

Protection and Paternalism: Narratives of Nepali Women Migrants and the Gender Politics of Discriminatory Labour Migration Policy¹

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Abstract

This article considers the current age and gender discriminatory migration laws in Nepal in their historical and socio-cultural context. Drawing on eight months of fieldwork and data collected from both migrants and migration policymakers I ask, What are the consequences of discriminatory laws on young Nepali women's migration experiences? And why do gender and age discriminatory laws and policies persist in light of evidence that they may actually endanger migrants? I posit that historically dominant Hindu gender norms provide the basis for the paternalistic migration laws currently in place. I argue that age and gender discriminatory migration policies are rooted in patriarchal concern for women's ijaat (social honour) and sexual purity. The result of discriminatory law is not a reduction in migration but an increase in irregular and illegal migration that exacerbates women labour migrants' vulnerability to a variety of abuses. I conclude that examining discriminatory migration laws with an intersectional lens raises interesting possibilities for theorizing how and why these ineffectual laws persist.

Résumé

Cet article se penche sur la législation discriminatoire actuelle en matière de migration concernant l'âge et le sexe au Nepal et son contexte historique ainsi que socio-culturel. En faisant appel aux données de sondage et de

nature ethnographique provenant des migrants ainsi que des responsables en matière de politique migratoire, je considère en premier lieu: quelles sont les conséquences des lois discriminatoires sur les migrantes népalaises jeunes? Et quelles sont les raisons pour lesquelles des lois discriminatoires concernant l'âge et le sexe persistent encore à la lumière des indications démontrant que ces lois risquent en fait de mettre en danger les migrants? J'estime que le sexe hindou dominant sur le plan historique fournit la base sur les lois paternalistes actuelles, et que les lois discriminatoires concernant l'âge et le sexe sont ancrées dans un ordre patriarcal du ijaat (l'honneur social) et de pureté sexuelle chez les femmes. Le résultat est l'augmentation de la migration illégale et irrégulière, ce qui amplifie la vulnérabilité ainsi que divers abus de femmes migrantes. Je conclus sur une discussion portant sur la manière dont une politique plus adaptée pourrait répondre à la législation migratoire actuelle qui ne prend pas en compte la complexité du processus décisionnaire.

Introduction

In response to limited economic opportunities in Nepal, migrating abroad for labour has become a common livelihood strategy. In 2014, remittances sent from Nepalis working overseas accounted for over a quarter of Nepal's GDP.² While the majority of overseas workers are men, the number of Nepali women migrating abroad has steadily

increased. In an attempt to “protect” Nepali women from exploitation abroad, the state has implemented gender discriminatory migration laws, which restrict women under thirty from leaving the country to work as domestic labourers in Gulf countries.³ Instead of curbing migration, these laws have pushed women’s migration, both to the Gulf and other destinations, into more precarious and dangerous migration channels.

This article considers the current age and gender discriminatory migration laws in Nepal in their historical and socio-cultural context. Drawing on eight months of fieldwork and data collected from both migrants and migration policymakers, I attempt to answer three questions:

1. What are the socio-cultural and political antecedents that contextualize contemporary gender and age discriminatory migration laws in Nepal?
2. What are the consequences of discriminatory laws on young Nepali women’s migration experiences?
3. Why do gender and age discriminatory laws and policies persist in light of evidence that they may actually endanger migrants?

Background

Nepal has a population of about 30 million and was, until 2008, ruled as a Hindu kingdom. In 2008, at the end of over a decade (1996–2006) of civil war between Maoist guerrillas and the monarchy, Maoists were swept into power and in short order declared Nepal a secular, democratic republic. Although Nepal is a comparatively small country next to its large neighbours India and China, it is exceptionally diverse. The populace is stratified along lines of caste, class, ethnicity, religion, mother tongue, and extreme geographic difference. Historically, high-caste Hindus living in the central mid-hills of Nepal have exerted political, economic, and social dominance over low-caste and ethnic minority populations. The dominance of high-caste hill Hindus (हंसह) lingers to this day and is evident in the ongoing civil unrest that has intermittently punctuated the political landscape from 2006 onwards. Exacerbating Nepal’s troubled polity is the socio-economic condition of many Nepalis. Nepal is considered a least-developed country, and a majority of its population practise subsistence agriculture as their primary livelihood.⁴

