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Abstract

Nepal and the Philippines are two of the largest providers per capita of migrant laborers in the world. Each day, thousands of prospective migrants apply to go abroad, attracted by new opportunities and appealing wages. However, as the amount of workers abroad increases, so does government responsibility. Public and private institutions have drawn out and implemented detailed sets of rules and regulations, which are used to oversee the extensive migration process. The Philippine's strong national and local level collaboration, robust training programs, and concentrated focus on reintegration distinguish themselves from Nepal, which suffers from limitations that damage its ability to provide migrant workers greater access to justice and effective societal integration. Nepal can learn from the success of the Philippines and apply similar initiatives using its existing resources to increase individual faith and participation in public life and institutions.

Keywords

migration, exploitation, policy, Nepal, Philippines

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Exploitation of Overseas Migrant Labor: Analysis of Migration Policy in Nepal and the Philippines

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ABSTRACT: Nepal and the Philippines are two of the largest providers per capita of migrant laborers in the world. Each day, thousands of prospective migrants apply to go abroad, attracted by new opportunities and appealing wages. However, as the amount of workers abroad increases, so does government responsibility. Public and private institutions have drawn out and implemented detailed sets of rules and regulations, which are used to oversee the extensive migration process. The Philippine's strong national and local level collaboration, robust training programs, and concentrated focus on reintegration distinguish themselves from Nepal, which suffers from limitations that damage its ability to provide migrant workers greater access to justice and effective societal integration. Nepal can learn from the success of the Philippines and apply similar initiatives using its existing resources to increase individual faith and participation in public life and institutions.

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Introduction

In recent years, overseas employment steadily increased as individuals from poorer regions flocked to more developed countries in search of a steady income. The United Nations reported in 2013 that the total number of international migrants has reached 232 million.¹ Global remittances from migrant workers to their home countries aggregated to \$557 billion in the same year, which is about four times larger than the \$150 billion in global development aid.² Nepal and the Philippines are two of the largest suppliers of migrant labor per capita and receive billions of dollars of remittance inflows annually. The rising migration volume, along with the increasing demand of laborers for infrastructural needs especially in the Middle East, captured the attention of the media, which has been closely monitoring the human rights abuses and worker exploitation. Migration policy is crucial in ensuring the rights of the workers, decreasing the rate of exploitation, and reintegrating them back into their home community. The government in both countries has implemented policies with varying levels of effectiveness to regulate the labor climate, protect worker rights, and oversee recruitment. The Philippine's migration system has been lauded by United Nations special representative Peter Sutherland and International Organization for Migration Director General William Swing; however, Nepal's system has not received such positive response. This paper will juxtapose the government actions in three significant stages of migration: recruitment in home country, contract work at the destination country, and reintegration into home country. Part I will describe and evaluate the policies already in place in both countries; and Part II will analyze how Nepal can strengthen its migration policy through further initiatives.

I. Evaluation of existing policies

1. Recruitment in home country

The recruitment process marks one of the most critical steps of migration. It is the first step towards overseas employment, and because the supply of labor largely exceeds the demand, migrant workers would seek unscrupulous channels to leave their country. These workers are motivated to go abroad to escape poverty, avoid political turmoil, fulfil religious purposes, and earn attractive wages in destination countries. For example, the Middle East has become a hub for migrant workers due to its copious opportunities in the construction and oil sectors compared to those in the home country. In order to go abroad, prospective migrants must abide by a series of domestic rules set through an extensive recruitment process. During this process, it is common for migrants to experience rights violations such as exorbitant fees and rates, misinformation, failures of departure, and fraudulent promises. Poor enforcement and lack of policy diligence in Nepal are contrasted from the stronger structure drawn by the Philippines.

1.1 Sponsorship/migration process in Nepal

Each day, thousands of Nepali migrant workers from many different backgrounds huddle in Kathmandu airport for foreign employment. A 2011 report by CBS shows the absent population (those who have gone abroad) to be approximately two million.³ Migrant workers come from a variety of backgrounds: those who travel to the Middle East are generally middle class, while those with lower income have preferred India due to its ease of transit and cheaper transportation cost.⁴ Under the International Human Rights Law, countries of origin have obligations to their citizens traveling abroad for work, and especially since Nepal is such a popular supplier of labor,

the Nepalese government has more responsibility to take affirmative protective measures at the outset of the migration process.

In Nepal, the supervision of the recruitment process is divided into two institutions: public and private. Public institutions create and oversee the regulatory and administrative frameworks, while private businesses and individuals are primarily responsible for implementing the frameworks. The government has currently ratified a variety of international human rights provisions, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination for All Forms of Racial Discrimination.⁵ These provisions detail human rights rules that must be granted to all citizens. In 2007, Nepal enacted the Foreign Employment Act of 2007 (further reformed from the Foreign Employment Policy of 2012), which is one of the key guiding principles in its migration policy. The Act indicates numerous procedures that must be followed by the migrant, the recruiter, and the employer.

Under the FEA 2007, recruitment begins with a licensed recruitment agency in Nepal obtaining an order for labor from an overseas employer or agency. The recruitment agency then seeks approval from Nepal's Department of Foreign Employment (DoFE), which is mainly in charge of all functions related to foreign employment. Such functions include the licensing of private actors to undertake foreign employment, approving recruitment agencies' applications, and approving departure of each migrant worker. The recruitment agency is required to submit details of positions, a copy of the demand letter certified by Nepali embassy in destination countries, copies of draft employment contracts, and draft contracts between worker and recruitment agency. In addition to the license, sample job advertisements, as well as details on the fees that will be charged must be presented. Upon approval, they may advertise the positions

in a national newspaper and receive applications. Once they have selected the workers, those migrants must obtain a “labor permission sticker,” which entails obtaining a valid work visa, undertaking required skills-oriented trainings, and attending pre-departure orientation training. In addition, prospective migrants are required to receive full medical examination, purchase life insurance, pay NPR 1,000 (about \$10) to the Foreign Employment Welfare Fund, sign two contracts (between recruitment agency and worker, and employer and worker), and pay recruitment fees.⁶ The DoFE can revoke the license if it finds that it was obtained fraudulently or the fees/deposit were not paid. For the Middle East, the highest fee that can be charged by a recruitment agency is NPR 70,000.⁷ However, in some cases this rule is violated, and workers are charged significantly above the legal amount.

Many prospective migrants go through individual agents supposedly hired by recruiting agencies. Individual agents act as intermediaries between recruitment agencies and potential workers, and they are commonly linked to instances of fraud, misrepresentation, and overcharging of fees. Nepal regulates the use of individual agents through two ways: 1) by introducing a licensing and registration system in Section 74 of FEA 2007 in which the agent must register with one recruitment agency at a time; and 2) by making unregistered agents a criminal offense. However, the Act does not impose any concomitant penalty on recruitment agencies for using unregistered agents, which limits effectiveness.⁸ The policy is also not strongly enforced, and an agency representative can join another agency if the representative loses the position due to any of the aforementioned reasons. Currently, there exists no procedure for monitoring the business.⁹ In a study done by the Migrant Workers’ Access to Justice Series, 34 of the 54 migrant workers reported using an individual agent to find their employment. Workers explained they would hand over their passport and an amount of money to cover

recruitment fees in return for a job and visa, which limits their ability to choose or negotiate the terms of employment, including the country, wage, and type of job.¹⁰ The DoFE has jurisdiction over key offenses such as excessive recruitment fees charged by agencies and fraud, and can order compensation from agencies to migrant workers; however, the amount of compensation is limited to the sum of costs incurred for foreign employment recruitment and not the full amount of the worker's actual loss, which can be significantly higher than the recruitment fee.¹¹

