Migration, Human Rights, and Public Health in Sri Lanka and Nepal

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Introduction

The experiences of migrants have consequences for human rights and public health. Not only do migrants face hazards when traveling to a foreign destination, but they commonly lack protections once they arrive. Overseas migrant workers need medical care, yet frequently are unaware of or lack access to state sponsored health care resources in the host country. Migrants who become ill rarely have health coverage in their host country and may be reticent to seek care for fear of deportation and/or an inability to communicate well in a foreign language. Furthermore, issues of harassment are common, especially for female domestic workers, who may be subject to physical abuse, psychological abuse, and/or sexual exploitation. However, migrants' precarious status makes seeking protection from police a frightening prospect, so they often must decide between fleeing the situation or continuing to endure the abuse.

Migratory behavior has diversified over the years, from predominantly permanent relocation to a new country to short-term, long-term, circular, and/or internal migration, commonly from rural to more developed urban areas. Some migrants arrive at their destination with legal status because they have visas or and 'green cards'. Others cross borders irregularly and may ask for asylum once they arrive. Some are refugees who, fleeing violent situations, are placed in camps and supported by international organizations. Many migrants are simply seeking a way to support their family by sending money home.

This paper examines how individuals' and their home country's desire for remittances – money sent home to pay for goods and services – pushes people to migrate. We focus on migration from Sri Lanka and from Nepal as case studies. We argue that unless care is taken, the desire for remittances from migrants and from their governments can lead to health risks and human rights violations. Especially since this type of migration is mostly temporary, policies and norms in destination countries do not always safeguard the rights of these migrants. With increased restrictions to migration, fear of seeking assistance or reaching out can exist. We further discuss what the governments of Nepal and Sri Lanka have done to reduce the human rights violations of migrants seeking work abroad and suggest further actions that could be taken to ameliorate some of the problems that arise from seeking remittances to support one's family at home.

Push Factors for Migration

Unemployment, under-employment, violence, global warming, and the desire for remittances are a few of the many factors that are leading to an increase in migratory behavior. In addition, migration is driven by high rates of inflation in lower and middle income countries (LMIC). It is predicted that with increase in global warming, people will continue to be pushed out of their home country due to drought and natural disasters. The popular media depicting the lives of the middle and upper class in the core industrialized nations further serve as commercials drawing migrants to more developed countries with unrealistic expectations. Furthermore, today's development in transportation, infrastructure and technology have helped facilitate this rise in migration with quicker electronic and physical access to these foreign countries.

The need for an income to support family members push people to migrate abroad. When there are few work opportunities at home, migrants are much more likely to seek work and earn money abroad, which they can send home for family support as remittances. Generally, migrants are able to send money to support their families' day-to-day costs, but they do not commonly earn enough money to send home for investments or to build up wealth. Simply, this desire to send such funds to their family at home propels most of the 200 million migrant workers to leave home. Not only do families at home live off the funds sent from abroad, but LMIC governments depend on this money as an important source of their foreign exchange and development.

Vulnerability of Migrants

The recent increase in migration has been accompanied by increasing hostility towards migrants. Xenophobia or dislike of "others" arises from a number of fears. One common fear is that migrants are willing to work jobs for less than the minimum wage, possibly "taking" those jobs away from citizens. However, these low paying jobs the migrants are working, such as farm laborers or care givers, are commonly jobs that the host population does not want. Other fears are similarly unfounded, such as fears that migrants are heavily involved in crime or are agents of disease, threatening the health of citizens in the host country. In actuality people who migrate tend to be young and healthy. (McDonald, J, 2004) This xenophobia and hostility towards migrants threatens their lives and well-being. For example, migrants risking their lives traveling by sea to Europe in unseaworthy crafts are frequently being turned back to sea.

