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Making Mobility a Market

An Economic Sociology of Migration Brokerage

Studies on the Social and Political Constitution of the Economy

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This dissertation develops an economic sociological perspective on the ongoing practices and processes of migrant labour brokerage in Nepal. It uses Nepal as a case study to account for the recent developments in how labour migration is organized transnationally via profit-making actors called brokers or intermediaries. Existing scholarly work in the field of sociology and migration studies exhibits a bias towards a network-oriented approach to explaining brokerage. Such a stance assumes that brokers persist to fill structural holes or gaps in social relationships, and takes for granted the power dynamics that create an institutional space for brokerage. Questioning such assumptions, this thesis introduces the perspective of markets to understand migrant labour brokerage in Nepal. It keeps the interaction between the state and the market at the centre of its analysis as it traces the proactive role played by the state in organizing a market around facilitation of labour migration. In its examination of the state-market relationship, the study also sheds light on the scope and limitations of market regulation and the problem of control. It consequently claims that the interaction between the state and the market creates both opportunities and vulnerabilities for Nepalese migrant workers. It reveals how brokerage practices are deeply embedded in particular institutional settings, how network-driven theories are inadequate in explaining why brokers continue to persist, and what kind of consequences such intermediation has for the labour process and migrants' experience of mobility. In doing so, the dissertation advances our existing understanding of brokerage in social and economic relationships.

About the author

Sandhya A.S. was a doctoral researcher at the IMPRS-SPCE from 2018 to 2022. She completed the program in conjunction with her PhD studies at the University of Duisburg-Essen, Faculty of Social Sciences.

Studies on the Social and Political Constitution of the Economy

**Making Mobility a Market:
An Economic Sociology of Migration Brokerage**

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genehmigte Dissertation

von

A.S., Sandhya

aus

New Delhi, India

Dedicated to my life partner, family and friends.
Without each one of you, I could not have imagined producing this manuscript
with a sane state of mind.

Abstract

This dissertation develops an economic sociological perspective on the ongoing practices and processes of migrant labour brokerage in Nepal. It uses Nepal as a case study to account for the recent developments in how labour migration is organized transnationally via profit-making actors called brokers or intermediaries. Existing scholarly work in the field of sociology and migration studies exhibit a bias towards a network-oriented approach to explaining brokerage. Such a stance assumes that brokers persist to fill structural holes or gaps in social relationships, and takes for granted the institutional arrangements and power dynamics that create space for brokerage. Questioning such assumptions, this thesis introduces the perspective of markets to understand how brokerage emerges and continues in Nepal. Using qualitative research methods, the study finds that the Nepalese state plays an important role in facilitating and promoting labour migration for developmental incentives. A look into the history of the relationship between the state and the brokers, as well as the practices of brokerage in Nepal, illustrates market-based strategies for the institutionalization of labour migration. The state is shown to organize and consolidate the migrant recruitment industry to indirectly regulate the emigration of migrant workers. Such an insight has implications for our understanding of emerging supply-side interventions and the ordering of markets around migration. Keeping the interaction between the state and the market at the centre of its analysis, this study also sheds light on the scope and limitations of market regulation and the problem of control. The inability of the state to fully observe and monitor brokerage practices further creates the possibility of activities that potentially endangers the well-being of migrant workers. Consequently, the study claims that the interaction between the state and the recruitment industry creates both opportunities and vulnerabilities for Nepalese migrant workers. It reveals how brokerage practices are deeply embedded in particular institutional settings, how network-driven theories are inadequate in explaining why brokers continue to persist, and what kind of consequences such intermediation has on the labour process and migrants' experience of mobility. Using the explanation of migration, this dissertation advances our understanding of brokerage as a phenomenon in social and economic relationships.

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Abbreviations and acronyms

B2B	Business to Business
BLA	Bilateral Agreement
CESLAM	Centre for the Study of Labour and Mobility
DOFE	Department of Foreign Employment
EIC	East India Company
EPS	Employment Permit Scheme
FEA	Foreign Employment Act
FEB	Foreign Employment Board
FEIMS	Foreign Employment Information System
FEP	Foreign Employment Policy
FEPB	Foreign Employment Promotion Board
FER	Foreign Employment Rules
FET	Foreign Employment Tribunal
FEWF	Foreign Employment Welfare Fund
G2G	Government to Government
GCC	Gulf Cooperation Council
GCM	Global Compact for Migration
GDP	Gross Domestic Product
GWP	Guest Worker Programme
IAMM	International Agenda for Migration Management
ILO	International Labour Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
JECC	Japan Employment Coordination Council
JICA	Japan International Cooperation Agency
JITCO	Japan International Trainee Cooperation Organization
MOC	Memorandum of Cooperation
MOLESS	Ministry of Labour, Employment and Social Security
MOU	Memorandum of Understanding
MRC	Migrant Resource Centre
MRI	Migrant Recruitment Industry
NAFEA	Nepal Association of Foreign Employment Agencies
NGO	Non-Governmental Organization

NIROMP	New International Regime for Orderly Movements of People
NPC	National Planning Commission
NRN	Non-resident Nepali
NPR	Nepalese Rupee
RA	Recruitment Agency
RBA	Responsible Business Alliance
SSWS	Specified Skilled Workers Program
UAE	United Arab Emirates
UN	United Nations
UNFPA	United Nations Population Fund
USD	United States Dollar
WHO	World Health Organization

Notes on the use of language, images and reference style

This dissertation uses interviews, conversations and observations conducted in Nepali, Hindi and English. While all the qualitative data were transcribed and translated into English, some words are retained in their original form to maintain the authenticity of the expression (such as '*baideshik rojgar*' or foreign livelihood). Such words appear in italics, and their English translations are provided in brackets. Some words were also spoken in English by the respondents, but with colloquial and vernacular expressions (such as 'urgent' instead of 'agent'). The intended meanings of such words are also provided in brackets. Such dynamic use and appropriation of the English language are characteristic of South Asian communities and their dialects.

This dissertation uses photographs as texts. It follows Douglas Harper's (2005; 2004; 2019) framework of visual sociology to use photographs for capturing, describing and analysing social phenomena. The photographs used in this dissertation were all captured by the author herself. They were taken with the verbal consent of those being photographed. Appropriate caution concerning privacy was taken.

The reference style adopted in this dissertation is MPIfG English, a style based on the Chicago Manual of Style (16th Edition).

Chapter 1

Introduction

On 9th December 2019, one of the first days of my fieldwork in Kathmandu, I was walking towards Manpower *bazaar*[1] to interview migrant recruiters and brokers. Assuming that it would be a good start to study migrant labour brokerage, I had made a list of recruitment agencies I would have liked to visit that day. As a typical early winter morning in Kathmandu, with busy streets and hazy air due to traffic emissions and rising pollution levels, the city was buzzing with the sounds and smells of everyday urban life. As I was approaching the Manpower *bazaar*, I noticed something different. I noticed pedestrian pathways and street corners populated by young men, visibly idle, standing starkly out from the rapidly moving crowd of the city. Coming from India and having some knowledge of local labour market dynamics of South Asian cities and towns, my first guess was that they were daily wage labourers looking for casual employment for the day. This assumption soon turned out to be false, as I started speaking to some of them.

For many prospective migrant men between the age of 20 and 40 in Kathmandu, waiting is an integral part of their daily routine. It is common to find migrants waiting on the street corners of Kathmandu; standing, squatting, leaning against the fence, looking at phones, playing games on the phone etc., with fellow migrant workers in anticipation of mobility (both in terms of social and class mobility, as well as migration). While some men are seen waiting for news regarding their foreign employment and have developed a routine around it, many others have adopted waiting as a way of life and as certain phases of uncertain times between two contractual employments. The mundaneness of waiting, and a general restlessness to leave the country to obtain *baideshik rojgar* or foreign employment, is palpable in the city. While speaking to these migrants at first was out of curiosity, it soon became an important part of my fieldwork routine as I waited with them from time to time and met with them in lunch halls and canteens run by former migrants, providing reasonably priced meals for prospective migrants in waiting.

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[1] A 'bazaar' represents a form of market-based activity and often a specific location of this activity- or a marketplace- generally set outdoors , with a set of market actors who work in the area, and/or all of the above. Academically, it has often been looked at as a deviation from a purely competitive market, representing "penny capitalism", wherein the economic activities are deeply rooted in the socio-cultural contexts (Geertz 1978/1992). However, the term in this context merely refers to the spatial concentration of recruitment agencies in Kathmandu and is a colloquial reference (emic categorization) to the marketplace of migrant recruiters.

Image 1: 'Pratīkṣā gardai' (waiting) has become an integral part of mediated mobility in Nepal. In the image are Nilesh and fellow migrants waiting near Manpower bazaar to be taken to their respective recruitment agency.

Nilesh (pseudonym) was one such migrant worker in waiting. He is a young returnee-aspirant migrant who has been migrating for employment for more than a decade to provide for his family back home. While migrant workers were never the main focus of my research, this particular conversation with Nilesh helped anchor my dissertation in a significant way. Speaking about his personal reasons for the wait, he throws light on the central problem of this dissertation- the relevance of migrant labour brokerage in Nepal. Reflecting on his experience, he says,

> Everyone comes here (near Manpower *bazaar*) to get work. I have been to Dubai once
> and Qatar twice, first in a (mechanical) workshop but later in Dubai as a driver. That
> was good. The *sahab* (employer) in Dubai is a good man and I am planning to go again.
> He is a good man, has a big house. My work there was easy and comfortable. I just had
> to drive him around, his wife and his children. That's it. So, he called me again…He
> also gave me tickets this time along with visa. I had everything to go there. But when I
> took these things and came to Kathmandu airport, they sent me back. They said 'come

through an agency'. They said 'bring letter from agency only then we will allow you to go to Dubai'. (09-12-2019, Kathmandu)

The puzzle driving this research is, thus, an empirical one. Private employment intermediaries or migrant brokers have gained exponential power in the process of migration, especially with regard to low-skilled migrant workers. States in labour-sending countries are highly dependent on these private actors, and they exercise significant control over migrants and their families by regulating their mobility intimately (Xiang 2013). Yet, both migration scholars and neo-classical economists had predicted the eventual disappearance of intermediaries. They assumed that the intermediaries would get replaced by more institutionalized migrant networks and/or the information deficit that they cater to will become redundant with advanced communication technology, both reducing the transaction costs for the migrants and eliminating their need in the market (Lindquist, Xiang, and Yeoh 2012). However, contrary to this prediction, intermediaries actively shape contemporary labour migration and exercise high control over the migration process, especially in countries such as Nepal.

Yet, looking into the history of labour migration, some clarity comes to the fore. Migrant brokers, as individuals and networks, have always been present in the organization of labour migration. Apart from matching the demand to the supply with advertisements in the form of oral narrations of 'great things' about the destination country and promises of good wages, these actors created 'gangs' of workers and moved with them, negotiated the prices of labour, arranged for debts to aid their mobility, facilitated the physical transfer of migrant workers and even supervised the migrant labour on behalf of the employers or merchant associations (Heidemann 1992; McKeown 2012; Surak 2013). From the beginning of the migratory journey to the end, these network-based intermediaries accompanied the migrants and ensured their timely return to their country of origin, in order to initiate a new cycle of recruitment. Even when the states delegitimized their activities and monopolized the organization of labour migration, such as in the erstwhile guest worker programmes, migrant brokers continued to be relevant and sustained their activities under legislative shadows. Hence, it is not their mere presence that is new to how labour migration is currently structured. What is in fact new is how profit-making brokers have come to occupy such a central position[2] in the coordination of transnational labour markets and how states, migrants and employers have come to depend on them (Xiang 2013). This is despite the development of migrant social networks and advanced information technology, aspects that were meant to make commercial intermediation structurally redundant.

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[2] Some migration scholars also assume that brokering by profit-making actors is a result of either unestablished social (migrant) networks or an absence of a 'system' and formalized coordination mechanisms between sending and receiving states (Abella 2004). Such perspectives assume that commercial migrant brokerage happens in the absence of adequate state interventions, and not despite of it.

This dissertation, situated in the field of economic sociology and migration studies, approaches this phenomenon from the point of view of markets. Looking at migrant brokers and intermediaries as forming an industry, and tracing the role of the state in shaping their market activities, this dissertation examines how and why such a market forms. Responding to how development-driven (logic), market-based (medium) migrant labour brokerage comes into being, this dissertation examines the role of the state and the migrant recruitment industry in organizing and governing labour migration from Nepal. In so doing, it is able to draw a conceptualization of how *brokerage as a practice is a product of an underlying institutional space*, and not a result of an arbitrary distribution of 'interlinked human and non-human actors' (as has been claimed by recent migration scholars, see for instance Xiang and Lindquist 2014). By examining the institutional space within which migrant labour brokerage emerges (and with which it interacts), this dissertation throws light on the specific socio-structural location occupied by the migrant recruitment industry as well as the scope and limitations of commercial intermediation.

1. Review of Literature

1.1. "Significance of the third element" in Sociology

Sociologists, with a focus on studying social interactions, have been intrigued by the idea of mediators or intermediators making interaction possible between two disconnect social units. The simplest form of brokerage or intermediation has been viewed as actor B, an intermediator, connecting socially distanced actors A and C (see figure 1). A brokerage relationship emerges either because of the structural disconnectedness of actor-groups or the presence of "non-overlapping" social groups (Gould and Fernandez 1989) and/or lack of either access to, or trust on one another due to distinct set of interests. Sociologists have recognized that the mediating actors can intervene and facilitate a social interaction for a number of reasons and such an act of intermediation may have significant impact on the nature of relationship and the interests of the actors represented by the mediator or the broker.

Figure 1: A simple relationship of brokerage

Georg Simmel laid the foundations for a systematic study of brokerage in sociology. With his seminal work entitled 'The Triad' (1950), 'The Stranger' and the *Soziologie, Untersuchungen ueber die Formender Vergesellschaftung* (Simmel 1923)[3], Simmel uses examples of social interactions and group dynamics from family and kinship, market and politics to explore the "sociological significance of the third element" (Simmel 1950). In this context, he explains how unlike dyadic social relationships (such as marriage or friendship) where the two sets of actors must "delegate the

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[3] Much of what English-language scholars know about Simmel's work is through Kurt Wolff's translations, in the 'Sociology of Georg Simmel' (Wolff 1950).

duties and responsibilities" (Simmel cited in Nooteboom 2006: 367) of the relationship to one another, there are social relationships that are structurally set apart and requires a 'third party', with structural disconnection serving as the precondition of a brokerage relationship. He then classifies the third element in terms of interests and perceived gains of intermediation. The first kind of broker is a non-partisan and neutral mediator. This kind of broker, as the categorization suggest, intervenes in a given social relationship neutrally. The broker in this case either withdraws from the relationship between disconnected actors after making the contact and providing the space for negotiation, or acts as an arbiter who 'balances' the difference of opinion and resolves incompatibility towards a given goal. Taking the example of labour and management, Simmel describes this kind of brokerage as aimed at bringing peace and avoid misunderstandings between the two disconnected parties and the role of a broker in pacifying a potential conflict. In such a triadic relationship, the objectivity of the broker is essential and the broker's loyalty to both the parties is equal and distant. The trick in this kind of mediation is that the broker must be an "impersonal intellect" guiding the relationship, but must also be "subjectively interested" (Ibid.: 373) in both the parties, with the latter pointing to the minimal amount of trust required by both sets of actors on the broker to let them represent their interests equally. Such a form of trust, though not substantiated but only alluded by Simmel, is key to a brokerage relationship that this thesis seeks to understand.