Out-migration has a long and storied history in Nepal, most prominently in the form of young Nepali men leaving to work in foreign armies as Gurkha soldiers.⁵ In the last thirty years, a chronically depressed economy and a decade of conflict have precipitated a mass exodus of working-age Nepalis from the rural hinterlands into cities and abroad.⁶ Walking in any major city in Nepal, one is confronted with countless signs advertising opportunities to work or study abroad.⁷ The overwhelming message on billboard after billboard is that

economic opportunities lie outside of Nepal.⁸ There is a deep and abiding feeling amongst young Nepalis that working abroad is the only way to earn a decent salary and support their families.⁹ Going abroad and remitting has become a normative livelihood strategy and is evidenced in the profound dependence of many families on remitted wages. In 2014, remittances from workers overseas accounted for 29 per cent of the GDP.¹⁰ This astounding figure makes Nepal second in the world for remittances as percentage of GDP.

According to a 2011 World Bank census, approximately 2.1 million Nepalis (over 7 per cent of the population) are working overseas.¹¹ Reading the many government and NGO reports on migration, an interesting pattern emerges; there are few data on women migrants. The common refrain is that the data that do exist are unquestionably inaccurate.¹² According to Nepal’s Department of Foreign Employment (DoFE), less than 4 per cent of labour permits between 2006 and 2013 were issued to women.¹³ In 2013/2014 the DoFE granted 29,152 permits to women.¹⁴ Yet the DoFE and every other organization working on migration estimates that the actual number of women departing each year is considerably higher.¹⁵ The discrepancy comes from the fact that many women migrate illegally. Women who do migrate legally tend to be more affluent, work in higher-tier jobs such as nursing, and migrate to more “desirable” destinations like the United Kingdom and Australia.¹⁶ In short, women with the financial resources and educational background to easily navigate official migration channels use them. However, women who migrate illegally are generally from lower socio-economic backgrounds and are less likely to have the literacy, money, and social capital necessary to facilitate formal emigration. Women who migrate illegally often perform domestic labour such as child care or elder care, food service work, or janitorial services while abroad.

Poor Nepalis are especially likely to migrate to the Middle East. In Nepal, law states that women under thirty cannot migrate to the Gulf countries (Dubai, Bahrain, Oman, Qatar, UAE, Kuwait, Saudi Arabia), which are *the* primary destinations for poor Nepali migrants, both male and female. These discriminatory laws were ostensibly passed to protect women, as the DoFE states explicitly: “The intent [of the ban] is to protect women from many risks, including long working hours, sexual violence, physical abuse and economic exploitation.”¹⁷

The logic of the ban is that simply forbidding women to go abroad will stop them, thus protecting them from dangerous work conditions. Instead, the law has put women at greater risk. Women in economic need continue to migrate, only now they must do so through informal channels that have few safety nets and little recourse, should the situation prove exploitative or dangerous.¹⁸ There is mounting

evidence that age and gender discriminatory laws are ineffectual and counterproductive.¹⁹ Yet they remain. Why?

Male labour migrants face manifold challenges abroad. Images of coffins returning from Gulf states bearing the bodies of young men are frequently plastered across Nepali newspapers. Despite the clear empirical evidence of dangerous working conditions, the state has yet to pass laws “protecting” male migrants. This failure to pass laws addressing the dangers faced by Nepali men working abroad suggests that bans on women’s labour migration to the Gulf and other states is not just about their protection. In the following sections I explore the socio-cultural underpinnings of gender discriminatory laws and suggest that historically dominant gender ideologies keep these laws in place, despite clear evidence of their failure to protect women.

Methods

This article is based on data collected through eight months of participant observation at an NGO founded by and providing programming for returned migrant women, as well as surveys administered to returned and departing women migrants. The variety of sources provides a triangulation of sorts, which cross-verifies—from the perspective of migrants, policy advocates, and policymakers—the challenges women migrants encounter.²⁰ The mixed-methods approach employed here is particularly trenchant for a study of migration in Nepal, as previous treatments have tended to focus on modelling migration flows²¹ rather than the analysis of fine-grained ethnographic data.

The bulk of the data were collected during participant observation conducted at Gumnu Nepal,²² a well-established organization run by returned women migrants. The director of Gumnu allowed me to participate in and observe the daily functions of the organization in exchange for ad hoc office work. During biweekly visits to their main office I would speak with Gumnu staff about ongoing projects, shadow the director and assistant director in meetings, and perform services for the organization such as translating Nepali content into English and grant writing. While working with Gumnu I had the opportunity to attend organization meetings, read policy papers not available to the public, and sit in on phone calls and in-person meetings between Gumnu staff and mid- and high-level government bureaucrats.