Although migrants are not welcomed by the core developed countries, migration to these countries will not stop. Currently 3-4 percent of the world's population is a migrant, and international migration has increased from 173 million people in 2010 to 244 million in 2017 (Lancet, 2018). Part of the reason for the increase is lack of employment at home. There is great competition for entry-level jobs in LMIC countries. Most workers are not prepared for employment that is considered middle income in their host country because LMIC offer little or no training for technical skills required for these higher level occupations. Those few who do manage to get a higher-level education are likely to migrate abroad to seek work opportunities with higher salaries that they see as comparable with their education, contributing to the brain drain from LMIC.

Migrant workers have contributed to the development of their home country and also that of the destination country. They take jobs that nationals typically do not want to do and have filled a

potential void that could have otherwise existed in the labor market (OECD/ILO, 2018). Despite their role, they are a highly vulnerable demographic due to labor exploitation, abuse, and lack of access to basic services. As many of the workers come from rural populations, the decreased literacy rate and lower awareness of possible resources or protections leads to even more vulnerability within this population.

Another concern is the legal status of the migrant worker in the country where they have sought employment. Depending on the country, they may have different legal protections, services, and restrictions. For example, in many Gulf countries, a system known as the Kafala sponsorship system ties the employee solely to a single employer, which limits the workers' freedom to a huge extent because any form of mobility or freedom for the individual is in the hands of their employer. Previous cases have reported that being under the Kafala system makes it difficult to change jobs, get required vacation days, or quit and leave the country. Furthermore, as mentioned previously, a majority of migrant workers come from low socioeconomic backgrounds and so the cost of potentially losing their jobs is much higher than for those who are educated or skilled enough to return home to equally paying employment (Malaeb, H.N., 2015). Adding to this, there is a social pressure for migrants to send regular sums of money back home due to the idealized depiction of lives in foreign countries. These factors make migrants more likely to endure poor working conditions and end up in situations where they are clearly being exploited or overworked.

Women migrants (especially from LMICs) are a demographic particularly at risk in the process of migration. Due to gender discrimination, they mainly find jobs in the informal sector that involve domestic and household work (Koser, 2016). The gender inequality and restrictive norms in the destination countries, while being a minority in the community, makes women especially vulnerable. Domestic work in households cannot be monitored extensively which have led to cases of sexual exploitation, harassment and limited access to basic services such as healthcare. Adding to that, domestic work is also not always recognized by the national labour laws which highly restricts protection of their rights by the state.

Additionally, most of the migrating demographic do not speak or understand the local language of the destination country (Sargeant, M., & Tucker, E., 2009). The inability to communicate concerns and opinions effectively or understand important instructions and information can highly affect their experiences in these countries. Having a basic grasp of the local language or assistance in communicating is integral to access health services, assistance, or speaking out against malpractice.

The Case Studies: Sri Lanka

The size of the Sri Lankan population is about 21 million, of which about 1.8 million are expatriate workers. Slightly less than half of these expatriate workers are female. In 2010, these workers earned over ten billion US Dollars. Tourism, tea export, apparel/textile, and rice/agriculture industries are the most important economic sectors of the economy. Remittances officially account for 10% of foreign exchange. However, additional funds are brought into the country through unofficial channels, meaning remittances make up an even greater percentage of foreign exchange than is officially reported by Sri Lanka. In fact, the foreign employment sector is the largest foreign exchange earner in the country. (Minister of Sri Lankan Bureau of Foreign Employment (SLBFE) (ref Daily Mirror, 2017) Tourism is the 3rd largest foreign exchange earner after the apparel industry, providing about a

million jobs a year and about 2.5 million visitors per year. There has been substantial growth in tourism since the civil war ended ten years ago. Sri Lanka's civil war curtailed foreign investment and made a heavy reliance on overseas assistance in the form of overseas development assistance (ODA). As ODA has fallen, the relative importance of private remittances has increased.

The lack of development & economic opportunities domestically has been the root cause of large-scale migration from Sri Lanka, which is largely to the Gulf states. Sri Lanka's early success in literacy and education created a cohort of professional & middle class migrants who were able to take advantage of the opportunities to migrate as part of the pre-1983 migration flows to developing countries in the West & Middle East. During the civil war, Sri Lanka continued to grow economically, but unemployment remained high, wages relatively low, and many key markets underdeveloped or were disrupted, leaving economic growth at a sub-optimal level. With such high unemployment migration becomes an even more attractive option. Most of the current Sri Lankan migrants are from the poorer, less educated segments of the population. Unless the domestic labor market is prepared to provide similar employment with similar economic benefits, people will continue to migrate for employment in other countries.

