**Protection and Paternalism:**

**Narratives of Nepali Women Migrants and the Gender Politics of Discriminatory Migration Policy**

INTRODUCTION

In response to limited economic opportunities in Nepal, migrating abroad for labor has become a common livelihood strategy. In 2014, remittances sent from Nepalis working overseas accounted for over a quarter of Nepal’s GDP.[[1]](#endnote-1) 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 30 from leaving the country to work as domestic laborers in Gulf countries.[[2]](#endnote-2) 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 paper 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 policy makers, I attempt to answer the following questions:

1) Why do gender and age discriminatory laws and policies exist and persist in light of evidence that they may actually endanger migrants?

2) What do various stakeholders identify as critical issues in ensuring safe migration, particularly for young women migrants?

BACKGROUND

Located between China to the North and India to the East, West and South, 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 neighbors, it is incredibly diverse. The populous 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 (HCHH) lingers to this day and is evident in the ongoing civil unrest that has intermittently punctuated the political landscape from 2006 onward. 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 practice subsistence agriculture as their primary livelihood strategy.[[3]](#endnote-3)

Outmigration has a long and storied history in Nepal, most prominently in the form of young Nepali men leaving to work in foreign armies as “Gorkha” soldiers.[[4]](#endnote-4) In the last 30 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.[[5]](#endnote-5) Walking in any major city in Nepal one is confronted with countless signs advertising opportunities to work or study abroad. The overwhelming message on billboard after billboard is that economic opportunities lie outside of Nepal.[[6]](#endnote-6) 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.[[7]](#endnote-7) 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% of the GDP.[[8]](#endnote-8) This astounding figure makes Nepal second in *the world* for remittances as percentage of GDP.

According to the 2011 World Bank census, approximately 2.1 million Nepalis (over 7% of the population) are currently working overseas.[[9]](#endnote-9) Reading the many government and NGO produced reports on migration, an interesting pattern emerges; there is very little data on women migrants. The common refrain is that the data that does exist is unquestionably inaccurate.[[10]](#endnote-10) According to the Department of Foreign Employment (DoFE), less than 4 percent of labor permits between the years 2006-2013 were issued to women.[[11]](#endnote-11) In 2013/2014 the DoFE granted 29,152 permits to women.[[12]](#endnote-12) Yet, the DoFE and every other organization working on migration estimates that the actual number of women departing each year is considerably higher.[[13]](#endnote-13) The discrepancy comes from the fact that many women migrate illegally. Women that do migrate legally tend to be more affluent, work in higher tier jobs such as nursing, and migrate to more “desirable” destinations like the UK and Australia.[[14]](#endnote-14) In short, women with the financial resources and educational background to easily navigate official migration channels use them. However, women that migrate illegally are generally from lower socio-economic backgrounds and are less likely to have the literacy, money, and social capital necessary to facilitate easy emigration. Women who migrate illegally often perform domestic labor 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, current law states that women under 30 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. The current discriminatory laws were ostensibly passed to protect women. The DoFE states this explicitly in a recent publication on the state of migration in Nepal, “the intent [of the ban] is to protect women from many risks, including long working hours, sexual violence, physical abuse and economic exploitation.”[[15]](#endnote-15) The logic is that a law forbidding women to go will suffice in stopping them, thus protecting them from dangerous work conditions abroad. 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.[[16]](#footnote-1) There is mounting evidence that age and gender discriminatory laws are ineffectual and counter-productive.[[17]](#endnote-16) Yet, they remain. Why? In the following sections I explore the socio-cultural underpinnings of these laws and suggest that historically dominant gender ideologies function to keep these laws in place despite clear evidence of their failure to protect women.

METHODS

This paper is based on data collected through participant observation at a Nepali NGO and surveys administered to returned and departing women migrants. The variety of sources provides a triangulation of sorts, which serves to cross verify from the perspective of both migrants, policy advocates and policy makers what challenges women migrants encounter.[[18]](#endnote-17) The mixed-methods approach employed here is particularly trenchant for a study of migration in Nepal as previous treatments have tended to focus on modeling migration flows[[19]](#endnote-18) rather than the analysis of fine-grained ethnographic data.