The DoFE is also tasked with investigating and handling complaints against recruitment agencies and for registering eligible cases at the Foreign Employment Tribunal, a court system used to handle cases regarding employment. However, illegal recruiting is prevalent and detrimental to the ability for migrants to file a case, since their irregular status confines them in seeking redress once in the destination country. Because the supply of migrant workers is greater than the demand, many would go through irregular channels to obtain employment. Some workers travel through India because arranging a work permit and visa costs less and allows them to circumvent migration bans.¹² United Nations Women estimated in 2013 that of the approximately 3.2 million Nepali workers in countries other than India, half were undocumented.¹³ The excessive use of illegal channels is a result of surpassing tedious government requirements such as the orientation training, a government mandated 2-day pre-departure orientation program.¹⁴ Since most of these trainings are held in Kathmandu, the transit and accommodation cost to attend may deter migrant workers from utilizing legal channels. Additionally, corruption within the recruitment agency fuels the illegal migration channel. Individual agents and recruitment agencies, in hopes of generating more revenue, deliberately send workers irregularly if the job or worker is ineligible for government approval under Nepali law.¹⁵

Another area of abuse stems from the high interest rates charged to migrant workers in their borrowing costs. In order to pay the fees associated to going abroad, an estimated 74 percent of migrants need to take out loans.¹⁶ Migrants who do not own sufficient collateral to obtain a bank loan resort to informal channels for money, including family, friends, neighbors, and moneylenders.¹⁷ Informal moneylenders sometimes charge exorbitantly high interest rates, between 15-60 percent compared to the official bank rates of between 8- 14 percent.¹⁸ In Gulf Countries, the highest amount demanded by an agent was NPR 500,000 (about \$5,000) compared to the government mandated maximum amount of NPR 70,000 (about \$700).¹⁹ Even if a prospective migrant passes through the recruiting phase, he also is vulnerable to abuses during transit. Some cases reported include flight delays/cancellations, or even arriving at the destination country and finding out no job awaits. Some may even wait at the airport for several days without a job.²⁰

Overall, Nepal has been keen to outline the sources of migration issues, but needs to improve its enforcement of policies. Government regulation on the recruitment phase of the migration process is particularly crucial because violations usually start at this stage. During recruiting, migrant workers suffer from fraudulent promises, high interest rates on loans, cancelled departures, and exorbitant recruitment fees. As a response, public and private institutions in Nepal oversee and manage the process. On the public end, the government has enacted laws and regulations, enforced by the Foreign Employment Act of 2007 and the Department of Foreign Employment, to decrease illegal migration and regulate recruitment agencies. Private recruitment agencies then cooperate with the government to carry out legal migration procedures and control fraudulent independent agents. However, due to corruption

within the recruitment agencies, prevalence of informal moneylenders, and the desperation of workers to go abroad, the laws are sometimes neglected.

1.2 Sponsorship/migration process in the Philippines

Recruitment procedures in the Philippines are similar to those in Nepal. Prospective migrant workers are also attracted by the numerous opportunities and economic prospects of destination countries. In the Philippines, migrant workers are referred to as OFWs, otherwise known as overseas Filipino workers. Overseas contract workers represent about 96 percent of total OFWs.²¹ According to the Philippines Statistics Authority, there were around 2.3 million OFWs abroad in 2013 and equal distribution between male and female migrants.²² The Filipino government currently has a stringent policy set for recruitment agencies and overseas migration. Similar to the system in Nepal, overseas employment in the Philippines is mediated by private recruitment agencies, which totaled 1,300 in 2012. Most migrants (85-95 percent of labor) are recruited by these employment agencies, whereas those looking for placement in South Korea or Saudi Arabia go through government recruiting arrangements.²³

In the Philippines, the POEA (Philippine Overseas Employment Administration) reflects the structural and legal sophistication of migration governance. Its purpose is to uphold the human rights of Filipino migrant workers, offer support programs, and oversee the recruitment process. The law mandates the recruiting agency to pay the visa fee, airfare, POEA processing fee, and OWWA (Overseas Worker Welfare Association) membership fee for the intending migrant worker, as stated under Rule V. Additionally, the agencies are required to submit a monthly report on the utilized or missing overseas employment certificates to the Administration under

Section 9 of Rule III.²⁴ The POEA supervises the issuance of license and inspection of agencies, verifying their validity during the migration process.

However, abuses are also common, and the International Labor Organization indicates existing challenges such as high cost of placement fees, illegal recruitment, and lack of preparation for intended job.²⁵ The Philippines have combatted those issues by establishing a series of workshops and seminars to educate migrant workers on overseas employment and facilitate the recruiting process. To educate migrant workers prior to departure, a one-day pre-departure seminar (PDOS) was initiated, and shortly after, pre-employment orientation seminars (PEOS) were established to help prospective migrants in decision making.²⁶ This is supplemented with the Community Education Programs that coordinates with government agencies, non-government organizations, local government units and academic institutions to further their knowledge of migration.²⁷ The government also implemented policies to help prospective Filipino migrant workers cope with distressful situations, receive counselling, and access to training sessions on HIV/AIDS for health information.²⁸

The Republic Act No. 8042, otherwise known as Migrant Workers and Overseas Filipinos Act of 1995, was established to protect and promote the welfare of migrant workers. It indicates a wide-range of programs and series in coordination between government and agency efforts. The Travel Advisory Dissemination is used to help prepare migrant workers with overseas employment (Section 14), and the Migrant Workers Loan Guarantee Fund was set up to expand grant of pre-departure and family assistance loans to Filipinos (Section 21).²⁹

However, not all policies have been effective in minimizing abuses. In a 2013 study conducted by Kav LaOved on Filipino caregivers in Israel, the survey indicates increasing brokerage fees that migrant workers are required to pay for travel. To pay those fees, migrants

take out high-interest loans from places such as the “grey market”, which are agencies/private lenders. Some even mortgaged their homes to pay the fee of traveling abroad.³⁰ Section 2 of the POEA Rules defines a recruitment violation as any act of “charging or collecting placement fee for deployment to countries where the prevailing system, either by law, policy or practice, do not allow the charging or collection of placement and recruitment fees.” Unfortunately, the illegal act is still prevalent, and the 2013 study further indicates that after 23 percent of workers are still paying their debt after two years, and 5 percent have not yet repaid their loans after three years.³¹

Illegal recruitment marks one of the largest challenges faced by policy-makers. According to the International Organization of Migration, roughly 15-20 percent of migration from the Philippines is unauthorized.³² Substantial focus has been placed on circumventing illegal recruitment, in which migrant workers face excessive placement fees charged by recruiting agencies.³³ Additional provisions from the Republic Act No. 8042 were included to fight against illegal recruitment, such as imposing higher penalties (Section 7), prohibiting public officials from being involve in private recruitment business (Section 8), and authorizing victims in illegal recruitment cases to file complaints (Section 9), which are handled by the National Labor Relations Commission (NLRC).³⁴ In conjunction with the Philippine Overseas Employment Administration’s, intensified campaign against illegal recruitment provided assistance to 5,786 victims in 2011.³⁵ They resolved 3,861 recruitment violation and disciplinary action cases, which reached 99 percent of the annual target. Furthermore, the POEA satisfied the claims of 382 complainants, awarding monetary amounts totaling PHP 13,446,112 (around \$300,000). One of the most recent plans established is the Philippine Development Plan 2011-2016, which set an end-of-plan target of 95 percent for the resolution rate of immigration fraud cases.³⁶ Policy-

maker's use of frequent milestones and annual targets to progress to the desired outcome attributes to its effectiveness.

In summary, the Philippines have taken extensive measures to monitor the recruitment process for migrant workers. The Philippine Overseas Employment Administration, Republic Act No. 8042, and the Overseas Workers Welfare Administration are the three main institutions that oversee the process and maintain organization. Challenges such as high placements fees, illegal recruitment, and high-interest loans are overcome with a series of government initiatives launched to promote worker welfare. By imposing stricter punishment for rules violation, providing educational resources for migrant families on overseas employment, offering counseling services for workers in distress, and establishing a campaign against illegal recruitment, Filipino policy-makers were able resolve larger amounts of filed cases and combat illegal recruitment.

