

ILLUMINATING CAUSES AND BARRIERS UNDERPINNING FORCED LABOUR IN NEPAL-MALAYSIA MIGRATION CORRIDOR[©] ^Σ

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ABSTRACT

This study problematizes Malaysia's migrant workers' governance by highlighting that while it can address forced labour, it has no jurisdiction over the recruitment process in source countries. This study attempts to persuade that any efforts to eliminate forced labour should address root causes and barriers underpinning it through a comprehensive migration trajectory approach – i.e., pre-recruitment, pre-departure, and post-arrival (during employment) stages. This study focuses on the Nepal-Malaysia migration corridor as one of the essential labour migration pathways involving hundreds of thousands of Nepalis employed as temporary, unskilled, and low-wage labourers. Findings and subsequent analyses have been obtained through a workers' survey involving 76 Nepali workers in Malaysia, in-depth interviews with 28 Nepali workers and 13 Nepali community leaders in Malaysia, and five Nepali leaders in Nepal. Though this study specifically covers the Nepal-Malaysia migration corridor, the causes and systemic barriers discussed are highly relevant to other migration corridors (e.g., Indonesia-Malaysia and Bangladesh-Malaysia).

Keywords: Forced labour; migrant workers; Nepal; Malaysia; migration corridor

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MENERANGKAN PUNCA DAN HALANGAN YANG MENYEBABKAN BURUH PAKSA DI KORIDOR MIGRASI NEPAL-MALAYSIA

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ABSTRAK

Kajian ini menentengahkan permasalahan berkaitan tadbir urus pekerja asing di Malaysia dengan menekankan bahawa meskipun Malaysia boleh menangani buruh paksa, walaupun terdapat pelbagai kekangan – negara tidak mempunyai bidang kuasa terhadap proses merekrut pekerja asing di negara sumber. Kajian ini menekankan bahawa sebarang usaha menghapuskan buruh paksa perlu menangani permasalahan punca dan penghalang menerusi kerangka migrasi yang holistik merangkumi fasa pra-pengambilan, pra-penempatan dan pasca-ketibaan (tempoh pekerjaan). Kajian ini memfokus kepada koridor migrasi Nepal-Malaysia iaitu salah satu laluan migrasi buruh terpenting melibatkan ratusan ribu warga Nepal yang bekerja sebagai pekerja asing sementara, tidak mahir dan bergaji rendah di Malaysia – sebagai kajian kes. Penemuan dan analisis kajian hasil daripada kajian tinjauan melibatkan 76 pekerja Nepal di Malaysia, dan disokong dengan beberapa sesi temu bual mendalam dengan 28 pekerja Nepal dan 13 pemimpin komuniti Nepal di Malaysia, dan lima pemimpin komuniti di Nepal. Walaupun kajian ini fokus terhadap koridor migrasi Nepal-Malaysia, punca dan penghalang sistemik dibincangkan dalam kajian ini amat relevan dalam konteks koridor migrasi lain (e.g., Indonesia-Malaysia dan Bangladesh-Malaysia).

Kata Kunci: *Buruh paksa; pekerja asing; Nepal; Malaysia; koridor migrasi*

Introduction

International migration has been perceived as an effective poverty reduction tool for millions of migrant workers through overseas employment and the remittance of their wages to their respective countries of origin (Wickramasekara 2000, 7). From the perspective of the destination country, the international migration of unskilled and temporarily contracted workers is an essential factor in enhancing or maintaining productivity and reducing the cost of business operations. Nevertheless, while international migration can benefit workers in many ways (e.g., employment, remittances, and social mobility), its negative consequences cannot be glossed over. Scholars warn that labour exploitations involving migrant workers in many receiving countries are rising (Kaur 2010; Spaan and Naerssen 2017) and are commonly referred to as indicators of forced labour. These include, for instance, employers' practices that withhold workers' passports and other identity documents, non-payment of wages, and other practices that restrict workers' freedom of movement (see Kanapathy 2008; Mei Wei and Yazdanifard 2015; Fair Labor Association and Consumer Good Forum 2018; Earthworm Foundation 2019; Wahab 2019). For clarity, the International Labour Organization's (ILO) Forced Labour Convention (No. 29, see Article 2), defines forced labour as "... all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily".