The second type of brokers are the *tertius gaudens*. Here, the broker intervenes a social relationship purely for "egoistic interests" or self-interests, which may be at the cost of the parties represented. While the category in itself is not important for my study of migrant brokerage, the examination of self-interest as the other aspect of broker's social location is central to the argument I am developing in this dissertation. Thus, the *tertius* or the third party, who has the benefit of a superior structural positioning of being able to mediate, may exploit the conflict of interests and make the relationship unstable for purely personal interest (such as profit-making or political advantage of accelerating conflict). In such a relationship, the concerned parties may even compete to attain a preferential mediation by the *tertius.* Related to this, is the third category of a broker- the *divide et impera*. Such a broker does not just benefit from an emerging conflict but rather creates conflict between the parties represented to sustain a superior position in the triadic relationship. Simmel uses the example of colonial interventions to explain 'divide and rule' tendency among some kinds of intermediators. The broker in this kind of brokerage, channels the potential threat that the two disconnect parties can serve into conflict, in such a way that both the actors are dependent on the broker but also are not strong enough to challenge the role of the broker.

Simmel's sociological examination of the third party is relevant for this dissertation for two reasons. His analysis of brokerage opens up the possibility of understanding the dual aspects of brokers' social location: trust required to enter a brokerage relationship, but also the opportunities that emerges from such a relationship, often towards the broker or the third party's self-interest. Secondly, he describes the

advantageous position of the broker, not in terms of the relative power each actor possesses, but in terms of the location of the broker as the third party, which gives him/her a superior position to intervene, accelerate (or decelerate) conflict and work towards his/her own interests as opposed to the ones represented. But such a positionality disappears when the triad becomes a unit or a dyad, making the third party irrelevant, implying that the broker in such a situation has the incentive to keep the actors disconnected and dependent on the mediator. These insights are crucial in understanding the socio-structural position of migrant brokers and developing a sociological perspective on migrant labour brokerage.

Following Simmel, and influenced by his approach, many scholars in the discipline of Sociology explored the flow of information and resources between two structurally disconnected actors and the relevance of triadic relationships within such social formations. Granovetter (1974; 1973), for instance, examines the relevance of "bridges" in explaining the role of the triad in a social relationship and argues that, in the absence of bridges established by B (a third party), information or influence cannot flow between actors A and C, or to anyone connected with actor A or C individually and indirectly. Here bridges represent social relationships that are the only route for the passage of information, in the context of job search research conducted by Granovetter (Ibid.). Bridges are therefore central in his argument of diffusion (of ideas, information and influence) among social networks. Following this strong structural-network framework, Gould and Fernandez (1989) in their discussion on the social structures of mediation, identify different ideal-typical roles of brokers based on the direction of information flow between actors in a triadic relationship. They point to how small changes in social ties (between the intermediated dyad) can have drastic impact on the nature of brokerage and this in turn both facilitates and limits the role of the brokers. Similarly, Ronald Burt (1978; 2002; 2018; 1992) over the last few decades, has explored the role played by brokers or intermediators in filling "structural 'holes'" between disconnected actors and how such a mediation creates opportunities for the broker (or manager, in Burt's case study). This opportunity is largely presented in terms of a superior position occupied by the broker which in turn provides him/her access to information and control over the mediated relationship and actors. In making such a statement, Burt primarily claims that network positions affect the flow of information and how the concerned actors use the information, and for what. With his positional-network analysis and a focus on advantages deriving from a particular structural position, Burt approaches market from a rather restrictive positioning of social ties and relationships. But for this dissertation, Burt's marginal alluding to how the structural position of brokers as someone outside the dyad with access to building trust with both the actors, is central to our existing understanding of location of brokers in a social relationship and how such a location can restructure the market or the organization (Burt 2002), in terms of the consequences of brokerage.

The sociological examination of brokers as actors intervening, facilitating or disabling a social relationship, offers interesting entry points into the study of brokerage as a predominantly social practice. It offers insights

into the relevance of triadic configurations (entry of a third party) in social, economic and political relationships as well as the structural gaps within which practices of brokerage occurs, described mostly in terms of information deficit[4] or deficit of resources and/or access. However, with an overwhelmingly network-driven conceptualization of brokerage, the existing literature in sociology is conceptually myopic for at least three reasons:

Firstly, the emphasis on 'gap' or 'hole' of information between two structurally disconnected actors, that needs to be 'bridged' by a broker or a third-party, does not help explain why migrant workers in Nepal with access to information about demand, cannot migrate without the mediation of brokers. In other words, instead of assuming an apriori gap or hole, the question that needs to be asked is how structural gaps come into existence, or continue to exist in the "age of information" and how certain actors come to fill such roles, and why. Greta Krippner (2001) raises a similar critique of the network-driven theories of markets in sociology and questions the use of structures as a given and lack of answers on how certain networks come into being. Secondly, and on a related note, there is a muted assumption around reciprocal relationships between actors and mediators, and the power dynamics of such relationships is largely underexplored. The power a broker possess is only discussed in terms of the information he/she has access to, embedded in their network relations, as opposed to discussion around the tension between self-interest and trust-based relationship (for example). Similarly, the perceived advantages brokerage can produce (as discussed in Burt 2002, for example), is not problematized politically and questions such as 'advantageous for whom?' remains unanswered. Neil Fligstein (1996b) offers a similar critique and argues that network-driven theories do not explain why certain specific linkages (point to point relations) are relevant for the formation of a market and what are the political and cultural dynamics governing this specific relationship. Without explaining this, we are left with only a sparsely analyzed, "bare bones of social networks" (Krippner 2001)

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[4] Another stream of literature in sociology that complements such a perspective of brokerage or intermediation is the non-standard employment relationships (N-SERs). Emerging in 1980's, mostly in the context of the US and Western-European countries, the N-SER perspective examines the role of staffing agencies and temporary agency work in the mediating employment relationships between an employer and a worker. Explaining triangular employment relationship, this body of literature argues that the interaction between employers and intermediaries significantly alters the employment outcomes for the worker and creates deviations from the 'standard' or normative employment relation whereby the work is full time, with an indefinite contract and the performance of labour is at the employer's workplace and under his/her supervision. Such deviations are argued to create myriad forms of precarious and flexible job opportunities for workers. The focus of this firm-centric approach is externalisation and sub-contracting of work by firms. It approaches the role of intermediaries akin to the sociology of brokerage and explains intermediation from the point of view of decentralization and imperfections of labour markets that creates unevenness of information. It is argued that intermediaries respond to such unevenness of information and bridge the gap of knowledge and control (Christopher, Richard, and Martin 1986; Diamond 1982; Mortensen 1982). However, this once influential stream of literature has been criticised for its normative classification of work as standard and non-standard and it has been pointed out how such a classification does not correspond to aspirations and contemporary approach to work and employment, questioning the very assumption that 'standard' is desirable (Bosch 2004; Vosko 2003). It has also been challenged from the point of view of bifurcation of employment opportunities within a firm into core and peripheral opportunities (Atkinson 1985), and it has been pointed out that the 'core' is equally externalized as the periphery, challenging the premises of this firm-centric, dual-labour market theory (Kalleberg 2000; 2001). Although sensitive to this literature, I do not use it in my dissertation due to its restrictive scope for the study of migrant labour brokerage and its redundancies in approaching markets that do not see informal practices as any sort of deviation.

that in the context of brokerage, merely tells us about the gaps/bridges brokers fill in a given context. Thirdly, brokerage as a practice both creates (and amplifies) opportunities as well as inequalities (Stovel and Shaw 2012). Related to the first two aspects, the outcome of brokerage on a given market and its social structure, needs more empirical study. Although Simmel's work on brokerage shapes early discussions on how the entry of a third party can have key implications (positive and negative) for the social relationship, this aspect was quickly forgotten as networks became the driving explanation behind social, economic and political brokerage.

1.2. 'Middle space of migration': Study of migration institution, infrastructure and industry

The 1990's brought with a significant turn into the study of migration and how mobility is structured. This, for the first time, created an opportunity to study the 'middle space of migration'(Kern and Müller-Böker 2015) or focus on the organizational and governance aspect of migration. Arguing how households or migrant networks are conceptually inadequate to understand migration-related processes, structuralist scholars in the field of social and human geography (later also in social anthropology) claimed that institutions are credible starting points for the study of migration (Goss and Lindquist 1995). Migrant institutions are defined as "a complex articulation of individuals, associations, and organizations which extends the social action of and interaction between these agents and agencies across time and space" (Ibid: 319). This idea of institutions also makes it possible to understand change and helps develop an understanding of how regular and repeated practices within the networks of potential migrants, returnee migrants, patrons and agents, with time gets institutionalized to form the steady labour migratory flows. Two decades later, influenced by Michael Mann's (1984) idea of infrastructural power and Foucault's governmentality and statecraft, this school of thought soon took an infrastructural turn that continues to be very important for scholars working on migration. An infrastructure of migration is defined as "institutions, networks and people that move migrants from one point to another" and a "system or set of actors that move migrants" (Lindquist, Xiang, and Yeoh 2012: 9-11). This approach took away the essentialism of migrant agency and it was argued that migrants in fact do not move but are 'transplanted' from one geographic location to another and that they are "escorted and encapsulated from the beginning until the end of the migration circuit" (Biao 2008; Xiang and Lindquist 2014: 131). The state is also brought back into the picture and it is argued that states institutionally, discursively, and tactfully regulate mobility, through specific set of actors, an argument (albeit less developed) which is very useful to my work.

Infrastructure of migration is argued to be processual, making facilitation and mediation its key function and not order, and neither stability (Xiang and Lindquist 2014). Although the school of infrastructure was influenced by Goss and Lindquist's (1995) earlier institutional approach, the relevance of institutions seems to have evaporated gradually over the years and we are left with a wide range of empirically rich material on migration infrastructures and conceptual imagination of infrastructure as anything and everything that

'moves' migrants through "constellations of… human and non-human actors" (Xiang and Lindquist 2014: 124). Also, having been influenced by the Actor-Network Theory (as noticed by Shire 2020; Vertovec 2001) this body of knowledge falls into the same trap as that of network-driven theories that assumed that a transnational configuration like infrastructure will have a 'life of its own' once it emerges. We also note that scholars of infrastructure take it a step further and view the interactions that constitute this transnational configuration as 'self-sustaining' (Cohen 1995 cited in Goss and Lindquist 1995), 'self-perpetuating' (Chee at. al 2012 cited in Lindquist, Xiang, and Yeoh 2012) and 'self-adjusting' (Xiang and Lindquist 2014), giving the false impression that order and stability within these configurations are a given. This idea of self-sustenance is very problematic because of its assumption that once created, these institutions do not require sustained effort from the constituent actors and it also isolates these actors and their interaction from the institutional context within which they are embedded. This, therefore, does not help much with the understanding how specific practices of brokerage organize and sustain cross-border labour migration. The role of the state, although discussed in terms of governmentality and intravenous distribution of power and control, is not theorized in terms of its interactions with the market or in terms of state's motivations for facilitating or its limitations in governing labour migration. There is however still much to be gained from these studies, especially from the rich literature on intermediaries or brokers. Most significantly, through these case studies from Asia, we learn how brokers reflect on their position as intermediators and how "profit, trust and empathy run(s) hand-in-hand" in such a mediation (Lindquist, Xiang, and Yeoh 2012: 9). Such an insight is key to developing our understanding of social location of brokers and how it entails balancing self-interest and pursuits of profit with trust.

Another complimentary conceptualization in the field has been the recognition of migration as an industry (Gammeltoft-Hansen and Sorensen 2013; Hernandez-Leon 2005; Hernández-León 2013). Seeing migration itself as a dynamic labour market opens up the possibility of understanding the depth of the involvement of concerned actors and their varied interests. The migration industry is defined as an "ensemble of entrepreneurs, businesses and services which, motivated by the pursuit of financial gain, facilitate and sustain international migration" (Hernandez-Leon 2005: 11). This definition allows a comprehensive understanding of the wide range of commercial actors including money lenders, recruiters, transportation providers, travel agents, false and legal paper pushers, smugglers, contractors, courier services, remittance services, lawyers, notary etc. (Ibid: 1) and their interaction with legal-bureaucratic structures and networks. However, the conception of 'industry' in this framework, from the point of view of economic sociology, is misguided at best. An industry here is assumed to be a wide range of commercial actors across different related markets working in the field of migration facilitation and control. Whereas an industry is a set number of actors competing against each other within one market. Also, while commercialization of migration facilitation is highly relevant for my thesis, this recent body of literature unintentionally slips into

assuming privatization of traditional state functions (for example security, in the discussion on migration industry) as an organic development of neoliberal capitalism. This is most evident in the absence of any systematic analysis of state-market linkages in the study of migration 'industry' and how states are still relevant in organizing the activities of these market actors. Surak (2013; 2017) offers a similar critique in how the migration industry literature "only haltingly engage(s with) the political" and leaves the role of the state underexplored (Surak 2013:87). Additionally, although the case studies explored under the umbrella of this literature offers interesting insights on different kinds of legal and illegal commercial actors in the middle-space of migration, we do not have much information on what it means by a "turn to market" in the context of migration or the use of market principles in the organization of labour mobility or the interactions between legal and illegal migration activities.

1.3. Research gaps and questions

Juxtaposing the existing literature on sociology of brokerage and brokerage in migration studies presents an unexpected problem which is simultaneously emerging in both the literature: the problem of explaining the continued relevance of brokers *only* from the point of view of the function they perform. On the one hand, the sociology of brokerage approaches the relevance of brokers, the dependence of structurally disconnected actors on them and thereby the power and influence broker may hold as a result of this dependence, largely in terms of 'gap' or 'hole' in structures that causes information deficit, or a deficit of access or resources (Burt 1978; 2002; 2018; Burt and Celotto 1992; Gould and Fernandez 1989). On the other hand, migration studies' recent explorations in the field of intermediation or brokerage, approaches such a dependence on migration brokers primarily in terms of the problem of infrastructuralization. These scholars claim that infrastructuralization of migration has caused mobility to become more involuted, as a result of which migrants are expected to navigate complex migration bureaucracy (Lin et al. 2017; Xiang and Lindquist 2014). The highly procedural nature of the formalities pertaining to labour migration and related documentation (or 'paperwork') has been cited as one of the main reasons for dependence of migrants, states and employers on brokers or intermediaries; also in the context of Nepal (Kern and Müller-Böker 2015). While both these explanations are still relevant, the case of Nepal presents an empirical problem that cannot be sufficiently explained by the state of existing literature in both sociology and migration studies.