2. Contract labor in destination country

Much of the abuses reported by migrant workers pertain to their situation in the destination country, where they are subject to the rules of their company or sponsor. Workers from Nepal and Philippines report maltreatments ranging from sexual assault and domestic containment to insanitary work conditions and unpaid wages. Although migrants are able to file complaints and are encouraged to report abuses, they still face the risk of deportation and inconclusive results. Access to justice is complex because it involves stakeholders from the home and destination country; nevertheless, the home country's government can still make a significant difference in the lives of migrants abroad. Nepal and the Philippines have similar desires to protect the rights of migrant workers, but they differ in execution. In Nepal, despite government involvement,

enforcement is limited due to lack of human capital and financial resources. On the other hand, the Filipino government have established wide support networks, structured an efficient justice and investigation system, and successfully monitored implementation of policies. Even though not all policies have been successful, the constant focus on increasing the skill-level of migrant workers abroad and making sure training programs are accessible is able to reinforce migrants' access to justice.

2.1 Overseas migrant workers from Nepal

Numerous legal and cultural barriers prevent migrant workers from utilizing the justice system of destination states. The Middle East is a popular destination, and as of 2011, over 700,000 Nepalis were recorded to be working in Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.³⁷ After getting past recruiting, the migrant worker enters a contract with the domestic agency and the employer institution, which are institutions in the destination country that solicit and place migrant workers for employment. Because they are based abroad, there usually is little oversight and monitoring. The law does not mandate the embassy to verify the existence or reputation of the employer institution, gather information on problematic employers, or provide information to DoFE.³⁸ Nepalese migrants suffer from abuse and exploitation, and often report problems such as contract violations or substitution, unpaid wages, unsafe work conditions, inadequate rest, inhumane housing conditions, and confiscation of passports.³⁹ The International Labor Organization estimated that 600,000 individuals (of all nationalities) working in the Middle East in 2013 could be subjected to forced labor.⁴⁰ Nepalese migrants are particularly vulnerable due to their low-skill status.

Many destination countries such as Qatar and Saudi Arabia operate under the Kafala system, which legally binds a migrant worker's immigration status to an individual employer or sponsor (Kafeel) for his contract period. During this time period, the migrant worker cannot enter the country, transfer employment, or leave the country for any reason without an exit permit from the Kafeel.⁴¹ Since the individual's immigration status directly ties to a sponsoring employment agency, if a migrant worker loses employment, he will become irregular in the destination country.⁴² These migrants who fall into irregular status face considerable exploitation, risk, and deportation. The law entitles them to seek redress upon return to Nepal as long as they are able to provide documents such as their contract and visa as evidence to support a claim, but this is a hurdle since some employers confiscate personal documents.⁴³

Nepal has entered into bilateral agreements with destination countries (Qatar-Bilateral Agreement 2005, UAE MOU 2007, Bahrain MOU 2007) to strengthen the effectiveness of existing policies and underwrite new ones that promote worker well-being. When workers file a complaint, most of the dispute settlements are to be settled with the Qatari Ministry of Civil Service Affairs and Housing, UAE's Ministry of Labor, or Bahrain's labor law in the private sector before heading to the courts of the destination country. Nepal's Department of Foreign employment is in charge of receiving complaints and violations of FEA 2007, conducting the investigations, and carrying out necessary action. In addition, Nepal's embassies help alleviate dispute resolution and bring migrants' cases to forums. Each day, hundreds of migrant workers flood the Nepal embassy in Qatar for assistance.

In a 1998 case, a Nepali domestic worker died in Kuwait from being repeatedly beaten.⁴⁴ Public protest over the alleged sexual abuse and her death resulted in a cabinet decision to ban all female migration for work to all Gulf countries as a protective measure.⁴⁵ Although this ban was

completely lifted in 2010, the government in 2012 reinstated that women under thirty are prohibited to work in the Gulf as domestic workers.⁴⁶ The effectiveness from this policy has been debated, and opponents argue that bans discriminate against women by encouraging irregular and risky travel via third countries, rather than offer protection.⁴⁷

Currently, some migrant workers live in fear, and those who took action to protest non-payment of wages through industrial action or domestic confinement resulted in deportation and punishment. In 2013, one-hundred and eighty-five Nepalis were reported to have died while working in construction in Qatar.⁴⁸ Such abuses have been bashed by Tek Bahadur Gurung, Nepal's labor minister, who demanded all companies in Qatar to give their Nepalese workers special leave and pay for their airfare home, following the earthquake in Nepal.⁴⁹ Qatar has been taking progressive measure to improve the system, but many of the issues that need to be addressed should be completed in conjunction with efforts from the Nepalese government. Nepal's Foreign Employment and Promotion Board, which promotes foreign employment and protects the rights of workers, has assisted the repatriation of stranded workers or workers who are deceased/injured. This department is paramount for those migrant workers in Qatar, since it is in charge of compensating disabled workers and the families of deceased workers, as well as implementing safe migration awareness programs.⁵⁰ However, there has not been reports of their active involvement in the situation in the Middle East.

Even though offenses that directly violate the rules of the FEA 2007 can be directly submitted, other crimes such as those related to compensation, contract violations, and excessive recruitment charges have a statute of limitations one year from the date of the offense or one year from the date of return to Nepal (Section 60 of FEA). The investigation is conducted when a complaint is filed, but when a migrant worker files a complaint, she must have supporting

documents. Depending on who the complaint is addressed to, the investigation officer may request interviews and arrests. However, these investigations are constrained for several reasons. Investigation officers explained they do not have the human nor financial resources to conduct a more in-depth investigation beyond reviewing the migrant worker's documents and interviewing the parties in the dispute. As a consequence of limited investigations, additional parties are never added to the complaint.⁵¹ Hence, when the accused denies an involvement, DoFE investigation officers do not have the time nor resources to pursue. For cases DoFE cannot resolve, they are filed to the Foreign Employment Tribunal. Of the 2,305 cases filed in fiscal year 2012/13, DoFE resolved only 552 and registered 178 at the tribunal. The process for receiving compensation can be long and cumbersome, and therefore migrant workers settle for a lesser amount so they can obtain the money faster and repay higher-interest loans.⁵² When complaints are filed after the migrant returns home to Nepal, which is usually the case, other complications such as the need to travel to and live in Kathmandu during the time of investigation arise. Even from all the cases settled, not all of them had terms that were enforced. In a few cases studied, there have been occasions where the migrant worker, who was cheated on by an agent, filed a complaint and reached a settlement, but the accused agent fled the country.⁵³ A study done by Migrant Workers' Access to Justice Series showed that the number of DoFE investigation officers is inadequate for the high frequency of cases filed, recruitment agencies rarely appear to be held responsible for actions of individual agents, and settlement between the stakeholders oftentimes results in the cases not being prosecuted.

Nevertheless, Nepalese policy-makers have had a few successes with other initiatives. In the recent years, more focus has been placed on female migrant workers. The Foreign Employment Policy of 2012, an extension of FEA 2007, recognizes and tries to solve the problems that female

migrants experience in the migration process. The major problems cited are lack of skills among the female labor migrants, irregular migration, and lack of protection from physical violence. These issues result in low salaries, less than ideal workplaces, and increased vulnerability. The strategies to improve the protection of migrant workers presented in the policy include analysis of the jobs offered in terms of the skills required, the nature of the work and the duration, and its alignment with Nepal's labor standards. It provides skills training and pre-departure orientations, teaches about working in a different culture, and extensively disseminates information regarding the migration process. Furthermore, it aims to establish structural mechanisms to protect female migrant workers and collaborate with various groups to develop anti-human trafficking networks.⁵⁴

Overall, policies implemented by the Nepalese government to protect the human rights of migrant workers have shown marginal results. When Nepalese migrant workers arrive at their destination, they are faced with abuses such as domestic violence, hazardous work conditions, deportation, and withheld wages. Exploitation has especially increased in the past few years with the rising number of migrant workers abroad. The Department of Foreign Employment is in charge of enacting policies to handle violations of the the law and conduct investigations on complaints received, while the Foreign Employment Policy of 2012 further explores areas of improvement for migrant workers. There has been some progress in these initiatives, such as the protection of female migrant workers from domestic abuses; however, lack of sufficient resources to carry out formal investigations, incoherency in the definition of offenses, and inefficiency of the case organization minimize policy effectiveness.

