

LABOUR DIPLOMACY AND MIGRATION GOVERNANCE IN NEPAL

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Abstract

This paper examines the linkage between labour diplomacy and migration governance, which is one of the most interconnected subjects in international relations. Especially in the case of Nepal, almost a quarter of the total working age population is working abroad and the remittance contributes to more than a quarter of its national GDP and greatly influences the socio-economic dynamics of Nepali society. Myriads of socio-economic tangibles, besides macroeconomic variables are intertwined with the country's labour migration phenomena. The paper focusses on analysing different facets of this linkage by distinctly dissecting various issues concerning labour migration, including the gender perspective, on the diplomatic as well as governance front to explore the gap between the economic aspirations of the country and the actual pace of economic development. The paper uses qualitative methods to allow analytical assessment of various government as well as secondary sources of literature, including reports prepared by international bodies. This leads to the conclusion that without proper interlinkage and cooperation between labour diplomacy and migration governance, it is not possible to achieve sustainable economic growth and development of Nepal.

Keywords: *Diplomacy, Migration, Remittance, Labour Governance*

Introduction

Labour diplomacy is a major tool for economic growth and development of a country. It serves as a means to an economic end and promotes soft power and enhances diplomatic skills to achieve the national interests surrounding economic activities, including migrants and diaspora. Each year, nearly 500,000 working age youth enter the labour market of Nepal. Of them, about two-thirds go abroad for employment. Nepal is one of the major labour sending countries to the Gulf countries and Malaysia (Bashyal, 2019). In

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Nepal, national, bilateral and international policy instruments govern foreign labour migration. Labour migrants also have to follow specific national laws of the countries where they migrate for work.

The meaning, purpose and mechanisms of labour diplomacy vary according to the role of a state, depending on whether it is an origin, destination or transit state, and it highly correlates with the country's migration governance. Despite a whole system of regulations and governance in place, labour diplomacy, a prominent economic tool, has always had difficulty in ensuring a safe and secure economic practice.

Labour migration is not a new phenomenon and has been integrated into the world's complex interdependent economy with the advent of globalisation. With the process of globalisation and the rapid movement of individuals, labour migration has been one of the most studied discourses in the contemporary period, however, literature on the topic deals mostly with the macro-economic aspects of labour migration. Leading experts on this issue say that the incorporation of the migration process in the diplomatic fora in international relations study is not a well-researched area, considering that most of the literature deals only with macro economic effects of labour migration mostly at the macro regional level, often producing little material on socio-economic dimensions and integration in the discourse on migration (Thiollet, 2011 & Dahal, 2011).

Labour diplomacy is not only the use of diplomatic tools, it is also the strategies, methods and processes to achieve the objectives of migration as well as a strategic use of migration flow to secure other aims (Tsourapas, 2017, p.2). Underscoring the prominence of migration flows; Adamson and Tsourapas (2018) have even termed it "the object of interstate policy" (p.3). The states channel their policy practice and diplomatic tools at their disposal to deal with various forms of migration and mobility. Further, Hamilton and Langhorne (2011) describe migration diplomacy as the link between the states' diplomatic practices with international organisations.

It is vital for the understanding of the concept of migration diplomacy in its specific configuration. Sometimes, we can see labour diplomacy and migration diplomacy being used interchangeably. For the same purpose, Adamson and Tsourapas (2018) outline three conditions that narrow the scope of migration diplomacy. In line with the previous arguments, they put the first scope under state diplomacy and link the state actions to the population's mobility to the attainment of diplomatic aims. The integration of international organisations is also covered in the first scope. The second scope makes a clear distinction between migration diplomacy of a state and its overall migration policy. The same is echoed in Hollifield et al's (2014) work on migration diplomacy, drawing on the importance of managing cross-border mobility under migration diplomacy as an international issue (Adamson & Tsourapas, 2018).

The policy of the state needs to draw a line between issues that connect to migration diplomacy, such as tariff rules, internal displacement and diaspora politics and actual diplomatic relations and undertakings between states (Ibid). Generally, those analyses can be interpreted as a connection between migration diplomacy, such as refugee rules, internal displacement and diaspora politics with actual diplomatic relations and undertakings between states. It deals with country specific dynamics of migration diplomacy, as the process and methods largely depend on the political economy, geography, development priorities and resources at disposal.