The bulk of the data was collected during 8 months of participant observation conducted at Gumnu Nepal[[20]](#footnote-2), a well-established organization founded and 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 bi-weekly 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 paper 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 the data I present is inevitably filtered through both my own personal standpoint as a feminist sociologist 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 paper I use data collected during participant observation to add nuance and depth to my discussion of migration experiences and to underscores the real-life consequences of policy and law on Nepalis.[[21]](#endnote-19)

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 April 25th 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. Interviewees were asked if they knew another woman who would be interested in completing the survey and if so, if they would facilitate an introduction. Before interviews began participants were briefed as to the nature of the research and asked to give verbal consent before the questionnaire was administered.

In total I collected 35 surveys; 14 from a highly affected region and 21 from a minimally affected region. From the minimally affected region the informants had a mean age of 30.17 years old ranging from 22-40 years old. All were married. Of this community, 14% identified as high caste (Brahmin or Chettri), 43% identified as low caste and 42% identified as an ethnic minority group. From the highly earthquake affected region the informants had a mean age of 30.07 years old ranging from 20-42 years old. All were married. From this community 14% identified as high caste (Brahmin or Chettri), 14% identified as low caste or another ethnic group and the majority, 72%, identified as part of the historically marginalized Tamang ethnic group. In this study I focused particularly on women’s experiences because literature on migration in Nepal is mostly centered on male migration[[22]](#endnote-20) and the scholarship that does focus on women considers women who are “left behind” by male migrants rather than women migrants themselves.[[23]](#endnote-21) Along with data on migration decision-making, the survey explicitly 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 NGO workers both Nepali and foreign, government employees, and poor migrant women themselves.

HEGEMONIC HINDUISM AND HONOR CULTURE

It is well documented that there is no one “Nepali woman,” and that attempts to understand “women’s status” in Nepal of the status of “women Nepali migrants” can only be partial and necessarily shallow.[[24]](#endnote-22) Yet, across the profound diversity of women’s lives,[[25]](#endnote-23) there are similarities of experience. In particular, widespread patriarchal norms have, to a greater or lesser extent, circumscribed the privileges and opportunities afforded to women and girls in comparison to boys and men.[[26]](#endnote-24) This is reflected in the ongoing gaps in educational attainment, earning, and political involvement between men and women as well as gender discriminatory laws.[[27]](#endnote-25)

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.[[28]](#endnote-26) 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.[[29]](#endnote-27) Even with legal reforms and social revolutions, the social hegemony of high-caste gender norms persist in institutions and everyday interactions.[[30]](#endnote-28) In 2002, the 11th amendment to the constitution instituted a series of reforms meant to promote increasing gender equity. For example, women’s right to divorce and more gender equitable inheritance rights were instituted.

As the 2000’s progressed, it seemed that progressive legislation would continue to undermine 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 September 20th, 2015. Most galling, Nepali women do not have the ability to pass Nepali citizenship on to their children, effectively consigning women as a group to secondary status. 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,[[31]](#endnote-29) job opportunities, and political power[[32]](#endnote-30)−have been unequally distributed.[[33]](#endnote-31) Not only has development been stratified, but the majority of women have been actively excluded from the public and civil sphere of society for much of Nepal’s history as a state.[[34]](#endnote-32) Consequently, Nepali women face a tension between meeting normative gender expectations and participating in activities like work abroad.[[35]](#endnote-33) Patriarchal ideas discouraging female mobility, education or political involvement continue to hold wide-spread popularity[[36]](#endnote-34) and are still recognized as influencing women’s behavior[[37]](#endnote-35) and decision-making.[[38]](#endnote-36) 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 honor). In the historically dominant norms of high caste Hinduism, *ijaat* is a concept that is closely tied to a woman’s perceived sexual purity. In 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 honor 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 that come in contact with her.[[39]](#endnote-37) 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[[40]](#endnote-38), class[[41]](#endnote-39), ethnic[[42]](#endnote-40) 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, there are many Nepalis who still highly value female domestic seclusion to some degree and such values are apparent in current gender and age discriminatory laws.[[43]](#endnote-41) 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 policy making. 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 naiveté. The explicit argument is that women under 30 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 on maintaining chastity directly on the migrant woman. The language of spoiled (*bigrieko*) is an overt reference to women who engage in socially unacceptable sexual behavior. 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.”[[44]](#endnote-42) While there is little doubt that some women are trafficked into exploitative labor conditions against their will, there is also a growing consensus amongst migration organizations in Nepal that anti-trafficking operations often fail to listen to the women they are purportedly rescuing. In a conversation with the director of Gumnu, she noted that so-called “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 27 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.[[45]](#endnote-43) 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.