2.2 Overseas migrant workers from the Philippines

Filipino migrant workers face challenges that are similar to those encountered by Nepalese migrant workers. International Labor Organization indicates abusive and exploitative work conditions, inadequate protective mechanisms, limited support services for women, and contract substitution as frequented issues for migrant workers.⁵⁵ The Filipino government has taken initiatives to mitigate the abuses abroad. The International Organization for Migration of the Philippines and the POEA have initiated the Campaign Against Illegal Recruitment, Trafficking and Irregular Migration to promote a better understanding of the differences between illegal recruitment, trafficking, and irregular migration, which is a large contributor of overseas exploitation. The training manual is divided into five parts: 1) Understanding the Overseas Employment Program; 2) Assessing of Labor Market Opportunities; 3) Understanding Illegal Recruitment; 4) Understanding Trafficking in Persons; and 5) Understanding Irregular Migration.⁵⁶ This campaign not only benefited hundreds of trainers and prosecutors, but also thousands of students.⁵⁷

Furthermore, the Philippines established the National Labor Relations Commission (NLRC) to help migrants in distress resolve money claims issues. Past trends indicate that more than 5,000 cases are filed each year with NLRC, and 70-80 percent are resolved in which workers receive compensation for more than 2 billion pesos.⁵⁸ Additionally, migrants receive welfare protection from the Overseas Workers Welfare Administration (OWWA) for education and training, insurance and loans, and repatriation and reintegration.⁵⁹ If a migrant worker were to become sick or injured abroad, the Philippine Health Insurance Corporation would deal with hospitalization and health concerns for legally deployed migrants. Additionally, the Office of the Undersecretary for Migrant Workers Affairs and the National Reintegration Center work

together to coordinate programs and services for OFWs.⁶⁰ The Philippines have helped migrants through crisis such as the conflict in Libya and the 2008 financial crisis. OWWA members who were repatriated from Libya were provided a grant assistance of 10,000 pesos (about \$200), and OFWs who were displaced by the 2008 global financial crisis benefited from the Filipino Expatriate Livelihood Support Fund.⁶¹ The ATN (Assistance to Nationals Fund) covers repatriation, welfare assistance to OFWs, shipment of remains, and money claims; and the Legal Assistance Fund provides legal assistance to migrant workers and overseas Filipinos in distress.⁶² In addition, the Philippines entered into bilateral agreements with destination countries to grant migrant workers social security, though temporary migrants are excluded from this benefit.

The Philippine embassies and consulates offer 24-hour information and assistance in countries where there are large concentrations of OFWs. Some of the services provided include counseling and legal services, welfare assistance, hospitalization services, and skills development.⁶³ Workers remain within the reach of government protection in overseas labor offices, where seasoned labor attachés, social workers, and doctors are available to help ensure that the migrants are not facing exploitation and human rights abuses.⁶⁴ These overseas officers regularly monitor the migrants' work conditions and provide assistance and relief in case of welfare and legal problems. Additionally, some areas have human resource development centers which coordinate with volunteer migrant associations to teach migrant workers entrepreneurship, improve their professional skills, and educate them on financial investment. During these services, the migrants are constantly reminded of the importance of preparing for life after the end of their contractual employment.⁶⁵

These programs and services explain why migrant workers from the Philippines have been seen as more qualified compared to the labor supply from other countries. For professions that

are popular, the Philippine government established programs to enhance education in that particular area. For example, nurses represent a large percentage of Filipino migrants, who work more qualified jobs compared to occupations held by migrants from other countries. The study on migrant nurses concluded that the Philippine government officials' have a strong focus on maintaining overseas markets for labor migration.⁶⁶ The Philippine's concentration on migrant training allows for a greater percentage of skilled labor force that is able to earn higher wages abroad.

Not all policies have been effective. Women represent a large percentage of OFWs, and whether as a result of violation or abuse, there has been a slow but steady increase of migrant workers infected with HIV/AIDS.⁶⁷ Despite efforts to educate domestic worker prior to departure, there is no monitoring body that assesses the qualifications of the seminar providers or the content of the module for HIV/AIDS.⁶⁸ Amparita Maria, director of Women and Migrants Desk of the Ateneo Human Rights Center, argues that the laws and policies which aim to protect women migrant workers from vulnerability to HIV/AIDS have failed because of self-defeating provisions, poor implementation mechanisms, and legal flaws.⁶⁹

Initiatives such as the Household Service Workers Policy Reform Package (HSW), created in 2007, were established to professionalize domestic work and minimize vulnerabilities. The HSW package requires the employer to abide to a minimum wage and instigate a "no placement policy". In a survey conducted by the Center for Migrant Advocacy, studies find that almost half of the domestic workers did not receive the salary in the contract, and 20 percent of migrant workers did not have any contract upon entering the destination country.⁷⁰ Additionally, domestic workers labored 87 hours per week while those in the Middle East averaged 92 hours, which far exceed the ILO standard of 40 hours per week. From the survey, 47 percent were not

given a day-off and employers also circumvented the no placement fee policy. Awareness of HSW Reform Package is also low, and 62 percent have not heard about it, indicating that the information campaign initiated by the government/POEA is insufficient.⁷¹

This section summarizes the extensive measures taken by the Filipino government to ensure the rights of migrant workers abroad. Among the first to ratify migration-related agreements, the Philippines have ratified more instruments than any other in the region and have been relatively effective with their current policies.⁷² Some initiatives include the National Labor Relations Commission and the International Organization for Migration of the Philippines, which helped resolve money claims and prevent illegal recruitment, decreasing vulnerability of migrants to abuses at the destination country. The Office of Undersecretary for Migrant Workers Affairs and the National Reintegration Center assisted with workers' health, and action plans such as the 24-hour assistance from the Philippines Embassy, the human resource development centers, and training for the migrants, were implemented to circumvent exploitation. Although not all policies produced the intended results, as can be seen from the study on HIV/AIDS and the implications of HSW Reform Package, Filipino migrants consider their migration experience to be positive, as indicated by a survey of 1,000 returning migrants.⁷³

3. Reintegration into home country

The final phase, which consists of remittance management and societal reintegration, is pivotal for both economic progress and worker well-being. Government policy in this stage not only needs to ensure secure transfer of remittances to migrant families, but also provide sufficient resources to help returning migrants assimilate into life after their contract work. Remittances play a large role on a micro and macro scale – it can generate a positive effect

through savings, investment, growth, consumption, poverty alleviation, and income distribution on the individual level. On a larger scale, remittances are valuable in increasing foreign exchanges reserves and maintaining balance of payments surplus, and they can provide long-term growth given that there are higher-quality political and economic policies and institutions.⁷⁴ However, poor management of remittances can lead to inadequate investment climate reforms and low private investment. This will then result in low growth rate and limited job opportunities, which forces more overseas migration.⁷⁵ Therefore, policy is a large influencer in this part of the migration process, which includes safely transferring money to the home country, effectively managing remittance inflows, and reintegrating migrant workers back into society of origin. Both Nepal and the Philippines have been relatively effective in easing the transfer of remittances; however, the Philippines transcends Nepal in its ability to reintegrate migrant workers.