Malaysia is a significant destination country in the region for millions of migrant workers on contractual and temporary labour contracts – a common defining characteristic of the precariat (Standing 2014, 10). Despite a long history of labour migration into Malaysia since the late 19th and early 20th centuries, Malaysia still views the migration of workers as a temporary measure to overcome labour shortages (Kaur 2010, 16), eventually shaping the present migration infrastructures that produce multidimensional forms of precarity (Sunam 2022, 2). Existing estimates indicate that as few as 2 million up to 5.5 million migrant workers live in Malaysia, consisting of documented and undocumented migrant workers (Lee and Khor Yu 2018). While the exact number of undocumented migrant workers cannot be accurately determined, the Malaysian authorities record the number of documented migrant workers – referred to as migrant workers with Visitor's Pass (Temporary Employment) (VPTE). As of June 2019, there were about 2 million migrant workers who were given VPTE in Malaysia, the majority of whom were Indonesian, Bangladeshi, and Nepali workers (Ministry of Human Resources 2019). This study focuses specifically on Nepali migrant workers in Malaysia. Table 1 below shows the total number of Nepali migrant workers (i.e., documented with VPTE) by sectors in Malaysia.

In Malaysia, migrant workers – including Nepali workers, are typically employed in economic sectors that are often considered dirty, dangerous, and complicated (3D) and are often shunned by local workers (Ajis *et al.* 2022, 28; Theng, Nazihah, and Jarud 2020, 12). Before their employment in Malaysia, existing studies also indicate that migrant workers, including Nepali workers, deployed to Malaysia were initially recruited through a complex recruitment process in the country of origin – involving layers of labour agents, brokers, middle persons, and social networks (Kanapathy 2008, 4). The complex nature of their recruitment process has many negative consequences, one of which is the multiplication of recruitment costs borne by the workers (Kanapathy 2008; Wahab and Mashitah 2022; Piper 2022), eventually positioning workers at risk of forced labour. Existing literature highlights that migrant workers are often trapped in debt bondage conditions – one indicator of forced labour – due to excessive recruitment costs borne by the workers in source countries (Kaur 2010; Fair Labor Association and Consumer Good

Forum 2018).

Table 1: Number of Nepali and total migrant workers with Visit Pass Temporary Employment (VPTE) in Malaysia, 2019

Nationality	Sectors in Malaysia						Total
	Domestic Worker	Construction	Manufacturing	Services	Plantations	Agriculture	
Nepal	60	7,927	251,503	73,892	3,045	9,886	346,313
Total	127,169	435,002	705,016	306,417	282,494	159,662	2,002,427

Source: (Ministry of Human Resources 2019).

Malaysia has ratified the ILO Forced Labour Convention (No. 29) and its Protocol. It is also a state party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol) to the UN Convention on Organized Crime. However, Malaysia has yet to establish comprehensive domestic legislation prohibiting forced labour. To some extent, the existing Malaysian regulations and policies may assist in addressing labour exploitation, including forced labour cases on a piecemeal basis. These include, amongst others, the Anti-Trafficking in Persons and Smuggling of Migrants Act 2007 (ATIPMSOM); the Employment Act 1955, Immigration Act 1959/63; the Workers' Minimum Standard of Housing and Amenities Act 1990, and the Minimum Wage Order 2016.

This study further problematizes Malaysia's migrant workers' governance by highlighting that while it is able (despite many limitations) to address forced labour in the country, it has no jurisdiction over the recruitment process in source countries (i.e., Nepal). As indicated earlier, forced labour indicators may occur in the source country and reoccur and transfer to the destination country. As such, any efforts to address forced labour should understand and address root causes and systemic barriers in both source and destination countries on an equally important basis. This study, which focuses on the Nepal-Malaysia migration corridor, aims to assess the barriers and causes underpinning actual and potential cases of forced labour involving Nepali workers in a complete migration trajectory landscape, covering pre-recruitment and pre-departure in Nepal and post-arrival stage (i.e., employment period) in Malaysia.