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, I had conversations with several staff members where they 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 tactics. Instead, their tactics include border checkpoints where staff arbitrarily pull over young women who they assess as possibly trafficked and subject them to invasive interviewing. These paternalistic tactics are in line with the discourse of naiveté and dangerous sexuality that underwrite the age and gender discriminatory migration laws.

The trope of trafficking is used by government policy makers to justify the continuation of age and gender discriminatory laws. The archetype of the trafficked Nepali girl offers the public a lurid, horrifying, and ultimately titilating 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 honor. Such laws are held up as a way to protect young Nepali women from a future of ruin and dishonor. The trope of trafficking supports hegemonic gender ideology as it sits comfortably with norms limiting women’s mobility for their own protection.

THE PROBLEM OF PAPERS

The laws governing outmigration for young women are complex and constantly changing. New MOU’s, treaties, agreements and temporary closures circulate frequently. For example, in 1999 the DoFE implemented the ban on women under 30 entering Gulf states, the ban was lifted in 2010, then reinstated in 2012. In the meantime, bans have been variously 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. I was told by a Gumnu legal-aid staff that a potential migrant would have to make approximately 7 office visits before securing the right permissions. Stops included the Department of Foreign Employment for initial paperwork, the Ministry of Foreign Labor for further forms, stops at specific country embassies or consulates for labor 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 of the process 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 Nepal shares with India fairly easily and without any documentation. Upon reaching the rendez-vous point in India the migrants are furnished with documents allowing their travel overseas including paperwork and tickets to fly abroad.

Many young women migrants are poor, have low literacy and are 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.[[46]](#endnote-44) Of the 35 women I spoke with, 100% of the returned migrants (28/28) had used a broker or manpower agency and informal (illegal) channels. Of the informants who were planning to depart (7/7), they were unanimous in their decision to use a broker or manpower agency to facilitate their migration.

Informal migration channel 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, a worker often finds that they have been assigned to work totally different than their original contract and/or given less remuneration than promised. Yet, because of the illegal nature of their migration, 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 A NORM

The regularity of illegal migration was apparent in the survey results. Of the informants who were returned from working abroad (28) 100% had migrated to Gulf countries and 100% 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 such laws is much easier and cheaper than designing and implementing meaningful migration reform.

Gupta (2012), in his ethnography of bureaucracy in a Northern Indian municipality, equates the labrynthian, impersonal and literacy-dependent processes necessary to get basic livelihood needs met in his field site as a kind of structural violence. [[47]](#endnote-45) 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, low caste and minimally formally educated, are extremely vulnerable to exploitation on multiple levels. Their vulnerability may, for some, stem from genuine naiveté, but for many, it is a chosen vulnerability, accepted with full knowledge and out of economic necessity.