As a labour originating country and a heavily remittance-reliant economy, labour migrants are also considered as a commodity for export by the country (K.C, 2019). The latest data show that 88 per cent of the Nepali labour force is bound to the top five destination countries, namely Malaysia, Qatar, UAE, Saudi Arabia and Kuwait. However, 172 countries are open for employment to Nepali labour migrants, out of which the government has approved recruitment agencies to handle 110 countries (MoLESS, 2020). More than 4 million Nepalis are working abroad with permission from the state. Thus, the importance of migration diplomacy is done in relation to the prominence of labour migration as a priority financial tool for the economic growth of the country (IFA, 2008).

Apart from the GCC (Gulf Cooperation Council) countries and Malaysia, India is another major migrant destination country, and the reality of labour migration to India is such that the open border with this neighbouring country accounts for a large number of undocumented labour migration, especially seasonal labour migration (Bashyal, 2014). The open border between Nepal and India puts it in an unfavourable position for effective governance, and the diplomatic failures on the home front are almost inescapable. Mostly a regional phenomenon, an exodus of Nepali youth to India for work each year stands as a challenge to labour governance. Due to the unique migration process, rules and reciprocal mechanisms, this study does not confine itself to migration to India (Ibid).

The article examines Nepali migration diplomacy and labour migration governance. The paper focusses on analysing different facets of this linkage by distinctly dissecting various challenges in diplomatic practices concerning labour migration. Furthermore, the paper tries to explore multiple fronts of migration diplomacy and migration governance responsible for sustainable economic growth. It also scrutinises labour migration with the main objective to expose the interrelations of three elements: diplomacy, governance and socio-economy of Nepal.

This research paper is basically theoretical, qualitative, descriptive and explorative as well. To understand Nepal's labour diplomacy and governance,

secondary data have been collected based on the study objectives. Secondary data have been collected through the qualitative content analysis method. Books, academic journals, scholarly articles, research papers, theses, grey pieces of literature, such as official documents, reports of an organisation, policy statements, press releases and other relevant publications regarding the issue dealt have been used for collecting information. Some of the sources were accessed from the Internet. The major focus is built around the theory of diplomacy and labour governance and power dynamics.

Governance of Nepali Labour Migration

Global migration governance says that international migration is an inherently trans-boundary issue, and the problems concerning the issue crosses borders that cannot be contained by a single state, which is why there arises a growing need for global governance to systematically address the issue (Betts, 2011). Thus, the prominent roles of the states of origin and the growing complexity of bilateral and multilateral migration negotiations are often not included under the jurisdiction of the global mechanisms in place to regulate and govern the international labour migration process.

Besides international actors, labour migration is governed by myriads of national actors. In the case of Nepal, the government has a layered structure that facilitates labour migration and is often plagued with inefficiencies owing to manpower crunch, insufficient funding and loopholes within the system, which are often misused by different entities. Within the nation of origin itself, it is not just the government that comes under migration governance but also a set of complex structures of private actors involved in the migration process. The policy of labour migration requires governing various layers involved in the labour source country to regulate and manage the labour migration process. The Government of Nepal has mechanisms in all tiers of government. The Ministry of Labour, Employment and Social Security (MoLESS) being the apex body regulates and frames the governance of labour migration. Under the MoLESS, the Department of Foreign Employment (DoFE) works as a key regulatory body while the Foreign Employment Board (FEB) carries out all welfare-related activities while the Foreign Employment Tribunal (FET) works as a semi-judicial organ.

There are also numerous other stakeholders responsible for the efficient regulation of labour migration, including province-based Labour and Employment offices, Vocational Skills Development Training Academy (VSDTA) and the skills development initiative by GoN. The Ministry of Foreign Affairs (MoFA) handles labour diplomacy and Nepal Rastra

Bank (NRB) manages and regulates the remittance industry. There are also regulatory and oversight mechanisms working under GoN - the Parliamentary Committee on Industry, Commerce, Labour and Consumer Interest and the National Human Rights Commission (NHRC). Besides government bodies, the private sector (recruitment agencies, insurance companies, medical centres and skills development training centres), development partners, as well as civil societies are also essentially involved in the governance process.

