migration). Each of these decisions is affected to some extent by the age ban. As noted earlier, many participants were unsure of the specifics of the age ban, but most were aware that there were restrictions of some kind that could be a factor in their decision about whether to leave and where to go.

WHETHER TO MIGRATE

The first decision women made was whether they should migrate for work. Participants indicated that the age ban had very little effect on this decision, even if it directly affected them. Indeed, only two potential migrants said that learning about the ban had changed their minds. Notably, both were returned migrant workers who had migrated irregularly on previous trips and were aware of the risks. One assumed she would receive no protection or assistance from the Nepal government if she travelled in contravention of the ban, and another 30-year-old returnee from Rupandehi did not want to travel through India again, noting, “If I have any problem, I should be able to come back.” Another 27-year-old returnee from Morang decided not to re-migrate, citing fears that without the help of the government of Nepal, her family might not be able to see her body if she died.

Some women under 30 years realised that the age ban was put in place to protect them from potential exploitation abroad but still wanted to migrate. They believed the ban would not affect them because they were married and believed they would be seen as sufficiently ‘mature’, or they had falsified their documents to say they were older than 30. Other younger women said they could not wait until they turned 30 before they started earning income.

A few first-time potential migrants who were under 30 said they might reconsider their plans upon learning about the ban from the interviewer. However, other aspects of their interview suggested that they remained committed to migrating and preparations were underway. NGO staff that facilitated the interviews suggested that these younger participants, assuming they could no longer migrate legally to the Gulf, felt uncomfortable revealing their plans to unfamiliar researchers or to NGO staff members. One FGD with returnee women in Rupandehi added that the “agents will have convinced them in such a way that these women fear that we will be stopping them if we come to know that they are going.”

The first-time potential migrant women who were over 30 were also prohibited from leaving under the new blanket age ban of April 2014. Three of these women had completed the process for migration and were waiting to collect labour permits in Kathmandu when this ban was announced. All three had heard about the prohibition but said they were waiting for the government to lift it so that they could leave. None had changed their minds about leaving as they had already invested considerable resources. They said if the new ban wasn’t lifted in time, they would find alternative ways to migrate.

“If I cannot go, I don’t know what to do. I am already in debt. I have collected money to go by getting loans. I am here in Kathmandu, renting a place.”

– Potential migrant, 35 years of age, interviewed in Kathmandu

Returnee migrants who had travelled before 2010 also described being unconcerned about policy restrictions in place at that time. Among the 47 returnee migrant women who participated in the research, 32 migrated for domestic work for the first time before 2010 in contravention of restrictions. They described irregular migration as highly normalized during this time, and government policy or processes as largely irrelevant.

THE BASIS FOR WOMEN'S MIGRATION DECISIONS

Overwhelmingly, economic necessity emerged as the strongest argument by potential women migrants for wanting to leave. Other common reasons included immediate financial needs such as education for children, loan repayments, medical care for family members and a general need for more income. Many of the women lived in conditions of economic insecurity with heavy responsibilities for children, parents and other relatives and few employment options. One 37-year old potential migrant from Rupandehi said, for example, that neither she nor her husband had jobs, but that if "enough could be earned here then such thoughts [of migrating] would not have crossed my mind."

"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."

– Potential migrant, 32 years of age, Rupandehi

The theme of economic need arose equally among returnee migrants who had migrated before the age ban. A 28 year-old returnee from Morang who was an only child cited a wish to save to pay for further education, but in general any money earned was used for daily expenses, including caring for her parents. Another returnee added that she migrated for work with the agreement of her family, including her husband who only worked sporadically in trekking, because her job in Nepal "was not enough to both feed us and educate my children. So I thought that if I go abroad I would be able to pay off the loan that we had taken when we bought our land, and also educate the children."

Importantly, a number of the potential migrant women interviewed were already employed in Nepal, but were not earning enough money to support their families. Most women worked in the informal sector such as in domestic work, daily wage construction work and home-based work such as making tobacco products, weaving, stitching and embroidery. One woman had a temporary position in a bank but said she migrated "out of necessity...I have young children" and her husband was sick and couldn't leave.

"For now I have this dhaka [tobacco industry] work ... but it is not enough. ...If we eat in the morning, then there will be nothing to eat in the evening."

– Potential migrant, 27 years of age, Morang

Some women sought to leave Nepal to escape difficult home lives, such as abusive husbands or parents-in-law, or alcoholism. Women who were separated from their husbands faced rejection in their communities and a more urgent need to earn money for their children. Migration was

described as a way of taking control of their lives. One woman said she migrated after being beaten by in-laws and being left by her husband because she had “no place in the house, so I decided to go abroad, to whichever country I could.”

Women did not always make decisions to migrate on their own; their husbands or families were also involved. Several women said that the family would prefer their husband to migrate instead, but it was impossible due to illness or the higher migration costs for men. In two households, the husbands had already migrated and were encouraging their wives to leave as well. It is unclear how much input women had into these household decisions – in at least one case, a 27-year old returnee from Morang said her husband decided that she would migrate to work and she did not feel she could refuse even though she had “not even dreamed of ever going abroad” and didn’t want to go.

Other women were excited or curious to travel abroad – they said they decided to migrate because they wanted to see the world and because everyone else was going. Younger women saw migration as an opportunity for learning and empowerment, “fun”, or to avoid getting married.

COUNTRY OF DESTINATION

Since 2009, Lebanon, Kuwait and the UAE have been the top three destinations for Nepal’s female migrant workers. This is despite the age ban imposed on permits to Gulf countries in 2012, and the complete ban on working in Lebanon introduced in 2009.⁸²

All of the potential migrants interviewed for this study were selected because they were planning to go to the Gulf region. When asked why they were choosing this region, none mentioned government policy or the age ban, but rather cited advice from friends, family, and their agents. Some preferred countries that they had heard were safe for women, or where they already had a support network.

Thirteen returnee migrants were also planning to re-migrate, and hoped to go to Saudi Arabia (four), Dubai (three) and others to Malaysia (two), Jordan (one), Lebanon (two) and Qatar (one). Ten of the women were older than 30, hence not subject to the ban. One of the women, who was 29 years old, said she would be eligible by the time she had completed the pre-departure requirements.

For some returnee migrant women, the decision whether to re-migrate to the same country or to another depended on their previous migration experience. Those who had had negative experiences wished to go to a different country if they could.

“I am not going to send my daughter to small countries like that ⁸³, If I can get loans, I will send her to bigger countries. I am not going to send her to the countries where I have suffered.”

– Returnee migrant, migrated at 28 years of age in 2006, then in 2008, interviewed in Kathmandu,

⁸² In the year 2011/2012, the numbers of labour permits issued to women migrant workers by country were 21,742 for Kuwait, 9,678 for Lebanon and 9,374 to the United Arab Emirates. Data available at: www.dofe.gov.np

⁸³ By small countries she is referring to the Arab States, like “Lebanon and UAE” where low-skilled workers tend to travel. For her, bigger countries were developed nations such as “Japan and America”, which she assumes take only skilled workers and costly to migrate to.

Others wished to change countries to see more of the world or because they had friends or relatives in other countries who told them the salary would be higher or working conditions better. At least two interviewees who were planning to re-migrate said that they were choosing a different country because the pay was better. Their agents provided this information to them.

Although several women wanted to work outside of the Gulf, this was not always possible. The fees for migrating to the Arab States were described as cheaper than for Malaysia or western countries, and in the case of domestic workers, all travel costs were covered by the employers. Some returnee women also said their agents covered their (likely illegally charged) fees on the condition that they would repay the amounts after working for a few months or after they returned. These conditions made migrating to the Arab States a low or zero investment with expected modest return.

BOX 2. RETURNEE MIGRANT, TRAVELLED IN 2011, INTERVIEWED IN RUPANDEHI

Initially, when we left, we had not thought we would be going to Saudi. We had been told that it could be Qatar or Kuwait. Only after reaching Bombay, I found out we were being sent to Saudi. I said I will not go to Saudi and we had an argument. But later I decided to go because my husband was there and I thought maybe I would be able to meet him. Later, I found out that a Nepali woman had been placed in a household in Saudi but left the position because of the large size of the family; she had returned before completing even three months. These people sent me there in her place. The agent had not told me this before I went; I just came to know about it later.

In general, the potentially migrating women displayed considerable independence in their decision-making; most proactively gathered information either from their network or past experiences to choose a destination. This contrasted strongly with the returned migrants who departed prior to 2010. They described relying more on their agents or the recruitment companies to make decisions and had little input. This difference may indicate more awareness and confidence among current migrants than women who travelled earlier when migration was more hidden.

CHOICE OF WORK

Similar to the choice of destination, participants' decisions on the type of work to undertake were minimally influenced by the age ban policy. Almost all of the potential migrant women interviewed had migrated or planned to migrate as a domestic worker. A handful planned to work in a factory.

One reason for this was a lack of formal education among participants. Only four of the potential migrants had studied beyond tenth grade, and 10 had no formal education at all. The remaining potential migrants had an elementary school education and in some cases had reached early high school. Many believed that, because they had limited education, domestic work was their only option.

This is similar to the reasoning given by returnee migrants who had left Nepal in earlier years.