3.1 Country of origin: Nepal

The World Bank shows that remittances in Nepal represent more than 25 percent of Nepal's GDP⁷⁶ and, at \$5 billion in 2013, more than 50 percent of its imports.⁷⁷ The method of transferring money differs across countries. In Qatar, remittance service providers are exchange houses, banks, and the postal service, where exchange houses such as Habib Exchange, Al-Fardan Exchange, National Exchange, and Doha Bank account for 99.8 percent of market share.⁷⁸ These exchange houses can operate independently, or work as agents under Western Union. Recently they have simplified the process by using web based programs to transfer funds to Nepal.⁷⁹ Furthermore, if a Nepal-based licensed agent or representative of a money transfer company situated overseas requires bank guarantee for receiving advance payment from the

principal company, the facility will be made available directly from the commercial banks.⁸⁰ In Nepal, the remittance landscape is well developed, with private commercial banks, state-owned banks, finance companies, micro-finance institutions, Nepal Post, and forty-seven other non-banking entities authorized to receive and deliver remittances.⁸¹

After receiving their wages, many migrant workers in Qatar send checks to their agents, and the checks may be credited to the agent's account using manual credit transfers, costing about 40 percent of the average service fee charged for remitting funds from Qatar to Nepal.⁸² In February 2015, the Emir of Qatar approved an amendment to the Labor Law requiring businesses to pay workers through direct bank deposits, which Amnesty indicates as the most significant reform over the last twelve months. Employers who fail to carry this out risk fines of between 2,000 and 6,000 Riyals (around \$530 to \$1,590) and a prison term of up to one month.⁸³ Direct bank deposits through the electronic payment reform helps better monitor payment and simplify the transfer of money using exchange houses. Transfer fees differ depending on location, but in the Qatar-Nepal remittance corridor, they averaged 3.4 percent for a \$200 remittance transfer, which is favorable compared to the global average rate of 8.8 percent for a \$200 remittance transfer in first quarter of 2010 (World Bank's global remittance prices).⁸⁴ Despite these low fees, there exists constraints once the money arrives in Nepal. Most remittance service providers in Nepal continue to operate in Kathmandu, with limited presence in rural areas. This is largely attributed to Nepal's large cash-based economy which makes electronic funds transfer networks for interbank payments unnecessary. About 90 percent of remittances are paid out in cash, which adds to the cost of processing remittances and further burdens the sender.⁸⁵

However, the transfer of remittances through illegal channels has been decreasing. In the 2004-2005 period, 27 percent of remittance income flowed through official channels, compared

to 90 percent of the income in 2009-2010.⁸⁶ This can be attributed to policy initiatives that have encouraged the transfer of remittances through the official channel. Nepal Rastra Bank (NRB), which is Nepal's central bank, started issuing licenses to private sector organizations for money transfer companies by providing them commission in addition to the prevailing buying rate. Non-resident Nepalese inhabitants can also open accounts denominated in Nepalese rupee or foreign currencies, and deposits in non-resident Nepalese accounts can be repatriated to overseas accounts.⁸⁷ Moreover, permission was granted to manpower agencies, which are institutions that send Nepalese nationals to work overseas, to open foreign currency accounts in the Nepalese commercial banks out of the foreign currency income earned under the existing rules.⁸⁸ In addition to those policy measures, the government floated "foreign employment bond" in 2010 with an interest rate of 9.5 percent to raise funds for infrastructure development and other development programs. Despite the numerous services to help migrant workers, the policy did not achieve the results it intended to due to insufficient marketing.⁸⁹

Remittance management extends beyond the safe transfer to its destination. The Foreign Employment Policy seeks to make optimal use of migrants' remittances by establishing financial channels that will help returning migrants borrow money at fair interest rates. Its purpose is to help alleviate debt obligations that could reduce consumption. These channels also enable migrants to safely send home and invest their earnings domestically while they work abroad. Furthermore, a Labor Bank was established to offer prospective migrants subsidized loans to cover the costs required for formal migration. The bank would offer a remittance account and help returning migrants access additional capital for investment purposes. Through the Migrant Workers' Welfare Fund, managed by the Foreign Employment Promotion Board, migrants can deposit and invest 1,000 rupees (about \$10) before departing to their destination country. By

enabling an amicable investment environment through tax benefits, the Foreign Employment Policy emphasizes human development, provides investing options, and teaches financial literacy.

The policy also provides two institutional structures, a High-level Foreign Employment Committee and an Executive Committee, to ensure its policies are smoothly implemented. The High-Level Foreign Employment Coordination Committee coordinates policy issues between the stakeholders and the government and monitors the activities; the Executive Committee directs the High-Level Foreign Employment Coordination Committee, implements foreign employment-related activities, and resolves any problems that may arise.⁹⁰ In addition to educating migrants on investment opportunities, the government also extended aid through Nepal's Foreign Employment and Promotion Board, which provides social security and reintegration services to migrant workers.⁹¹ However, these centralized institutions are based in Kathmandu and do not have local levels, which makes it difficult to reinforce across the country.

This section emphasizes the ranging effectiveness of Nepal's migration policies in the third phase of migration, which affects economic development and the well-being of returning migrants. Some successes came from the transfer of remittances, where technological development facilitated its transmission and lowered transfer fees. Furthermore, policies decreased the number of illegal transfer channels by improving the efficiency of the remittance-transfer process. This was assisted by the Foreign Employment Policy and the Labor Bank, which decreased interest rates for loans and taught migrant workers financial literacy. However, the rural areas still have trouble accessing these services, which are mainly centered in the urban areas. Moreover, marketing for reintegration initiatives have been insufficient, which led to a

problematic situation where returning migrants would go abroad again after exhausting their money supply.

3.2 Country of origin: Philippines

In the Philippines, remittances have increased dramatically over the past 10 years, reaching \$24 billion in 2014 and also representing a large source of export earnings.⁹² Overseas Filipino workers are currently present in over 224 destinations, especially Saudi Arabia, United Arab Emirates, and Singapore. According to data from the Central Bank of the Philippines, remittances are eleven times foreign direct investment and 15 percent of gross international reserves as of July 2012.⁹³ Additionally, they accounted for nearly 10 percent of GDP in 2013.⁹⁴ They not only increase consumption, which drives up the manufacturing sector to produce more goods and the service sector to make goods available, but also increases the base of taxpayers and their contribution, which adds to the government's resources for public expenditure on constructive initiatives. Because remittances play a significant role in the Philippines, it is important to take advantage of them to benefit the community and worker well-being.

To make use of remittances, the Filipino government implemented a successful diaspora system termed the Philippine Diaspora. It works with financial institutions to develop beneficial and innovative instruments such as diaspora bonds and remittance bonds to increase remittances and savings for development.⁹⁵ To further promote the inflow of remittances, the government has implemented policies to simplify and reduce the costs of transfer. Since 2003, the Central Bank of the Philippines has been working to improve and simplify the transmittance of remittances using technology. In fact, the OWWA issued to all regular workers an identification card that can also assume the role of a Visa card. It is directly linked to dollar or peso-denominated savings

accounts in a consortium of banks and enables remittances to be sent at \$3 or less per transaction.⁹⁶ In 2007, an OFW portal was launched to integrate information from the Philippine's financial institutions and individual banks to create a consolidated information guide to help migrant workers with the process.⁹⁷ In 2008, the Central Bank coordinated with the Association of Bank Remittance Officers, Inc. to set up a local clearinghouse for credit-to-other banks mode of remittances, which would eliminate the middle-men employed by commercial banks and thus reduce fees. It also established the Philippine Payments and Settlements System to transfer funds to beneficiaries' accounts from other banks, costing 90 percent less than using the original process involving couriers hired by commercial banks.⁹⁸

Similar to the situation in Nepal, the Philippines have many rural migrant workers whose access to services are limited. Due to difficult access to bank branches in those locations, branchless banking was established to offer banking and payment services through convenient postal and retail outlets.⁹⁹ Customers are able to store cash in the form of e-money, send funds, and make loan repayments through services such as Globe Telecom's G-Cash service.¹⁰⁰ To mitigate the consumer protection challenges of branchless banking, the Philippines developed a regulatory arrangement for branchless banking that permits agents to conduct CDD (continuous due diligence)/KYC (know-your-customer) norms for clients. It also allowed a multiplicity of formal identity documents to be presented for verification purposes.¹⁰¹ Additionally, the Central Bank issued Circular No. 522 in 2006, which authorized qualified rural banks and/or cooperative banks to operate a foreign currency deposit unit.¹⁰² These banks are able to open foreign currency deposit accounts and foreign currency deposit units of another commercial or thrift bank. Rural banks are hence given various responsibilities such as servicing foreign exchange

remittances and transacting foreign exchange. By allowing migrant workers to save their remittances in foreign currency, the services allow them to hedge against exchange risks.