The minister of the Sri Lanka Bureau of Foreign Employment (SLBFE), states they are working to promote foreign employment of professionals and skilled workers. In addition, he reports that the great majority of migrants have raised their standard of living thus enhancing their lives.

However, at a SLBFE press conference a number of problems that migrants encountered when abroad were discussed, including

1. Social reintegration of the worker when she/he returns to Sri Lanka.
2. Disappearance of migrants in the host country
3. Host removal of passport and other papers needed for migrant to return home
4. Inability to access health care in host country and inability get medical insurance.
5. Legal barriers: requirement for exit visa must be cleared by respective employer. Employer must give consent for the employee to return home. In addition, the migrant may need clearance by host Ministry of Labor or the police
6. Women have reported sexual abuse and harassment
7. Migrants feel isolated and many are not allowed to go out of the home in which they are working without the owner's permission.
8. Many migrants don't feel protected by SLBFE

The Sri Lankan government has responded to the problems of their migrants in a variety of ways, including the establishment of government sponsored safe houses where migrants can stay until they can safely return home. If a Sri Lankan migrant wishes to return to Sri Lanka they must inform the Sri Lankan embassy, which can help them make the necessary arrangements. The government reports that they have been developing a mechanism to ensure the safe and dignified return and reintegration of migrant workers including the development of a social security scheme for migrant returnees.

Because social reintegration has been found to be particularly a problem for low skilled workers, a sub policy has been drafted to reintegrate low skilled workers back into their community.

The human rights of children are also at risk, in part due to the risk for remittances. The government is also concerned about the family members of migrant workers, with a special focus on their children and have established is a program of skills development and career counseling for migrant workers' children. Protection of children younger than 5 who are particularly at risk is established by safeguarding the family unit through restricting their mothers from migrating. Women migrating to work as domestic aids or care-givers must fill out a form which is forwarded to the Divisional secretary to evaluate. Another policy focused on fathers was instituted also to protect young children. Migrating men must provide a confirmation statement on family welfare. Fathers of children under age 5 must provide a statement ascertaining the safety and welfare of his children. Included in the statement is declaration of who will be caring for his children and how their welfare needs will be supported.

It is not uncommon for agencies that recruit people to work abroad to take financial advantage of their recruits. The government is trying to exercise some control over those working overseas and the agencies recruiting them. Currently regulations state that whomever migrates for work in a foreign country must register with SLBFE, including those with employment skills. Recruitment agencies are also required to register with SLBFE. Before migrating, a migrant must register every related document with SLBFE, including the employment contract. This puts Sri Lankan authorities in a stronger position to protect the worker. The Minister of the SLBFE claims only 2-3% of the foreign workforce experience trouble abroad, and says that most encounter trouble because they did not participate in this government registration process before leaving Sri Lanka. Unfortunately, many migrants end up unregistered because they were recruited by unregistered agencies, which not only lack any government oversight but also charge excessive fees.

Nepal

In Nepal, remittance inflow was first observed when Nepalese youth were recruited for the British Indian Army during World War I. As they were deployed to different foreign countries, they sent the money received for their service back to Nepal to support their families. With the rise of globalization in the 1980s, a large number of the Nepalese population began leaving Nepal to find jobs in the Southeast and Far East Asia (Seddon, 2005). This emigration rose further with movement towards the Gulf countries after democracy was restored in Nepal in 1990 and the process of obtaining a passport was made easier for everyone. In 2011, the percentage of the population who were migrants increased to 7.4 % (Shrestha, 2017). With this high level of migration, remittances now make up a key portion of the country's economy, contributing to almost 30% of Nepal's GDP (2018). The nation currently places third among countries with the highest proportion of their GDP coming from remittances (ILO).