In this context, the conversations with Nilesh (see page 2)- the migrant worker in waiting - is important for several reasons. First of all, it points to the relevance of commercial brokers and migrant's dependence on them to access legal channels of mobility and participation in cross-border labour market. Secondly, it shows why information deficit is not a sufficient reasoning for the presence and proliferation of brokers and intermediaries. Nilesh, in this particular context, was able to access information about demand and establish contact with the employer. The familiarity between the actors is a result of shared experience of being in an employment relationship in the past. Such a relationship, despite unfolding in a transnational setting, suffers

no structural gaps of information or access, which makes intermediation necessary. Thirdly, the migrant worker and the employer, in this case, have managed to process all necessary documents for emigration, and migration bureaucracy is not as intimidating to the "naïve worker", as has been claimed several times among migration scholars, especially in the context of low/unskilled migrant workers. This is not to say that the role of profit-making brokers vis-a-vis bridging of information and navigation of bureaucracy is not relevant in Nepal. These two aspects continue to be important in defining the nature and scope of commercial brokerage. However, the existing literature in sociology and migration studies do not entirely account for or, offer sufficient explanation for why migrant brokers continue to be highly relevant, despite established social (migrant) networks and information technology/social media platforms disseminating employment-related news among prospective migrants.
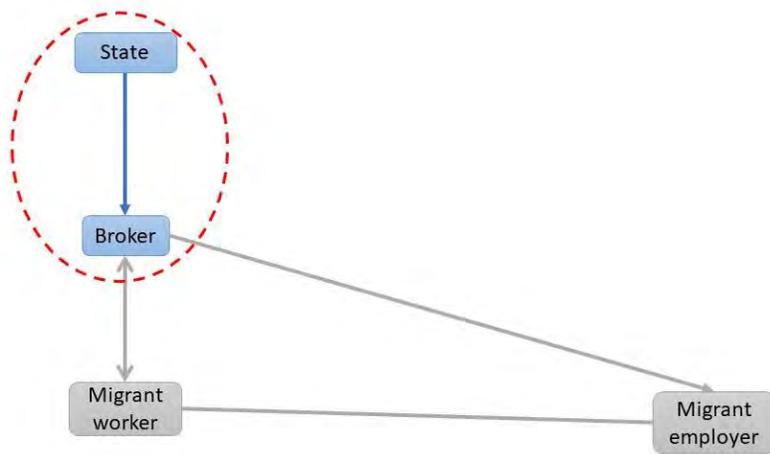
Figure 2: This dissertation examines the relationship between the state and the market towards mediation of labour migration.

In order to overcome the functionalist bias (explanation of a phenomena *only* in terms of its perceived function) in the existing literature, this dissertation calls for a historically situated institutional analysis of state-market linkages (see figure 2) around organization and governance of labour migration. Using the case study of Nepal, this dissertation investigates the continued relevance and proliferation of private migrant recruitment industry by examining the role of the state in organizing such an industry and its attempts at governance *of* (regulating the market), and governance *through* (delegation of migration management) the industry. Focusing on state-market linkages in the construction of migrant labour brokerage is essential to not just understand the institutional space within which migrant brokers emerge as a market, but also to explain the outcomes (opportunities and vulnerabilities) such intermediation produces. In light of this approach and the existing gaps in literature, this dissertation asks the following three broad questions:

1) Who (*actor group*) organizes labour migration predominantly and for what (*interests*)?

2) What explains the proliferation of commercial brokers (*role and location of profit-making brokers*)?

3) How do we understand the relationship between the state and commercial brokers (*state-market linkages*)?

Additionally, by examining the processes and practices around migrant labour brokerage, this dissertation aims to overcome a few assumptions prevalent in the existing public and intellectual imagination with respect to Nepal. Firstly, there is a larger trend of blaming commercially operating labour market intermediaries or brokers in Nepal (akin to other migrant-sending countries such as China, Indonesia etc.) for the vulnerability of migrant workers, both in the country of origin and destination. There is no doubt that fraudulent practices and fee extortion by these profit-making actors puts migrants in a vulnerable position, but the general and often morally distorted causality drawn between migrant vulnerability and existence of brokers is way too simplistic. Secondly, the prevalent perception of "failure of development" in Nepal (Leve 2007) has created and enriched an idea of state as both inefficient (in terms of lack of resources or ability) and corrupt (in terms of lack of will or commitment); a perception that is shared not just among the intellectual elite but also the migrant workers and the recruitment industry. This has translated into the belief that the state is incapable of protecting migrant workers, as seen most prominently in cases of migrant rescue and Nepal's late and inefficient response to bringing back its workers from situations of war (Libya, Israel), political crisis and violence (Afghanistan) or the global pandemic (Gulf and Asian destination countries). This explanation is also largely facile and merely expresses the general disillusionment of people with democracy and party politics (Jeevan R Sharma 2021). The processes that I seek to explore in this dissertation, challenges some of these assumptions and examines how the dominant position occupied by private recruitment industry does not imply a retreat of the state, but rather points to a reconfiguration of traditional state-market roles.

1.4. Theoretical framework and conceptual scaffolding

In order to address these questions and fill the gap in the existing literature, this dissertation seeks to develop an institutional framework for the study of migrant labour brokerage. Such an approach, embedded in the history of the specific case at hand, traces the relationship between the Nepalese state and migrant recruitment industry, examines how the market gets made and regulated, and how markets respond to and interacts with existing set of regulations. Informed by emerging explorations in the field of transnational labour markets, and sociological engagements with migration-related markets and cross-border institutions (Mense-Petermann 2020; Quack 2022; Shire 2020), this dissertation brings in complimentary perspectives from the sociology of markets (Abolafia 1998; Ahrne, Aspers, and Brunsson 2014; Aspers 2009; Beckert 2009; Fligstein 1996b; 2001) to understand migrant labour brokerage in the context of Nepal. In particular, the following three key concepts are borrowed to develop a theoretical framework of migrant labour brokerage and understand state-market linkages in the organization and governance of labour migration:

a) Organization:

Markets do not exist apriori, they are made, constructed or organized. The organizational perspective in the study of markets helps identifying the actors who are invested in the process of making the market, their interests in doing so and the specific characteristics of specific stages of market formation. The question of order is central to organizing a market and while Fligstein (1996b) classifies stages of market organization as 'emergence' or formation, stability and transformation, Aspers (2009) views them in terms degree of consolidation and cohesion. By viewing markets as similar to organizations, it recognizes the interests and actions of constituting actors that, with different yet complimentary interests, create markets and sustain markets. It is argued that while most markets exist outside the terrains of formal organization, all of them needs organization (Ahrne, Aspers, and Brunsson 2015; Ahrne, Brunsson, and Seidl 2016). Organization therefore becomes one of the very crucial modes of ordering a market, whereby different layers of social order are enacted through different constellations of organizational elements (Ahrne and Brunsson 2011). While earlier studies have linked markets to organizations in which the resource distribution, transactions, relations and production require 'social' organization (Coase 1937), the relatively recent studies on market organization offers yet another interesting tool - looking at the market actors as organizers of market. This is a very useful approach to study the actions of the 'organizers' that have an enabling or disabling effect on the market and its activities. Markets have multiple organizers and they can be identified based on their interests vis-à-vis their positions in the market and the perceived outputs (Ahrne, Aspers, and Brunsson 2015) . One such key organizer of the market is the state itself. Influenced by early works of Weber on bureaucracy, the organizational perspective in sociology of markets approaches making of market as a political project. States sets rules for actions and interactions between market actors, thereby fashioning the market itself. But, following the organizational perspective, what is distinct about certain markets, like the one this dissertation seeks to examine, is that the role of the state extends way beyond 'rule setting' and regulation. Viewing market as an organization and the market-making actors as organizers enable a study of the precise actions that create and sustains markets in such a way that there is no lack of clarity on the agency of the actors involved (Beckert 2009: 616), and no ambiguity around 'self-sustenance' of migration infrastructure.

b) Regulation:

Economic sociologists and sociologists studying markets have acknowledged from time to time that states remain relevant actors in shaping and conditioning markets (Swedberg 1991). They point to how market regulations are important in creating stable interactions in the market and providing "institutional conditions" for their sustenance (Fligstein 1996b; 2001) framework is particularly relevant in understanding the state-market linkages, as he views state-building as an integral part of market-building. Here, the institutional history of the state and the emergent conditions have an impact on how markets are regulated and to what extent the state intervenes. Looking at stability as a prerequisite to efficiency, rules and

regulations are central to markets are organized. Although market regulation is intended to create order in everyday interactions, it is also intended to limit or reduce 'marketability'[5] (Weber 1947, 182) or commercialization of certain objects of exchange, especially those that are not originally designed for sale, such as land, labour or money (1957; 1944). Another way in which sociology approaches market regulation is, thus, from the point of view of state's ability to limit the self-destructive character of markets and re-embed them socially. This particular strand of theory is also highly relevant in understanding state's interactions with migrant labour in Nepal, how it is commercialized yet protected against destructions beyond repair (decommercialization). In general, actor's interactions with existing rules, norms, conventions and laws are key to understanding both the scope and limitations of their social action and the institutional bounds of market behaviour.

c) Culture:

Also relevant in this framework is the interaction of market actors with existing regulatory framework and a focus on perceptions and meanings attached by actors onto the 'rules'. This is relevant, because while regulations provide "templates" of order from above, market interactions also produce its own set of codes of conduct, which may or may not align with state's regulatory framework. From the point of view of Fligstein (1996b) order in market is not just a political project, but also a cultural one, whereby the conceptions of the actors play an important role in creating stable market interactions. Understood by Fligstein (1996b) as market actor's worldview and their "conceptions of control" and by Geertz (1983) as "local knowledge", perception of actors helps them assess interactions of one another and reflect on how the market is to be ordered. Here, the focus on the cognitive frames of market actors (firms or individuals) and how they interact with and interpret the formal, codified regulations is key to how order is negotiated on an everyday basis. In the context of markets, culture has been rather vaguely engaged with, with the exception of Abolafia (1998), who develops an extensive ethnographic approach to studying markets and cultures. He defines markets as the "loci of repeated interactions and/or transactions" that begins to "exhibit their own distinct set of mutual understandings" (Ibid: 69). These understanding emerge in social interaction between the market actors and produce expectations of contextually appropriate behaviour. Market culture may have traits or qualities generally shared by all markets (such as price setting or competition) and may have traits or qualities specific to a market (such as how price is set or how competition is negotiated in that market), creating the possibility of identifying general attributions of market society and uniqueness of specific market practices (Aspers 2011). By shaping the general "rules of conduct that enable, facilitate, and restrain human coordination" (Ibid: 95), these shared assumptions and local knowledge are deeply connected to existing rules, regulations and norms that shapes market behaviour.

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[5] Weber (1947) describes "the degree of regularity with which an object tends to be an object of exchange" as the marketability or *marktgängigkeit* of an object (Ibid: 182)

2. Research Design

This dissertation looks at how and in what context certain actors from the migrant-sending side, come together to institutionalize labour migration from Nepal. It takes a social constructionist[6] approach (Fligstein 2001) in disentangling the processes and practices that shape labour migration in Nepal, and examines the construction, reproduction and friction around local and emergent social order. In doing so, it shows how the state create a market for the facilitation of legal, temporary labour migration, whereby mobility becomes both the precondition of the market as well as its characteristic outcome. For this purpose and to study how certain actors institutionalize labour migration, this dissertation extensively engages with three focal areas, around which the research is designed:

a) *Market actors*: With a focus on market actors, I identify the key actors who institutionalize labour migration from Nepal. Existing literature and preliminary research indicate that labour migration is mediated by a number of sending and receiving states, supra state actors such as international organizations, and non-state actors such as commercial intermediaries and NGOs. However, a thorough examination and historical analysis of how labour migration has been organized (and by whom) suggests that while certain actors may mediate cross-border migration of workers, not all yield the same influence with regard to institutionalizing labour migration. For this, I identify states and brokers or labour market intermediaries as the institutional entrepreneurs (DiMaggio 1988) or market organizers (Aspers 2009; 2011) as those who possess the skills and the resources to coordinate with other actors whose interests may not necessarily be compatible with each other. They create and sustain institutions that brings actors with different interests and shape their interactions compatibly, thereby providing meaning to their actions, creating their identities within this coalition and ensuring general stability to the institutional interactions (Fligstein 2001: 116). Identifying the key actors is a step towards understanding how their interests unfold in the organization of labour migration. While some actors are organizers or institutional entrepreneurs who can make or break institutionalized labour migration, some others play an important role in facilitating the market activities or the market activities are used to facilitate their interaction (such as between migrants and employers). The thesis also acknowledges such actors and they include development aid agencies in sending countries, employer associations in destination countries and foreign chambers of commerce, civil society organization, migrant interest groups and diaspora groups.

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[6] Social constructionism is qualitatively different from constructivism, with the former explaining a phenomenon from the point of view of social interactions and exchange rather than individual cognitive processes (Young and Collin 2004).

b) *Market interaction*: Interactions between the market organizers is also key to this thesis. The following interactions are examined:

- State to Intermediaries*:* How does the state outsource training and recruitment related work (among others) to private actors? How does the state perceive and legitimize the operations of these actors? How does the state control and regulate the intermediaries? To answer these questions, I look into the relatively direct engagements between state and intermediaries (such as in the outsourcing of vocational training under the 'Mandatory Skill Development Programme' 2019 for work permits) and the more twisted and indirect engagements (such as outsourcing of migrant control to the recruiters). In the same breath, I also study the changes and development in registration and licensing of private employment intermediaries and what it means for the making of the recruitment industry in Nepal. Also, relevant here is how local recruiters and brokers interact with the migration bureaucracy, rules and regulations around foreign employment.