"If I were a little more educated and had more skills, I may have said I could do something else... all I knew was to cook, feed, and clean, that's all."

- Returnee migrant, migrated multiple times before 2010, Rupandehi

Other potential migrants chose domestic work because it was the cheapest option, given that the fees should be largely borne by the employer. Many would have preferred to work for a factory or for a commercial cleaning service because they believed these positions to be safer. Many returnee women planning to re-migrate did not want to return to domestic work because of the long hours and bad experiences with employers. These positions were more expensive, however, requiring the payment of considerable fees that most women could not afford.

IN SUM – THE NEED TO LEAVE

Interviews with potential migrants about their decision-making reveal that the age ban has had little to no impact on foreign employment decisions. Women of all ages are migrating primarily due to pressing economic need, and travel to where they can afford to work and to where their skills can be applied. Most potential migrants, especially those with little resources and education, perceived their only foreign employment option to be working as a domestic worker in the Arab States. Family members and agents also encouraged the participants to leave, despite the restrictions, and some believed that the restrictions would not affect them.

3.2 THE AGE BAN'S IMPACT ON PRE-DEPARTURE EXPERIENCES

Once a woman in Nepal has decided to migrate for work, pre-departure preparations begin. As the following section details, the age ban has a significant impact on these preparations, resulting in women being less prepared to travel safely. By giving women no option but to travel clandestinely, women use unregistered agents, pay additional fees, miss training and travel without documents.

BOX 3. PRE-DEPARTURE REQUIREMENTS FOR NEPALI DOMESTIC WORKERS ⁸⁴

The Foreign employment Act (2007) that regulates the foreign employment of Nepali migrant workers, together with the Foreign Employment Regulations (2008), requires that all migrant workers, both men and women:

- Receive an employment contract that outlines the terms and conditions of their employment and translated into Nepali;
- Pass a medical examination by an institution recognized by the government;
- Purchase life insurance for coverage of about NPR 500,000;
- Attend a two-day orientation training in Kathmandu;
- Obtain a labour permit from the Department of Foreign Employment;
- Depart from the “native airport”, which is the international airport in Kathmandu.

In addition, women planning to migrate as domestic workers must complete a skills training course.⁸⁵

USE OF AGENTS AND/OR RECRUITMENT AGENCIES

The first step for most Nepalese planning to migrate is to engage the services of an agent or a recruitment agency. Recruitment agencies, also called manpower agencies, are licensed to arrange foreign employment. Agents are individual operators; a small number are registered

⁸⁴ “Cost incurred for foreign migration” (translated). Retrieved on 10 December 2014, http://fepb.gov.np/downloadfile/lagat_1305454188.pdf and “Information for those wishing to migrate for domestic work” (translated). Retrieved from: <http://fepb.gov.np/newsdetail.php?id=27>.

⁸⁵ Previously the skills training course was 21 days long. It was recently extended to 30 days (210 hours).

to a recruitment agency, but the vast majority operate independently. This is not in accordance with the Foreign Employment Act, which states that agents must be licensed and registered to a recruitment agency.⁸⁶

Licensed recruitment agencies are regulated operators who, usually, send their clients through a regular migration process. Agents have frequently been associated with fraud, misrepresentation and sending women through India along irregular routes.

Women perceived recruitment agencies as preferable to agents because they saw the process as safer and more transparent. As one focus group described: “If you go through a manpower agency then you get to know details about the household, like the family, etc. – whereas if you go through an agent then you don’t know these things.

However, women have always faced a number of obstacles to using a recruitment agency. The authors were informed that recruitment agencies have never been able to send women abroad as domestic workers. Women planning to work in domestic work have only been able to travel on an “individual basis”, namely obtaining a position independently and then following the required pre-departure steps on their own.

Further, even for women planning to do other kinds of work, access to recruitment agencies is difficult. All recruitment agencies are based in Kathmandu, with very few regional branches. According to one representative from civil society “[V] villagers are not able or aren’t in a position to contact foreign employment companies directly. They earn daily wages. How can they go to Kathmandu and stay for 10 to 15 days in hotels or lodges? They have no choice but to depend on an agent.”⁸⁷

The experiences of the women included in this study suggest, however, that recruitment agencies have been involved in the travel of some women. Before 2010, this was very rare. Indeed, only three women who departed before 2010 (the largest group of participants) had used a Kathmandu-based recruitment agency. They were introduced to the agency through returnee migrant women in their communities. Everyone else used an unregistered agent.

Among participants who left during the migration window period, many more used recruitment agencies. Of the 10 returnee women who had departed during this period, five used recruitment agencies and left from Kathmandu as regular migrants. One was introduced to the recruitment agency by her agent. Two other women used agents who had contacts with recruitment agencies in Kathmandu and hence were able to prepare the documents allowing them to travel as regular migrants. This was likely possible because women could leave Nepal freely and openly. They also had access to more information at the district level, for example through Migrant Resource Centres (MRC)⁸⁸, operating since 2010.

The imposition of the age ban in 2012 coincides with more women relying on unregistered agents. Focus groups indicated that even women not affected directly by the ban stopped using recruitment agencies. This is not surprising however since during that time, a government decision stated that domestic workers had to migrate on an individual basis. Hence recruitment agencies were not authorized to send domestic workers abroad although many continued to do so. With this in mind, eight women who migrated after the ban was imposed used unregistered agents rather than recruitment agencies. Further, six of the women travelled via India, although four were over 30 and could have left from Kathmandu via official channels. A handful continued to use the services of recruitment agencies that were still willing to send domestic workers abroad.

⁸⁶ Paoletti, Taylor-Nicholson, Sijapati and Farbenblum. Labour Migration Agents: Regulations, Accountability and Alternatives. UNSW Australia & Centre for the Study of Labour and Mobility, Policy Brief, No. 5, June 2014.

⁸⁷ Interview with Programme Officer, WOREC in Morang

⁸⁸ The Government of Nepal, together with the International Organization for Migration established the first MRC in February 2010 in Kathmandu. Since then, MRCs and information desks have been established in district offices in collaboration with NGOs.

It is unclear from the interviews how recruitment agencies placed women in domestic work positions despite not having permission to do so. Some interviewees implied the use of bribes at the airport, or the use of falsified documents. A recent recruitment baseline study,⁸⁹ found that some agencies were misrepresenting to DoFE the type of work that women would be doing in their applications for permits. For example, they obtained approval to hire women as “cleaners in a company”, but then sent them into domestic work positions once they arrived in the destination country. Another possibility is that the recruitment agencies were assisting women to apply for labour permits as individuals and concealing their involvement in the arrangement.

Focus group discussions suggested that not all recruitment agencies act in a trustworthy manner, particularly since the introduction of the ban. One woman who left in 2013 at the age of 21 felt that the agency had not acted honestly, including not sending her to attend the required orientation and trainings. Nevertheless, overall women considered the use of recruitment agencies a positive, and they were concerned that they were left to use unregistered and unregulated agents. As one focus group participant explained:

“Agents who can make women believe them ... know how to lure women, how to grow dreams in them, how to make them greedy for better things, how to make them believe that if they go abroad they will be able to pluck money out of trees, how to sweet talk about these things to women so that they easily fall into the trap. This is what they have done and then sent women illegally ... the government’s policy means a loss to manpower agencies, but the agents living in the villages – it is not loss for them.” – Participant at FGD with returnee migrants, Rupandehi, 1 July 2014.

TRAINING AND INFORMATION

The government of Nepal mandates a two-day orientation for all labour migrants, both men and women, before it will issue a labour permit granting approval to travel. Migrant domestic workers must also attend a skills training course to prepare for this role. Both trainings are held in Kathmandu prior to departure.⁹⁰ Potential migrants can also seek information from government run MRC’s, from their recruitment agencies or agents, and from friends, family and other migrants.

All participants were asked whether they had received training, visited MRCs or sought out other sources of information. From this discussion, several themes emerged. First, women had limited knowledge about all aspects of their migration, including rules and procedures and the specific position they would be taking up. This was the case for all women, but especially those who had travelled before 2010. Almost all women who travelled during this earlier period said that their agents told them only what type of work they would be doing and their expected salary, and occasionally the country of work. They did not know the name of their employer, the city of work, any information about the country of work or anything about their rights.

Second, the interviews and focus groups revealed a marked difference in levels of knowledge between women who had travelled via regular channels and those who had travelled irregularly. Most women who had travelled as regular migrants, whether through a recruitment agency or through their own contacts, were much better informed than those who took an irregular route. They had been told details of the position abroad including expected working conditions and salary, and received the mandated training and orientation.

By contrast, women who travelled irregularly did not know the orientation and training requirements and most did not go to Kathmandu before leaving the country. The extent of their knowledge about what lay ahead amounted to the name of the destination country and their

⁸⁹ ILO Work in Freedom Programme baseline study on recruitment practices in South Asia and the Middle East (Geneva: 2014), currently unpublished.

⁹⁰ The Government of Nepal is considering rolling out the domestic work training to at least one district in the Far East of the country.

expected salary. In addition, these women did not seek more information. This was the same, whether they travelled during the migration window period or following the age ban. For example, one woman who went to India for training to work in a factory making mobile handsets in Dubai found out after arriving in India that the position had been cancelled. She was offered a position in Saudi Arabia instead as a domestic worker and was only told the salary before departing.