Migration Governance in Nepal-Malaysia Corridor

Nepal is among the top three source countries supplying migrant workers in Malaysia (the other two are Indonesia and Bangladesh) in addition to the official record of documented migrant workers in Malaysia, including Nepali migrants (see Ministry of Human Resources 2019) – the official source from the Nepali Government indicates that, as of 2020, over four million labour permits for labour migration to Malaysia had been issued by the Government of Nepal since 2000 (MoLESS 2020, 3). The Ministry of Labour, Employment and Social Security (MoLESS) is Nepal's primary governmental institution governing Nepali workers' foreign employment. MoLESS is entrusted with formulating, implementing, coordinating, monitoring, and evaluating the relevant national and employment policies and regulations such as the Foreign Employment Act

2007, Foreign Employment Rules (FER) 2008, and Foreign Employment Policy (FEP) 2012. The FER 2008 governs the institutional mechanisms related to foreign employment, such as creating welfare funds for Nepali workers abroad, insurance coverage, pre-departure orientation, and training, compensation, rescue, and repatriation. It also specifies establishing a facility at the Tribhuvan International Airport, Nepal, that acts as a monitoring avenue and establishes a tribunal to address complaints and grievances from Nepali workers abroad.

The Nepali Government has established a Foreign Employment Information Management System (FEIMS) – which is a system that manages and regulates the labour migration process. Though using private recruitment agencies is not mandatory for foreign employment, private recruitment agencies facilitate 90 percent of foreign employment from Nepal to various destination countries, including Malaysia. As of March 2020, about 854 recruitment agencies were registered in Nepal (MoLESS 2020, 48), primarily headquartered in Kathmandu – the capital city of Nepal. Private individuals, commonly termed 'subagents', are significant in recruiting prospective workers. They act as intermediaries between recruitment agencies and prospective workers. However, in March 2019, the Nepal Government amended the Foreign Employment Act (2007) to remove the provision that allows recruitment agencies to engage or hire subagents. Instead, the amendment has allowed recruitment agencies to establish branch offices outside Kathmandu (Mandal 2020) to eliminate the subagents.

Whilst on the Malaysian side, existing policies administering international labour migration have remained ad hoc since they were first introduced as an 'interim solution' to fill labour shortages over two decades ago – admitting migrant workers only to meet the immediate labour needs of employers rather than allowing for longer-term employment and integration. The two primary government institutions involved in developing and administering labour migration policy in Malaysia are the Ministry of Human Resources (MOHR) and the Ministry of Home Affairs (MOHA).

Various legislative frameworks and administrative requirements currently govern the recruitment and hiring of international migrant workers. The primary legislation is the Employment Act of 1955. The Act defines a 'foreign employee' (i.e., migrant workers) as 'an employee who is not a citizen' (Article 2(1) of the Employment Act 1955). Part XIIB of the Act deals with the employment of migrant workers. The Act requires employers to furnish information on migrant workers and prohibits the termination of a local worker to employ a migrant worker. In cases of redundancies, the employment of migrant workers has to be terminated first. Apart from the Employment Act 1955, another important legislation governing the recruitment of migrant workers is the Immigration Act 1959/63 (Act 155). The Act penalises foreigners for 'illegal entry and overstay' and any person (including Malaysians) who harbours irregular migrants in their premises. Sections 55B and 56(1)(d) of the Immigration Act 1959/63 state that any person – including employers – can be subjected to a fine between RM10,000 and RM50,000, or imprisonment not exceeding 12 months, or both for each irregular migrant employed and can also be subjected to a whipping of up to six strokes if they are found to be employing more than five irregular migrants at the same time.

Other relevant legislation and policies related, directly and indirectly, to the recruitment and hiring of migrant workers include: (i) the ATIPSOM Act (2007); (ii) the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990; (iii) Industrial Relations Act (IRA) 1967; (iv) Trade Union Act 1959; (v) Private Employment Agencies (Amendment) Act 2017; and (vi) Employers Undertaking. The

MOHR under the 'Employers Undertaking' (i.e., a MOHR-led directive) has made it compulsory for employers who have been granted a certificate (i.e., quota approval) to hire migrant workers to sign the 'Employers Undertaking'. This administratively holds employers to adhere to certain conditions of hiring migrant workers, paying the total levy cost for all migrant workers hired and not withholding workers' passports, among others.

Both governments highly govern and regulate cross-border migration in the Nepal-Malaysia migration corridor. Migration is regulated by various legislation frameworks and facilitated through technologies such as Nepali's FEIMS. In Malaysia, the recruitment of migrant workers begins with the technology-based application through the Foreign Workers Centralized Management System (FWCMS). Despite such development, public criticisms about the lack of accountability and transparency in the recruitment process and the precarious working conditions persist.