The government has enacted three major policy documents that govern labour migration, namely Foreign Employment Policy 2012, Foreign Employment Act 2007 (recently amended in 2018/19) and Foreign Policy Rules 2008. Most of the binding agreements are carried out bilaterally with the receiving states in case of labour governance; however, Nepal has also actively been part of regional as well as global forums of labour migration. The non-binding nature of regional forums, the Colombo Process (CP), Abu Dhabi Dialogue (ADD), and South Asian Association for Regional Cooperation (SAARC) and global mechanisms, Global Compact for Safe, Orderly and Regular Migration (GCM), and Global Forum for Migration and Development (GFMD) shadows any active participation in the mechanisms and is considered not as efficient as bilateral means (MoLESS, 2020). Nevertheless the government has established multiple institutions and enacted laws and policies to regulate international migration. Nepali labour migration, both international and domestic, however, relies heavily on the private sector. Recruitment agencies play a huge role in managing foreign employment of Nepal. This has led to recruitment frauds and heavy transaction costs overwhelming the foreign employment sector in Nepal (Bashyal, 2019). Despite countless mechanisms in place and reformation on the national governance front, labour migration comes laden with many challenges that need careful handling at the bilateral and multilateral level.

The most effective institution of the origin state is the embassy in the destination country. The role of the staff at the mission is vital in negotiating and managing the problems of migrant workers. Apart from ambassadors and other staff from the Foreign Ministry, the Government of Nepal appoints a counsellor (Labour) and labour attaché to the countries in the Gulf region, Malaysia and South Korea. A large number of Nepalis have been working in these countries. A country should have at least 5,000 Nepali migrants. The labour attaché is selected from among the section officers and undersecretaries at the Ministry of Labour, Employment and Social Security and bodies under it. The ministry also recommends counsellors and attaches to be assigned to the Nepali diplomatic missions in coordination with the Ministry of Foreign Affairs.

Their prime objective is to represent the Government of Nepal and hold dialogue with the government of the countries they have been deputed to for resolving problems faced by the Nepali migrant workers. They are responsible for informing the government about the situation of labour and employment and exact information related to immigration in the countries where there are Nepali workers and about the steps being taken by the country of destination for protecting the workers, international human rights and the workers' rights and interests. The systems created by the Nepal government are expected to enable significant numbers of migrant workers to get better access to information related to migration processes, to know their rights and to obtain compensation from recruitment companies and agents.

Despite these provisions, situation of migrants in abroad are vulnerable. Migrant workers are subjected to both tangible and intangible forms of violence, punishment, whimsical treatment, including discrimination and humiliation, and, of course, exploitative contractual arrangements. About 4 million Nepali workers are often accompanied by forced compliance with arbitrary norms if not stripping the migrant of his or her identity, as described in some literatures (Domini, 2019).

Nepal's negotiating position compared to other more 'organised' states such as India or the Philippines is weak. In the case of Nepali migrants in Qatar, the resolution of disputes is particularly difficult in the destination country because all claims need to be submitted to the Ministry of Labour and Social Affairs while the Nepali Embassy in Doha can only communicate by note verbale to the Qatari Ministry of Foreign Affairs. Practically, the labour attaché can call the mudir (usually a migrant who manages labourers on behalf of the employer) informally on the migrant's behalf or invite the mudir to come to the embassy for a meeting. There is, however, no obligation for the mudir to comply, and it often fails. In serious cases, too, the embassy writes to the Ministry of Foreign Affairs to request for an interview with the Labour Department, because by law it cannot contact the department directly. It takes a long time and in between it does not solve the problem (Ibid). These activities show that there is poor interconnection between the Foreign Ministry and the MoLESS in resolving the pertinent issues of Nepali migrants abroad. In these countries, Nepalis do the lowest rung of manual labour, which mostly consists of "3D jobs" - dirty, difficult and dangerous.

Three to four bodies of Nepali migrant workers arrive in body bags at the Kathmandu airport each day. At least 7,467 migrant workers have died abroad since 2008, according to figures from the government's Labour Migration

Report, 750 of those deaths were reported between 2018 and 2019 (2020). These figures exclude workers who migrate through unauthorised channels and labourers who work in India, because of the bilateral agreement between the two countries. Nepali migrants are often cheated in their home country and face exploitation in the destination country. They, however, are an indispensable part of the huge remittance economy that the country is based on.