However, much of the wages migrant workers earn were used toward consumption rather than investment in business or other assets.¹⁰³ To encourage investment, the government and non-government agencies launched financial literacy programs. They believed channeling financial resources to domestic initiatives in the Philippines could spur domestic opportunities and decrease migration by providing employment, taxes, goods, and services.¹⁰⁴ A few investment options were explored. The Government Service Insurance System (GSIS) and the Social Security System are the two largest pension funds in the Philippines, and they are tasked with investing in government securities, the stock market, commercial paper, and property development.¹⁰⁵ The GSIS's recent accomplishments include non-suspension of members' loan privileges, the electronic crediting of claims, and the implementation of a housing loan restructuring program.¹⁰⁶

Post-migration assistance is another core focus in the Philippines. The National Reintegration Center for OFWs (NRCO), established in 2010, provides ample assistance to the reintegration stage. The majority of government plans takes place on the local level, where they promote financial literacy among migrants to increase savings, investments, and productive use of remittances.¹⁰⁷ One component of the policy details its support for pilot projects, where the Chief Financial Officer will work with specific banking and financial intermediaries to increase OFW savings and utilize remittances for community and socio-economic development.¹⁰⁸ Furthermore, the Department of Labor Employment (DOLE) helps with re-integration of migrant workers, and TESDA provides training for returning overseas workers. The Philippine Development Plan 2011-2016 also highlights social protection, which includes labor market

programs for employment opportunities, community-based employment programs, sustainable livelihood and entrepreneurship opportunities, and social insurance.¹⁰⁹

The current policies implemented by the Philippines, such as the Philippine Diaspora and the Philippine Payments and Settlements System, have been effective in increasing savings for development and lowering the fees associated with remittance transfers. The Filipino government focused not only on the urban locations, but also the rural areas, where it established services such as the G-Cash for branchless banking. Additionally, by giving rural banks ability to service in foreign currency, the central bank of the Philippines helps migrant workers hedge against foreign exchange risk. To encourage investment, the government partnered with private organizations to launch financial literacy programs, and also established the Government Service Insurance System and the Social Security System to provide further assistance for returning migrant workers. Furthermore, the National Reintegration Center provides assistance through their pilot projects, where remittances are used for community and socio-economic development. Overall, the Philippine's response to reintegration and remittance management has been exhaustive and prosperous.

II. Analysis of policy implications

Part I of this paper identified three key phases of the migration process: 1) recruitment and transit from home country; 2) contract work at the destination country; and 3) post-contract reintegration into home country. Part II of this paper will analyze how Nepal can learn from the policies in the Philippines and strengthen its migration policy using existing resources. Given the importance of governing policies in carrying out a seamless and successful process, the governments of both Nepal and the Philippines have set extensive procedures for pre-departure

education, justice system access, remittance transfers, and post-migration societal integration. During each of these three phases, the Philippines distinguished itself from Nepal with its migration policies and initiatives, despite emphasizing the same protective measures. Through properly funneling remittances for development projects and instigating training sessions to increase migrant skill-level, the Philippines were able to acquire a stronger labor force and implement effective integration for returning migrants. From reviewing the successes of the Philippines, Nepal is able to increase its policy effectiveness through three major methods: 1) integrate public and private institutions on the national and local level to protect worker rights; 2) increase skill level of migrant workers to avoid exploitation abroad; and 3) simplify the process of and spread awareness about investing in productive assets to assist societal reintegration.

Protecting worker rights

The issue: The rights of migrant workers are constantly abused at the destination country. Especially with Qatar hosting the 2022 World Cup, media sources have placed much attention on the human rights infractions and treatment abuses toward Nepalese migrant workers. Activists have been pressuring the host country to change and/or abolish policies, such as the notorious Kafala system prevalent in the Middle East, to protect workers' rights. However, responsibility and blame should not be entirely attributed to the destination country. In fact, many of the abuses migrant workers face abroad stem from unscrupulous process in Nepal involving recruitment agencies and independent agents. The prevalence of irregular migrant workers contributes to greater exploitation. Despite the harsh circumstances, some are not willing to go back to Nepal since they have already taken out loans and paid excessive fees to go abroad; hence, they shy away from reporting poor treatment and rights infractions because 1) they face the risk of

deportation, which results in the loss of initial investment; and 2) they fear that reporting the case will not help their cause, since irregular migrants are not subject to same rights as regulars.

The solution: In order to provide a safe environment for migrant workers, Nepal should strengthen its efforts on eliminating illegal migration by integrating public and private institutions on the national and local level, which helps better monitor recruitment agencies and educate prospective migrant workers on overseas employment.

Ultimately, government efforts alone are not enough to eliminate recruitment abuses. In the Philippines, integration of the different governing levels has contributed to its policy enforcement. Community education programs were developed in coordination with government agencies, non-government organizations, and local government units to pool together knowledge on migration. Furthermore, the growing synergy between the national and local governments of the Philippines can be seen through the establishment of the La Union Migration and Development Strategic Plan, launched in 2011, which was the first ever migration and development plan complete by a local government. Supported by the International Labor Organization and the NGO Kanlungan Center Foundation, Inc., this plan aims to fully integrate the majority of its returning migrants and reduce the incidence of illegal recruitment and exploitation.¹¹⁰ Although the system is not yet perfected, the success of the integration can be seen through the declining levels of illegal migration from the Philippines. Controlling regional recruiting from a national standpoint can be challenging, especially with the rural demographics in Nepal and the Philippines, where each district is distinct from one another. By amalgamating resources from the national and local levels to establish locally monitored policies, enforcement is incorporated on a significantly smaller scale, making it easier to monitor and manage. Nepal

can learn to integrate the public sector, combine human capital, and pool together monetary resources from private and public institutions.

Firstly, integrating public sector levels can provide better surveillance on recruitment agencies. In Nepal, the Foreign Employment Act of 2007 and the Foreign Employment Policy of 2012, along with various government departments, laid out strict guidelines to prevent fraud, illegal activity, and agency corruption. However, the Department of Foreign Employment, which oversees the recruitment agencies, has been struggling with policy enforcement, and prospective migrants continue to access overseas employment through illegal channels. This can be attributed to insufficient audits of recruitment agencies, weak punishment of rule infractions, and the geographic location of migrant origin. When the national government initiates changes in employment practices, the local government rarely follows suit. Poorly enforced rules permeates due to the lack of tangible and intangible resources. Especially in this situation where resources are scarce, strategic organization and planning using existing funding should be emphasized. In Nepal, the divide between the national and local governments pose a threat to the enforcement of policies. The rural areas, which also hosts the bulk of prospective migrants, lack accredited recruitment agencies because most of these agencies are based in larger cities. Additionally, since the majority of pre-departure trainings and medical examinations take place in Kathmandu, it is not only financially costly for the prospective migrant, but also time intensive. Prospective migrant workers would instead seek employment through personal or indirect connections to independent agents, who are the causes of many abuses such as misinformation and excessive fees. It is important, in these situations, to have a strong local governance institution that can oversee the process and help establish accredited recruitment agencies.