Research Design

This study relies heavily on primary data obtained from two data collection methods. First, a survey of Nepali workers in Malaysia was conducted, and second, in-depth interviews with Nepali workers in Malaysia and Nepali community leaders in Nepal and Malaysia were executed. The survey was conducted, in stages, between 29 April 2021 and 30 September 2021, comprising 76 Nepali workers from three geographical locations, namely Klang Valley (Kuala Lumpur and Selangor), Penang, and Johor. The survey, which was conducted in a hybrid mode (i.e., physical and remote), aimed to understand the Nepali workers' migration experiences, covering pre-recruitment, pre-departure, and post-arrival in Malaysia. The Nepali workers were selected using the convenience sampling technique – i.e., the non-probability technique. The survey had 22 questions, including several open-ended questions, with an average completion time of between 45 and 60 minutes. It is essential to highlight that the survey did not intend to represent and generalise the Nepali workers' experiences in Malaysia but to identify critical issues they face.

In-depth interviews were conducted between 15 May and 9 October 2021. Informants of the in-depth interviews were divided into two groups of informants, namely: (i) Nepali workers in Malaysia; and (ii) Nepali community leaders in Malaysia and Nepal. As for the first group of informants, 28 Nepali workers from Klang Valley, Penang, and Johor were interviewed in a hybrid mode (i.e., physical and remote interviews). The interviews aimed to understand, in detail, the workers' migration experiences and their working conditions in Malaysia. The second group of informants consisted of 13 Nepali worker leaders in Malaysia and five Nepali community leaders in Nepal. They were interviewed separately, and all the interviews were conducted remotely, either over mobile phones or on an online platform (i.e., Zoom meetings). The interviews with Nepali community leaders aimed at understanding the development and implementation of migration policy in Nepal and actual recruitment practices from Nepal to Malaysia.

Recruitment Practices: Causes and Barriers Underpinning Forced Labour

As noted earlier, the findings presented in this study do not intend to represent and generalise the experiences of Nepali migrant workers in Malaysia but rather to identify causes and barriers underpinning forced labour cases (i.e., actual and potential). The findings are presented following critical migratory trajectories: pre-recruitment, pre-departure, post-arrival, or during employment in Malaysia.

Pre-Recruitment in Nepal

Lack of Prior Work Experience before entering Malaysia

The Nepali workers' survey found that two of every three Nepali respondents in Malaysia (56 out of 76 respondents) had no relevant experience before entering the Malaysian labour market. Generally, migrant workers in Malaysia are employed in unskilled occupations, which do not require a particular skill set or significant experience. However, the lack of relevant work experience and familiarity with a particular occupation may give rise to numerous employment issues – both for the employers and the workers. For example, working in a palm oil plantation requires working under hot temperatures for long hours and lifting heavy fruit bunches. Migrant workers who have not worked similar jobs or been exposed to similar situations will find the work difficult. Many workers in this situation have changed their legally designated employers without authorisation, subsequently becoming irregular workers in Malaysia.

From the interviews with Nepali workers and community leaders, it is commonly found that Nepali workers who switch employers primarily work in two sectors (i.e., the manufacturing and service sectors). For example, workers who initially come to Malaysia to work in a factory (i.e., manufacturing sector) change employers to work in the service sector (e.g., food and beverages). Nepali leaders stressed that Nepali workers feel they are unfit and unwilling to do shift work (i.e., day and night) in factories. Nepali workers mostly prefer working in cities with ready access to Nepali communities rather than in isolation and restricted settlements (e.g., workers in factory dormitories).

Lack of Labour Migration Information

Most Nepali respondents needed more information about the labour migration process and working abroad experiences, including working in Malaysia. Specifically, two out of three Nepali respondents stated that their friends and relatives with working experience in Malaysia were their primary sources of information to ask about the labour migration process to Malaysia. These friends and relatives were essential influencers in their decision-making to work in Malaysia. The respondents also cited that their friends and relatives served as resource persons who connected them with intermediaries and the workforce agency in Kathmandu.

Other sources of information about labour migration to Malaysia include intermediaries based in many rural communities who serve as a liaison for the workforce agencies and advertisements in the press and social networks in Nepal. The vast majority of Nepali respondents relied on migration information from friends and relatives, raising concerns regarding the adequacy and accuracy of such information.

Pre-Departure in Nepal

Shortfall in Pre-deployment Orientation Training

Interviews with Nepali workers in Malaysia found that some of them needed to be provided with actual pre-deployment orientation training before departing for Malaysia. Instead, they were merely issued certificates confirming their attendance and completion

of the orientation training. Interviews with Nepali community leaders in Malaysia confirmed that it is a legal requirement that all aspiring Nepali migrant workers must attend and complete orientation training before departing for destination countries, including Malaysia.