- Intermediary to Intermediary*:* Labour market intermediaries or brokers make up the foundation of facilitation of cross-border labour markets. To understand this, I empirical study and observe the interaction between the private employment intermediaries, how within the sending country the intermediaries 'split', 'share' and compete within the market and how they deal with the illegal brokers who make the initial contact with workers, especially in rural areas.

c) *Market rules and practices:* What are the implicit and explicit rules and practices guiding the market-making activities, and what are the uncertainties that the state and private actors must coordinate for migrants in preparing them for mobility and work abroad? With this focal area, I look into how the interaction between the state and intermediaries as well as between intermediaries is shaped by certain rules and 'standard' practices that are designed to reduce uncertainties emerging from cross-border exchange of migrant labour. It also helps look into how actors make sense of their surroundings, how they perceive the norms and in which ways they negotiate with them. With this focal area, I also conceptualize the 'culture' of the market that produces stable and expected behaviour from the market actors and stabilizes their market identity and role in cross border labour exchange. I also look into how the interaction between recruiters in Nepal is conditioned by the market culture around informality and rule evasion, and how they negotiate the existing legal framework of 'legitimate' market action.

2.1. Methods, data collection and analysis

The study was initially intended to be a multi-sited qualitative research. Due to the global interruptions in travel from early 2020, the research plan was adjusted to data collection from Kathmandu, Nepal. The research was conducted in Kathmandu between 2019 and 2020 for 95 days. Accessing the field was not as difficult as I had presumed. Not being fluent in Nepali was not a hurdle and people were usually cooperative,

except the 'illegal' agents or some government officials who were hesitant on being identified or spoken to. My presence was not considered threatening because, I was told, my facial features resembled those from the Newari community of Nepal and looked 'familiar'. My knowledge of Hindi also helped me assimilate rather easily. My affiliation with a German institute also opened my access to some of the recruitment agencies because I was considered a potential new network that can be eventually capitalized upon. I was also offered two business opportunities (to represent the recruitment agencies in Germany in glove and catering business) and I was told that being in academia will not yield me much but in recruitment industry "there is a lot of money". My fluency in English, connections within Germany and my ability to "talk to strangers confidently despite being a woman", were considered important assets in the recruitment business[7].

During my fieldwork, I conducted a total of 40 in-depth interviews in Nepal. Out of these, 22 semi-structured interviews with local agents, recruitment agencies and other commercial actors mediating labour migration in Nepal (such as language and training institutes and medical test centres). While most interviews were with one person at a time, some were also with two or more participants. All the semi-structured interviews were based on an interview guide (see Appendix A), which was constantly revised and adapted as per the need of the context. I also conducted in-depth, unstructured interviews with 3 returnee and aspirant migrant workers, two of whom were men. Apart from these, I also conducted 11 expert interviews with actors representing the government, civil society organizations, International development partners, transborder institutions like Japan International Cooperation Agency (JICA) as well as with researchers/academic experts. Additionally, during the pandemic, 4 (online) follow-up interviews were conducted with 3 recruitment agencies and 1 civil society actor to understand the impact of the pandemic on the recruitment industry and mobility among Nepalese. In total, 40 interviews (see Appendix B) were conducted to build the foundation of the empirical study of this market.

While most interviews were with one person at a time, sometimes, when found relevant, the interviews were also conducted with 2-3 persons especially when they all worked in the same recruitment agency. Each interview lasted anything between 45 minutes to 2 hours, depending on the length of questions, the time and availability of the interviewee, the nature of their work and the site and specifics of the interview. The interviews were conducted in a mix of Hindi, Nepali and English. Following the grounded theory method, the set of questions in the semi-structured interviews were revised in every two weeks or after a considerable

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[7] As Sajit, the Managing Director of a recruitment agency told me:
"Oh, you (are doing) a PhD? (laughs). Why don't you make good money out of it? What do academic earn anyway? Look at our Sheetal (pseudonym, assistant of the MD) here…she has two degrees. She is making good money (Sheetal laughs). If you work in this line…with your English and your…you know…confidence…you can easily find a top position in manpower (industry). I am not saying 'work with me', but think about it" (30.01.20, Kathmandu). Later, in March 2020 as the pandemic broke out, he indicated the lucrative prospects in the glove industry and how I could import gloves and masks in Germany with his help.

number of interviews to either remove questions that appeared irrelevant as the research progressed or to add or highlight questions that needed further attention. The interviews with migrants and aspirants were mostly in a conversational form. The selection of interviewees was based on a gradual snowball sampling and further contacts of the interviewees over the period of 3.5 months in Kathmandu, Nepal. The directions pointed by existing literature towards some of these actors as well as the rather serendipitous discovery of 'manpower *bazaar'* also helped sample the interviewees. While the mobility market is largely dominated by men, I made conscious efforts to involve women (a total of 5 among commercial actors and migrants interviewed were women) in the sample, as and when it was possible. Most of the interviews were audio recorded with a written consent from the interviewee (see Appendix C). Some, especially the migrants and sub-agents, did not approve for an audio recording or written consent. In such cases their oral permission was taken before commencing the formal interview.

All the interviews were transcribed in Atlast-I (version 9). At the stage of transcription, all the interviews were also anonymized with pseudonyms. Coding of the data was primarily done manually using Microsoft Word using existing guidelines from grounded theory method (Charmaz 2014; Corbin and Strauss 1990; Glaser and Strauss 2017). While I drew inspiration from the existing literature on grounded theory, not everything worked for me. For instance, I did not follow Strauss and Corbin's (1990) suggestion regarding a three-step coding of data (Open, Axial, Selective) or Charmaz's (2014) guideline regrading 'line-by-line' coding as they seemed redundant in my case. I used grounded theory method as an inspiration, but devised a coding technique appropriate to my needs, by divided my data analysis in two steps: in the first step, the interview material was screened to identify themes and patterns and then the relevant data was filtered through and labelled with theoretically informed 'code categories'. In the second step, the data was interpreted and connections were drawn between different code categories under 'abstracted notes' (see Appendix D for sample). Only the interview material was coded.

Apart from the in-depth interviews, I also conducted 8 units of observations (participant and non-participant) to understand the nuances of market behaviour. This included observations of interview sessions at the recruitment agencies and training/orientation sessions (such as training for recruitment in food industry, security and policing as well as in garment work) conducted by training institutes owned by the RAs or by NGOs. Other relevant processes were also observed, such as prolonged and almost ritualistic waiting of migrants in public places for their agents and news on job opportunities. Similarly, observations were conducted at the Tribhuvan International Airport on performative return of the migrant workers, to document how returnee migrants meet and greet their family /friends with gifts and material remittances from abroad. Not every observation was useful for the dissertation. However, they produced some rich and interesting content for some other papers and research notes that I developed along the way. The availability

of a camera also helped capture some of these observations visually. Regular note-taking and memo-writing was also done to ensure that the smaller, but relevant day-to-day observations were documented.

The qualitative interviews and observations were further triangulated with an extensive analysis of relevant government policies and acts, especially from 1985 onwards. A number of significant acts and their amendments were studied such as the Foreign Employment Act (FEA 1992; 1998; 1985; 2007), Foreign Employment Rules (FER 2019a; 2011; 2019b; 2014; 2017; 1999; 2008) as well as Foreign Employment Policy (FEP 2012). A number of reports from the Government of Nepal such as the Nepal Migration Report (MOLESS 2020) and several reports published by International organizations (such as ILO 2021; IOM 2019) and research institutes also helped complement analysis of the migration situation in Nepal. Similarly, newspaper articles and social media posts by recruitment agencies and language institutes were also analyzed, especially to study the impact of the pandemic on the recruitment industry. These also helped understand social perceptions around transnational labour recruitment business or '*dalali'* and how recruiters and other intermediaries negotiated with these negative perceptions through a number of outreach initiatives (such as posts on donations for migrant workers stuck during the pandemic or posts on employment opportunities). Furthermore, websites and pamphlets of recruitment agencies were studied to explore how and in what ways these commercial actors construct and sell the idea of an 'ideal' Nepali migrant worker.

2.2. Case selection and relevance

Nepalese recruitment industry and market-making is an *instrumental* case study for the proposed research. An instrumental case study is defined as a study of a case (actor, group, process, or institution) to understand the social issue at hand, draw parallels and to aid theory building (Stake 1995). The Nepalese case is instrumental because the purpose of this case study is not merely driven by an intrinsic empirical or conceptual interest in what makes the case unique, but rather as a step towards using the case to understand similar cases and to move towards a generalizable account of how markets around migration are organized, especially in the context of developing, labour-exporting countries. The case of Nepal is important in understanding the general problem of order and stability in cross-border markets, and the research uses data from the case study to arrive at an in-depth analysis of the processes that contribute to creating order in Nepalese migration market.

The sampling of the case was straightforward. Apart from my pre-existing familiarity with the migration trends in Nepal, it became an interesting case to pursue for a number of reasons. Most significantly, Nepal is a major labour exporting country in South Asia, less in terms of absolute numbers (in which case India takes the precedence) but more in relative and proportional terms (Seddon 2005). About 1,700 migrant workers reach Kathmandu airport each day to leave for work overseas (Jones, Morin, and Patricio Dobree

2017). Despite being a very small landlocked nation between the mighty India and China, Nepal is the sixth largest receiver of remittances in terms of GDP share, with about 56% of the households receiving remittances from countries like India, Malaysia and the Gulf countries among others (Sapkota 2013). While this is the official documentation of remittances, scholars point out that government documentation of migration from Nepal and remittance flow back into the country is highly inaccurate and that the scale of remittance contribution to GDP is at least 10-20% more than what is indicated (Kollmair et al. 2006; Seddon, Adhikari, and Gurung 2002). The government is highly dependent on out-migration and has keen interests in institutionalizing the remittance corridors with labour-importing countries. This interest is mainly driven by the need to develop the domestic economy. As Lokshin, Bontch-Osmolovski, & Glinskaya (2010) note, about one-fifth of poverty alleviation between the year 1995-2004 was possible due to the labour out-migration and resultant inflow of foreign exchange reserves.

Despite this clear interest of the sending state in the institutionalization of the out-migration market in Nepal, the dominant scholarship on migration in Nepal has neglected the perspective of market and the role of the state. Common explanations for out-migration in Nepal are 'push'-driven and include stagnation in agriculture and unemployment (Seddon, Adhikari, and Gurung 2002), environmental change, declining land cover and increasing population (Massey, Axinn, and Ghimire 2010), political instability and Maoist insurrection causing behavioural responses in the direction of out-migration (N. Williams and Pradhan 2008), and migration as a natural 'calling' because of existing 'family tradition of migration' (Seddon, Gurung, and Adhikari 1998), and a prevailing Nepalese 'culture' of migration (Jeevan Raj Sharma 2011). While these perspectives share insights into the many reasons why the Nepalese working population would want to leave the country, there is a clear dearth of knowledge on the organization of migration market in Nepal. Recent work on the "middle space" of migration and aspirational infrastructures are a refreshing exception to this trend that I heavily use in my dissertation (Kern and Müller-Böker 2015; Shrestha 2018). Also, these common perspectives on migration are insufficient to understand the substantial power and dominance of private labour market intermediaries in Nepal, a rather ignored or taken for granted phenomena (Bossavie and Denisova 2018). There are about 800 registered recruitment companies and about 50,000 unregistered 'brokers' who constitute the private recruitment industry in Nepal (Jones, Morin, and Patricio Dobree 2017). While it is recognized that these actors are highly dominant and that the state and migrants are highly dependent on them, the recruitment industry is thoroughly understudied. Recent reports by certain research institutes such as the Centre for the Study of Labour and Mobility (CESLAM) are also a welcome change in this direction, as they have begun studying the recruitment industry systematically and overcome the simplistic association of recruiters as cheaters and exploiters of labour migrants.

Nepal is also highly relevant because it is still in the initial stages of state-building and market making. As a newly democratic country, with over 200-years of monarchy, political instability and violent upheavals,

Maoist insurgencies and identity-based social movements against feudal structure of society and social inequalities, Nepalese state is fraught with contradictions as it interacts with the structural changes around kinship, identity and livelihoods. Despite investing on infrastructural (physical, health, education) projects, as well as receiving a substantial amount of financial help in the form of development aids from foreign countries, giving rise to a massive presence of NGOs in the country (Shah 2008), poverty, inequality and social discrimination continues to thrive along with corruption, patronage and clientelism in governance; unleashing a significant 'paradox of development' (Jeevan R Sharma 2021). The public and academic narrative around the state indicates how the Nepalese state is "inefficient" in providing employment opportunities and basic services (such as good healthcare) to its nationals and how its regulatory capacities are rather limited (Ibid: 11; also evident from the fieldwork in Nepal). This comes in direct contradiction to the issue of migration wherein the state has taken a proactive role in not just regulating the recruitment industry but also in facilitating and promoting out-migration. Furthermore, the "pro-worker" policies of the communist government that aims to protect migrants (although the dissertation shows how such policies in turn create vulnerabilities for the migrants) also contradicts its perceived apathy or inefficiency. These contradictions and paradoxes in its governance reflect the struggles of a newly democratic country; inconsistencies that are highly relevant in how the state organizes and governs labour migration. Nepal is also at that stage of market-making wherein it is adopting the established trends and "best practices" ('migration management' vocabulary; see chapter 2) around governance of labour migration for developmental benefits. A significant part of this is how it has designed its migration policies based on Philippines, Chinese and Indonesian models. This is further relevant in understanding how mechanisms of organization and governance of mobility gets communicated across nation-states and how Nepal is an instrumental case in understanding similar trends and practices on this spectrum of managed migration.

3. Structure of the dissertation

The dissertation is organized in such a way that each chapter responds to the three broad research questions, while at the same time raising sub-questions to develop a specific aspect of migrant labour brokerage. The first main chapter (chapter 2) acts as a lead-in chapter. It provides a historical overview of temporary migration systems to highlight the role played by two significant actor groups: states and profit-making brokers in the organization of labour migration. It also explores the relevance of networks, hierarchy (formal authority) and markets as organizational principles of migration and the recent turn to 'migration management' and commercialization of mobility. The rest of the dissertation is divided into two parts, anchoring the discussion to the perspective of one actor group at a time. While the lead-in chapter provides a general overview of migration organization and governance as a prelude to the thesis, Parts 1 and 2 present the empirically grounded discussions on state-market brokerage practices and processes. Both parts look into the actor groups in interaction with other relevant actors.

Part 1 presents two chapters on states, each discussing key aspects of the state's interest in entering a brokerage relationship with the market. In chapter 3, I examine the preconditions of the state's migration brokerage initiatives and deal with the idea of *bikās* or development. It shows the structural dependence of Nepal on foreign capital and its reliance on remittances, making migrants its 'development partners'. It also looks into the strategic role played by the Nepalese state in facilitating labour migration and what it means for a supply-driven migration infrastructure. Chapter 4 looks into the state's interactions with the migrant recruitment industry. It shows how the Nepalese state organizes the market and transforms it, from a spontaneously arranged group of intermediaries to a consolidated industry. Once the state organizes the market, it is shown to delegate migration management to these private actors and transfer the accountability of migration *mis*management to the private sector. Part 1 of this dissertation, therefore, shows the extent of the role of the state in producing stable channels of labour migration for developmental incentives and its use of market principles in organizing and governing mobility.