This article is also informed through additional participant observation conducted while employed as a project manager on a U.S.-funded study concerning countering trafficking in persons (CTIP) programming. In both my voluntary role at Gumnu and my employed role for the CTIP project I did not set out to collect information linking gender discriminatory laws with the experiences of women migrants. Nevertheless a pattern emerged as I observed how

the former profoundly shaped the latter. As an “insider” in my field sites but an “outsider” as a white academic from the Global North, the data I present are inevitably filtered through both my personal standpoint and the institutional lenses of my partner organizations. Nevertheless, participant observation, as a cornerstone of ethnographic method, is also widely acknowledged as a valuable tool, especially for capturing rich, qualitative, experience-based details. Throughout this article I use data collected during participant observation to add nuance and depth to my discussion of migration experiences and to underscore the real-life consequences of policy and law on Nepalis.²³

Finally, I also draw on survey data collected from returned migrant women. In July 2015 I partnered with Gumnu to look at the effects of the 25 April earthquake on women’s migration decision-making. My primary research questions considered how returned and potential women migrants were (or were not) considering migrating in the face of short- and long-term economic instability. Participants were initially approached at Gumnu’s district offices, which provide services such as legal aid to departing and returning migrant women and their families. Subsequent participants were found using snowball sampling.

I collected thirty-five surveys: fourteen from a highly affected region and twenty-one from a minimally affected region. From the minimally affected region the informants had a mean age of 30.17 years ranging from twenty-two to forty. All were married. Of this community, 14 per cent identified as high caste (Brahmin or Chettri), 43 per cent identified as low caste, and 43 per cent identified as an ethnic minority group. From the highly earthquake affected region the informants had a mean age of 30.07 years, ranging from 20 to 42. All were married. From this community 14 per cent identified as high caste (Brahmin or Chettri), 14 per cent identified as low caste or another ethnic group, and the majority, 72 per cent, identified as part of the historically marginalized Tamang ethnic group. In this study I focused particularly on women’s transit and labour experiences because literature on migration in Nepal is centred mostly on male migration.²⁴ Scholarship that does focus on women mostly considers women who are “left behind” by male migrants rather than women migrants themselves.²⁵ Along with data on migration decision-making, the survey queried participant’s knowledge of relevant migration law and policy. Thus, the data I use to inform the arguments below are from eclectic sources; from both Nepali and foreign NGO workers, government employees, and poor migrant women themselves.

Hegemonic Hinduism and Honour Culture

There is no one “Nepali woman,” and attempts to understand “women’s status” in Nepal or the status of “women Nepali

migrants” can only be partial and necessarily shallow.²⁶ Yet across the profound diversity of women’s lives²⁷ there are similarities of experience. In particular, widespread patriarchal norms have circumscribed the privileges and opportunities afforded to women and girls in comparison to boys and men.²⁸ This is reflected in the gaps in educational attainment, earning, and political involvement between men and women as well as gender discriminatory laws.²⁹

Women’s systematic marginalization can, in part, be traced to the founding of Nepal as a Hindu kingdom in 1769. Successive kings codified Hindu doctrine into state law, which used Hindu cosmological understandings of hierarchical social order as the basis for determining social prestige as well as legal standing.³⁰ Explicit caste- and gender-based discrimination was a structuring component of Nepal’s social and legal system until reforms in 1950 overturned some, but not all, discriminatory laws.³¹ Even with legal reforms and social revolutions, the social hegemony of high-caste gender norms persist in institutions and everyday interactions.³² In 2002, the eleventh amendment to the constitution instituted a series of reforms to promote increasing gender equity. For example, women’s right to divorce and more gender-equitable inheritance rights were instituted.

As the 2000s progressed, it seemed that progressive legislation would continue to erode gender discriminatory policy. The final dissolution of the Hindu monarchy in 2008 followed by the drafting of a new constitution was expected to herald a new era of gender equality. In particular, nagging discriminatory policies such as those limiting women’s ability to pass citizenship to their offspring were to be abolished. And this did happen, at least on paper. In the 2006 Citizenship Act and the 2007 Interim Constitution, a discourse of gender equality is prominently featured. However, at the passage of a new and controversial constitution, a turn back toward conservatism is apparent. Gains outlined in the interim constitution have been rolled back in the newest iteration of the constitution promulgated on 20 September 2015. Most galling, Nepali women cannot pass Nepali citizenship on to their children, effectively consigning women as a group to secondary status.³³ The disappointment from women’s rights activists and progressive Nepali social and political groups is palpable, as it was hoped the new constitution would cement rather than undo democratizing gains made during the transition from monarchy to republic.