Secondly, combining human capital can increase efficiency within the justice system by solidifying enforcement and monitoring aspects of recruiting. The failure to monitor the recruitment process can result in handling overwhelming amounts of cases filed by migrant workers against recruitment agencies. Currently, the Department of Foreign Employment is in charge of managing cases filed by migrant workers in Nepal; however, due to lack of resources to carry extensive investigations, some cases are dropped or settled for a much smaller amount than requested. In Nepal, the number of complaints filed with the Investigation and Inquiry Section has nearly doubled from 2012/13 to 2013/14 to about 1,400. In these two years, only 145 individual cases and 272 institutional cases were investigated, while the rest were dismissed.¹¹¹ Independent agents, who many prospective migrants seek for employment opportunities, are poorly tracked and rarely pursued, enabling them to commit fraudulent crimes and easily escape punishment. Narrowing the focus to targeting independent agents allows policy-makers to obtain in-depth coverage using existing resources. Creating meaningful partnerships with local governing bodies can increase and strengthen human capital to gather information and audit recruitment agencies. Since agencies are located in the cities and agents are spread across the country, officials can share knowledge about different regions, collect information from local villages, and impose greater punishment for violations. They can make better decisions on strategies to inform recruitment agencies and independent agents. Spreading policy awareness to recruiters and prospective migrants is an important step in decreasing the use of fraudulent agents.

Thirdly, the pooling of funds can generate greater capital to establish small-scale programs on overseas employment to educate migrant workers in the rural areas, who lack access to many services. The small community-wide programs can be modeled off the community education

programs in the Philippines, which are aimed to provide pre-departure assistance to migrant families, such as training sessions that will be discussed in the next section. Some of these funds can even be used to incorporate insurance companies into the process. In the Philippines, private insurance providers avoid recruitment agency abuses since the providers are only interested in sending qualified and healthy workers to minimize claims.¹¹² The insurance acts as an extra layer of protection for overseas workers. Hence, the pooled funds can be used to cover insurance premiums for prospective migrant workers, who should be required to have insurance. Furthermore, a larger money supply allows for full investigations on recruitment agencies and independent agents. The national and local institutions would have more resources to audit the process and validate employment information submitted by independent agents and recruitment agencies. Strict enforcement of policy through exhaustive audits de incentivizes back-alley recruiters, which diminishes the amount of fraudulent promises, excessive fees paid, and reported cases.

A combined effort to pool resources on the national and local levels with private and public players will strengthen the promotion of legal employment channels, the procedure of thorough audits on recruitment agencies, and the offer of pre-departure services in rural locations. It is important for the government to have accessible avenues of communication with migrant workers, and to do so, policy-makers should start on a regional scale.

Exploitation of migrant workers abroad

The issue: Inexperienced and illegal migrant workers often work low-skilled occupations and face the greatest abuse and exploitation. Illegal migrants are not subject to the same rights as regular migrants, and this issue can be alleviated through better policies in the recruitment

process, mentioned in the first case of Part II. Inexperienced migrants are unqualified for many occupations that have excellent worker benefits and safety guidelines. Workers from Nepal are less skilled on average than workers from the Philippines and are usually grouped into the lowest tier of the occupation and income ladder.¹¹³ Low-skilled workers oftentimes take positions as construction workers, domestic care-givers, or truck drivers and are subjected to dangerous conditions, excessive heat, and domestic abuse.

The solution: In order to decrease the rate of exploitation of migrant workers, Nepal should strengthen its efforts to increase the skill level of prospective migrants and educate them about employment. It can do so by establishing occupational training services and rebranding migration as a choice rather than necessity.

In the Philippines, government policies and programs have been successful in increasing the skill-level of prospective migrants. They accomplish this by maintaining a competitive migrant supply in the global market in regards to productivity and wages. Some of the initiatives originated from the desire to increase domestic employment. Filipino leader Benigno C. Aquino III wanted to disincentive migration, and hence focused on creating jobs at home.¹¹⁴ A series of programs spawned, and over the past few years, the Philippine's focus on regulation protection and assistance to migrant workers has made its policies a renowned model for migration governance.¹¹⁵ Currently, the human resource development centers helps improve job skills, and the government's commission on higher education establishes training facilities. Additionally, the Filipino government reshaped the perception of migration and even provided OFWs with political rights. In its national laws, the provision of sectorial representation of migrants in the Governing Board of POEA and the Board of Trustees of OWWA is an indication of the empowerment of migrants in policy affairs. In addition, President Aquino's "Social Contract

with the Filipino People” made working abroad a choice rather than a necessity. The training of migrant workers and branding of overseas employment classify overseas Filipinos as contributing members to their countries of residence and the Philippines.

The sentiment of worker empowerment in the Philippines is worth emulating in Nepal. By increasing skill levels of migrant workers and establishing overseas employment as a choice, the rate of exploitation can be decreased. Programs that provide the aforementioned services to migrant families in Nepal will not only enhance skills, but also communicate actions they can take in dire situations. Doing so can mitigate use of illegal channels and allows migrants to access the skilled labor force. However, implementing such initiatives may be difficult, since Nepal has limited resources and an inadequately established education system. A migrant worker in a small village in Nepal informed that “students take the School Leaving Certificate (SLC) after grade 10. About 40 percent fail this exam, and cannot pursue higher education. Therefore, they seek opportunities abroad...many would rather stay but they do not have the choice”.¹¹⁶ Contrary to the Philippines, where some migrant workers view overseas employment as a way of exercising their acquired skills, these Nepalese students view overseas employment as a necessity and would go through any possible means to find a job. Indeed, government intervention cannot immediately alleviate this issue, but it can improve the existing context. One idea is to first structure and filter the positions offered abroad, making sure the sponsoring company in the destination country abides to human rights laws and policies. For migrant workers looking to go abroad, they will be permitted to attend pre-migration occupational training sessions within their local community, instead of being required to travel to Kathmandu. Additionally, Nepal has a plethora of university students studying across many different subjects who can contribute to educating migrant workers. The government can explore the possibility of

offering training sessions hosted by university student volunteers by providing academic or volunteer credit in exchange for students' services.

As seen through the filed cases, when migrant workers, whether from Nepal or the Philippines, are desperate for employment, they will disregard the legal process of obtaining sponsorship and frequently end up working in very undesirable situations. The aimless mentality resulting from the necessity to earn money and provide for their families makes them vulnerable to outside abuses. Migrant workers also are unaware of their limits, unaccustomed to the sudden change in environment, and are fearful to report conditions, which can result in devastating outcomes and prolong issues that should be immediately brought to attention. Protecting migrants from abusive treatment requires an honest discussion between the stakeholders. However, when migration is a choice rather than necessity, compliance on both the migrant and sponsor ends will foster honesty, and policies can be respected on a larger scale. Providing greater training opportunities can allow the prospective migrant workers in Nepal to start their selection early and find a more suitable profession to be pursued abroad. It will also be beneficial to low-skilled laborers such as construction workers, who will be able to learn about safety hazards and guidelines so they can 1) decide whether they are suitable for the work; 2) protect themselves from abuses; and 3) immediately report problems should they encounter any.

Increasing the skill level of migrant workers expands their bargaining power in the market and encourages them to seek redress as soon as an issue arises. Fostering a positive perception on migration will further allow them to have greater access to justice and avoid exploitation. The Nepalese government, therefore, needs to actively engage with prospective migrants and express to them the extent of their value to the home country.

Managing remittances and encouraging integration

The issue: As much as remittances can be beneficial to the economic growth of a country, they can also become detrimental if not properly managed. Remittances play an active role in the economy, especially in Nepal. Poor management and insufficient reintegration policies can result in excessive and superfluous consumption that contributes to recurring migration and detracts domestic growth. Most of the problems occur in the rural areas, where awareness is severely limited. Some returning migrant workers are not financially literate, and hence use most of their remittances towards consumption. Once their money supply is exhausted, they go back abroad to their former employer for work instead of rebuilding their lives and investing their man-power in Nepal. Not only is this harming domestic growth, but also increasing the exposure of migrants to the same abuses mentioned in previous sections.