In Nepal, thousands of labour migration applications are processed daily. The Nepali community leaders claimed that private recruitment agencies and training organisations need help to expedite the application process. Through their relationships, private recruitment agencies and training organisations may have opted to expedite the labour migration application process by abusing legal requirements set by the Nepali government. Some Nepali workers further reinforced this claim by highlighting that they never met private recruitment agencies and training organisations throughout their recruitment process in Nepal. The Nepali workers claimed their migration application was arranged and processed by intermediaries (i.e., middle persons). Other Nepali worker respondents reported that they only met the actual private recruitment agencies at the airport a few hours before departing for Malaysia.

Long and Delayed Labour Migration Recruitment Process

The workers' survey found that the recruitment process took between four weeks (minimum) and six months (maximum) – it is an excessively lengthy process of recruitment. This has multiple consequences for workers, including financial implications – where they commonly covered the additional recruitment costs as they had to travel several times from their respective villages or districts to Kathmandu, where the majority of the private recruitment agencies were located. The aspiring Nepali workers also had to cover the costs of their meals and accommodation in Kathmandu. Some Nepali workers claimed that they usually paid part of the recruitment fees upfront to either individual intermediaries or private recruitment agencies. Some workers reported that they had to borrow money from local money lenders in order to pay the first installment of the recruitment fees. But once they had borrowed money from local money lenders, they were required to begin repaying their loans three months afterward. Additionally, the lengthy recruitment process had significant consequences for their mental health, motivation, and expectations of working abroad too.

Lack of Record-Keeping Practices among Workers

Throughout the long and complex journey from Nepal to Malaysia, Nepali workers usually pay various migration-related costs, such as transportation from their villages to Kathmandu, accommodation and meals, and fees paid to individual intermediaries. However, the workers' survey found that only three out of 76 (or less than four per cent) of the respondents kept records and receipts of these transactions.

Nepali community leaders in Malaysia highlighted that the Nepali workers might need to be made aware of the purpose of keeping information and physical evidence of the recruitment fees and costs they paid in Nepal. In other cases, physical evidence such as bus and train receipts and lodging and meals receipts were unavailable in rural cities. Similarly, individual intermediaries typically did not issue receipts for recruitment fees

they collected from aspiring Nepali workers. This raises concerns about the feasibility of effectively implementing the 'Employer Pays Principle' – a principle that, amongst others, encourages employers to reimburse the workers' recruitment fees and associated costs in Malaysia.

Lack of Awareness of Grievance Channels

Access to a grievance mechanism is the critical feature in Nepal's Foreign Employment Rules (FER 2008), which is committed to running a monitoring facility at the Tribhuvan International Airport, Kathmandu, and establishing a tribunal to address complaints and grievances received from Nepali workers abroad. However, similar grievance mechanisms have yet to be addressed at the pre-recruitment and pre-departure stages. This neglect has resulted in little awareness among Nepali workers of the channels to seek information and raise grievances regarding issues they face during the pre-recruitment and pre-departure stages. The workers' survey found that eight in every ten respondents stated they needed to be made aware of how and where they could raise grievances during Nepal's recruitment process. Other Nepali worker respondents stated they only knew that grievances should be raised to labour offices in Nepal.

Lack of Recruitment Due Diligence before Departing for Malaysia

Nepali community leaders in Malaysia and Nepal are concerned about the need for due diligence before Nepali workers depart to destination countries such as Malaysia. Due diligence is critical to ensuring that the recruitment process conforms with applicable laws and policies. The existing laws in Nepal do not explicitly require the conduct of due diligence before Nepali workers are sent abroad.

Post-Arrival in Malaysia

Lack of Due Diligence for Migrant Workers upon Arrival in Malaysia

Nepali community leaders in Malaysia and Nepal raise a shared concern about the lack of due diligence conducted before the Nepali workers departed from Malaysia. Whilst in Malaysia, some employers conduct limited due diligence, either as part of their regular orientation programme when receiving new migrant workers or a regular assessment of the recruitment practices of recruitment agencies in the source country. For the record, existing legislation in Nepal and Malaysia does not explicitly require the need for employers to conduct due diligence. This legislation gap eventually leads to both parties in Nepal and Malaysia relying on each other and expecting their counterpart to conduct due diligence.