While the historically male, high-caste Hindu government has promoted a message of Nepali prosperity through development, access to the promises of development—including education,³⁴ job opportunities, and political power³⁵—have been unequally distributed.³⁶ The majority of women have been excluded from the public and civil sphere of society for much of Nepal’s history as a state.³⁷ Consequently, Nepali

women face a tension between meeting normative gender expectations and participating in activities like work abroad.³⁸ Patriarchal ideas discouraging female mobility, education, or political involvement continue to hold widespread popularity³⁹ and are still recognized as influencing women’s behaviour⁴⁰ and decision-making.⁴¹ These norms provide the basis for the paternalistic age and gender discriminatory migration laws currently in place.

Age and gender discriminatory migration laws are rooted in patriarchal concern for women’s *ijaat* (social honour). Within the context of historically dominant high-caste Hinduism, *ijaat* is a concept that is closely tied to a woman’s perceived sexual purity. According to high-caste Hindu norms, unmarried women are expected to be virginal, shy, and deferential to their parents. As married women they are expected to guard their reputation closely and transfer deference to their husband and in-laws. Further, women’s mobility should ideally be limited to the domestic sphere. In the domestic sphere, a woman’s honour can be assured through social surveillance by her parents and relatives and, after she marries, by her in-laws and relatives by marriage. Being seen outside the domestic sphere is grounds for social censure and an indication that perhaps a woman lacks *ijaat*. This is especially true for young women whose sexuality is considered dangerous to the woman and to those who come in contact with her.⁴² Norms of female domestic seclusion vary quite widely throughout Nepal, but there is ample evidence that the ideals that underlie high-caste Hindu practices are recognized if not aspired to across caste,⁴³ class,⁴⁴ ethnic,⁴⁵ and religious difference.

While norms limiting women’s mobility have been publicly decried by Nepali social and political activists in the last several decades, and such norms hold much less cultural import than in previous generations, they cannot be called relics of the past. Indeed, many Nepalis still highly value female domestic seclusion to some degree, and such values are apparent in current gender and age discriminatory laws.⁴⁶ As the continued struggles to implement women’s full constitutional and legal equality evidence, historically dominant Hindu norms that forward women’s subordinate status still hold considerable influence at the highest levels of policymaking. Age and gender discriminatory migration law and policy reflect a desire to constrain young women’s movements and protect them from their own dangerous sexuality and naïveté. The explicit argument is that women under thirty may fall victim to sexual exploitation, but the subtext is that young women may experience too much freedom on their own terms.

Young women migrants transgress norms of female domestic seclusion on an international scale. Abroad, young women have no social surveillance and, in theory,

could participate in all manner of illicit activity. That this social fear undergirds current law is reiterated frequently by returned migrant women themselves. When I asked them, “In your opinion, is migration safe for women?” I was surprised that few spoke specifically of economic exploitation or abuse—even though many had just told me of encountering such hardships themselves. Instead, a common refrain was, “It depends on you,” or “That is up to your own heart (*man*),” or most explicitly, “To be spoiled (*bigrieko*) or unspoiled, it’s up to you.” These statements connect safety directly with chastity and put the onus of maintaining chastity directly on the migrant woman. The language of spoiled (*bigrieko*) is an overt reference to women who engage in socially unacceptable sexual behaviour. Thus, for the migrant women I spoke with, migration is safe if, and only if, it is done within hegemonic understandings of maintaining *ijaat*.