Economy and Diplomacy

Challenges pertaining to labour diplomacy and labour governance ultimately affect the national economy and its various facets. A major source of the economy, remittance from labour migration makes up more than 25% of Nepal's GDP and meets the family expenses of 55.8% of the households (MoLESS, 2020). Besides contributions to the GDP and household expenses, remittance is a major source of the country's foreign exchange earnings. More than half the volume of the country's foreign exchange is borne by remittance alone (NRB, 2019). Nepal's national economy is largely functional because of the international labour migration and the remittance it brings home. Labour migration is being the most lucrative and feasible source of employment for the Nepali youth, diplomatic efforts are aimed at securing risk-free employment opportunities for a growing number of youth seeking jobs abroad. As an origin state whose economy largely depends on labour migration, it is essential that the nation channelise the remittance into projects requiring large investments to secure a sustainable domestic economy.

Migration diplomacy and its integration with migration governance serve as a means to many ends. Adamson and Tsourapas expounded Keohane and Nye's idea that the linkage between migration diplomacy and national migration governance is a means to pursue the state goals in terms of enhancing security, promoting cultural diplomacy and achieving economic goals (Keohane & Nye, 1987 as cited in Adamson & Tsourapas, 2018, p.2). It is, however, crucial to note that these goals can only be achieved with proper coordination among the national developmental faculties. It has been already established that labour migrants are one of the country's most coveted resources. However, it is also true that it is not a long-term solution for the country's economic prosperity (IFA, 2008). It is not just enough to diversify labour migration to new countries with better working conditions, the government must also identify the skills and competence of the labour migrants and build a suitable economy back home so that the integration is both efficient and productive, and ultimately helps the nation achieve its goal of moving away from the remittance economy to a more sustainable local economy.

The faltering economy of the country and purchasing capacity of individuals can only be remedied by increasing the governance efficiency as well as diplomacy at all levels and securing investment from remittances for developmental activities for a long-term solution.

Challenges to Diplomacy and Governance

The challenges to labour diplomacy and governance emanate not only from the diplomatic impediments but also from the innate connection to the precarious nature of migration regulations compounded by socio-economic hurdles. Most of these strategies and methods/tools depend on multiple factors, namely national interests, foreign policy goals, bargaining power, negotiating skills and nature of agreements/ MOUs, both bilateral as well as multilateral (Adamson and Tsourapas, 2018). Along with them, diplomatic maneuvers are also at the same time highly subjected to national development strategy and politico-economic scope of labour migration (Jones & Basnett, 2013, pp.16-17).

Relations between countries today are definitely not balanced nor were they in the past. The rich and resourceful states have an upper hand in any bargaining or bilateral agreement. Nepali labour migrants are working in 172 countries around the world, and of them (except in India) more than 85% are concentrated in the Gulf region and Malaysia. As per the IOM (2019), although all these nations are members of ILO, none of them are members of the International Organisation of Migration (IOM) even though Qatar and Saudi Arabia hold observer status. None of them are signatory to the 1949 Migration for Employment Convention, the 1975 Migrant Workers Convention (Supplementary Provisions) and the 1990 International Convention on the protection of the Rights of All Migrant Workers and Members of their Families. Thus, despite the huge international uproar and active involvement of a number of nations, the instruments in place to tackle lapses in international labour migration trends are rendered more or less ineffective. The diplomatic tools and techniques in place used for diplomatic intervention, however, are subject to difficulties in maneuvering the legal system in the destination countries. There is also the dilemma of advancing economic relations while maintaining friendly diplomatic relations on the one hand and innovating measures to address the issues of labour migrants on the other.

While the national policies in the destination countries and rather less effective international mechanisms present themselves as a roadblock to labour governance, the shortcomings in governance on the home front themselves present yet another challenge (Gordon 2009). The diplomatic community or missions in place often suffer from inadequate funding and training. Farbenlum

(2017) on the other hand points towards the lack of qualified human resources to lead country-specific missions with adequate experience in handling labour governance and considers it as yet another impediment in place. Among the shortcomings is the trajectory of personnel selection for diplomatic missions. There is criticism concerning the appointment of inept individuals on the basis of their political inclination or familial interest rather than competency and fairness of system (Shrestha 2019). Many researchers in the field echo the same sentiments regarding the ill capacity and frivolous appointment of diplomatic candidates (Malit & Devkota, 2019). Along with the defective appointment, the absence of provisions to check on diplomatic personnel and their activities in the mission adds to the dysfunctional diplomatic and governance process.