This pattern was reflected in a focus group discussion with returnee migrants held in Kathmandu. All had left since the ban was imposed. Of eight participants, the four women who had travelled through India did not receive or seek any further information about the route they would take, pre-departure requirements or the trainings available.

NGOs interviewed at district levels also noted the lack of knowledge among women migrant workers since the age ban was imposed, saying that “the number of women who know about the overall process of migration and informed women migrant workers are less.”⁹¹

A third theme, related to the above, was that agents and recruitment agencies were essential and trusted sources of advice and women relied on them to provide any necessary information. However, recruitment agencies tended to give more detailed and correct information to migrant workers than unlicensed agents. For example, four women who used recruitment agencies received specific information about their upcoming position, and were sent to the orientation and the skills training. Through these, they learned about the culture and lifestyle in the destination country and about their labour permits and insurance policies. Two women also had their work contracts with them when they travelled.

There were exceptions to this – some recruitment agencies did not properly prepare the departing migrants. One migrant who left during the window period said her orientation was given by a recruitment agency staff member informally, not by a training centre as required by law. Another returnee who was subject to the age ban said she was not given the training despite paying for it.

“If we had attended the orientation I would have known not to pay the money [for the visa]. We would have known the visa is free. And we would have known there is an embassy there.”

– Returnee migrant, migrated at 32 years of age in 2009, interviewed in Kathmandu

FEES

Under Nepal’s Foreign Employment Act 2007, licensed recruitment agencies may charge migrants a fee for arranging their migration. Previously for the GCC, the maximum amount that could be charged was 70,000 NRs (approximately US\$ 700). This fee covered all costs, including airfares. In July 2015, however, the government introduced its “free-visa-free-ticket provision”. The provision requires employers from the GCC to bear the visa processing and air ticket cost for workers from Nepal. Workers that fall under this category must still pay at maximum 10,000 NRs (approximately US\$ 100) in recruitment fees and 8000 NRs (approximately US\$ 80) for pre-departure training, health check-ups and the contribution to the Workers Welfare Fund. Migrant domestic workers, however, are not required to pay any fees as the FEPB will reimburse the costs of the training programmes, and the employer covers the cost of the visa and airfares.

⁹¹ Interview with District Officer, WOREC in Morang

Interviews and focus groups revealed that whether they were affected by the ban or travelled before or after the age ban policy was announced, women migrants bore their migration costs despite not being required to do so. The reason for this appears to be the dependency on agents to facilitate the migration process and lack of knowledge about the migration process or their rights as migrant domestic workers.

Indeed, most returned migrants, whether they travelled via India or Nepal, said they did not know what their payments covered –only that they had paid for their citizenship card and passport, and the rest comprised a fee to the agent, who handled everything else.

Seven of the women interviewees, took loans from their agents to cover the fees. They said that the agent paid for all the expenses and they sent him the agreed amount after they had started working in the destination countries. This financial support at the initial stage encouraged women to migrate but also made it more difficult for them to leave if they were unhappy in the position, because of the debts owed to their agents.

The amounts that returned migrants had paid varied widely, but did seem to have gone down over time and were lowest during the window period.

Most women who travelled in 2010 or earlier (almost all of whom travelled irregularly via India) paid between 21,000 (approximately US\$ 205) and 40,000 NRs (approximately US\$ 390). Several paid between 60 and 70 thousand NRs (between US\$ 590 - 685). Two women who used a recruitment agency and travelled regularly paid more than 80,000 NRs (approximately US\$ 785) to their agencies.

Those who left during the migration window tended to pay less, even those who travelled irregularly through India. Several women who had travelled through India paid less than 30,000 NRs (approximately US\$ 295) and one paid nothing because, she explained, the agent was her relative. These amounts were exclusive of costs for passports and citizenship cards but included all other expenses up until departure from India. Three women who left from Nepal during this period also paid nothing as required by law. Only one participant who left during this period said she spent “equivalent to what men pay to go abroad”; she paid her agent in Kathmandu 80 to 90 thousand NRs (between US\$ 785 - 880) and additionally paid the friend who arranged her position 800 USD. Her situation was unique because she travelled to Lebanon, which was banned for Nepali women at that time.

After the age ban was instituted in August 2012, it appears that costs did not rise significantly among those women who participated in the study. Most participants paid between 20,000 and 30,000 NRs (between US\$ 200 – 295) to their agents whether they travelled through Kathmandu or India. Two women who travelled via India paid nothing. Some paid slightly more, but only one paid the amounts common before 2010 – 60,000 to 70,000 NRs (US\$ 590 – 685). This participant had to take out a loan at 24 per cent per annum interest to pay such high fees.

These variations are probably due to differences between agents. It could also be that women who travel repeatedly become more knowledgeable and confident to assert their rights – two of the women who paid nothing to leave during the window period, for example, were re-migrating. But the anecdotal decreases over time, particularly during the window period, may also suggest that the lifting of restrictions and more public information about fees for domestic workers allowed more women to know and assert their rights. A quantitative study into changes in fees over time would provide more insight into these trends.

MANAGEMENT AND PREPARATION OF DOCUMENTS

Formal migration from Nepal requires migrant workers to obtain numerous documents, including a passport, work visa, employment contract, insurance receipt, a medical certificate, orientation and training certificate and a receipt for any fees paid to the recruitment agency.

Few returned migrant women, regardless of when they travelled, received all of these documents and even fewer understood the documents they were provided. Only seven of the 74 returnee migrant women interviewed received contracts: two who migrated before 2010, three who migrated during the window period and two after the ban was imposed.

However, the interviews revealed growing awareness and better provision of documents following the liberalization of women's migration in 2010. Further, potential migrants overall demonstrated greater knowledge of the need for specific documents than returnee migrants, particularly those who migrated before 2010. A number of potential migrants indicated they had been actively seeking information regarding the process of migration for work, including required documents.

The earliest migrants to depart, those who left before 2010, usually only knew they needed their "citizenship" (a citizenship card) and passport. Citizenship is required for issuance of a passport but is not itself required to migrate for work. These participants said their agents or recruitment agencies told them to acquire only these two documents, and the rest would be arranged. The women did not ask their agents about this part of the process and it is unclear if the agents were obtaining the documents and not telling their clients, or simply weren't arranging them at all. Only two of the women mentioned they had seen their contract of employment prior to migrating, two knew about the labour permit and one mentioned insurance coverage.

In one exception, a woman who travelled to work in Lebanon noted that she was given a passport, labour permit, contract in English and insurance coverage as part of a complete set of documents required for foreign employment at that time. Her case was unusual because her agent, a returnee migrant who had worked in Lebanon, introduced her to the recruitment agency she had used to migrate and the recruitment agency arranged the woman's departure from Kathmandu. As described in the next section, almost all migrants before 2010 travelled from India. She explained:

"My contract was for only two years. It was in English. At that time, there was no Nepali translation available.... I had been given the contract and I had photocopied this, as well as the insurance [policy] and my labour permit and sent this photocopied set to my husband which remained safe with him."

– Returnee migrant, 35 years, travelled in 2009, Rupandehi

Many of those who travelled during and after the window period also just handed their passports to their agents and let them handle the details. However, more women understood which documents were required and in some cases knew the specifics of what they carried. Some also were directly involved in obtaining these documents – for example two women went to DoFE with their agents to collect their labour permits.

This shift may be because of increasing public information, or because they were re-migrating and had learned from their first time abroad. It may also be because more women used recruitment agencies and left from Kathmandu, rather than travelling irregularly.

Following the age ban, participants described a return to the disempowering process in which agents (or in some cases recruitment agencies) handled all arrangements, perhaps because some of those arrangements were no longer legal. Nevertheless, their descriptions suggest that the women were more aware of the documents they held than those who travelled during the earlier period of restrictions.

Continuing this trend, the potential migrants who participated in this study were the best informed of all and were in the process of obtaining their documents or seeking more information. This may be because many had attended the orientation and training (see above). Others mentioned hearing about the documents needed on the radio. It is unclear what impact the age ban had on these workers ability to obtain their documents.

“You should get all the certificates, register with the labour [department], get the police report and not go on another person’s passport. If you do all that, I think you will be safe”

– Potential migrant, 35 years (not subject to the age ban), interviewed in Kathmandu

BRIBERY AND FALSIFICATION OF DOCUMENTS

Even as fees for women migrant workers have declined, experts and CSOs say there are new costs for migrant domestic workers that are often used to offset payments of bribes (setting fees) or for falsification of documents: “The ban can’t stop women leaving. Instead of preventing women from going, the cost of migration has increased; brokers have more opportunity to cheat. They have more of a chance and many ways to manipulate women planning to migrate and to exploit them, taking as much money as they want from women. For example, women have to pay 2,000 NRs (approximately US\$ 20) for every year they want added to their citizenship card [to make them appear 30 years old]. That means, if you are 29, you have to pay 2,000, but if you are 25 you have to pay 10,000 (approximately US\$ 100).”⁹²

Indeed many of the women interviewed who were under 30 had to pay for their documents to be doctored so that they could obtain the labour permit. Falsifying documents to increase one’s age was described by many of the participants, regardless of when they travelled. Even before the age ban was introduced, the national law on migrant workers and some destination countries prohibited minors from undertaking foreign employment, prompting some adolescents to increase their age. Since the age ban’s introduction, the practice of falsification of documents has continued, if not intensified.