The Trope of Trafficking

Frequently splashed across the front pages of Nepali daily newspapers are stories of “traffickers arrested” or “women saved from trafficking.”⁴⁷ While some women are trafficked into exploitative labour conditions against their will, there is also a growing consensus amongst migration organizations in Nepal that anti-trafficking operations often conflate trafficking, smuggling, and irregular migration and fail to listen to the women they are purportedly rescuing.⁴⁸ In a conversation with the director of Gumnu, she noted that “rescued” women are quite often very aware of the risks they are taking and where they are going. A recent article in Nepal’s leading English newspaper covers the story of twenty-seven women returned to Nepal after being intercepted in India on the way to work in the Gulf. The article describes the women as being “trafficked” and “lured” with offers of employment in the Gulf.⁴⁹ The article makes no mention of the agency of these women, that they may have sought out such informal routes because of age and gender discriminatory laws, or that they are now almost certainly in debt with no foreseeable source of income. Instead, the article details their arrest, detainment, and return to Nepal along with their full name, age, and natal village. A focus on “rescue” and lurid details in Nepali media obscures the role of Nepal’s migration law in fomenting illegal migration channels.

The trope of trafficking plays into a narrative of naïve young women with a sexuality that is dangerous to themselves and those they come in contact with. Over the course of my work with Gumnu, several staff members expressed frustration with the disproportionate attention and funding directed towards “anti-trafficking” versus “safe migration.” Trafficking, they informed me, was fashionable, a buzzword that unlocked the gates to all-important international donor

money. Sensationalized reports of innocent Nepali girls trafficked to Bombay brothels and forced into sex slavery make great national and international headlines and is, in a word, “fundable.” Gumnu staff pointed to several very well-funded organizations in Nepal that have garnered international acclaim for their anti-trafficking work, but fail to include safe migration as part of their anti-trafficking approach. Instead, their tactics include border checkpoints where staff arbitrarily pull over young women whom they assess as possibly trafficked and subject them to invasive interviewing. These paternalistic tactics are in line with the discourse of naïveté and dangerous sexuality that underwrite the age and gender discriminatory migration laws.

Government policymakers use the trope of trafficking to justify continuation of age and gender discriminatory laws. The archetype of the trafficked Nepali girl offers the public a horrifying, and ultimately titillating image. Separated from her family and forced into prostitution with foreign men, it is the ultimate loss of *ijaat* for a young Nepali woman. Gender and age discriminatory laws have staying power because they are enmeshed in cultural narratives of gender and social honour. Such laws are held up as a way to protect young Nepali women from a future of ruin and dishonour. The trope of trafficking supports hegemonic gender ideology, as it sits comfortably with norms that limit women’s mobility for their own protection.

The Problem of Papers

The laws governing out-migration for young women are complex and constantly changing. New memorandums of understanding, treaties, agreements, and temporary closures circulate frequently. For example, in 1999 the DoFE implemented the ban on women under thirty entering Gulf states, the ban was lifted in 2010, then reinstated in 2012. In the meantime, bans have been put in place and lifted for countries like Malaysia, Israel, and Lebanon. These bans sometimes apply to all women under a certain age or just women seeking visas for domestic work. Even experts in the field of women’s migration describe their frustration with knowing what the current laws are. For average Nepali citizens, then, it is a truly daunting task.

Even if a woman wants to migrate legally, navigating Nepal’s bureaucratic system to actually obtain a permit is notoriously difficult. A Gumnu legal-aid staff explained that a potential migrant would have to make approximately seven office visits before securing the right permissions. Stops included the Department of Foreign Employment for initial paperwork, the Ministry of Foreign Labour for further forms, stops at specific country embassies or consulates for labour visas, and then an eventual return to the DoFE for final approval. This is assuming a potential migrant had

already secured a citizenship card, which requires its own lengthy procedure to obtain.

On the other hand, a relatively simple process was described by survey informants who migrated illegally. A typical description involved using a *dalal* (private broker) or manpower agency. In exchange for a hefty fee, the *dalal* or agency arranges travel, documentation, and jobs abroad. Most frequently, after posing for passport pictures and paying their “placement” fee, the women were then given instructions to travel to a destination in India where they would be met at the train or bus station by a partnering agent. Nepalis can cross the open border with India fairly easily and without documentation. Upon reaching the rendezvous point in India, the migrants are furnished with documents allowing their travel overseas, including paperwork and tickets to fly abroad.⁵⁰

Many young women migrants are poor, illiterate, and from marginalized caste and ethnic backgrounds. It makes sense that they prefer to migrate internationally using the services of a broker or manpower agent rather than work through official channels that would be both time consuming and likely involve working with male high-caste bureaucrats with a reputation for gender, caste, and class discrimination.⁵¹ Of the thirty-five women I spoke with, all twenty-eight of the returned migrants had used a broker or manpower agency and informal (illegal) channels. All seven informants who were planning to depart were unanimous in their decision to use a broker or manpower agency to facilitate their migration.