Policies limiting young women’s rights to unencumbered mobility not only expose women to additional violence throughout the migration process, 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 (2000) has labelled the paternalism at the root of Nepali law and policy “state patriarchy.”[[48]](#endnote-46) 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 April 25th, 2015 earthquake has further rattled the economy and it is likely that outmigration will increase as jobs become scarcer. Further, migrating illegally to avoid bureaucratic hurdles was common before the earthquake. In a post-earthquake context, many young women from earthquake affected areas may have little other choice but to migrate illegally given that any official documents confirming age or citizenship are buried in the rubble of their former homes. Young women living on the border of India also have little insensitive 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 35 departing and returned migrant women, 74% (26/35) believed that migration abroad would increase in the coming years. One informant, 23 year old Sapana Tamang put it thusly; “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 through a variety of organizing tactics. Online petitions, press conferences, demonstrations and rallies at government buildings continue almost daily.[[49]](#endnote-47) Second, organizations like Gumnu continue to lobby for policy change. Finally, migrants on the ground are doing what they can to ensure their own and other migrants’ safety. For example, one informant, 28 year old Kabita Lama, spent 4 years in Lebanon. During this time she recounts how she became heavily involved in a Nepali women’s group that actively 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

Importantly, 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.[[50]](#endnote-48) Discriminatory laws elucidate how young women migrants’ lives intersect multiple marginalized social categories resulting in particular outcomes that cannot be parsed apart nor addressed without intersectional analysis. 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 backgrounds that are most effected by discriminatory laws as they have comparatively less cultural, educational and monetary capital to use legitimate migration channels.

Looking at discriminatory migration laws with an intersectional lens raises interesting possibilities for theorizing how and why these laws persist. Within state policy making 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 more subtle 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, say, 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 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 discriminatory migration law is protecting 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 stand at actual odds with the ideological intent of discriminatory migration policy – and indeed furnishes policy makers with evidence of the need for such laws – it may suggest why discriminatory policies persist despite their failure to ensure safer migration.