Six women interviewed who travelled on or before 2010 described applying for citizenship cards which recorded earlier dates of birth than their actual birth dates. This, they said, was suggested by their agents for them to be eligible to migrate as workers. Only one participant said her application for a false citizenship card was rejected because the district government discovered she was underage, but she later managed to obtain the citizenship card when another registration team came to her village. No other women mentioned any difficulty in getting documents with a falsified date of birth. They were either supported by their families or no questions were asked at the government offices regarding their age.

Interviews with potential migrant women under the age of 30 suggested that they had been advised to get false documents before leaving and were considering doing so. Another woman said that she had already changed her citizenship card to show her being 10 years older. Participants of a focus group discussion with returnee women in Morang, said that their agents arranged false documents for migrant workers in their communities, and implied the existence of organized rackets.

Local government officials acknowledged that documents, especially citizenship cards, were being falsified to avoid the age ban. The two VDC secretaries interviewed for this study in Morang and Rupandehi explained that when women come to apply for their cards, either to have them “corrected” or to be issued new ones, they come with their parents and other “influential groups” to confirm the applicant’s case. The officials felt they did not have a choice but to provide the requested documents.

⁹² Interview with Ganesh Gurung, NIDS.

3.3 IMPACT ON MIGRATION ROUTES AND EXPERIENCES IN TRANSIT

LEAVING FROM KATHMANDU OR FROM A THIRD COUNTRY

One of the strongest themes emerging from the field research was the relationship between the routes migrants took to work abroad and the quality of the migration experience. Traveling from Kathmandu was synonymous with traveling legally, quickly and safely. Migration from Kathmandu was usually facilitated by a recruitment agency.

Traveling via another country meant travelling irregularly and in the shadows. Most of the women who travelled in this way used India as the transit country, but two had transited through Dhaka in Bangladesh.⁹³ These irregular migrants did not obtain permits, and so were not registered in Nepal as a migrant worker. They also did not attend training and orientation sessions, and indeed many did not visit Kathmandu at all, but left directly from their village and then took circuitous routes overland and by plane. A common pattern to avoid detection at the border was to travel in small groups and to say, if questioned, that they were going to meet relatives.

Routes through third countries were usually facilitated by independent (and presumably unregistered) agents. Agents instructed the women to give certain responses when questioned at immigration checkpoints. Women also described meeting various different “agents” along the way until they reached the city in India from where they would make their final departure to their destination countries.

Most participants clearly preferred departure from Kathmandu, but some saw leaving through India as their only option. The age ban and other restrictions on women’s ability to migrate legally make it harder for women to travel to the destination country directly from Kathmandu. Returned migrant women who left before 2010, when a number of restrictions were in place, travelled almost invariably via Delhi or Bombay. Thirteen women who travelled before or during 2010 said their agents sent them through India because travel for women was prohibited to certain countries. Three women travelled the more circuitous route via India after unregistered agents told them that travelling from Kathmandu was more expensive.

Similarly, since the age ban was imposed in 2012, India again became the main pathway out of Nepal for women heading to the Arab States for domestic work. Almost all of the participants in a focus group who had migrated since 2012 travelled via India – even those who were over 30 and not subject to the ban; all were told by their agents that travelling from Kathmandu was banned for women. Two women did still manage to travel from Kathmandu, and said they were not questioned about their documents and were allowed to continue their travel. They said their agents prepared their documents and accompanied them to the airport, implying some financial arrangement between the recruitment agencies and the airport officials.

However, during the window period (2011 to August 2012) when all women could migrate to the Arab States as regular migrants, more women left from Kathmandu. Among the 14 returnees interviewed for this study who travelled since 2011, eleven had departed from Kathmandu. Still, some women left via India even during the migration window – either because the agent was not aware that the policy had changed, or it was more convenient for them to send migrants through India.

The interviews indicated that women rarely questioned the decisions of migration agents regarding the best route abroad. Women who were sent through India even when they could legally depart from Kathmandu said they did not question their agents because they were relatives. Travelling via India was also normalized in many communities – women knew other women who had travelled

⁹³ Recent news reports also suggest Colombo, Sri Lanka is being used as a transit area for Nepalese domestic workers going to the Arab States

before by those routes and believed that was the route to take. Some returned migrants said that they had travelled from India because they were told about the migration bans from Nepal.

RISKS FACED BY WOMEN MIGRANT WORKERS TRANSITING THROUGH A THIRD COUNTRY

As well as making the journeys more complicated, travelling through India or Bangladesh exposed women to numerous risks they did not face by traveling directly from Kathmandu.

As noted above, sometimes multiple “agents” ferried women along different legs of the journey from their home district to the final departure point. Returnee women described feeling “sold” from one agent to another along the way. Having no control over which agent “bought” them, the women faced the risk of being stranded with unscrupulous agents in an unfamiliar country. Three returnee women said they felt they were going to be “trafficked” while in transit before they sought assistance.

“[W]e saw the other agent giving money and buying us in front of our eyes. So like that we were sold four times.”

– Returnee migrant, 34 years, Morang

Returned migrants who had travelled through India or Bangladesh reported staying between two days to several months in transit cities such as New Delhi, Mumbai or Dhaka before leaving for the Arab States. One woman said she had spent three months in Mumbai “doing nothing” before being able to travel further.

During these periods, participants spoke of being forced to wait without any information about when they would be leaving. At least three women described the fear of almost being arrested while waiting in India. They said the agents holding them in the transit cities told them to hide so the police wouldn’t find them. Some were questioned by police before they reached the transit cities. Their descriptions suggest that the police were trying to identify women victims of trafficking as part of anti-trafficking initiatives.

The movements of women travelling irregularly were often tightly controlled during their stay in transit cities and the agents confined the group to a single room for periods ranging from two days to one week or 10 days. One woman was confined for one and a half months and another for three months. Six of the returnee women said they were not allowed to leave the building without a guard and the agents instructed them to not go out in groups and stay hidden when inside.

Several of the returnee women found, during their stay in transit countries, that they were not being sent to the country they had agreed to or to the job they were expecting. The agents told them it would take longer than expected to arrange the promised position, that the rules had changed and the position was no longer possible or in several cases admitted that they had lied to the workers before they left Nepal.

Four participants said that even though they had agreed to go to other countries, they accepted Saudi Arabia because they didn’t want to spend any more time in transit. One woman said she felt she had to accept this new position offered because refusing would mean going back home bearing the stigma of failed migration. Also, it would mean the loss of her investment, which was a considerable sum for her.

Living conditions in the transit cities were also of concern for some. Several women said the rooms they lived in were shared by too many people, in some cases with no separate quarters for men and women. They spoke of a lack of proper food and water and health care for people who became ill.

Two returnee women said that the lengthened stay in the transit country was a heavy financial burden on top of the fees they had already paid, because they had to bear their living expenses themselves.

In some cases, these conditions together could potentially amount to trafficking in persons. In particular, women who were deceived about the nature or conditions of the work or were sold between agents endured substandard living and working conditions, and were denied freedom of movement.

3.4 IMPACT OF THE AGE BAN ON EXPERIENCES WHILE ABROAD

As noted in the introduction, migration restrictions including the age ban are primarily introduced to protect certain women from the conditions they might face in the country of destination at the hands of employers or overseas employment agencies. The age ban itself is based on the premise that older women are more likely to be able to protect themselves from abuse and exploitation. If this were the case, it is likely that younger migrants have a worse time than older migrants and that travelling by regular means would lead to a better migration experience.

The experiences shared by participants in this study, however, did not reveal any difference between women of different ages – both younger and older women had positive and negative experiences. There was also little difference between those who travelled legally during the migration window, and those who travelled during a period of restriction, including those who travelled through India.

The one exception to this is whether women received skills and language training before departure – a number of women highlighted this as an advantage, explaining that it made them an effective worker and able to communicate with their employers. In this way, the age ban, which again pushed women into irregular migration and prevented them from attending training and orientation, may have negatively affected experiences abroad.

The most important factor identified by participants in the quality of their experience was the kind of household in which they found themselves. This was not affected by policy in Nepal, having documents or information.

BOX 4. RETURNEE MIGRANT WOMAN IN RUPANDEHI

RS has been a migrant domestic worker since the age of 20. She first went abroad to Oman in 2003, where she worked for three years. Then, in 2006, she went to Iraq for another two years. Her last trip abroad was to Kuwait in 2013, when she was 29 years old and was therefore traveling in violation of the age ban.

When RS went to Oman, she had little work experience, language or other skills, and very little knowledge about Oman or the work she was supposed to do. A friend who was working in Oman had arranged her travel and position. Apart from obtaining her citizenship card and passport, she did not know about other required documents or the migration process. She travelled from India, entirely trusting her friend. During the three years RS spent in Oman she said she was treated well and regularly paid.

After finishing her first contract, she returned to Nepal and then went to Iraq. This time she travelled from Kathmandu, and went through the formal process of obtaining a labour permit, insurance and other required documents. She was more confident in her knowledge and skills and she spent two years in Iraq. She could not return to Iraq after a visit home because of family matters.