For example, the recent systemic change in the labour laws of Qatar with the freedom to change jobs along with fair minimum wage and removal of exit permits (ILO, 2019) and a recent end of the standstill with Malaysia (Mandal, 2019) -two of the major priority destinations for Nepali labour migrants- can be viewed as a welcome change for international labour migration. However, the only way to make sure there is effective implementation is through empowered and vigilant government agencies both at home and in the destination countries. In the past, this inadequacy had rendered Nepali missions and diplomatic agreements almost useless in putting pressure on the host governments to uphold the human rights security clauses.

Performance evaluation is key to addressing this particular challenge facing Nepali missions abroad. Performance evaluation can ensure optimal efficiency of government appointees, and, as such, it can have a positive impact on the diplomatic efforts being made in securing safe and dignified labour migration. Performance evaluation as a regulating mechanism can help ensure accountability and transparency from the missions and their personnel abroad. A lack thereof has rendered the enforcement of laws and policies introduced by Nepal previously ineffective in securing the rights of migrant labourers and making sure they are well protected under the law (Khanal, 2019).

Increasing the performance efficiency of the personnel alone cannot, however, address the challenges posed in securing better working conditions, which is why time and again the country has realised the need to diversify its options regarding foreign employment. According to Palet (2018), the Gulf countries and Malaysia are seeking to diversify their labour supply by approaching African countries should there be a labour crunch in light of the increasing conditionality put in place by the sending states.

The government has been permissive towards migrants travelling through unofficial channels, which have opened up alternative avenues for labour migration, reducing the dependency on the Gulf countries and Malaysia (Sedhai, 2014). With the GCC and Malaysia still being the primary hub for labour migration, the government needs to sign bilateral agreements with the 100 plus countries and explore new frontiers so that labour migrants can reap immediate benefits (Mandal, 2019).

One other thing the authorities need to ensure is skill development among the Nepali job seekers so as to align their skills with the demand in the new destinations as more than 50% (MoLESS, 2020) of labour migrants today are unskilled. Integrating the labour migrants into the national economy is both an economic as well as a social challenge. Nearly 1,500 Nepali youths head for the Gulf States and Malaysia every day. The latest report on labour migration, published by MoLESS, shows that 59% of all labour migrants bound abroad for employment in 2018/19 took up low skilled jobs, a 5 per cent decrease from the previous year 2017/18 (MoLESS, 2020). The data reveals the percentage of outbound unskilled labourers in 2018/19 only. The lack of data on the already existing labour migrants and their skills makes it difficult to estimate the exact percentage of migrant labourers with particular skills.

Another very prominent socio-economic challenge to sustainable economic growth is gender disparity. Labour migration in Nepal is a very “gendered phenomenon”. ILO calls it a global phenomenon, reporting that while the labour force participation rate for men stood at 74%, the same for women was only 47% in 2019 (2020). The situation is more precarious for female labour migrants as they opt for informal channels to evade the government’s ban on women under 24 seeking employment as domestic help in the GCC (Sijapati et al., 2015). Hassles and increased risks of exploitation of women prevent a large portion of the country’s total population from entering the labour market. There is, thus, a huge challenge in integrating the female population into labour migration with ensured safety from various risks that come attached to it.

This means adhering to the traditional gender roles, which puts pressure on the women workforce to rely on the male income despite the equal rights guaranteed by the state. In failing to secure ways to remove the gender barrier for female migrant workers wishing to support their families, the country is made to lose a huge workforce to social stigmas and legal preventions. The GCC and Malaysia mostly employ women labour migrants as domestic help and care givers, which is broadly a limited employment sector compared to male migrants (Bashyal, 2019). The rationale given for the imposition of