Part 2 presents an analysis of the migrant recruitment industry. Chapter 5 centres the discussion on the perspective of market actors and their interactions with the legal framework and bureaucracy. It shows how in the context of institutional heterogeneity (due to the transnational setting in which the industry is situated), the fluctuating legislative framework is one of the significant causes of market uncertainty. The chapter argues how in this context, it is the culture of the market based on repeated market interactions and socialization that serves as the basis of market order. This, however, creates alternative legitimacies in the market and "imperfect control" by the state, which explains the regulatory inconsistencies and the state's inability to fully control the activities of the market actors. In Chapter 6, I explore the socio-structural location of these commercial brokers vis-a-vis migrants and employers, and explain how they occupy a position by which they can either generate or curtail migrant vulnerabilities. This chapter further helps us understand the strategic position brokers hold and how it helps in the coordination of migrant labour market. It also looks into the relevance of transnational networks, situated knowledge and experience, and existing asymmetry of the market in conditioning their location.

Following this, the concluding chapter (Chapter 7) synthesizes the key findings and arguments of the dissertation. The dissertation ends with a Postscript. It addresses some alternative brokerage practices (such as the pandemic-induced immobility or state's monopoly over certain migration corridors) that at first appear to challenge the core argument of the thesis (choice of market principal over network or hierarchy; structural dependence on recruitment industry etc.), but is discussed in the end to show some dynamics to the problem at hand and develop a more nuanced understanding of migrant labour brokerage in Nepal.

Chapter 2

Actors and processes in migrant labour brokerage:
A historical overview of the 'middle-space' of
temporary labour migration

1. Introduction

Cross-border migration has been studied from various perspectives, making migration studies a highly diverse and interdisciplinary field. The first significant wave of scholarship on migration that emerged in the post-war period explained migration primarily in terms of what 'pushes' the surplus population from stagnant economies and what 'pulls' them into advanced economies (Jenkins 1977). Challenging this, the structuralist school of migration shifted the focus away from individual decisions to migrate to existing global inequalities that cause mobility of labour (Amin 1974; Kearney 1986; Piore 1979). While both these streams of thought operated on two very different epistemological and ideological positions, they converged in limiting the scope of studying migration to 'why people move?'. The second wave of scholarship, which developed in the early 1990s, created the possibility of asking 'how people move?'. It deliberated on households (Wallerstein and Smith 1992) and networks (Gurak and Caces 1992; Portes 1995) as the organizational units of migration. The 'infrastructural turn' in migration later presented the brokers, or private employment intermediaries, as the primary unit of migration and argued that it is the infrastructure of migration, constituted by social and technological mediations, that conditions and shapes migration (Lindquist, Xiang, and Yeoh 2012). Simultaneously, it recognized migration as an industry (Hernandez-Leon 2005; 2013) and identified a wide range of commercial and non-commercial actors who constitute this market. Facilitation and organization of migration – in other words, *the 'middle-space' of migration* (Kern and Müller-Böker 2015), or the organization of migration as I see it- has thus recently acquired a significant spotlight in the study of mobility across borders.

In light of this recent turn in migration studies and using the existing sociological framework of identifying principles of organizing an economic activity (Polanyi 1957), this chapter looks at labour migration as a social action that requires coordination by a number of actors, who may or may not migrate themselves, but make mobility happen for certain vested interests. Towards exploring 'how' labour migration is organized, this chapter provides a historical overview of different types of actors invested in facilitating cross-border

labour migration and the organizational principles used by such actors in making mobility happen. This chapter, therefore, asks three interrelated questions:

1. How has cross-border labour mobility been restructured in the last few decades?
2. Who organizes mobility predominantly? Who are the instrumental actors?
3. What is the dominant organizing principle of contemporary migration, and what role do market principles play in the facilitation of mobility?

By addressing these questions, this chapter does not just lay a foundation to the empirical analysis that will follow in the next chapters, but also examines how the contemporary Asian migration system continues to exhibit traces of older temporary migration systems (both commercially operated and state-instituted). A historical examination of older temporary labour migration systems and models throws light on the politics of migration facilitation and how certain actors have come to organize it for specific interests. From the trade of migrant labour by commercially operating, unregulated recruitment networks using social identity to recruit, move, place and supervise migrants, to a more voluntary allocation of migrant labour by states, such as in the guest worker programmes that facilitated migration based on the requirements of specific industries, organization of temporary labour migration has evolved in certain respects. Although neither migrant trade nor allocation qualifies as markets, we notice the gradual turn to market principles in the organization of cross-border mobility, especially from the 1970s onwards and very prominently in the Asian migration systems. This chapter traces such a turn to markets. It examines how the facilitation of labour migration often involves a range of state and non-state actors mediating mobility, placement and return of migrant labour. By delving into categories of duration (temporary), legitimacy (legal), pattern (circular) and purpose (employment across borders) of migration, this chapter also anchors the analytical focus of the thesis to a specific form of migration- *legal and circular labour migration*- and excludes all other forms of mobility including irregular, illegal, refugee, settlement-oriented and migration for non-employment purposes (such as marriage, education, citizenship etc.), strictly for analytical reasons[8].

This chapter is divided into two parts. In the first part, I highlight the relevance of different actor-led temporary migration systems. Here, it is identified that networks and hierarchy have played an important role in the organization of temporary migration, and brokers and states are essential in coordinating cross-border mobility. In 2.1. I use existing research in the field of history and migration studies to discuss the role of the migrant-broker network in coordinating labour migration under colonial governance. In 2.2, I

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[8] My research indicates fluidity among categories of "illegal" and "legal" migration. Actors who are perfectly legal and politically legitimized to facilitate migration, indulge in a number of illegal activities, which is also shown to affect the legal status of migrants and their employment relationship. However, for the sake of analytical clarity, it is important to differentiate legal labour migration (in terms of channel, actors involved in facilitation and migrant's legal status) from other forms of migration.

discuss the entry of the liberal state in the organization of cross-border mobility and bring together some examples of guest worker programmes to understand the birth of the 'legal' migrant. Although states took a predominant role in organizing these mobilities, labour market intermediaries continued to exist under legislative shadows, creating categories of legitimate vs illegitimate brokerage. In the second part of this chapter, I discuss the Asian turn to market principles in the organization of mobility. Here, I show how the guest worker programmes gradually began involving commercial actors in the facilitation of migration, shaping a new system of state-market-led migration. In sections 3 and 4, I also discuss how this neoliberal arrangement complemented the paradigm shift to "migration management" and used licensed labour market intermediaries to control the movement of migrant labour. In this section, I will disentangle the role of market principle in the organization of cross-border migration. Transforming the facilitation of migration (as a service) itself into a market, this kind of brokerage created a unique form of control over migrant labour and a mutually dependent relationship between the state and the intermediaries, which constitutes the backbone of this dissertation.

2. From Networks to Hierarchy

Social relations around an economic activity are organized predominantly in three[9] different ways: through reciprocity (networks), redistribution (hierarchy) or exchange (market) (Polanyi 1957). These ideal-typical categories of social integration and order respond to organization of economic activities by specific units of actors such as the kin/family, the state or the modern market. These have later been approached as three forms of coordination of economy that help solve the coordination problems around production, consumption and distribution of goods or services (Aspers 2011; Beckert and Aspers 2011). If one looks at cross-border migration as a socially oriented economic activity, one can easily identify networks, hierarchy and markets as organizational principles of migration and cross-border employment. In this section, I discuss how these three principles have come to organize cross-border mobility and highlight who (actor group) has been organizing labour mobility predominantly and how.

2.1. Early network-based organization of mobility

Networks are extremely important in the organization of migration, especially international and cross-border migration because the cost of mobility is much higher (than domestic migration), making social ties an integral part of channelling information and resources sustainably (Massey 1988 cited in Gurak and Caces 1992). Social ties between kin, friends and communities based on reciprocal, non-spontaneous and trust-based relationships play a very important role in facilitating cross-border mobility and in shaping the course and magnitude of migration (Gurak and Caces 1992; Portes 1995; Tilly 2007). Migrant networks, however,

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[9] Polanyi (1957) describes a fourth organizational principle and that is oikos or autarchic households. But this principle is not historically significant.

are often intertwined with other networks and do not work in isolation. Before the states began coordinating cross-border labour exchange, brokers or 'middlemen' used a number of social apparatuses such as mobilization of local migrant networks based on social identity (such as caste, race or religion) to recruit, move, place and supervise migrant labour. Brokers and middlemen were the backbone of pre-market organization of cross-border mobility. Built on very intimate and dependent relationship between the migrant and the recruiter, these early migration systems mobilized kin and community networks to supply workers in a timely manner and employers heavily relied on them to bring seasonal or temporary migrant workers.

Relevant to this thesis, is how broker-migrant[10] networks organized mobility under state legitimacy. This is most visible under the colonial (plantation and mining) recruitment of indentured and semi-indentured labour. While most of the recruitment under this phase was involuntary and bonded in character, disqualifying the arrangement as a market, the sheer scale of recruitment and mobility is remarkably similar to formalized labour migration of our time (Amrith 2014). With a majority of workers hailing from the Indian subcontinent[11] and China, the colonial intervention generated labour mobility of an unprecedented scale in response to a new rise in demand for natural resources to meet the needs of the capitalist expansion in the European occupied Asia (Amrith 2011). Here mass migration between 1850 and 1930 itself was a product of modernity and early state interventions (Xiang and Lindquist 2018). However, mobilization of labour migrants was impossible without the work of broker-migrant network, who, under the colonial authorities, took a proactive role in organizing migration through networks.

One such important South Asian example of network-based organization is that of *Kanganis* (Tamil word meaning 'overseer of work'). *Kanganis* were local recruiters who facilitated the deployment of millions of Tamil plantation workers to the estates in Ceylon (the then Sri Lanka) and Malaya (the then Malaysia) in 19th and early 20th century (Amrith 2010; Heidemann 1992). Although embedded in very local socio-cultural dynamics based on caste and communal identity, these local recruiters easily adapted into the requirements of their colonial masters and capitalized on the needs of seasonal labour in plantations for European consumption. Other such examples of network-based intermediation in the colonies include '*Sardar'* for tea plantations in Assam, '*Jobber'* for textile mills in Bombay, '*Arcatis'* for work in Fiji or '*Maistry'* for rice mills, railways, port or mine work in Burma (Kaur 2004). Apart from matching the demand to the supply with advertisements in the form of oral narrations of 'great things' about destination country and promises of good wages, these actors created 'gangs' of workers and moved with them,

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[10] Broker and migrant networks were, and often are, deeply intertwined. Many brokers were migrants at one point and they used they migratory experience and connections formed during sojourn to commercially benefit from facilitating mobility for others. Past migrant status also often helps the potential migrants trust the broker better, as is observed in my fieldwork.
[11] Before partition including the current India, Pakistan, Bangladesh.

negotiated the prices of labour, arranged for debts to aid their mobility, facilitated physical transfer of migrant workers and even supervised the migrant labour on behalf of the employers or merchant associations (McKeown 2012; Surak 2013). From the beginning of the journey to the end, these network-based groups accompanied the migrants and also ensured their timely return[12] to their country of origin, in order to initiate a new cycle of recruitment. The co-dependent relationship between the brokers and migrants thus exclusively sustained early infrastructures of cross-border mobility.

To further lay the ground work for the analysis of case at hand (i.e. Nepal), an example of such network-based organization of cross-border mobility can be observed in the mass migration of *Gurkhas* from Nepal. After the first Anglo-Gurkha war between the East India Company (EIC) and the Gurkha Kingdom (1814-16), the British convinced the reluctant Kingdom to supply its "surplus military manpower" to the EIC's expansion project (Whelpton 2005). As a result of an official treaty between Nepal and Khalsa government, a significant number of Nepali soldiers were then recruited into the Sikh army, who were later sent to Lahore (capital of the then Punjab), giving Nepalese men serving foreign armies the title 'Lahures' or the one who goes to Lahore (Kansakar 2003). Following which, and after the Sepoy Mutiny (1857) and intensified labour requirements in the British army, the colonial authorities began setting up labour recruitment depots in the Indian side of the Indo-Nepal border and encouraged Nepali men to migrate with their families to India, giving rise to a large Nepali settlement in North and Northeast India (Nath 2010).

Given the political constraints of having to recruit only from the Indian side of the border, the colonial authorities relied heavily on Nepali migrants to bring new recruits using their kin and communal networks (Libois et al. 2020). These migrants, who also took up the role of brokers, mobilized their network often on the basis of ethnic-caste identity. Due to this identity-based recruitment channel and because of the prevailing martial race ideology and the British imagination of the Nepali men as 'brave', 'energetic[13]' but backward, social and cultural identity became the key drivers for military recruitment in the British empire (Pariyar 2020). By the first world war, around 243,000 men and by the second world war, around 160,000 more were recruited into the British army (Gurung and Adhikari 2004). This recruitment and migration trend continued and Nepali soldiers and security personnel are actively recruited into Indian and British armies, Singaporean police, and private security companies around the world, creating, what migration scholars refer to as a "culture of migration" (Kandel and Massey 2002), wherein young men grow up

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[12] Guilmoto (1993), for instance, shows that the number of new recruits ('*puthal*') under the *Kangani* system were always lesser than the older, circular migrants ('*palaiyal*') and migrants were returned often within a year to begin a new cycle of recruitment.
[13] The colonial authorities also created early migrant labour categories (akin to 'skilled' and 'unskilled', but more identity-driven) as they invested in migrant recruitment. Just as the military recruits from Nepal came to be classified as the ones with biological martial traits, the unskilled recruits who were pushed out of their agricultural lands due to the feudal system of the time and those who were channelled to plantations in South and South East Asia, came to be categorized as 'coolies'- a low-waged migrant worker, often seasonal, who has little to no legal security concerning the job and is often tied to the employer- the planter- by bondage, filling the 'lowest unit in the industrial labour market' (Subba 2020: 104).

aspiring to migrate for work to meet the cultural and social expectations of the household, making mobility itself a rite of passage to becoming a 'man' and the broker-migrant network played a crucial role in the realization of this cultural, gendered aspiration.

2.2. Birth of the 'legal' temporary migrant

While the network-based recruitment for colonial political and economic expansion constituted legitimate labour migration, the birth of the 'legal' migrant as we know it today, accompanied the liberal-modern state building. States took over the dominant organizational responsibility of migration for two reasons: while on the one hand it was to help deal with 'social problems' of immigration, poverty and unemployment which either emerged from or were aggravated by industrialization, on the other hand, mediation was also directly targeted at controlling these new uncertainties and organizing the national labour markets[14] better (Wadauer, Buchner, and Mejstrik 2012). This was primarily done by delegitimizing brokers and middlemen and making state mediation an "indispensable tool to match the right person to the right job or position" (Ibid: 162). The state perceived brokerage by recruiters and middlemen as a practice of "pre-modern social organization", making them unsuitable for modern markets (McKeown 2012). This perception of labour intermediation by brokers as 'traditional' and 'inappropriate' as well as their tendency to manipulate and mislead workers[15] further justified state intervention in the migrant labour process. As a result, states and international organizations systematically delegitimized brokers and middlemen[16] and invisibilized these actors in the public discourse[17] on migrant labour regulation.