Later, she went to Kuwait. This third time, she was more informed and confident about the process so followed all of the steps as her agent was arranging them, even reading her contract to make sure she understood what she was entitled too. However, in Kuwait she was physically abused by her employer and not paid according to the contract. She complained to her placement agency, but was also treated badly by the placement agency. She returned home within a year.

POSITIVE EXPERIENCES

Many women described their work experiences on at least one trip abroad as positive and enabling them to achieve their goals (such as financing their children's education, or starting a small business). Factors that women identified as leading to positive work experiences were good relationships with their employers, being paid reasonably and on time, and having time to rest. Age did not appear to be a factor in whether the migrant worker had a positive experience, nor did being documented in Nepal.

One woman who went to Saudi Arabia from Kathmandu at the age of 16, for example, described having a close relationship with her elderly female employer. The employer "called me daughter", and she left only because of an accident at work that required hospitalization. Another woman described a fondness for her employer's family and good working conditions. She was given two hours of rest in the middle of each day, and felt looked after by the daughters in the house who were a similar age to her.

PROBLEMS EXPERIENCED ABROAD

Other returnee women described a range of hardships at the hands of employers or their agents abroad during at least one stint as a migrant worker. These problems were similar regardless of age or migration process. Problems included the job not being as promised, non-payment or delayed payment of salary, long working hours and too little food. Some returnee women also reported being physically abused by the employers and two had to endure sexual advances from their male employers or male members of the families.

As described in the section on pre-departure preparations, over time more women have become informed about overseas migration and what they could expect abroad, and more women have been given contracts, particularly those who left as formal migrants during the window period. Yet greater information and documentation did not appear to protect women from employers changing the terms of their work. Whether people travelled under the age ban or under other restrictions, or whether they travelled from Kathmandu or via India was not perceived by women as having a direct impact on their experiences abroad.

DIFFERENT WORKING CONDITIONS

With the exception of two women, all other interviewees had made the decision to go to the Arab States as domestic workers. Some women found that the job was different to what was promised. For example, one participant found she had to look after not only one elderly woman as she had been informed, but also her 250 goats. Another was promised a sales job but was sent into domestic work. Others were denied promised holidays.

EXTENDED WORKING HOURS WITHOUT REST

Another common problem reported by returnees was extended working hours without time to rest and no days off. Fifteen participants, who left during different periods, had this experience. One noted, for example, that working in Oman in 2012, she usually had only three hours to sleep each night, and remembered, "We just needed rest so much". Only three of the 47 returnee women interviewed said that they were given rest breaks during the day and time off at night for enough sleep. All three had migrated as irregular migrants via India before or during 2010.

NON-PAYMENT OF WAGES

Eleven participants had difficulties getting paid for their work. One woman who had migrated irregularly before 2010 said she was not paid for a whole year. Another who travelled before 2010 said she received nothing because her salary was paid to the placement agency in the destination country and they did not pay her.

Another woman who migrated during the window but travelled irregularly said she was told she would be paid when she finished her contract, but when the time came she was not paid the full amount. Seven women from different periods said that although they were paid regularly, the amount they received was less than what was agreed before they had migrated. A woman who was subjected to the age ban when she re-migrated in 2013 said she was asked to pay for her food from her salary. Conversely, two women said they were paid more than what they had been promised by the recruitment agency.

LACK OF ADEQUATE FOOD

Three of the returnee migrant women said their employers did not give them adequate food. Two had travelled before 2010 – one travelling from Kathmandu and other from India. The third woman had travelled as a regular migrant during the window period.

PHYSICAL, MENTAL OR SEXUAL ABUSE

Eight women interviewees and a number of focus group participants described being physically beaten at least once by their employers. Women also experienced being verbally abused. These women left at different times, some travelling irregularly and some as regular migrants. Two women who migrated before 2010 described sexual advances from their employer.

THE IMPORTANCE OF LANGUAGE AND SKILLS-TRAINING

Two factors returnee migrant women identified as leading to a positive experience were their ability to speak the language of their employers, and their skills as workers. Women with language skills felt they were better equipped to negotiate their terms with their employers. Also, women who had work skills, either because they had taken training before their departure or were experienced from their previous migration felt they had a slight advantage over women migrating without such skills.

One of the woman said she was able to negotiate better working conditions, including a raise in salary, once she was able to communicate with her employer. Another said her language skills made her adaption to her environment and learning work easy.

Skills and basic language training are provided for regular domestic worker migrants before departure, and travelling irregularly often means not attending these sessions. By pushing women into irregular routes and therefore avoiding pre-departure trainings, the age ban may then be having an important negative impact on women's experiences.

Some women returned to work with their previous employers. Three such women returned to the same families and received higher salaries because of their experience. Two others who continued to work with same household for an extended period had their salaries raised after two years, indicating that acquiring skills and language helped women to improve their working conditions.

SENDING OF REMITTANCES

Returnee women interviewees who had migrated during different periods of time and under different circumstances used a similar process for remitting their earnings. Migration restrictions and whether women left Nepal as regular or irregular migrants did not affect their remittances.

Most women said they remitted money through regular channels, namely sending it through the bank. Many said their employers assisted them by sending the money directly to their families or taking them to the bank or arranging for them to go to the bank from where they could send money. Some said they sent money monthly but most sent it every two or three months. One woman who migrated during the migration window via India said she did not remit any money but carried it with her when she returned.

3.5 IMPACT ON ASSISTANCE ABROAD AND POST-RETURN

Nepali migrants who experience problems with their employers may seek assistance from their overseas placement agencies. If the problems are more serious or they have a dispute with the agency, they can also contact the embassy of Nepal (in every Gulf country except Lebanon) or offices particular to the destination country such as departments of labour.⁹⁴ To seek such assistance, however, migrants need knowledge of who to contact and the means to contact them. The interviews and focus groups found that very few women had this information. All of the returnee women interviewed had minimal knowledge about where to seek help if they needed it when abroad and many felt isolated.

PLACEMENT AGENCIES IN DESTINATION COUNTRIES

Many participants knew their placement agencies in the country of work to be the primary contact should they need assistance. They referred to the placement agency as “the office”. Unfortunately, the experiences of most of the women who sought support from the office were negative. They frequently said the placement agents did not try to understand their problems and blamed them for not working hard enough. Some participants reported serious offences committed by their agents, including being physically abused, having their salaries taken, and even being “sold” to other agents when assistance was sought.

As with treatment by employers, negative experiences with placement agencies had little to do with when women migrated or whether they migrated irregularly or in violation of the ban. Women from all years and of all ages had similar problems.

AGENTS/ RECRUITMENT AGENCIES IN NEPAL

Many participants mentioned that their agents or recruitment agencies in Nepal were their only contact when they needed help in the destination countries. This included women who migrated in contravention of the ban in late 2012 and three women who migrated during the window period. Workers trusted their agents, and in some cases the agents were of assistance. Only one person who contacted her agent did not get any help.

The most help given in any case was provided by a recruitment agency, again underlining the benefit to migrant workers using recruitment agencies rather than relying on unregistered agents. A regular migrant contacted her recruitment agency in Nepal about an abusive employer and the agency suggested she run away, and gave her the contact number of the embassy in Kuwait.

⁹⁴ See Paoletti, Taylor-Nicholson, Sijapati and Farbenblum, *Migrant Workers Access to Justice at Home: Nepal*, Open Society Foundations, New York, 2014.

THE NEPALI EMBASSY

Knowledge of, access to, and experience with the embassy did not differ according to whether the migrant left Nepal under the age ban or other restrictions. Only one returnee was told about the embassy before she migrated – first before 2010 and then in 2011 -- but she did not have the embassy's contact details.

Those women who did know about the embassy learned of it through informal channels, for example from other migrants or returnees after return. Some also learned of it from migrants in the destination country.

Because so few women had contacted their embassy, it is difficult to say whether their legal status in Nepal affected their treatment. One woman who travelled during the migration window as a regular migrant received assistance to return and an offer to help her claim her salary. Another received assistance to return although she was an irregular migrant who left in 2008. Another who migrated in 2008 said, "The embassy didn't help me get the salary."

CALLING ON FRIENDS AND RELATIVES

A number of women relied on personal networks rather than institutions or agencies for advice and assistance. Six returnee women sought support from family and friends already in the destination country. Five had migrated during or before 2010, and the sixth woman migrated in 2011 from Kathmandu during the window period. One among them ran away and took refuge with a friend to avoid an abusive employer. Others contacted their families back in Nepal to request a ticket home. One woman, who had left from Kathmandu in contravention of the age ban policy, ran away from her employer and was helped by a friend to contact the police.

AFTER RETURN: SEEKING HELP FOR PROBLEMS FACED ABROAD

All participants except one reported that they returned to Nepal through Kathmandu airport. None reported any problems upon their arrival despite the majority of having migrated irregularly via India.

Very few women sought help after return for problems they faced abroad and even fewer were successful. Indeed, only one participant obtained the return of some fees from her recruitment agency, and did this by confronting the agency in person, with the "backing of a group of men sent by her brother."

Most women were not aware of the various government-mandated mechanisms available, such as insurance coverage or the complaints mechanism at DoFE. Others said they did not want to bother taking action, and one woman said she had been too ill since her return to file a case.