Many Nepali households largely depend on foreign-earned income through migration for daily sustenance and household finances such as food and education (Bhandari, P., & Chaudhary, I. (2017)). The country recognizes this, and has maintained an open border with India to ease movement of people and money. They also have bilateral agreements with Gulf and other frequented destination countries. Nearly 10% of the population works abroad, with 1600 nationals leaving the country

everyday (this does not include the people working irregularly) (OCHR,2018). A large percentage of migrant workers from Nepal come from low socio-economic backgrounds and do not have adequate access to education or other opportunities to attain higher-paying jobs within the country. Their need to support their family, and the lack of higher-paying job opportunities in Nepal, and news about better-paying opportunities abroad push them to pursue migration. Most Nepali migrant workers have semi-skilled or low-skilled jobs, such as construction, manufacturing, or domestic labor. Local recruitment agencies arrange and connect potential workers with such jobs but individuals can pay up to \$1300 in recruitment fees, paper work, and medical requirements. Migrants may also seek personal loans from local moneylenders or relatives to cover these fees, as they believe that their jobs will eventually earn them more abroad than if they remain in Nepal. Several workers have found, however, upon arrival in their host country that their promised jobs are not there, leaving many unable to payback their loans on time and in a 'debt-trap'.

Official statistics show that majority of migrant workers from Nepal are male and that this percentage is rising in time. However, formally gathered data may be ignorant of the actual number of female workers travelling abroad for work. Nepal recently stopped allowing women from travelling to Gulf countries as domestic workers after reports about abuse and sexual exploitation were covered by the media. While it may have stopped the number of women travelling on paper, reports have stated that migration through irregular channels have risen consequently. This type of migration heightens the vulnerabilities of each individual with increased risk of trafficking, scamming, and abuse. (Pyakurel, Uddhab Pd. ,2018). The travel ban on women who plan to work as domestic workers has pushed them to use informal channels through brokers and agencies. This has placed additional financial burden, such as high broker fees, and greater risk for exploitation and mistreatment. Furthermore, many women are prevented from visiting their family in Nepal for years, due to fear of being unable to return to their jobs in their host country.

This calls for the need to prioritize migration issues as a concern for the nation. With the economy's large dependence on remittances, the government must take steps to assure that migrant workers have the correct skill set, knowledge, and training to make their experience safe, secure, and successful whilst travelling to, living in, and returning from the destination country. Furthermore, domestic development within the country is fundamental to improve labor conditions at home and ensure security to its citizens. With better investment in agriculture, tourism, and other industries, it is possible that country's major dependence on remittance will decrease in time, making the economy more sustainable and giving the Nepali people the choice of whether or not to work abroad.

Similar to Sri Lanka, the Nepal government has attempted to reduce the exploitation of Nepalese migrant workers. In 2015, 'Free Visa, Free Ticket' was introduced which reduces the maximum fee workers can be charged to NPR 10,000 (\$96) in response to local and international pressure. Due to lack of implementation, however, numerous brokers and agencies still charge migrants much more than the official fee. For a short time, workers were banned from going to Malaysia due to high visa and medical fees specifically targeting Nepalese migrants. The ban was lifted shortly after the two countries signed a labor pact so that Nepalese migrants would not have to pay any further fees; the Malaysian employer company would be responsible for the costs of airfare, visa fees, and a medical checkup. In April 2019, the Nepal government announced the establishment of a call center in Kathmandu where workers can file complaints via various means such as phone call, Viber, email, or

text messages. The call center falls under the jurisdiction of the Ministry of Labour and will assist in problems that range from queries for aspirant migrants regarding the application process to being stranded in a foreign country.