The creation of the 'guest worker' category represents the taking over of formal authority and hierarchy in the organization of cross-border mobility and control over migrant labour. The category of guest worker

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[14] States began regulating national labour markets not just by labour intermediation but also by tying labour exchange with unemployment benefits and introduction of vocational counselling, as Wadauer et al. (2012) note; pointing towards the modern, liberal "political and scientific perception of labour exchange as crucial tool for regulating labour markets" (Wadauer, Buchner, and Mejstrik 2012: 24).

[15] Roughly after the abolition of slavery, narratives of freedom and voluntary participation of workers in the labour process came to be used by the states to regulate the labour process. The colonial states, for example, heavily relied on the language of 'freedom' to indenture workers to get them to sign contracts by 'choice' and not out of bondage. This was accompanied by the assumption that the indentured workers did not have the ability to make 'free', wise choices and that the middlemen or the brokers manipulated these naive workers for their own merit and created hindrance to true freedom of choice of migrant workers (McKeown 2012).

[16] From the early 20th century onwards, liberal-modern states and international organizations began systematically delegitimising the activities of brokers. Seeing their intervention as deriving profits out of sale of human beings, a "total suppression" of their activities was called for (ILO; 'Abolition of Fee-Charging Employment Agencies' (1932, 1933). But states also realized their inability to mobilize workers from the local level, thereby giving rise to early licensing and regulation of brokers by allowing only a handful of brokers to function under a licence (McKeown 2012).

[17] Although they became invisible in the public discourse, McKeown (2012) notes that remained extremely crucial in using their networks to mobilize workers and facilitate their migration process. Apart from matching demand to supply, they acted as a "buffer between migrants and regulations, both helping migrants to navigate the opportunities and insulating them from the protections promised by the law" (Ibid: 45). Lurking in the shadows of state regulation, they in fact flourished both in the indenture system[17] as well as in the guest worker regime.

was a typical early-20th century phenomenon[18] and is a product of the modern nation-state's idea of who constitutes a citizen and who does not (Surak 2013). Immigration and border controls, passport-visa regimes and creation of identities of 'legal' workers made 'who' migrants equally important as 'how' they migrate (McKeown 2012). One of the earliest and largest guest worker programmes (GWPs from hereon) in history is the *Bracero* programme (1942-1964). Established by the U.S to facilitate *legal* migration of Mexican agricultural workers or '*Braceros'* ('he who works with his arms'), this programme mobilized local agricultural workers to meet the demand for seasonal and temporary migrant workforce. It rested on a number of bilateral labour agreements between the two countries which acknowledged the benefits of temporary labour migration for the migrant-sending country and saw potential in institutionalizing remittance corridor to ease unemployment and aid local development in Mexico (Mandeel 2014). At least in the initial years of the programme, the state was the formal employer of the migrant worker and it is the state which drew and negotiated employment contracts informed by the bilateral agreements with specification on wage, duration of work accommodation and food etc. (Surak 2013). It is also the state which recruited, transported[19] and placed migrant workers in the destination country and facilitated their timely return (Ibid.), making state the primary organizer of cross-border, sector-specific labour migration.

Similarly, overlapping with the era of Bracero, the *Gastarbeiter* (1955-1973; meaning guest worker) programme flourished in the German speaking sub-continent[20]. Influenced by its predecessor "*Fremdarbeiter*" (Sala 2007), this post-war migration policy also relied upon diplomatic labour agreements with sending countries[21] to facilitate temporary labour migration of guest workers. It, like the other early guest worker programmes, was a demand-driven allocation of labour and that the number of workers brought in and their sectoral composition was in fact determined by the demand from the employers

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[18]The case of Polish farmers in Weimar Germany and Chinese gold miners in South Africa are two early forms of guest worker programmes. These government sponsored systems replicated some of the labour control techniques of indenture such as the "web of laws designed to enforce the contract, tie(ing) labourers to their workplaces and restrict other opportunities after the contract was finished", make return mandatory, limit local labour market mobility and provide either or both employers and recruiters a high level of control over the migrant workers (Ibid., 44). For example. In case of the Polish workers in Germany, the state introduced restrictions on the number of workers that could be allowed and in which sectors and industries the migrants could be employed in, informally required the return of the workers during winters and set up official recruitment centers and offices in sending country, although the enforcement of rules lay at the hand of the employer or employer associations who even issued the workers their work permit cards and took fee from the workers to arrange for their return (Surak 2013: 88-89).

[19] The recruitment procedure started with the local farmers in the US and/or their association informing the local US authority the demand and the number of workers required. They also informed the authorities about the prevailing prices for the concerned employment position. Once this was approved, the demand notification would be sent to the Mexican authorities who coordinated with and pre-selected the local workers to supply the necessary workforce, or 'Braceros'. Kosak (2021) notes that these Braceros either had the concerned permits before visiting the Mexican recruitment centers (which may be far away from their homes) or stood in ques to acquire one. The shortlisted workers with contracts would then be 'transported' from the Mexican recruitment center to the American one. From the American center, the workers would then be transported to their place of employment. All the cost of the transportation (to and from place of employment) would have to be met by the employer, who is also responsible for the food and lodging of the worker. Once the period of contract is finished, the worker is transported back from the American center to the Mexican one (ibid., 576).

[20] Gastarbeiter was the German policy towards intake of foreign labour in the post-war period, Switzerland and Austria also followed this in variations.

[21] The first of the agreements was signed with Italy in 1955, followed by Greece and Spain in 1960, Turkey 1961, Portugal 1964, Tunisia 1965, and Yugoslavia in 1968 (Schmid 1983).

(Bhagwati, Schatz, and Wong 1984). The state-state coordination was not restricted to bureaucracy but Germany had 500-600 recruitment offices in Southern Europe and the German authorities in sending countries maintained a 'priority list' to manage the competition among workers (Ruhs 2002). The state thus participated in coordination, sectoral allocation (informed by employers) and shortlisting and selection of workers through skill assessment, medical and proficiency tests (Sala 2007). Sending countries such as Italy also introduced a centralized remittance service for the savings of emigrants who would work in Germany to financially support their families and counter illegal transfer of money (ibid.), showing early signs of institutionalization of remittance corridors.

The concept of a legal migrant worker whose physical movement within the domestic labour market of the destination country is strictly monitored and one who is not allowed to settle or bring family and is required to go back to his home country after the end of the employment contract, is a concept that has proven to be historically desirable for states. A migrant worker who is only a guest in the destination country, often hosted (and controlled) by the employer, is an ideal migrant worker. This concept did travel extensively from the north-western labour importing countries to eastern ones. For example, the *Kafala* system (1973-to date) which regulated movement of migrant labour within the Arab nations, more particularly in the Gulf Co-operation Council Countries (GCC) countries namely, Oman, the UAE, Bahrain, Qatar, Kuwait and Saudi Arabia, but also followed in different variations in Jordan and Lebanon, is a case in point. Similar to the Bracero or the Gastarbeiter, the state in Kafala (*Kafil* means sponsor, often the employer) channelized the inflow of migrant workers in industries that required cheap temporary labour and provided them with short, fixed-term contracts. Also driven by demand in these specific sectors and industries, the state was in a position to channel in migrant workers in times of need and, in crisis or a sluggishness in demand, the flow would be conveniently reversed, and workers sent back. It also curtailed the immigration of family members of migrants by placing a salary cap on the bringing family members, in that only workers with a certain high level of salary were permitted to bring their relatives and since most migrant workers were unskilled and received wages much lesser than this cap, sending monthly remittances and visiting their family once or twice in the contract period has been the only option for most (Damir-Geilsdorf 2016). However, what was unique about this system was that, unlike the other older GWPs, migrant workers did not just complement the national workforce in specific industries but became the primary workforce in the region (Surak 2013: 96). Known among the civil society actors and migrant rights organization as one of the most exploitative migration systems, *Kafala* is also infamous for a number of reasons. However, the core principles of the system still reflect the typical guest worker programme wherein the migrant worker is legally bound to the employer and his participation in the local labour market is highly restricted. It also shows what role states play, using formal and informal authority, in regulating the movement of migrant labour and ensuring their return after the end of the contract period.

Nepali workers constitute a statistically significant part of the *Kafala* guest worker system. More than 400,000 'unskilled' male Nepalese work in Qatar alone under the bilateral labour agreement signed between Nepal and the migrant-receiving country (Donini 2019). Institutionalized in response to the oil boom in Gulf countries in the 1970's which generated high demand for cheap, foreign labour for its modernization and infrastructural projects, *Kafala* first attracted workers from the neighbouring Arab countries. But soon enough, with effective commercial brokerage, it predominantly flew-in South Asian migrant workers, creating a ripple effect in migrant sending counties in the region (Baas 2018). In response to the massive demand for low-skilled men mainly in construction projects, a number of commercially operating recruitment businesses grew in Nepal, which were licensed and labelled as legitimate brokers of migration by the Nepali state in 1985. By 2001, around 87% of the migrant workers seeking foreign employment went to the Gulf countries through these legitimate commercial brokers (Seddon 2005). Elaborate private recruitment industry thus grew around the state-sponsored Kafala system, "transforming excess demand into excess supply" (Surak 2013: 96) in Nepal as well as in other South and South East Asian countries.

Ironically, while the *Kafala* (like the other GWSs) was institutionalized to bring in legal, temporary workers, it produced large pools of 'illegal' workers. While the banning of migration of Nepali women for their protection[22] by the Nepali state (in 1998, but on and off since then) immediately created a large pool of 'illegal' female migrant workers (migrants seeking illegal channels of migration) looking for domestic work in the GCC, the Kafala system itself criminalized migrant workers who overstayed their visas or changed employers, classifying them as 'illegal' and eligible for deportation. Here deportability itself became a control and disciplinary tool (Gardner 2010). Examples of this included migrant worker leaving the employment without the permission of the employer/sponsor (like 'runaway' or 'absconding' domestic workers leaving their exploitative work conditions), migrant worker unable to leave the country after the termination of contract either due to his/her inability to get his/her passport back from the employer or employer refusing to purchase the return ticket as per the law and inability of the worker to pay for it on his/her own, among others (Baldwin-Edwards 2011). In these cases that result in the migrant worker being labelled as illegal, overstaying and working outside of the sponsor's domain results in criminalization of the workers and they face the threat of excessive penalty (as 'reimbursement of employer's investment on the worker) and deportation, as (Bajracharya and Sijapati 2012) note in the case of Nepali guest workers under *Kafala*.

The state-instituted *Kafala* system is important to this chapter for two reasons. Firstly, although typical guest worker programmes of the 20th century were demand-driven and the regulation of migrant labour was almost

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entirely situated in the destination or place of employment, making them projects of migrant-receiving countries, later GWPs like the *Kafala* opened the possibility of a supply-driven migration systems. Apart from stimulating migration-related entrepreneurship in migrant-sending countries, it led to what has been called one of the first (post-colonial) Asian labour migration systems (Baas 2018). In countries such as Nepal, labour migration was systematized and formalized with the help of licensed brokers and recruitment agencies. As will be discussed in chapter 4, the Nepali state began enumerating labour migrants and centralizing migration procedures in the capital city of Kathmandu, largely in reaction to the mass migration of Nepalese to Gulf countries and as a result gradually observed the potential of remittances over the year, incentivizing institutionalization of out-migration channels. Secondly, state-instituted migration systems show how and under what circumstances authority and hierarchy have been used as the primary organizational device to coordinate cross-border mobility and how the states have used other non-state actors such as brokers or employers as tools of controlling circular mobility of labour migrants within and across the country.

In the next section we see how from the early 1990's onwards, market principles replaced hierarchy as the dominant organizing principle of cross-border labour mobility. However, states did not become irrelevant and formal authority continues to work hand in hand with market principles to organize mobility; creating a unique form of brokerage (state-market-led) based on complimentary but different interests (developmental and commercial) that exerts a unique kind of control over the movement of the migrant labour, influencing the duration and length of stay and employment as well as the legal status of the migrant worker.

3. The Asian turn to markets as an organizing principle of mobility

From 1990's onwards, industrialized Asian countries such as Taiwan, Japan and South-Korea, began relaxing their migration policies in response to excessive demand for foreign labour, gradually creating a structural dependence on migrant workforce in select labour-intensive industries. These states however based their migration policies on strict rotation principle of migrant labour, unlike their North American and European counterparts where migrants stayed way longer than initially intended. These industrialized countries designed their migration policies in such a way that they opened "their markets without opening their borders'', ensuring that migrant workers are provided access to fixed-term economic participation without any political claim to the land or its privileges including settlement or long-term residency (Hahamovitch 2003). Such an exclusionary migration policy did not just help these states meet labour shortage in labour intensive sectors but also, perhaps more importantly, allowed them to express their preference for ethnic as well as cultural homogeneity, as is most evident in Japan and Korea. In Taiwan, for instance, the early drafting of the migration policy that facilitated the immigration of foreign workers in the

country, met with high political opposition on the grounds of ethnic and national homogeneity. The choice of a guest worker programme (as opposed to other, more time-fluid migration policy) was a solution to both the market-driven shortage of cheap foreign labour but also to the cultural anxieties of the state and the society concerning prolonged stay of immigrant workforce[23] (Tseng and Wang 2013).

The Taiwanese guest worker programme (1990-to date), began facilitating the inflow of low-skilled workers from mainly Thailand, the Philippines, Vietnam, and Indonesia. Low-skilled workers were recruited in select and specified industries only including construction, manufacturing and carework (Surak 2017). Not only the sectors were specific but the number of workers that could be absorbed was carefully monitored by setting up quotas, giving the government the freedom and ability to tweak the quota as per the change in demand and state of economy (Ibid). The contract period generally matches with the initial visa period, which is 3 years, and extendable up to 4 times. It was determined to overcome the known by-products of older GWP- the problem of overstaying of migrants. High penalties were imposed on migrant workers who overstayed, and their employers were also fined and acquiring citizenship was made bureaucratically very difficult to obtain, ensuring their stay in Taiwan was nothing but temporary (Surak 2017; Tseng and Wang 2013).