There was some suggestion in the interviews that an irregular departure from Nepal, for example through India, prevented women from getting assistance – despite irregular status not being a grounds for exclusion from most mechanisms under the law. One focus group participant in Morang recounted her experiences of trying to get support for a family member who had migrated through India. The police reportedly told her a case could not be registered "for people that have gone from India".

General discrimination against and marginalization of women, and stigmatization of women who have migrated abroad, may also be factors preventing women from seeking redress. A district level NGO worker said that he saw few returned women migrants report cases to the authorities and believed that women and their families did not want to make their cases public.⁹⁵ A number of focus group participants described a feeling of stigma and rejection when they returned.

⁹⁵ Interview with District Officer, WOREC-Nepal, Morang, 26 June 2014.

The General Secretary of GEFONT believed the reason few women migrants seek support from service Organizations to be the lack of a women-friendly environment at DoFE. There are no female staff members in the complaints section, for example. She also highlighted women's lack of access to Nepali community Organizations in destination countries, noting that none of the cases forwarded to GEFONT by these Organizations involved women.

In general, the field research revealed that women migrant workers from Nepal, regardless of when they travelled, do not have or do not perceive having access to support services abroad or back in Nepal. Women's migration remains stigmatized and institutions and Organizations are not set up to address the specific access and privacy concerns faced by women. This problem is larger than the age ban, but the ban and other restrictions that encourage women to travel irregularly may exacerbate the problem. More research could be conducted into access to justice for women who travelled irregularly, as this would particularly affect women who migrate in contravention of migration restrictions.

4. ANALYSIS OF MAIN FINDINGS

4. ANALYSIS OF MAIN FINDINGS

This study considered the effect of the age ban based on interviews with stakeholders and the experiences of migrant women, including those who had returned or were considering or planning to migrate. Based on this data, the study is able to answer the following questions:

4.1 HAS THE AGE BAN BEEN EFFECTIVE IN DETERRING YOUNG WOMEN FROM MIGRATING TO THE GULF TO UNDERTAKE DOMESTIC WORK?

The age ban hasn't deterred younger women from migrating or significantly affected their decision-making regarding destination country or type of work. Of the 25 potential migrants interviewed, none said the ban would change their mind about leaving. Of 13 returned migrant women considering migrating again, only two said they had decided against departing - one because she did not want to travel without government protection and the other because she did not want to travel irregularly through India. Neither participant appeared concerned about breaking rules.

Since the total ban was introduced in September 2014, some of the potential migrants interviewed found themselves in difficulty because they had arranged and paid for all of their travel and were then prevented from leaving. These women also insisted that they would nevertheless leave despite the restrictions, even if they had to travel irregularly through India.

In certain cases, there was no deterrent effect because potential migrants did not know about the ban or its specific details. Most women, however, were aware of the ban, either through friends, other migrants, their agents, or the efforts of NGOs and the media.

The main reason potential migrant women gave for wishing to travel despite the ban is that they perceived other push factors as more pressing. Economic necessity, family violence or broken homes, pressure from relatives or a simple desire to see the world all motivated women to leave. Many women noted the lack of economic opportunities in Nepal, and the higher wages available overseas. A number of women and civil society Organizations said that until more training and well-paying jobs are available for women in Nepal, women will continue to leave even if they have to travel by irregular means.

4.2 HAS THE BAN RESULTED IN BETTER WORKING CONDITIONS FOR WOMEN OVER THE AGE OF 30 WHO MIGRATE TO THE ARAB STATES?

The study was able to compare the experiences of women who traveled during the migration window, when no restrictions were placed on their movement, with those who travelled under restrictions before or during 2010 or after 2012.

Participants' descriptions of their experiences in the Arab States mirror other studies of women's migration into domestic work. Many women experienced hardships ranging from breach of contract (including positions or conditions of work being different to what was promised), to labour violations such as very long hours, non-payment of wages and denial of holidays. In some cases women suffered verbal, physical and sexual abuse. Other women, however, found the experience satisfactory and sometimes even rewarding.

There was little difference in experiences abroad among the different groups of women interviewed (such as those over the age of 30 and those under the age of 30, or those who travelled regularly or irregularly). This suggests the age ban has little effect on women's

treatment by their employers abroad. Instead, many said their treatment depended on the type of household they found themselves in and the kindness of their employers.

Indirectly, however, the study highlighted two ways that the ban may have in fact made women's experiences more difficult by pushing them into irregular travel. First, most women who travelled were not able benefit from the support of any sort of trusted intermediary who could facilitate their recruitment and travel from Nepal. While recruitment agencies are only one of many possible options on how to assist women, recruitment agencies were described as one actor which could potentially provide women with more information and choice about the type of employer and work that they would encounter. It is possible that women who were given this kind of information before departure would have been able to avoid some of the difficulties they faced abroad such as households that were too large for them to manage.

In addition, women who travelled irregularly did not attend training and orientations and were given much less information about the migration process and their rights as migrant workers. Participants emphasized that language and domestic skills such as cleaning and cooking were factors that could improve their migration experiences. These skills made transition easier and led to fewer conflicts or misunderstandings with their employers. Thus, women who had migrated before, or who had received training for domestic workers, tended to have an easier experience than those who were migrating for the first time without any training.

Further research into the benefits and challenges for women of using recruitment agencies and attending the skills training would be valuable as Nepal is starting to implement its new regulations for women migrant domestic workers.

4.3 HAS THE AGE BAN RESULTED IN AN INCREASE IN IRREGULAR MIGRATION, AND AS A CONSEQUENCE, TRAFFICKING OF WOMEN?

The experiences shared by participants in this study reveal that for the most part, the migration of women from Nepal has been largely hidden, undertaken irregularly through neighbouring countries, India and Bangladesh. These routes are also longer and expose women to the risk of waiting for long periods, sometimes at their own expense, denial of freedom of movement, and having the terms and conditions of their jobs abroad changed. A number of women described experiences along the journey that could amount to trafficking, including being sold from agent to agent, realizing they had been lied to about the work they would be undertaking, being held for weeks or even months in a confined space and not being able to leave without a guard.

Before 2010, when many restrictions and conditions were in place, this covert route was highly normalized and women explained that they did not question the agents who arranged such irregular travel. They were given little information, few if any documents, and little choice about where they would be travelling. Almost all women who travelled before 2010 did not receive a contract or any training or orientation before departure. Migration of women during this time was also described as stigmatising for both women and their families.

During the migration window, the proportion of women participants who travelled legally tripled and the pre-departure experiences recounted by participants were markedly different. They described paying lower fees, using recruitment agencies more often than individual agents, attending training and generally being more informed. Although some participants continued to travel through India via an irregular route, many others left from Kathmandu, a much shorter direct trip to the destination country. Those migrants who travelled regularly had the benefit of insurance coverage and access to the welfare fund in case of serious

injury abroad. The women's stories reveal themes of greater empowerment and more social acceptance for their decision to migrate.

Since the age ban was introduced in 2012, it appears, on the basis of interviews and focus groups, that not all of the gains from the window period have been lost. Awareness and understanding of the migration process among potential migrants continues to be high, and many women, newly aware of their options, expressed a strong preference to travel legally through Kathmandu rather than through India for reasons of safety and legitimacy. The three women who migrated in 2012, for example, all used the Kathmandu airport – either by falsifying their age, or, it was implied, by paying bribes. Three potential migrants said their agents and recruitment agencies were arranging their travel from Kathmandu at the time of the interviews. This may indicate that during the window, agents and recruitment agencies changed their practices to arrange migration of women through regular channels.

Women who travelled from Kathmandu under the ban also said they were more aware of safer migration practices – through their own previous migration experience or information shared by NGO workers.

Yet migration through India has likely increased again. Potential migrants indicated that if they could not leave through Kathmandu, which will be increasingly difficult now that all women are prohibited from leaving, they would travel through India. The imperatives to leave were too great for them to change their minds. Thus, the age ban appears to have resulted in increased irregular migration, which then brings a risk of trafficking.

4.4 ARE THERE ANY UNINTENDED FINANCIAL, SOCIAL OR OTHER CONSEQUENCES OF THE AGE BAN FOR WOMEN?

A return to most women travelling irregularly has a number of consequences, besides the immediate risks described in this report. One such consequence is that women interested in migrating have become apprehensive about revealing their plans in case they are prevented from leaving. This anxiety means that potential migrant women are not attending the training available for migrant women. They are also less active in seeking out information from official sources that could be useful or necessary if they find themselves in difficult situations.

The age ban also has the effect of further limiting economic opportunities for women. This was a particular concern for single women, especially single women with children. The ban was announced despite women having few viable alternatives to earn a livelihood, and without additional measures to increase local income opportunities or new safer migration pathways. Women who decide not to migrate because of the ban are unable to supplement their income easily in other ways. Younger women described feeling economically marginalized and frustrated that they could not use what they considered to be their most productive years in their late teens and twenties to earn money for themselves or their families.

Similarly, the ban limits social opportunities for women to explore the workforce and the world. Participants described migrating for work as an increasingly acceptable route for women to circumvent social pressures to marry young and stay at home to care for a family. Some of the younger participants in the study felt that by the time they reached 30 years of age, they would be married and have children, making it harder for them to leave than when they were younger. Migration also appeared to be an escape route for women who felt otherwise trapped in abusive or unwanted family situations.