Documents' Retention and Freedom of Movement

The retention of workers' documents, including such identity documents as passports, is an indicator of forced labour. When workers' documents are retained, their freedom of movement is compromised. The workers' survey found that the vast majority of respondents (65 or 86% of 76 respondents) reported that their passports had been retained

by their employers at the time of the survey. Nepali workers stated that it is a common practice for employers to retain their passports. Indeed, some employers require that Nepali workers surrender their passports immediately upon arrival in Malaysia. A group of Nepali respondents added that they were also given immigration cards (or I-Cards), which Malaysia's Immigration Department issues. When asked when they could access their original passports, some respondents stated when they had to travel interstate for work or to visit friends.

Growing Violations of Labour Rights during COVID-19

Nepali workers said there had been growing labour rights violations, especially during the COVID-19 outbreak. One of which is being instructed to work excessive hours. At least five (out of 76 respondents) Nepali workers claimed that factory management instructed them to work between 12 and 16 hours a day during the outbreak. They were sometimes asked to continuously work such long hours for two weeks without a day off. When asked whether they were willing to work such long hours for two weeks consecutively, the workers' responses were mixed. Some workers expressed their willingness to work such long hours but on the condition that they were paid overtime at the rate specified in their contracts. Other workers, however, were only willing to work 12 hours per day with a rest day a week. These workers said they needed sufficient rest and time off to socialise with friends. One Nepali worker reported that, in the first quarter of 2021 alone, there were already 10 cases of occupational injury in his workplace, a rubber glove factory, due to work fatigue. Besides, some workers did not receive fair compensation for their injuries.

Interviews with Nepali community leaders in Malaysia highlighted other labour rights violations experienced by Nepali workers during the COVID-19 pandemic. They had received complaints from workers who were not paid their salaries for between six and 12 months in 2020 and 2021. Other cases included the workers' salaries being deducted for personal protective equipment (PPE), hand sanitisers, and masks. The Nepali community leaders were also concerned about the retrenchment of many Nepali workers in Malaysia during the COVID-19 outbreak. Some Nepali workers were retrenched without prior notice, subjecting them to arrest and deportation as they had lost their legal employment status.

Nepali Workers employed by "Outsourcing" Companies

Interviews with Nepali workers found that there were Nepali workers hired directly by outsourcing companies instead of by their immediate employers. These include some Nepali workers whom electronics factories in Selangor and Penang employed. The workers claimed that though they were not paid directly by the factories (instead, by outsourcing companies), they had to follow factories' work rules, including overtime work and calculations of wages and overtime pay. Often there needed to be more consistency between what the factory recorded as hours worked and what the workers received from the outsourcing companies. A Nepali worker said that if there were wage-related issues (e.g., unclear deduction of wages or overtime pay), they had to deal with

factory management instead of outsourcing companies, which was confusing for the workers. The workers also claimed they resided in the accommodation provided by the factories' management instead of the outsourcing companies. When there were issues, the workers found it difficult to resolve them.

Barriers to Access Effective Grievance Resolutions

In recent years, more resources have been allocated to setting up mechanisms for migrant workers to raise complaints and grievances. These include the digital grievance platform, established by the MOHR, known as 'Working for Workers (WfW)'. There have also been efforts by NGOs to introduce grievance platforms such as 'Just Good Work' for vulnerable migrant workers to raise their complaints and grievances for resolutions. Despite the proliferation of these grievance mechanisms, interviews with Nepali workers found that they needed to be made aware of these platforms. When asked if they had attempted to raise their grievances with external parties like the Nepali embassy or NGOs, the workers needed to be more knowledgeable about these processes. Most workers responded that the only grievance platform they knew was the one provided by their employers – i.e., for internal grievances. However, they alleged that their employers were not competent and honest when addressing their grievances. Some workers, however, stated they channel their grievances to Nepali community leaders in Malaysia, hoping that the community leaders could meet and negotiate with the employers. The Nepali community leaders confirmed receipt of workers' grievances. However, they admitted they could not address the growing number of grievances given their limited capacity (including financial resources).