Informal migration channels may be more practical and feasible for young women migrants, but the exorbitant placement fees that accompany such agreements frequently saddle migrants with intractable debt. Further, upon arrival, migrants often find that they have been given work totally different than their original contract and/or given less remuneration than promised. Yet, because their migration is illegal, there is little a migrant woman can do—especially because she is now burdened with debts that must be repaid. In these circumstances, young women regularly find themselves in abusive work environments with little recourse.

Illegal Migration as the Norm

The regularity of illegal migration was apparent in the survey results. As mentioned above, of the twenty-eight informants who were returned from working abroad, all had migrated to Gulf countries and all had migrated illegally. The Nepali state is well aware of the informal routes young women take to circumnavigate discriminatory migration laws. Relevant state actors are also aware of the dangers of informal migration. Even still, discriminatory laws remain. For institutions like the DoFE and Ministry of Foreign Employment, there

is little reason to change the status quo. Keeping gender discriminatory laws on the books with the full knowledge that women will find ways around them is much easier and cheaper than designing and implementing meaningful migration reform.

In his ethnography of bureaucracy in a Northern Indian municipality, Gupta describes the labyrinthine, impersonal, and literacy-dependent processes necessary to meet basic livelihood in his field site as structural violence.⁵² I argue that a similar dynamic is present in Nepal. By instituting laws that drive migrants into informal migration networks and by setting up migration procedures that make even legitimate migration extraordinarily difficult, the Nepali state is pushing young women migrants directly into more dangerous migration pathways. Informal migration is by definition unregulated. In informal migration routes, young migrant women, who are also frequently poor, of low caste, and minimally educated, are extremely vulnerable to exploitation on multiple levels. Their vulnerability may, for some, stem from genuine naïveté, but for many it is a chosen vulnerability, accepted with full knowledge and out of economic necessity. For example, six of the thirteen returned migrant women surveyed from an earthquake-affected district reported wage withholding and/or physical abuse of some kind during their work abroad. Such high rates of exploitation are consistent with what Gumnu staff encounter in their advocacy work. Given that women migrants tend to migrate to places where their family, friends, or community have migrated,⁵³ it is reasonable to assume that via their own social networks many young women migrants are quite aware of the potential risks and migrate in spite of them.

Policies limiting young women’s rights to unencumbered mobility not only expose women to additional violence throughout migration, but are in themselves a type of psychic violence. In the paternalistic and disempowering spirit of the law, discriminatory migration policies tell young Nepali women that they are not to be trusted, that they are not capable of independent decision-making, that their protection by the state extends only insofar as they submit to a particular gender ideology. Tamang has labelled the paternalism at the root of Nepali law and policy “state patriarchy.”⁵⁴ Age and gender discriminatory laws are an extension of state patriarchy and indeed, the Hindu hegemony that continues to shape Nepal’s state-making processes.

“I will see for myself”

The immediate future does not bode well for young Nepali women migrants. The earthquake of 25 April 2015 and subsequent political unrest has further rattled the economy and it is likely that out-migration will increase as jobs become scarcer.⁵⁵ Further, migrating illegally to avoid bureaucratic

hurdles was common before the earthquake. In a post-earthquake context, many young women from earthquake-affected areas have little choice but to migrate illegally, given that official documents confirming age or citizenship may be buried in the rubble. Young women living on the open border with India also have little incentive to go through more congested government queues to access official migration documentation.

Survey informants confirmed a general pessimism about future economic prospects in Nepal. Of thirty-five departing and returned migrant women, 74 per cent (twenty-six) believed that migration abroad would increase in the coming years. As one informant, twenty-three-year-old Sapana Tamang put it, “I have heard [migration abroad] is dangerous for some, but I will go and I will see for myself.” Sapana declared her intention to go while sitting in a small one-room apartment shared with her mother, sister, and husband. Her mother, who was seriously injured in the earthquake and who had herself worked illegally in Kuwait and been beaten and denied pay by her employer, looked on wistfully in agreement with her daughter’s plans. In the strain of economic necessity, young women like Sapana have little choice but to see for themselves. It is unlikely that young women will stop migrating through informal channels unless the Nepali state puts sustained and serious effort into reforming current migration policy and practice. This was improbable before the earthquake and seems even less sure as the government struggles to recover from a major humanitarian disaster.