While the earlier GWPs and initial state intervention in regulating national labour markets prompted the use of surveys to collect, compare and form a uniform national labour market policy (Wadauer, Buchner, and Mejstrik 2012), the Asian migration systems further scientized the data collection of migrant workers to understand their effect on the host economy. The Taiwanese guest worker programme, for instance, shows the role of knowledge and expertise in building political and social legitimacy for the implementation of the Guest worker programme. Around the year 1992, the Taiwanese government mobilized scholars and researchers including economist and demographers to compare older guest worker programmes and analyze its outcomes for the host society, for the economy and for the migrant workers. These reports were then used to justify the need to facilitate the inflow of temporary migrant workers. Economists on the one hand demonstrated a state of almost full-employment in the country in labour-intensive sectors which required low skilled workforce, showed the problems of labour shortage on the entire economy and discussed the merits of bringing in temporary foreign labour such as increasing the labour market participation of local women when freed from the traditional duties of domestic chores that can be taken care by migrant workers (Tseng and Wang 2013). Demographers on the other hand demonstrated the potential threats and negative effects of in-migration of foreign population such as health hazards, ethnic and cultural tension, loss of jobs

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[23] There is a clear skill/class bias in the evaluation and perceived threat of a foreign worker. Scholars (such as Tseng and Wang 2013) have noted that such cultural anxieties about a foreign worker staying longer in one's country is particularly relevant in the case of low-skilled, lowly paid working-class migrants. More white-collar workers are considered 'professionals' and 'assets' to the host country and a brain drain to the country of origin.

of native people, and increase in cases of 'deviant' behaviour by the migrants. To counter these, the 'expert' reports highly recommended the stay of the foreign workers be temporary and contract bound. It also recommended to follow the Singaporean model that had countered the overstay of workers and ensured temporality of stay. Here, 'facts' and expertise were used to make the programme politically and socially acceptable and in fact, helped legitimize the programme among majority of Taiwanese (Ibid.). Simultaneously, the state's control over the migrant labour[24], whether directly or through the employers and brokers, also intensified[25]. The Asian turn to migration governance thus presents a much more sophisticated coordination of migrant labour exchange. Newer practices such as monitoring of migrant workers through brokers and employers came into existence and states devised new ways to regulating these market actors through positive and negative sanctions[26], mechanisms that are highly relevant in understanding the Nepalese case.

Market as an organizing principle of cross-border migration, in this context, means use of market principles to facilitate (or halt) migration and control temporariness of the migrant's stay. Here, migrant-receiving states began viewing market principles as "far more efficient" than only hierarchy and formal authority in regulating and organizing cross-border mobility (Surak 2013: 90). The logic of efficiency, cost-effectiveness as well as blame avoidance and a prevailing ideological preference for the market principles that characterized the neoliberal way of organizing life, heavily influenced how mobility came to be regulated through economic instrumentality (Gammeltoft-Hansen and Sorensen 2013; Menz 2013). One specific example of this from the Taiwanese GWP is the use of competition to regulate the movement of temporary migrant workers in Taiwan[27]. Surak (2013) notes that the Taiwanese state introduced quota limits to channel

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[24]To control migrants from running away, the brokers then employ many tactics such as withholding their passports and delaying their month's salary. Employers and brokers provide housing for migrant workers which also act as techniques of retention of these workers and employers were given the right to obtain up to one-third of the worker's salaries, to be given to the worker only after the end of the contract period, to prevent runaway cases and regulate and control the mobility of the worker and his/her restricted access to the local labour market (Surak 2017). Through means like these, the government has been able to keep the runaway cases to a very low number (Surak 2013).

[25] The government of Taiwan used employers and brokers to control the temporary foreign workers. For example, Tseng and Wang (2013) note that the foreign workers entering Taiwan for employment had to undergo a thorough health examination. The employers were responsible for making sure that the workers are examined as soon as they arrive, and penalties were levied on those who do not comply by this rule. Due to the complicated nature of these examinations and the related bureaucracy, the employers often transferred this duty to the brokers. Brokers in turn take on the responsibility of taking the workers to the hospitals for these elaborate check-ups and bringing them back. In fact, most of the responsibility of workers outside of the direct working hours were taken over by these brokers. Similarly, the employer is directly responsible for sending off the worker back to their home country on time, failing which penalties are levied. 'Runaway' migrants mean less ranking for them and lesser profits.

[26] Furthermore, employers fear losing of their 'slot' or 'entitlement' for possible recruitment of migrant workers if the employer has a history of poorly managed workforce. This and the fact that the employers must deposit a certain amount of money with the government, an amount which is only returned to the employer when he/she can provide the proof (such as airline verification) that the recruited migrant worker has reached his/her country of origin (Surak 2013 and Tseng and Wang 2011). And since brokers are directly affected if the employer loses his/her slot, as their only source of income is through recruitment of workers for the employer, brokers further have incentive to make sure the worker is sent off by the end of the contract. The government also ranks the brokering companies with respect to their perceived 'quality', and one criteria of the ranking is their ability to control their worker.

[27] In the context of Nepalese in Japan and South Korea, it has been noted that although these migration programmes were for the 'skilled', the receiving governments created "back doors" for unskilled migration. Lot of Nepalese went to these programmes as

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limited number of migrant workers in specific sectors and used these quotas to propel competition among employers and brokers at the receiving side of the migration corridor. The employers for instance began competing for the limited number of slots available for the recruitment of cheaper foreign labour and they battled to acquire and maintain these slots even if that meant recruiting "useless" or perceivably unproductive migrant workers (such as female construction workers) to retain one's acquisition of the migrant slots; in such a way that the quotas became more important to these employers than the migrant labour filling those positions (Ibid. 91). Similarly, the brokers representing these employers also experienced intense competition amongst themselves[28]. To manage this competition and survive in the business, they began paying the potential employers to acquire a recruitment project within the given slot, a cost they conveniently transferred to the migrant worker, as is widely seen in the Nepalese case. The ripple effect of the quota-based competition only degraded the bargaining capacity of the migrant worker and increased their vulnerability in the labour market.

Apart from using competition as a tool to regulate limited entry and recruitment of migrant workforce, the state also used competition among employers and brokers to control the 'appropriate' behaviour of migrant worker in the destination country and their timely exist after the end of the contract period. The exploitative conditions of employment and uncertainties concerning renewal of existing contract often lead to "runaway" migrants, or migrants leaving their existing employment relationship (that is tied to their residential status) to find alternative employment (often informal) in the destination country, with or without a legal permission to stay in that country (Tseng and Wang 2013). The government of Taiwan began collecting a security deposit from the employers, that would be used to cover the costs of the deportation of the migrant, transferring the financial burden of "runaway" worker to the employer. To prevent losing the ability to hire foreign workers, employers began to retain a significant amount of the worker's wage as a deposit that tied them to the employment relationship till the end of the contract and allowed them to monitor the physical movement of workers beyond the work space through retention and housing facilities, further intensifying the control over the worker (Surak 2013). This, along with the ranking of and sanctions against brokers and employers, made profit-making and survival in business key drivers of regulating migrant labour, in such a way that "the promise of financial reward- rather than merely obligations of reciprocity", as in the network-based organization of mobility, "that becomes an engine propelling mobility forward" (Salt and Stein 1997, 2; Surak 2017).

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students, tourists (later informal work) and as trainees, all of which were eventually drawn towards the segmented labour market that placed Nepalese in the peripheries. Both migrant-broker network and the industry facilitated this flow towards the East, intertwined with new Asian aspirations and imaginations of the future.

[28] Migrant Forum Asia's report (2018) suggests that this competition between sending countries tend to bring down wages of migrant workers and compromise on working conditions and non-wage benefits.

Making mobility itself a market through competition of offers (for brokers) and limited slots/quotas (for employers), market-making became integral to state-building in Asia. A significant part of nation-state building involves imagining a homogenous ethno-national identity and migration of foreign nationals is often considered a threat to such an endeavour. Such a tendency has had to confront bitterly with demand for cheap, foreign labour that was considered necessary for infrastructural projects of the new nations and majority of temporary migration programmes (like the guest worker or posted worker programmes) have been a result of nation-state's perceived need to keep migrant labour temporary and discardable. Given the colonial history of the region, the post-colonial anxieties of building strong nation-states, many different political struggles and unrests, and the fairly recently developed institutional frameworks for governing migration in and between countries, have created historically specific pathways of organizing and governing labour mobility in the region, as Liu-Farrer and Yeoh (2018) point out. The Taiwanese migration system is a product of such an attempt at building strong nation-states. Here, the state created the institutional conditions for creating a market for mobility by licensing recruiters and brokers and using them and other actors (such as the employers) to regulate migration. As will be discussed at length in Chapter 4, developmental states such as Nepal have not just attempted to regulated out-migration but have played an active role in promoting a market for Nepalese workers in the global labour market and in stabilizing and institutionalizing the recruitment industry to regulate migration indirectly, showing how governance of certain industries and economy in general is integral to the process of state-building (Fligstein 1996b; 2001).

The Asian turn to market as an organizing principle of cross-border mobility does not therefore mean a retreat of the state and surrender to market principles; it merely implies that market principles have come to be the dominant principle of organization as has been shown in this section. In fact, networks and hierarchy continue to be important facilitating factors in short-term and circular, legal migration. In Nepal alone, the three factors co-exist simultaneously in different corridors. In the Nepal-India corridor where the India-Nepal Treaty of Peace and Friendship (1950) allows free mobility of people across borders, network of migrants and local brokers (who were once migrants themselves) play the dominant role in mobilizing workers and placing them in informal sectors (2020; 2019; Thieme, Kollmair, and Müller-Böker 2006). On the other hand, in the Nepal-South Korea corridor, it is the state-state coordination that is dominant in organizing mobility under the Employment Permit System (EPS) programme and, in the GCC countries and the Gulf region, it is the recruitment industry that plays a pivotal role in coordinating cross-border mobility and employment. Networks, hierarchy and market as analytical categories of organization of mobility, therefore, are rather fluid in reality. In practice, each continue to play an important role in coordination of labour migration. However, the relevance of distinguishing them in this chapter is not purely for conceptual clarity. Each principle of coordination informs us of the fabrics of mediation involved and the effect of such

a mediation on the subject of mobility- the migrant worker. All three forms of organizational principles produce their own distinct kinds of social relationship (Polanyi 1957).

The next section discusses the relevance of the turn to markets on migrant workers and their mobility through the lens of paradigmatic changes in migration governance and neoliberalism. It also discusses the implications of such a turn and the relevance of specific social relationships that emerges from a market-driven interaction, laying the groundwork for the thesis.

4. From control to "management": Paradigm shift in migration governance

Neoliberalism led to the reconfiguration of state-market relationship. It legitimized the integration of market and market mechanisms in traditionally state-operated realms of activity. Markets soon became the preferred institution for organizing social life as it was considered more efficient than states, as discussed in the last section. In the context of migration governance, neoliberalism brought with it a new set of beliefs, ideas, methods of evaluating migration related problems and solutions, as well as a new, apolitical language around migration and its regulation. In this, two contradictory trends emerged with regards to governance of mobility: anxiety over increasing asylum-seeking and illegal migration and willingness to liberalize forms of migration especially the ones that are temporary in character and are strictly for employment's sake (Overbeek 2002). To address both these concerns, and as a result of increased scale of migration, an intellectual and scientific call for a new global 'regime' of migration was made in the 1990's. This new regime of migration governance called for the use of 'management' by key migration 'stakeholders' for a 'global migration order' (Rass and Wolff 2018). Since early 1990's, important global migration governance bodies such as the IOM and its intellectuals such as Bimal Ghosh have been propagating a new paradigm of migration governance because of a perceived absence of an overarching international regime or the 'missing regime' (Ghosh 2000; 2007) to govern migratory practices across countries and overcome potential crisis that can be caused by ungoverned mobility (Geiger and Pécoud 2010). Towards this, in 1997, Ghosh initiated the New International Regime for Orderly Movements of People or NIROMP, along with the help of United Nations Population Fund (UNPFA), and Dutch, Swedish and Swiss governments. Following this, a 'States-owned consultative process' known as the Bern Initiative (2001) devised new language of state-state cooperation for the management of migration and resulted in the International Agenda for Migration Management (IAMM) in 2005. As Gieger and Pécoud (2010) notes, this regime was built on a three-pillar model in which the first pillar constituted the harmonization of interests of both sending and receiving state actors as reflected in their migration policies, second pillar constituted the creation of a new larger international framework on the governance of mobility between countries and the third pillar constituted the recognition and harmonization of the roles of wide range of state and non-state actors such as the commercial/market actors and civil society actors (national and international) for better coordinated

channels of mobility (Geiger and Pécoud 2010: 3). Together, these pillars were aimed to generate 'solutions' to migration-related 'problems' and crisis and enabled a paradigm shift in governance of transnational mobility.

This regime attempted to cover all kinds of mobility- both legal and illegal, mobility of refugees and asylum and employment and seekers, and formalize their flows so as to make them legible from the perspective of the state-state-like actors. It aimed to identify and thereby organize the otherwise "massive, largely unpredictable, and painfully poignant human flows", and channel it formally and make it orderly, controlled and predictable (Ghosh 2000: 8). It in many ways was a paradigmatic shift in migration governance narrative because the focus of this regime was not to curb or curtail movement per say but to shape the flows of mobility and formalize it, thereby making a discursive shift from 'control' to 'management'. The discourse of migration governance was therefore moving beyond illegal and legal migration but was looking at ways to facilitate and 'manage' existing patterns of migration in such a way that it 'benefits all stakeholders'. As a result, it produced a new classification of migration as either desirable or undesirable instead of illegal or legal. It proposed a 'triple win' paradigm according to which migration is 'normal' and 'good' and can be very beneficial or desirable for sending, receiving countries and migrants alike if mobility is managed well.

Change in how social relationships around migration are shaped, tacitly through scientific language and data sets, can be observed in the regime of migration management. One key feature of migration management regime is the use of managerial and organizational vocabulary to govern migration. Words such as 'capacity building', stakeholder, 'good practices' etc. are used to describe various governance strategies. It has been pointed out that the main reason behind this is the attempt towards making migration governance as apolitical as possible, at least in appearance. It refuses to use words like control or prohibit or deportation and instead uses words like 'voluntary return', even though in practice, there may be very little migrant agency in voluntary return (Webber 2011). All this is done to depoliticise migration governance. A heavy reliance on academic knowledge and intellectual activities like conferences, engagement with universities and 'expert opinions' by scholars etc. also make the practices under migration management look like scientific and not politically motivated endeavours (Geiger and Pécoud 2010). Here, the knowledge thus generated cushions the ideology that define the management regime and legitimises it in practice. It "is selectively produced to accompany and legitimize migration management activities and, more broadly, the existence and role of IGOs that generate it" (Geiger and Pécoud 2010: 10). The role of 'expertise' in generating consensus on market-driven coordination mechanisms is already visible in 1990s Guest worker programmes such as in the Taiwanese model.