Another unintended consequence has been increased harassment of women travellers by immigration officials at the international airport, even if they are not travelling to migrate as domestic workers. CSO staff members reported women, including those who are not migrating at all, being harassed by immigration officials and believed that it was due to the stringent rules in place for women's migration.⁹⁶ This deserves further research.

Furthermore, women who do not go through regular migration channels miss out on the benefits of private insurance and the government welfare fund. These benefits include financial compensation in case of accident or death in destination countries. To submit a claim for compensation, workers and/or their families need to present the labour permit issued by DoFE, as well as a receipt of payment into the Welfare Fund.⁹⁷ Since irregular migrants do not obtain this document and do not pay into the fund, they or their families are ineligible to receive this benefit.

Finally, women perceived that the ban had strengthened the operations of unlicensed migration agents operating out of villages, which are associated with deception, fraud and trafficking of women.

4.5 WHAT ARE THE ALTERNATIVES TO THE AGE BAN THAT WOULD PROTECT WOMEN BUT ALSO ALLOW THEM TO TRAVEL ABROAD FOR WORK?

The Government of Nepal's policies on women's migration for domestic work have often been reactions to reported cases of violence faced by women during their employment overseas. The age ban policy was imposed without wider consultation with concerned stakeholders, particularly women's rights organizations, and was not based on empirical evidence of risks associated with age. The policy also did not take into account the many pressing reasons women migrate. It was not accompanied by other protection measures.

Women proposed several steps that could be taken to protect them from abuse abroad, without preventing them from leaving. Skills training before departure should be more available— both in Arabic or English - so that workers can communicate with their employers, and in domestic skills for a modern household.

In addition, holding the contract and understanding the terms of the contract allowed women to know more about the work they had been promised and in some cases negotiate conditions with their employers. A number of women expressed a wish to be covered by insurance and not to be forced to travel outside of the formal system.

Many women said a strengthened Nepali government presence through embassies in destination countries would offer more protection while abroad. Embassies should have female officers, or officers trained in the specific challenges faced by women.

The adoption and implementation of the new Guidelines on Domestic Work provide a solid opportunity for the Government of Nepal to invest more deeply in the migrant labour system. While the new protections and provisions included in the Guidelines are a step in the right direction, success still hinges on several aspects.

⁹⁶ Interview of Ganesh Gurung where he cited experiences of another colleague, Kathmandu, 20 May 2014; Chairperson of Rapid International, Recruitment agency, Kathmandu, 12 September 2014

⁹⁷ <http://fepb.gov.np>. See also Paoletti, Taylor-Nicholson, Sijapati and Farbenblum, *Migrant Workers Access to Justice at Home: Nepal*, Open Society Foundations, New York, 2014.

First, the Government of Nepal should address the shortcomings of the Guidelines by providing for equal provisions for both male and female domestic workers. The fact that women domestic workers must be 24 years of age or older to travel to eight destination countries while male domestic workers may travel at 18 years of age violates the principle of non-discrimination set out in the Foreign Employment Act and numerous International Instruments.

In addition, the creation of more training schools at the local level, rather than in Kathmandu where attendees must pay accommodation and food costs, and more safe migration information resources is needed. The setting up of more missions and embassies in key countries of destination will also be critical to implementation.

Third, encouraging and facilitating the use of recruitment agencies, and effectively monitoring those agencies, assists women to take these protective measures and avoids abusive and deceptive recruitment. Monitoring should be enforced and enshrined in the normative framework in both countries.

Moreover, given options and financial viability, participants said they preferred destinations outside of the Arab States. Opening migration to countries with a better record of protecting the rights of migrants might lead to more positive experiences. Some mentioned the need for Nepal to sign bilateral agreements with destination countries that would guarantee a certain wage and rights to annual leave.

Finally, the women who participated in this study emphasized that migration can be a positive experience in whole or in part, and can enable them to achieve goals they would not be able to achieve in Nepal. Banning all women from migrating to protect some from harm is a disproportionate response to the challenges and does not recognize the strong impetus for women to migrate, nor the rights of all people to leave their own country.

While the age ban has been modified by a more tailored policy that addresses at least in part the economic insecurity faced by women and their families in Nepal, there is room to ensure its implementation is based on empowerment, allowing women to exercise agency through making informed choices, obtaining skills and training, upholding women's rights at home and abroad, and improving the position of women in Nepal overall. This is even more important in light of the recent earthquakes where the insecurities described in this report may only have deepened for many families. Efforts to assist families affected by the earthquakes must take into account the imperatives for Nepali women to migrate and the recommendations women have for making their migration safer.

BIBLIOGRAPHY

BIBLIOGRAPHY

Amnesty International. (2011). *False Promises: Exploitation and forced labour of Nepalese migrant workers*.

Anti-Slavery International/ KAFA and GEFONT. (2014), *Into the Unknown: Exploitation of Nepalese Migrant Domestic Workers in Lebanon*.

Batistella, G. (2005). Migration Without Borders: A long way to go in the Asian region. Draft Article of the Migration Without Border Series, Scalabrini International Migration Institute, 24 January 2005, UNESCO, SS/2005/MWB/6.

Bhadra, C. (2007). *International Labour Migration of Nepalese Women: Impact of their remittances on poverty reduction*. Asia Pacific Research and Training Network on Trade, Working Paper Series, No. 4, September 2007 (Rev. Jan 08)

Bhadra, C. (2013). Final Report on 'The Impact of Foreign Labour Migration to Enhance Economic Security and address VAW among Nepali Women Migrant Workers and Responsiveness of Local Governance to Ensure Safe Migration', submitted to MoWCSW, MoLE, MoFALD of GoN

Bhattarai, P. (2005). Migration of Nepalese Youth for Foreign Employment: Problems and Prospects.

Castles, S. and M. J. Miller. (2009). Migration in the Asia Pacific Region, Migration Information Source, Migration Policy Institute, 10 July 2009. Retrieved from: <http://www.migrationpolicy.org/article/migration-asia-pacific-region/>

Central Bureau of Statistics. (2014). *Annual Household Survey 2012/ 2013*.

Central Bureau of Statistics. (2012). *National population and Housing census, National Report 2011*.

CEDAW General Recommendations http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/2009/WP.1/R&Lang=en

Devries, S. M. (2012). *Mobility Matters: Tamang women's gendered experiences of work, labour and migration and anti-trafficking discourses in Nepal*. The University of Guelph, Ontario, Canada.

Ghimire, P. (2013). Review of migration and development policies and programmes and their impact on economic and social development, and identification of relevant priorities in view of the preparation of the post-2015 development framework, Nepal Country Statement on Agenda Item 5, Asia Pacific Regional Preparatory Meeting for GA on HLD on International Migration and Development in Bangkok, 29–31 May 2013.

Gurung, G. (2013). *Living the Golden Dreams: The Gulf and Nepalese Women*. Maiti Nepal.

Hamill, K., KAFA (enough). (2011). Violence and Exploitation. *Trafficking of Migrant Domestic Workers in Lebanon: A Legal Analysis*.

Interim Constitution of Nepal 2007. http://www.wipo.int/wipolex/en/text.jsp?file_id=189180

International Labour Organization Convention 111, Article 2 and 3 (c) http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111

International Labour Organization. (2013). *Tricked and Trapped: Human Trafficking in the Middle East*.

Kapur, R. (2012). *Makeshift Migrants and Law: Gender, Belonging and Post-Colonial Anxieties*. Routledge, New York.

KavLa'Oved, Pourakhi & Amnesty International (2011). Nepal: Briefing to the Committee on the Elimination of Discrimination against women

Kodoth P. and V. J. Varghese. (2012). Protecting Women or Endangering the Emigration Process: emigrant women domestic workers, gender and state policy. *Economic and Political Weekly*, vol. 47, no. 43.

Ministry of Labour and Employment, Department of Foreign Employment. (2014). *Labour Migration for Employment: A status report for Nepal 2013/2014*.

National Women's Commission. *Independent Report to supplement the Combined 4th and 5th Periodic Report Submitted to the CEDAW Committee by the Government of Nepal*, 2011

Nepal Institute of Development Studies/ UNIFEM. (2006). *Nepali women and Foreign Labour Migration*.

Paoletti S., E. Taylor-Nicholson, B. Sijapati & B. Farbenblum. (2014). *Migrant Workers' Access to Justice at Home: Nepal*, Open Society Foundations, New York.

Pokharel, P. (2011). *Labour Migration from Nepal to the Gulf: Analysis of the recruitment system*. Graduate Institute of International and Development Studies, Geneva

Seddon, D. (2005). Nepal's Dependence on Exporting Labour, *Migration Information Source*, Migration Policy Institute. Retrieved from: <http://www.migrationpolicy.org/article/nepals-dependence-exporting-labor>

Siddiqui, T. (2008). Migration and Gender in Asia, presented at the UN Expert Group Meeting on International Migration and Development in Asia and the Pacific, 19 September 2008, UN/POP/EGM-MIG/2008/6.

Sijapati, B & A. Limbu. (2012). *Governing Labour Migration in Nepal: An Analysis of existing policies and institutional mechanisms*, Centre for the Study of Labour and Mobility, Kathmandu.