1. http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS [↑](#endnote-ref-1)
2. Seira Tamang. “Legalizing state patriarchy in Nepal.” *Studies in Nepali History and Society*, *5* no. 1 (2000): 127-156. [↑](#endnote-ref-2)
3. United Nations. “About Nepal.” <http://www.np.undp.org/content/nepal/en/home/countryinfo/>. 2015. [↑](#endnote-ref-3)
4. John Welpton*. A History of Nepal*. Cambridge University Press, 2005. [↑](#endnote-ref-4)
5. Nathalie Williams. “How Community Organizations Moderate the Effect of Armed Conflict on Migration in Nepal.” Population Studies 67, no. 3 (2013): 353-369. [↑](#endnote-ref-5)
6. Sharma, Jeevan Raj. "Marginal but modern: Young Nepali labour migrants in India." *Young* 21, no. 4 (2013): 347-362. [↑](#endnote-ref-6)
7. Sienna R. Craig. "Migration, Social Change, Health, and the Realm of the Possible: Women's Stories between Nepal and New York." Anthropology and Humanism 36, no. 2 (2011): 193-214. [↑](#endnote-ref-7)
8. World Bank. “Personal Remittances, Received (%GDP).” <http://data.worldbank.org/indicator/BX.TRF.PWKR.DT> .GD.ZS?order=wbapi\_data\_value\_2013+wbapi\_data\_value&sort=asc. 2015. [↑](#endnote-ref-8)
9. World Bank. Large-scale migration and remittance in Nepal: Issues, challenges and opportunities. Washington, DC, 2011. [↑](#endnote-ref-9)
10. Sanjay Sharman, Shibani Pandey, Dinesh Pathak and Bimbika Sijapati-Basnett. State of Migration in Nepal. Center for the Study of Labour and Mobility, 2014. [↑](#endnote-ref-10)
11. Dofe.gov.np [↑](#endnote-ref-11)
12. Department of Foreign Employment: A Status Report for Nepal 2013/2014. Government of Nepal, 2014. [↑](#endnote-ref-12)
13. Sanjay Sharman, Shibani Pandey, Dinesh Pathak and Bimbika Sijapati-Basnett. State of Migration in Nepal. Center for the Study of Labour and Mobility, 2014. [↑](#endnote-ref-13)
14. Adhikari, Radha. "Empowered wives and frustrated husbands: Nursing, gender and migrant Nepali in the UK." *International Migration* 51, no. 6 (2013): 168-179. [↑](#endnote-ref-14)
15. Department of Foreign Employment: A Status Report for Nepal 2013/2014. Government of Nepal, 2014, 21. [↑](#endnote-ref-15)
16. That gender discriminatory migration laws in Nepal endanger women is not a new argument and has been forcefully made by many Nepali women’s advocacy groups, activist campaigns and public figures. [↑](#footnote-ref-1)
17. Sanjay Sharman, Shibani Pandey, Dinesh Pathak and Bimbika Sijapati-Basnett. State of Migration in Nepal. Center for the Study of Labour and Mobility, 2014. [↑](#endnote-ref-16)
18. Ashatu Hussein,. "The use of triangulation in social sciences research: Can qualitative and quantitative methods be combined?." Journal of Comparative Social Work 4, no. 1 (2015). [↑](#endnote-ref-17)
19. Bohra-Mishra, Pratikshya, and Douglas S. Massey. "Individual decisions to migrate during civil conflict." Demography 48, no. 2 (2011): 401-424. [↑](#endnote-ref-18)
20. Names of organizations and individuals have been changed to protect privacy. [↑](#footnote-ref-2)
21. McCurdy, Patrick, and Julie Uldam. "Connecting participant observation positions: Toward a reflexive framework for studying social movements." Field Methods (2013). [↑](#endnote-ref-19)
22. Douglass Massey., William G. Axinn, and Dirgha J. Ghimire. "Environmental change and out-migration: Evidence from Nepal." *Population and environment* 32, no. 2-3 (2010): 109-136. [↑](#endnote-ref-20)
23. Amina Maharjan, Siegfried Bauer, and Beatrice Knerr. "Do rural women who stay behind benefit from male out-migration? A case study in the hills of Nepal." *Gender, Technology and Development* 16, no. 1 (2012): 95-123. [↑](#endnote-ref-21)
24. Seira Tamang, "The Politics of Conflict and Difference or the Difference of Conflict in Politics: the Women's Movement in Nepal," *Feminist Review* 91, no. 1 (2009): 61-80. [↑](#endnote-ref-22)
25. Mary M. Cameron, *On the Edge of the Auspicious: Gender and Caste in Nepal*, (Chicago: University of Illinois Press, 1998). See also Kathryn March, *If Each Come Halfway: Meeting Tamang Women in Nepal*, *(*Ithaca, NY: Cornell University Press, 2002). [↑](#endnote-ref-23)
26. Stacey Leigh Pigg, “Inventing Social Categories Through Place: Social Representations and Development in Nepal," *Comparative Studies in Society and History* 34, no. 3 (1992): 491-513. [↑](#endnote-ref-24)