Final Reflection and Conclusion

This study's overarching aim has been to analyse the causes and barriers underpinning forced labour cases involving migrant workers in the Nepal-Malaysia migration corridor. This study employed a holistic migration trajectory, assessing causes and barriers during Nepal's pre-recruitment and pre-departure stages and the post-arrival stage in Malaysia. Earlier, this study highlighted the gaps in governance and practices in recruiting Nepali workers and their workplace conditions in Malaysia. To better understand the causes and barriers underpinning forced labour, we must reflect on the broader scholarly discourse concerning international mobilities and how migrants are particularly vulnerable to forced labour.

We begin by highlighting the most common body of literature that claims – migration through a standard or legal pathway is often expansive, bureaucratic, and simply inaccessible to many aspiring workers in source countries (see Lindquist, Xiang, and Yeoh 2012; Gammeltoft-Hansen and Sorensen 2013; Ormond and Nah 2020). Besides, in many cases, aspiring workers rely heavily on unauthorised intermediaries and individual brokers, and smugglers to migrate across borders. Consequently, aspiring workers who are economically disadvantaged or without access to the financial market and authorised labour intermediaries – often resort to irregular migration pathways, leaving them highly vulnerable to forced labour.

Second, existing studies highlight that there has been a complex set of push factors in source countries that drive workers' aspirations and abilities to migrate across international borders in search of decent work (see Suyanto et al. 2020, 199). These factors include chronic poverty and the lack of decent work opportunities, family pressure and societal expectations, and the presence of migration facilities that encourage cross-border migration through multiple channels, i.e., legal and illegal pathways. These factors further shape different levels of vulnerability and exposure to the risk of forced labour – across different dimensions, i.e., gender, locality, and social norms. These factors also determine gender-specific aspects where women aspiring workers are seen to be more vulnerable than men (see Desouza 2009; Gottlieb, Grossman, and Robinson 2018; Anam et al. 2021).

Third, there have been growing studies suggesting that migrant workers in Malaysia (and elsewhere), regardless of their nationalities, are often seen as "disposable people", often excluded from the state protection and social welfare system (Lasimbang et al. 2016; Sok 2019; Ormond and Nah 2020). Other studies argue that there have been persistent stereotypes against migrants in destination countries, perceiving them as a disease vector and financial burden to the hosting government (Ormond and Nah 2020, 11). Such negative stereotypes further shape policymaking that continuously sees migrants become less "deserving" and "entitled" to human and labour rights. This partly contributes to the persistent abandonment and exclusion of potential and actual victims of forced labour from seeking justice and remedies.

Finally, existing studies highlight that overall, Malaysia's approach to addressing forced labour lies in the crime control and prevention approach rather than victim protection measures (Wan Ismail et al. 2017, 214). Other scholars claim that Malaysia's approach to addressing forced labour involving migrant workers is a "deportation regime" (Low and Mokhtar 2018, 147), perceiving victims as criminals (Juliawan 2018, 38). Besides, policy implementation addressing forced labour in Malaysia is often hampered by poor coordination between different governmental agencies, including the lack of adequate information sharing (Wan Ismail et al. 2017, 213) and poor workplace inspection (Devadason and Meng 2014, 10). With these top-level policy gaps, migrant workers vulnerable to forced labour are excluded from domestic protection and systematically deprived of their right to seek justice.

To conclude, this study proposes that to overcome gaps and implement recruitment practices, underpinning forced labour improvement is needed to strengthen the decision-making process and policy implementation in all stages of the migration trajectory. In future bilateral agreements, it is essential that both governments strengthen administrative and regulatory frameworks to eliminate the use of unauthorised individuals or intermediaries and that recruitment conducts are regularly monitored. In Nepal specifically, this study proposes that an appropriate job matching be conducted to ensure the suitability of aspiring Nepali workers for working in the sectors where they are needed in the Malaysian labour market. Nepali workers should be adequately briefed before signing their contract of employment. They are fully informed about their rights,

job placement, and responsibilities in Malaysia.

Whilst in Malaysia, there is a need for the government of Malaysia to establish a standard post-arrival orientation programme for all newly arrived migrant workers, including Nepali workers. Regular consultations with employers are also crucial to ensuring compliance with internationally accepted standards and national regulations, including the prohibition of forced labour. There is also a need to strengthen law enforcement and inspections of high-risk sectors which typically employ migrant workers to deter and identify non-compliance with labour standards, including the actual and potential forced labour cases in the sectors where they are needed in the Malaysian labour market. Nepali workers should adequately be briefed before signing their contract of employment, that is, they should be fully informed about their rights, and job placement and responsibilities in Malaysia.

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