The Asia Foundation. (2013). *Labour Migration Trends and Patterns: Nepal, India and Bangladesh*.

UN Women. (2012). *Migration of Women workers from South Asia to Gulf*.

UNIFEM. (2012). *An In-depth Study of Realities and Concerns of Nepalese Domestic Workers in Hong Kong*.

World Bank Annual Remittances Data retrieved from:
<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>

ANNEX 1: INTERVIEW SCHEDULES

TABLE 2. Interview schedule of key informants

Institution	Agency	Position*
Government	Ministry of Labour and Employment	Speaker
Government	Department of Foreign Employment	Director
Government	Foreign Employment Promotion Board	Executive Director
Government	Ministry of Women, Children and Social Welfare	Under Secretary
Government	National Women's Commission	Commissioner
Government	VDC Rupandehi	VDC Secretary
Government	VDC Morang	VDC Secretary
Government	VDC Morang	Chief District Officer
Government	VDC Morang	VDC Secretary
Government	DDC Morang	District Development Committee Member
Government	Women Development Office, Morang	Officer
Recruitment Agencies	Nepal Association of Foreign Employment Agency	President
Recruitment Agencies	Rapid International	Managing Partner
Trade Union	ANTUF	Central Committee Member/ Lawyer
Trade Union	GEFONT	Governing Council Member
Trade Union	NTUC	Deputy General Secretary and Administrative Officer
Trade Union	SARTUC	General Secretary
NGO	WOREC, Kathmandu and Morang	President and Programme Officer

*Position of interviewee in 2014

Institution	Agency	Position
NGO	Alliance Against Traffic in Women and Children in Nepal	Program Coordinator
NGO	Pourakhi	Founder and Director
NGO	Pravashi Nepali Coordination Committee	Founder
NGO	People's Forum	President
NGO	Shakti Samuha	President
NGO	Forum for Women Law and Development	Vice-President
NGO	ABC Nepal, Morang	Social Mobiliser and Program Coordinator
NGO	ABC Nepal, Rupandehi	Social Mobiliser
Research Institute	National Institute of Development Studies	Founding Chairperson
International Organization	UN Women	Head, Economic Empowerment Unit

TABLE 3. Key stakeholder list by location

	Kathmandu	Morang	Rupandehi	Total
Government	5	5	1	11
Local NGO	8	3	1	12
International Organization/Donor	3			3
Recruitment Agencies	2			2
Trade Unions	6			6
Research Institutes	1			1
	25	8	2	35

TABLE 4. Potential and returnee migrant women interviews by category and location

Participant categories		Kathmandu	Morang	Rupandehi	Total
Returnee women subject to migration restrictions (pre-2010 or under age ban).	Returnee women that travelled on or before 2010	11	11	12	34
	Returnee women that travelled after August 2012	1	1	1	3
Returnee women not subject to restrictions (during window or since age ban)		1	6	3	10
Potential migrant women subject to the age ban		4	2	7	13
Potential migrant women not subject to the age ban		5	2	5	12
TOTAL		22	22	28	72

Two interviews were conducted with Nepali domestic workers in Lebanon. The women were members of NARI, a Nepali women workers organization in Lebanon. The interviews were conducted over “Viber” and were recorded.

TABLE 5. Focus group participants by category and location

Participant categories		Kathmandu	Morang	Rupandehi	Total
Returnee women subject to migration restrictions.	Returnee women that travelled on or before 2010	2	3	6	11
	Returnee women that travelled after August 2012	2	0	0	2
Returnee women not subject to restrictions (during window or since age ban). ⁹⁸		5	0	0	5
Potential migrant women subject to the age ban		5	3	3	11
Potential migrant women not subject to the age ban		1	2	2	5
TOTAL		15	8	11	34

⁹⁸ This means only that the women were not subject to the age ban or pre-2010 restrictions. They may have been subject to other restrictions such as the closure of Lebanon, which occurred in 2009

ANNEX 2: DETAILED METHODOLOGY

TYOLOGIES

Determining typologies for this study was complicated by the fact that restrictions on women's migration have been applied at various times, affecting different groups and different locations.

To simplify the process, the researchers chose to compare those who had travelled or planned to travel under any restrictions (including those in place before 2010, or under the age ban after 2012), and those who could travel legally during the period of no restriction or under the age ban because they were older than 30. It was assumed that travelling against a restriction meant that regular documented migration was not an option.

The four categories were:

1. Returnee migrant women subject to restrictions
2. Returnee migrant women not subject to restrictions
3. Potential migrant women subject to the age ban
4. Potential migrant women not subject to a ban

The four categories were not mutually exclusive. Migrant workers often travel abroad numerous times, so some participants fell into more than one category – during one migration they may have been prohibited from leaving but the next time may have travelled legally. 13 women interviewed as potential migrants for the study were returned migrants contemplating re-migrating. Further, six of the potential migrants not affected by the age ban policy were later subject to the overall ban on the migration of women imposed in mid-April 2014.

TABLE 6 . Migrant participant typologies

	Agency	Position*
Women subject to a ban	Planning to travel to the Arab States as a domestic worker Under 30 years of age	Travelled to the Arab States before 2010; or Travelled to the Arab States as a domestic worker after August 2012 and was younger than 30 at time of departure.
Women not subject to a ban	Planning to travel to the Arab States as a domestic worker Over 30 years of age	Travelled during the window period 2011-August 2012; or Travelled to the Arab States as a domestic worker since the age ban but over 30 at time of departure.

SAMPLING

As noted above, the study is based on a non-representative sample of 108 women. To identify the sample in Morang and Rupandehi, the researchers worked in cooperation with two NGOs: WOREC in Morang and ABC Nepal in Rupandehi. These NGOs were part of an ILO project in the districts, which included training of peer educators.⁹⁹ The peer educators had strong networks at the village level and were the main entry points for the researchers to reach participants.

In Kathmandu, NGOs working with returnee migrant women and women working in the informal sector assisted the researchers to identify study participants. Additionally, private training centres identified and gave the researchers access to some potential migrant workers.

Participants were divided fairly evenly between locations in Nepal with 37 in Kathmandu, 30 in Morang and 39 in Rupandehi. Almost two-thirds of participants (65) were returned migrant women workers, while 41 were potential migrants. The remaining two interviewees in Lebanon were working abroad at the time of the interview (see Annex 1 for detail on locations).

Among returned migrant women, almost all (50) had travelled in contravention of some kind of restriction, although only five had been subject to the age ban. The remainder had travelled before 2010. These women had left over the course of a number of years when women were either prohibited from traveling to the Arab States for domestic work, or there were conditions imposed on their migration. 15 participants travelled during the “window” when women could freely migrate for domestic work.¹⁰⁰

TABLE 7 . Returnee migrant worker participants by year of departure

	2010 or before	2011	2012	2013	Total
Returnee migrant interviewees and FGD participants	43	11	9	4	67

Potential migrant participants were at various stages of preparation for departure, ranging from having already received a visa (seven), to having made preliminary preparations such as deciding on a destination and contacting an agent (nine), to simply seeking information (nine). Almost half (19) were subject to the age ban because they were under 30 years of age. Even those not affected, however, were stopped by the later ban on all women’s migration that was imposed in 2014.

⁹⁹ See Work in Freedom Programme http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/projectdocumentation/wcms_217626.pdf

¹⁰⁰ Participants were not always certain of the exact date of their departure from Nepal, but identified the general period through other indicators, such as the time a child turned three, or during “the season of water melon”.

TABLE 8. Age of participants at time of departure or planned departure

Participant Categories	Under 20	20-30	31-40	Above 40	Unknown	Total
Returnee migrants, age when first migrated	9	39	10	2	7	67
Potential migrants, age when planned to migrate	3	16	14	2	6	41
TOTAL	12	55	24	4	13	108

The majority of the returnee migrant women were between 20 and 30 years of age when they migrated for the first time. Potential migrant women tended to be between the ages of 20 and 40 (see Table 5).

TABLE 9. Countries of destination on all migrant trips¹⁰¹

	Kuwait	Lebanon	Saudi Arabia	Qatar	UAE	Oman	Others ¹⁰² undecided
Returnee migrants subject to restrictions	7	0	2	0	2	0	0
Returnee migrants not subject to restrictions	19	8	21	2	4	6	6
Potential migrants subject to age ban	6	0	3	1	3	4	3
Potential migrants not subject to age ban	10	2	2	2	9	0	6
TOTAL	42	10	28	5	18	10	15

The most popular countries in the region historically, for returned migrants, had been Kuwait and Saudi Arabia. Among potential migrants, the most popular destinations were Kuwait and the UAE.

¹⁰¹ Some returnee women migrated multiple times. The data in Table 5 reflects all countries visited by the participants.

¹⁰² Other countries include Iraq, Bahrain, Malaysia and the Maldives.

TABLE 10 . Education level of interviewees

	No formal education	Less than high school	High school and beyond	No information	Total
Returnee women	12	25	8	4	49
Potential women	4	8	8	5	25
TOTAL	16	33	16	9	74

A majority of women interviewed, had no formal education or less than a high school level education. Only one returnee woman and three potential women had education beyond high school.

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