27. Matrika Chapagain, "Conjugal Power Relations and Couples' Participation in Reproductive Health Decision-Making Exploring the Links in Nepal," *Gender, Technology and Development* 10, no. 2 (2006): 159-189. See also Sarah LeVine, "Getting in, Dropping Out, and Staying On: Determinants of Girls' School Attendance in the Kathmandu Valley of Nepal," *Anthropology & Education Quarterly* (2006): 21-41. [↑](#endnote-ref-25)
28. Lynn Bennett, *Dangerous Wives and Sacred Sisters. Social and Symbolic Roles of High-Caste Women in Nepal* (New York: Colombia University Press, 1983). [↑](#endnote-ref-26)
29. Katharine N. Rankin, *The Cultural Politics of Markets: Economic Liberalization and Social Change in Nepal,* (Toronto: University of Toronto Press, 2004). [↑](#endnote-ref-27)
30. Lauren G. Leve, ""Failed development" and Rural Revolution in Nepal: Rethinking Subaltern Consciousness and Women's Empowerment," *Anthropological Quarterly* 80, no. 1 (2007): 127-172. [↑](#endnote-ref-28)
31. Laura M. Ahearn, *Invitations to Love: Literacy, Love Letters, and Social Change in Nepal,* (Ann Ann Arbor, MI: University of Michigan Press, 2001). [↑](#endnote-ref-29)
32. Judith Pettigrew and Sara Shneiderman. "Women and the Maobadi: Ideology and agency in Nepal’s Maoist movement." *Himal Southasian* 17, no. 1 (2004): 19-29. [↑](#endnote-ref-30)
33. Mara Malagodi, *Constitutional Nationalism and Legal Exclusion: Equality, Identity Politics, and Democracy in Nepal,* (New Delhi: Oxford University Press, 2013). [↑](#endnote-ref-31)
34. Seira Tamang. "Legalizing State Patriarchy in Nepal." *Studies in Nepali History and Society* 5, no. 1 (2000): 127-156. [↑](#endnote-ref-32)
35. Mark Liechty, *Out Here in Kathmandu: Modernity on the Global Periphery*, (Kathmandu, Nepal: Martin Chautari Press, 2010). See also Mark Liechty, "Women and Pornography in Kathmandu: Negotiating the ‘Modern Woman’ in a New Consumer Society," *Images of the ‘Modern Woman’ in Asia: Global Media/Local Meanings* (2001): 34-54. [↑](#endnote-ref-33)
36. Nitika Sharma, “Nepali Menstruation Rituals: A Remnant of Tradition or Evidence of Modernity,” *Studies in Nepali History and Society* 18, no. 2 (2014): 229-250. [↑](#endnote-ref-34)
37. Mona Laczo, "Deprived of an Individual Identity: Citizenship and Women in Nepal." *Gender & Development* 11, no. 3 (2003): 76-82. [↑](#endnote-ref-35)
38. Barbara Grossman-Thompson, “Entering Public Space and Claiming Modern Identities: Female Trekking Guides and Wage Labor in Urban Nepal,” *Studies in Nepali History and Society* 18, no. 2 (2014): 251-278. See also Jan Brunson, “A Review of Women’s Health: The Hegemony of Caste, Development and Biomedicine,” *Studies in Nepali History and Society* 18, no. 2 (2014): 279-303. [↑](#endnote-ref-36)
39. Bennett, Lynn. "Dangerous wives and sacred sisters." *Mandala Book Point: Kathmandu,* (1983). [↑](#endnote-ref-37)
40. Mary Cameron. On the Edge of the Auspicious. (Chicago, Illinois: University of Illinois Press, 1998) [↑](#endnote-ref-38)
41. Liechty, Mark. *Suitably modern: Making middle-class culture in a new consumer society*. (Princeton University Press, 2003.) [↑](#endnote-ref-39)
42. Rankin, Katharine N. *The cultural politics of markets: economic liberalization and social change in Nepal*. (University of Toronto Press, 2004.) [↑](#endnote-ref-40)
43. Brunson, Jan. "‘Scooty Girls’: Mobility and Intimacy at the Margins of Kathmandu." *Ethnos* 79, no. 5 (2014): 610-629. [↑](#endnote-ref-41)
44. Devendra Bhattarai. “27 Nepali Women to Return Home After their Release.” Ekantipur August 3, 2015. [↑](#endnote-ref-42)
45. Ibid. [↑](#endnote-ref-43)
46. Subina Shrestha. “Citizenship Nepali Style.” Ekantipur. September, 15 2014. [↑](#endnote-ref-44)
47. Akhil Gupta. *Red tape: Bureaucracy, structural violence, and poverty in India*. (Duke University Press, 2012) [↑](#endnote-ref-45)
48. Seira Tamang. "Legalizing state patriarchy in Nepal." *Studies in Nepali History and Society* 5, no. 1 (2000): 127-156. [↑](#endnote-ref-46)
49. --. “Youth Protest Against Proposed Citizenship” *Ekantipur* June 26, 2015. [↑](#endnote-ref-47)
50. Kimberle Crenshaw. "Mapping the margins: Intersectionality, identity politics, and violence against women of color." *Stanford law review* (1991): 1241-1299. See also: Leslie McCall. "The complexity of intersectionality." *Signs* 30, no. 3 (2005): 1771-1800. [↑](#endnote-ref-48)