restrictions on women is to “safeguard women from exploitation and abuse”. Such provisions have, however, forced women to seek other ways to go abroad, primarily through irregular channels (Ibid, 2019). A series of bans imposed on women migrants as part of the institutional effort to keep women migrants safe from abuse and exploitation from the employers abroad reflects the patriarchal mentality of the system. Since the very beginning of regulating foreign employment in Nepal, with the Foreign Employment Act passed in 1985, the institutional inequality marginalising women migrants has existed. The government has failed to use diplomatic tools to ease the situation for the migrant women and largely escaped dealing with the actual problem in light of the ban in place till date. The gendered migration pattern is largely attributed to the patriarchal notion of Nepali society that has also infiltrated the governance system (Ibid, 2019). Nepal has to conduct effective diplomacy at all possible layers in the major foreign employment destinations, constantly putting forth its cases and advancing its interests. The government must provide sufficient resources to diplomatic missions to take proactive measures to ensure the protection of Nepali workers’ rights, including the right to return home safe and to get the salaries and benefits as stipulated in their job contracts. This could lower the migration cost being borne by the workers, and facilitate the implementation of the free ticket and free visa regime (Kharel, 2019). Immature diplomacy can cost the nation’s standing in the global arena and its economic interests dearly, although the consequences may not be apparent immediately. The inability of the mission staff to speak their language and inadequate assistance funds have deeply impacted their capacity to immediately resolve issues of the migrant workers. In the Gulf countries, the current ratio between frontline state bureaucrats and the total migrant population is very low, which has significantly disrupted their administrative capacity to provide conflict mediation and “follow-up” procedures for migrant workers.

In the context of labour migration, labour-origin states often are severely constrained by political, institutional and economic factors that require their staffs to fully uphold their policy principles and values within the bureaucracy. Their efficiency matters in resolving the vulnerable position of migrants in the destination countries.

Likewise, expediting job creation on the home front is necessary not only for the reintegration process but also because foreign employment options are drying up in the Gulf countries and Malaysia for the migrant labourers. Global trade and the geopolitical trajectory have been in tension with manufacturing hit hard, with predictions of a global recession underway (IMF, 2019), and with

the recent pandemic afflicting the world economy, this is highly likely. With the labour market meeting a recession owing to the current corona pandemic, it is clear that the country's economy will be hit hard as remittance is affected as jobs, especially in the top destination countries, plummet.

Conclusion

The government has been updating the policy framework and putting more structural mechanisms in place to enhance efficiency on the governance and diplomatic front, but the gap between policy formulation and effective enforcement has led private as well as government institutions and even individuals to misuse the loophole to dupe aspiring migrants, which ultimately breaks the trust on the system while increasing the gap between government efforts and citizens' trust in the system in place. Besides the huge structural flaw, Pyakurel (2016) also assesses the inadequacy in terms of both personnel and funds for technical assistance required at many levels on the diplomatic front as one of the major impediments in the smooth functioning of migration governance.

Similarly, migrants undergo several bad experiences during the migration process, which put their physical, mental and social well being at risk. Upon reaching the destination, too, migrants often face various forms of exploitation, low level of income and social exclusion, which have a negative impact on the family and their health, especially in the destination countries and at home.

Economic prosperity, national security and promotion of national interests on various fronts are some of the basic elements attached to diplomatic endeavours of the national government. To achieve this, Nepal has been actively involved in national, regional as well as international forums. However, there is an intrinsic structural impediment to labour governance and labour migration. This impediment is present in all three tiers, namely country of origin, destination country as well as international mechanisms. It puts labour migration and interests of Nepali labourers in peril. The cycle is thus stuck in a deadlock, with the labour migrants at the receiving end. The pertaining challenges to labour diplomacy have been dissected, and the governance mechanisms have identified the socio-economic variables affecting Nepali labour governance. This has led to the conclusion that even though remittance accounts for a large quarter of the national GDP, inclusive economic growth has not been achieved due to the many accompanying social and political impediments.

All this demands strengthened diplomatic maneuvers to secure national skills; young motivated labour migrant population; efficient labour governance both domestically and internationally; and a sound socio-economic environment in

the home front. In this context, Nepal, as such, needs to assess its diplomatic maneuvers in labour diplomacy in terms of its bargaining power, national interest priorities, economic urgency and domestic policies. Finally, it requires more coherent coordination between domestic and foreign institutions to deal with migrants' vulnerabilities.

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