The solution: In order to decrease recurring migration and spur economic growth, Nepal should simplify the process of and spread awareness about investing remittances in productive assets and reintegration efforts. It can greatly impact those who live in rural areas by making those services accessible in all regions within the country.

The Filipino government has actively taken a role in remittance management and reintegration policies. Management of remittances are divided into two levels: a macro-level and micro-level. The macro-level entails the channeling of remittances by the government to spur economic growth or establish integration programs for migrant workers; the micro-level refers to the promotion of investment and savings on the individual sector. Certainly, the government has incredible power to positively improve the economy if it implements the right policies. Investment in productive assets is crucial to developing an economy internally, and this can be effectively achieved through savings funds that can be used for investments. The Philippines

explored the idea with the Flexi-fund, which provides OFWs the opportunity to set aside a part of their earnings abroad and maximize the returns on their Flexi-fund contributions. The accumulated funds are investments for the future and also serve as social security protection. An OFW member is permitted to withdraw anytime his Flexi-fund contributions with interest, either in full or partial lump sum.¹¹⁷ Many policies implemented by the Philippines have been proven successful, such as their establishment of the Philippines Diaspora. Other policies that stimulate capital availability include selling remittance bonds, opening foreign currency accounts, promoting transfers through microfinance institutions, and promoting financial literacy.¹¹⁸

In Nepal, similar initiatives are only at their nascent stages. The Foreign Employment Policy has established financial channels for migrants to borrow money, and a Labor Bank was created to offer subsidized loans, but no easily-accessible direct fund to invest earnings exists. Furthermore, rural areas lack access to many of these services. One technique Nepal can explore is the Filipino model of “branchless” banking, where banking and payment services can be accessed through postal and retail outlets. Therefore, migrants in rural communities avoid the necessity of traveling to cities to securely take out loans or invest their earnings. Another method is to set up a direct fund in the banks where the remittances are transmitted, and this fund will act similarly to investing in a country’s government bond at the riskless rate. To increase awareness and make the process simple for migrant workers, the option to invest should be evident on the pre-departure documents where the migrant can indicate their preferences on placing a certain percentage (5-10 percent) of their wages into the passive investment fund. This tactic helps the migrant avoid additional time spent learning and opening an investment account. Upon return, the migrant can withdraw his investment with limited restrictions and is given the opportunity to

invest in product assets. The idea here is to make investing effortless and profitable for migrant workers.

For remittances transfer policies, Nepal's current initiatives have been relatively successful, but its accessibility to families in the outskirts of cities is still limited. A successful plan to expand to rural areas cannot depend on the national government alone. With cooperation from local and private institutions, the national government can improve implementation. The partnerships are not only excellent intellectual and experiences resources, but also enhances the credibility of initiatives and policy rulings in these settings. The Philippines incorporated the rural communities by providing them easy access to funds through the G-Flex account. This was accomplished through a collaboration of the national government and local governance institutions, which simplified the process and decreased the cost of collecting funds. Nepal would need the local governments to take initiative to work with the national and central bank to establish remittance service branches in the districts. One possibility is to work with microfinance institutions, which can be utilized to address the demand for remittance-linked financial services especially in poor and/or isolated regions. Their techniques reduce the transaction costs associated with outreach to poorer clients by broadening the remittance-linked services to those with limited access to banks. With their established network and organization, MFIs in Nepal could also partner with NGOs to expand their services to financial and entrepreneurial training, business advice, and marketing assistance for returning migrants. Another idea is to provide matching funds to remittances sent back. This method, known as Hometown Associations, has been an increasingly recognized policy route. Mexico and El Salvador are two frequent examples in which the local or federal governments would allocate \$2 or more for every dollar migrant organizations remit back in their communities. The pooled

funds are normally used to finance infrastructure and social projects, such as remodeling churches and schools.¹¹⁹

Remittance management is strongly tied to the challenge of reintegrating migrant workers back into society. Despite the numerous policies established by the Nepalese government to encourage savings and offer training services, their effectiveness has been limited by the poor structure, weak marketing, and insufficient outreach. The problem again bounces back to the neglect of rural communities. For example, the services provided by the High-level Foreign Employment Committee and the Nepal's Foreign Employment and Promotion Board do not have local levels in the rural areas. A migrant worker who arrived in Nepal for a couple of months commented: "I came back from the Gulf a couple months back, but I've spent all my money. I got a new bike and built a new house, but I am now out of money. I am applying to go back there".¹²⁰ It is not uncommon for returning migrant workers to spend all their money on indulgences, refuse to look for a new job, exhaust all their earnings, and be forced to go abroad for employment again. To mitigate these issues and incorporate the rural communities into these services, the local and national governments should invest in awareness initiatives such as mandatory post-contract sessions. These sessions exist to inform returning migrants of the existing benefits and educate them on financial literacy. Additionally, the government and local governments should spread awareness by either delegating local institutions to carry through policies on a community level, or by using technology. For example, they can use radio to educate migrant workers about investment, or establish a coherent webpage on financial literacy that will allow the migrant workers to go through modules and self-learn.

Entrepreneurship is another form of productive investment that has the potential of motivating migrant workers to remain in the home country. The lack of domestic job

opportunities drives Nepalese job-seekers outside the country. From my interviews, returning migrants overwhelmingly prefer staying in Nepal provided that opportunities are available. Indeed, increasing these prospects is not simple, as it involves improving the education, commercial, and industrial sectors of Nepal. However, self-employment is dependent on the individual, and hence opportunities can grow at the grassroots level. A country-wide sentiment of starting businesses, which can be incorporated into the training and education programs mentioned previously, can encourage returning migrants to rely on themselves rather than overseas employment. To incentivize returning migrants to stay in Nepal, the government can promote small businesses and implement a favorable interest rate policy for loans. For example, by loosening the credit requirements to take out loans and instead focusing resources on business education, government policies can encourage a productive environment for entrepreneurship.

By simplifying, educating, and fostering the investment in productive assets of remittances from urban and rural communities, Nepal can help reintegrate returning migrant workers into its society and decrease the number of individuals seeking opportunities abroad. Policies in Nepal have been relatively premature compared to those in the Philippines, but reintegration can be improved through better training and education, extended help to rural communities, and favorable interest rates on loans.

Conclusion

Migration policies in Nepal and Philippines are prevalent in three main stages of the process: recruitment and transit from home country, contract work at the destination country, and managing reintegration into origin country. Each stage emphasizes the importance of being able to access justice for the individuals and their families, who greatly impact the community and

economic outlook of the country. The Philippines have initiated policies that have been more effective than those from Nepal. Through promoting collaboration between all public and private stakeholders, instigating training sessions to increase migrant skill-level, and properly funneling remittances for investment, the Philippines were able to effectively incorporate the rural communities into its policies, acquire a stronger labor force, and strengthen economic and worker well-being. Government institutions from Nepal can learn from the successful policy initiatives implemented by the Philippines. By integrating public and private institutions on the national and local level, increasing skill level of migrant workers, and simplifying the process of and spreading awareness about investing in productive assets, Nepal can become more efficacious in protecting worker rights, decelerating rate of exploitation, and encouraging reintegration of returning migrants.

This paper largely focuses on initiatives the origin countries can take to improve conditions for migrant workers. However, regulatory and enforcement efforts can be more effective through cooperation of both the destination and origin country. The occasional mismatch between policies in the two areas allows some stakeholders to elude penalty using dishonest techniques. Equal commitment to enforce and implement regulations across borders will thus strengthen policy initiatives and prevent exploitation. Juxtaposing the policies on both sides of the migration process might reveal greater insights on diminishing exploitation and improving migrant workers' access to justice.

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