While the government has taken steps to improve migratory problems, there continues to be exploitation in the migration process and in the destination countries. Some criticize that while the Nepali government has signed labor pacts with many countries, they fail to tackle basic and concurrent issues, such as the minimum wage for Nepalese workers. With the exceptions of Malaysia and Japan, Nepalese migrant workers have a significantly lower minimum wage compared to locals. This clearly goes against the United Nations Immigration Convention-1990 and International Labour Organization's Conventions No 97 and 143 (both agreed to by Nepal), which declare that the destination countries will not discriminate against migrant workers in paying minimum wages, including remuneration, social security, and other benefits. (Poudel, 2019). Currently, some recruitment agencies continue to overcharge the migrants and/or provide irregular channels for departure. Therefore, with such recurrent issues and the country's prolonging dependence of migrant workers' remittances, task forces specific to migratory problems need to effectively work with different stakeholders to identify the foundational problems in this domain.

Resolution to the Problem of the lure of remittances

Short-term:

Educate migrants about their rights

It is imperative that each migrant is aware of their rights before leaving home and while they are working in the destination countries. All migrant workers, regardless of their nationality or their destination country, are entitled to the fundamental human rights that protect them. Without knowledge of these rights, they will recognize situations that are exploitative or depriving them of their basic human rights, such as the right to equal pay or the right to return home if the migrant wishes. Each country's varying labor laws may provide different protections to the workers; therefore, it is important that each individual, before officially leaving for the destination country, is aware of such comprehensible situations they may face. This is essential for LMICs where a large number of migrant workers are from rural populations and are not exposed to culture or laws outside their country.

Ensure a way to seek help if when rights are not respected

Each destination country where migrant workers are present should have a local embassy where migrants can go when they believe their rights are not being respected or if they feel threatened. The embassies should have a desk or team that solely focuses on migration-related issues and be reachable via phone, email, text, etc. Migrant workers should be made aware of the location of this office prior to departing for the destination country. Furthermore, mandatory workshops or orientations hosted by the embassy could familiarize both the migrant workers and the embassy staff with one another.

Provide effective pre-departure training and empowerment:

Pre-departure training is essential to ensure that each migrant workers is aware the culture, the laws, their rights, the expectations, and the reality of their experience in the destination country. While many countries make the pre-departure trainings mandatory for migrant workers, their effectiveness is questionable. Involvement by agencies from destination countries, regular monitoring and updates, presence in various geographic locations (including rural areas), and feedback sessions could make these workshops more beneficial. Partnerships with local NGOs, the government, local recruitment agencies, and foreign agencies can ensure that these workshops include holistic information and advice while allowing greater monitoring. Empowerment is another component that should not be missed during these trainings. The individuals should be aware of their full rights, protection, and worth as someone offering certain set of skills to their employer.

Promote cheaper, faster, and safer transfer of remittances:

It is expensive for migrant workers to send remittances back home due to the current global fees of ‘7 percent of the total amount sent’ (The World Bank, 2017). This affects the amount of individual remittances sent back home and may, in the long run, increase the time the individual has to work to cover the family’s expenses or needs. Such fees also push the use of irregular channels to send the money at a lower interest rate. This not only harms the receiving country’s economy but further leaves for opportunities of scamming and trickery. The UN SDG 10.C is pushing to “reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent by 2030” (UN DESA, 2019). Paired with current advancements in technology that involve online/mobile transfers, there are greater possibilities of more efficient, cost-effective, yet formal channels of money transfer.

Long-term

Reduce the dependence of LDCs and MDCs on their dependence on remittance for the acululation of foreign exchange.

The only way to reduce migration and eliminate the human rights violations and health risks associated with migration is to foster investment in the economic development of the LDCs and MDCs and to reduce the pressure from over-population in these countries. This entails investment in education, job training and job development, and family planning especially for people living in poverty and/or in rural areas. Wealthier countries such as Europe and North America and the Gulf States must finance investment needed for a viable life in the more fragile regions. Emigration to support families can be made unnecessary by adopting trade, investment, and aid policies and programs that favor the LDCs and MDCs and accelerate their economic development. In addition, an agreement on ways and policies to combat climate change must be made to maintain arable land and necessary water supplies to support farming. Such development will also attract returning migrants to bring their savings, new ideas and connections to start new enterprises within their home countries. This will in turn create more employment opportunities and establish stimulating spaces for innovation and development in the country of origin.

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