Nevertheless, there is room for some optimism. First, women’s rights groups and feminist activists continue to press for meaningful change. Online petitions, press conferences, demonstrations, and rallies at government buildings continue almost daily.⁵⁶ Second, organizations like Gumnu continue to lobby for policy change. Finally, migrants are doing what they can to ensure their own and other migrants’ safety. For example, one informant, twenty-eight-year-old Kabita Lama, spent four years in Lebanon. During this time she recounts how she became heavily involved in a Nepali women’s group that sought out other young Nepali women migrants. In Lebanon, Kabita ran awareness-raising meetings for migrants and assisted several women in abusive work environments with their escape and return to Nepal. Women like Kabita cannot and will not wait for the state to make better migration policy. Through their organizing and determined efforts, young Nepali women are working to ensure safer migration on their own terms.

Discussion

Gender and age discriminatory policies in Nepal demonstrate that identity in Nepal cannot be parsed into categories

of “gender,” “age,” or “caste” for that matter. Instead, identity and how identity is interpreted by the state is intersectional. Intersectionality, as a theoretical and methodological paradigm, underscores the interconnected and overlapping dimensions of social location—such as gender, age, class, caste, race, ability—that simultaneously shape individuals and communities’ lived experience.⁵⁷ Discriminatory laws elucidate how young women migrants’ lives intersect multiple marginalized social categories, resulting in outcomes that cannot be parsed nor addressed without intersectional analysis. For example, the ban on migration to Gulf countries extends only to women under thirty because the implicit assumption of the state is that women over thirty have most likely already married and given their virginity to their husband, thus fulfilling their primary honour expectation. It is not that Nepal has gender *or* age discriminatory laws, it is that these laws are gender *and* age discriminatory.

In Nepal, it is young women who are the target of paternalistic policy rather than all young migrants. It is young women whose dangerous sexuality must be contained through laws limiting their mobility. Further, it is often young women from lower-class and marginalized caste and ethnic backgrounds that are most effected by discriminatory laws. As one Gumnu staff member informed me—and as my own limited sample demonstrates—most women who migrate illegally have limited literacy and, because of their social location, lack the cultural, educational, and monetary capital necessary to use legitimate migration channels. For example, thirty-four of thirty-five survey informants had completed less than a Grade 8 education, and twenty-five of thirty-five informants identified as members of a historically marginalized ethnicity or as low caste. Women like my informants face challenges as young women, as poor women, and as minority women that mutually constitute their vulnerability as foreign labour migrants. Gender discriminatory migration laws exacerbate their vulnerabilities rather than ameliorate them.

Looking at discriminatory migration laws with an intersectional lens raises interesting possibilities for theorizing how and why these laws persist. Within state policymaking bodies that are still heavily influenced by high-caste Hindu gender ideologies, young women are a social category requiring paternalistic oversight. I argue that age and gender discriminatory bans are a symptom of “state patriarchy,” not only in their overtly stated purpose of protecting women, but also in a much subtler and insidious way. First, these bans are in place despite undeniable evidence that they are grossly ineffectual and in fact push women into dangerous migration routes. Nepali women are then “saved” or “rescued” from “dangerous” situations by the same government they are circumventing. So-called rescue

operations provide ample justification for continued paternalistic laws. Second, when stories of migrant women facing abuse and violence are circulated in popular media and through social networks, the state again lays claim to these narratives as further justification for more bans, rather than migration law reform. On an ideological level, both “rescue” missions and tales of abuse abroad bolster high-caste Hindu gender ideologies of female domestic seclusion. A perverse self-perpetuating dynamic results whereby the state sets the stage for unsafe migration conditions and then rushes the stage as the rescuing hero.

In this context, the risks taken by young women migrating illegally and any misfortunes that may befall them are framed as their own doing. In a sense, they had it coming. By transgressing laws that affirm the dominant gender ideology, young women migrants butt up against more than bureaucratic obstacles, they push back against entrenched ideological power. The stated intent of gender discriminatory laws is to protect women, yet the ideological intent seems to be aligned with upholding historically dominant gender ideology. If the dangers of informal migration and the violence women migrants face does not actually stand at odds with the ideological intent of discriminatory migration policy—and indeed furnishes policymakers with evidence of the need for such laws—it may suggest why discriminatory policies persist, despite their failure to ensure safer migration.

NOTES

- 1 The author would like to acknowledge the support of the University of Colorado at Boulder, Graduate School, and the Natural Hazards Center at the University of Colorado.
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