Another significant feature of this regime is the involvement of multi-actor or 'stakeholders', with a multi-lateral participation. And as Geiger and Pécoud (2010) argue, it is these complex relations between various

state and non-state actors in the management regime that leaves the scope for negotiation and power dynamics. The 'management' regime of migration includes a range of practices that slowly translated into migration policies of constituting countries. These policies are further implemented by the State in the respective countries with the help of civil society actors such as NGOs and regional offices of the supra-state actors like IOM, who often work in close collaboration with each other. My research in Nepal further shows how the trickle-down effect of these practices have resulted in the banality of the words such as 'remittance', 'rescue', 'training', 'ethical recruitment', 'skill', 'stakeholder' etc. among market actors in Kathmandu, where English is not the first language. But as my work shows, these ideas may have trickled down through the IOM-State policy-NGO nexus, however, the market actors interpret these ideas differently and use it to their own perceived advantage.

This neoliberal paradigm of migration governance propagates an idea of desirable mobility as against undesirable ones. The former is assumed to be the ones that benefits the sending and the receiving countries, one which is "orderly, predictable and productive" (Ghosh 2007: 107). In other words, mobility that has a direct productive outcome and is not "unwanted" to the concerned actors, is desirable (ibid.). Not surprisingly therefore, labour migration, that too short term/temporary, contractual and non-settling labour migration is perceived as desirable under this regime, pouring the old wine in the new bottle of 'management'. This quest for channelling the desirable form of mobility results in the production of short-term, contractual, 'purposive', and non-settling kind of mobility that further creates patterns of circular migration. This usually leads to the encouragement of inter-state agreements, labour pacts and mobility programmes between the concerned countries. The regime of migration management calls for an encouragement of 'project based' mobility for short-term periods (Ghosh 1997). While many inter-state agreements are loosely designed to recognize the demand in the destination country and the availability of qualified workers in the sending country (such as the Nepal-Malaysia labour pact 2018), many of these agreements are more specifically designed to coordinate mobility of workforce within certain skill groups and for certain sectors only (such as the Nepal-Japan MOU 2019). Irrespective of the nature of the corridor, the existence of these formalized channels of transnational mobility reflect a convergence of interests and migration/labour market policies of sending and receiving states.

From the mid-1990's, therefore, migration came to predominantly 'managed' instead of controlled. As the state took a backseat and migration had to regulated apolitically and scientifically, a number of markets grew around the management of migration. Marketization of migration, on the one hand, involved inter-state labour diplomacy and use of diplomatic tools to coordinate cross-border labour mobility in a "mutually beneficial" manner, often a) towards facilitation of mobility through quotas for legal labour migration, b) access to extra-territorial control over migrants through non-state actors or c) in exchange for foreign capital in the form of development aid and trade negotiations. Exchange and control of migrant labour soon

accompanied negotiations around "money and favours" in the form of provision of Foreign Direct Investment in Special Economic Zones or facilitation of repatriation of irregular migrants (Adamson and Tsourapas 2019). Such a development gradually stimulated a competition between migrant-sending countries who vied to acquire labour export contracts from migrant receiving countries[29].

On the other hand, marketization of migration gave rise to privatization of migration management and proliferation of 'markets for migration management' (Hernández-León 2013) and commercially motivated actors who managed cross-border mobility on behalf of the states. Hernandez-Leon (2005; 2013) defined these actors as constituting the 'migration industry'. He defines a migration industry as an "ensemble of entrepreneurs, businesses and services[30] which, motivated by the pursuit of financial gain, facilitate and sustain international migration" (Hernandez-Leon 2005: 11). This definition allowed a comprehensive understanding of the wide range of commercial actors including money lenders, recruiters, transportation providers, travel agents, false and legal paper pushers, smugglers, contractors, courier services, remittance services, lawyers, notary etc. (Ibid.: 1) that predominantly interacted with, and attended to the needs of the demand-side actors such as the employers, state or intermediaries in the destination country (Gammeltoft-Hansen and Sorensen 2013). These migration-related service providers began to play a salient role in not just impacting the direction of migration but also in controlling and regulating migrant workers and their mobility. They began managing migration on behalf of the states (formally and informally), and states began sustaining and even funding them to passively regulate migration through these commercially motivated non-state actors (Ibid. 8). The migration industry therefore is a product of and is embedded in the regime of migration management, redefining state-market relationship in the context of cross-border labour mobility and producing development-driven migration brokerage in migrant sending countries. Although an industry is an arena of market-exchange in which competitors from *one* side of the market (either demand or supply) exist and compete, therefore making 'migration industry' conceptually inaccurate, the conceptualization was (and is) a highly relevant intervention in the field of migration studies. It captures the relevance of profit-making actors such as courier and transportation services, firms running repatriation and deportation services, IT companies surveilling migrants on the move as well as commercial prisons and detention centres in the coordination of cross-border migration. It also established the dominant, albeit behind the scenes, role of states and how "government(s) actively sustain and fund large parts of the migration industry" (Gammeltoft-Hansen and Sorenson 2013: 8), for controlling the movement of labour

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[29] See for instance Rodriguez (2010).

[30] Apart from commercial actors with entrepreneurial interests, there are other kinds of non-state and non-commercial actors that sustain and support the migration industry such as NGOs /humanitarian organization and migrant associations, forming a sub-industry of 'rescue'(Gammeltoft-Hansen and Sorensen 2013).

migrants (which has been the key objective of states and brokers across migration systems) under the façade of 'management'.

5. Conclusion

This chapter used historical analysis to show how short-term labour migration has been organized and structured mainly by two actor groups: states and profit-making brokers (as individual agents, networks of agents or firms/brokering agencies). Identifying the actors who have played a key role in facilitating temporary labour migration is the first step towards conceptualizing migrant labour brokerage and studying the interests of these actors in making mobility happen. This kind of historical examination of temporary labour migration is essential for two other reasons. Firstly, the organization and governance of labour migration using constraints around the duration of mobility and employment, is not historically new and in order to understand how circular migration is currently organized, a peek into how it was facilitated by the states and intermediaries in the last century helps us recognize the organizing principles and tools used by these actors in making mobility happen. Similarly, the contentious state-market relationship characteristic of the Nepalese migrant recruitment industry bears a resemblance to different migration systems in the past and calls for analysis of how mobility across borders is organized by whom and how, and where their interests diverge and collide in producing contextually specific brokerage practices. By exploring the relevance of networks, hierarchy (formal authority) and markets as organizational principals of migration, this chapter traced the "turn to markets" in migration, but also called for an investigation of specific outcomes produced by the use of specific organizational principles.

Secondly, specific organizational concerns of temporary migration (such as control over migrant labour) have been relevant across time and space, irrespective of the contextual differences. With the recent shift to seemingly liberal migration policies, the principle of rotation (circularity and length of employment) and forced return, for instance, has taken the form of "voluntary return" (Webber 2011), whereas the principle of control of migrant labour has been transformed into migration "management"; hardly changing the essence of the way in which migrant labour power is moved, placed, transported or utilized. By highlighting this similarity across migration systems, this chapter also laid the foundations for examining the asymmetric structure of transnational labour markets. Under the façade of "management", control over migrant labour has become more methodical and systematic. Older forms of control that defined migrant-broker-employer relationship in the "pre-market organization of mobility" (McKeown 2012), such as through debt and bondage, have intertwined intricately with newer forms of control, such as through confiscation of phones and documents, encapsulation of migrants to avoid diseases/pregnancy, or to prevent assimilation and prolonged stay in the destination country (Lindquist 2010; Xiang 2017). Such intensification of migrant control by states and intermediaries has simultaneously given rise to cases of 'running away', or visa

overstays, as well as absorption of legally channelled migrants into informal sectors, highlighting the ever-present paradox of legal temporary migration programmes - the unintentional production of 'illegal' or 'irregular' migrants and underground economies around them.

This chapter also examined how despite bearing striking resemblance with its predecessors, the contemporary Asian migration system (of which the Nepalese migrant recruitment industry is a part of) is qualitatively distinct because of three interrelated factors, including a) the role and scope of involvement of brokers in the organization of mobility and their mediation of cross-border employment, b) the proactive role of states, especially migrant-sending states, in the organization and governance of cross-border mobility as well as c) the nature of the relationship between the state and the brokers. The rest of the dissertation picks up on each of these three aspects of the Asian migration system using an analysis of the Nepalese case study. In doing so, the following chapters bring together an empirically informed analysis of the Nepalese case to study how the 'middle-space' of migration is constituted, composed and conditioned by specific state-market-led migration brokerage that produces opportunities and vulnerabilities for the migrant worker on the move.

PART I: STATE

(in interaction with the market)

Chapter 3

Becoming a labour exporting country:
Nepal's encounters with development, market and migration

1. Introduction

This chapter introduces the case of Nepal and looks into its journey of becoming a mass labour exporter of low-skilled migrant workers. With a focus on the interests of the state in institutionalizing outbound migration, this chapter investigates the developments in Nepal from 1950's onwards to understand its structural dependence on foreign capital in the form of aid and grants (and later in the form of remittances). In so doing, it also explains the conditions that enabled labour migration of the scale we see today and how such an existing 'culture of migration' has been fueled by the state as well as non-state actors, including the commercial brokers or intermediaries. This is highly relevant because the majority of scholarly work on migration in Nepal delves into factors leading to migration, such as stagnation in agriculture and unemployment (Seddon, Adhikari, and Gurung 2002), environmental change, declining land cover and increasing population (Massey, Axinn, and Ghimire 2010), political instability and Maoist insurrection causing behavioural responses in the direction of out-migration (N. Williams and Pradhan 2008), migration as a natural 'calling' because of existing 'family tradition of migration' (Seddon, Gurung, and Adhikari 1998) and a Nepalese 'culture' of migration (Jeevan Raj Sharma 2011), undermining the structural factors that shape such a culture and generate aspirations related to mobility (Shrestha 2018). While these perspectives share insights into the many reasons why the Nepalese leave the country, there is an evident dearth of knowledge on the organizational aspect of labour migration in Nepal, especially the role of the state in it. Migrant-sending states, such as Nepal, play a crucial role in institutionalizing mobility and remittance corridors, and this chapter lays the groundwork for a thorough understanding of the supply-side migration infrastructure and the general motivations and drivers behind state's involvement. The questions this chapter addresses are threefold:

1) What are the existing conditions (demand, culture of migration, unemployment etc.) that enable mass labour migration in Nepal?
2) What interests does the Nepali state have in institutionalizing outbound labour migration?

3) What actions did the state take to become a labour-exporting country? And what kind of social relations emerge as a result?

Informed by existing research in the field of migration studies concerning labour export as a development strategy (De Haas 2010; Hugo 2009; Hugo and Stahl 2004) and state's brokerage practices (Rodriguez 2008; 2010; Rodriguez 1999), this chapter focuses on the interests and role of the migrant-sending state and its interactions with certain non-state actors in facilitating labour out-migration. Along these lines, the chapter is organized as follows: In section 2, I elaborate on Nepal's structural dependence on foreign capital and its early engagements with the notion of *bikās* or development. This section also discusses the relevance and limits of the idea of "culture of migration" as discussed among migration scholars and shows how actors other than the migrants (or their families) may be invested in the process of migration and how these actors fuel aspirations of *bidesh* or foreign land among potential recruits to establish predictable and orderly migratory flows. Thereafter, in section 3, I break down the Nepalese state's labour brokerage practices into three main categories: research and promotion, authorization and legitimacy and lastly, facilitation of return of the migrant worker. Here, the state is shown to accommodate atypical roles of brokerage, and it discusses the proactive steps taken by states in keeping migration circular and temporary for developmental incentives. Lastly, section 4 examines key state relationships emerging from the state's brokerage practices (between state and migrants, state-to-state interactions and the role of NGOs and civil society actors) and what implications such relations have in the 'management' of migration.

2. *Bikās* and Nepal's structural dependence on foreign capital

What is this *bikās*? The answers are many, but all of a kind:
development, social betterment, increase in well-being and productivity,
modernization, opportunity... *Bikās*, in sum, is good, and there ought to
be more of it in more places. …But let us redefine *bikās*, for a moment, as an industry.
A multi-national industry, and Nepal's largest industry. Let us redefine
bikās, for a moment, as a capitalist enterprise…(a) transnational capitalist
enterprise, and Nepal's main gateway to both the riches and the
ruthlessness of global capitalism.

- Des Chene (1996: 260)

The early 1950s saw its first developmental programmes in Nepal, in dialogue with the rest of the world. With no direct history of colonialism or colonial bureaucracy, no Christian missionary activities in education or health sectors and no systematic expansion of capitalism, Nepal's encounter with modernization was

primarily through these developmental programmes and projects that brought it out of "isolation" and introduced it to the world as a country in need of "development"[31] (Pigg 1993). One significant way in which development in Nepal has been funded is through foreign aid. The industrialized nations of the western world, in the post-world war II period, began assisting the 'third world' with numerous forms of foreign aid and Nepal soon channelled this assistance to its own personal modernization project. Soon enough, many industrialized countries began converting colonial guilt and myriad forms of charity, and this travelled to the newly 'discovered' Nepal in the 1950s. The following excerpt from K.M. Dixit's (1997) piece on development in Nepal, accurately captures the scale of foreign aid that Nepal attracted in the mid-20th century.

> "…(B)ack then the Americans also gave Nepal its largest lumber mill, and World War II vintage airplanes to help start Royal Nepal Airlines. The Russians came in with a modern cigarette factory in Janakpur and cut the swath of highway through wildlands between Janakpur and Hetauda. Not to be outdone, the Chinese built road links to Kodari and Pokhara, a brick and a shoe factory in Kathmandu, and donated a trolley bus line. The Swiss trained cheese-makers and motor mechanics; the Germans took over the restoration of Bhaktapur; and the Japanese busied themselves with agricultural development. The fads were all prepared elsewhere and we (Nepalese) were handed one every five years or so- from industrialization to sustainable development, integrated hill development to structural adjustment, import-substituted to export-led, basic needs to growth-oriented, trickle down to people first, privatization to poverty alleviation (the slogan currently doing the rounds)"

(Dixit 1997: 173-174)

Soon enough, however, the foreign aid that was flowing into Nepal, became conditional and began arriving in the form of loans and credit. In 1995, for instance, Nepal received developmental aid of nearly USD 251 million, of which around 60% was in the form of loans (Dixit 1997). Foreign aid also failed to fully and equally penetrate the local economy, and critical scholars have pointed out how the capital stayed afloat most of the time, creating and feeding Nepal's own nouveau riche and political elite (Dixit 1997; Pigg 1993). Although many NGOs and intellectual consultancies (many of whom were of international origin) sprouted

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[31] Post-colonial, critical scholars have pointed out the problematic nature of development and the coveted boundary-making in the practices of developing a country. I have nothing new to add to this existing critique of the idea of development itself or the accepted standards or measures of development (usually statistically enumerated categories such as GDP, mortality rate, number of schools and hospitals etc.). However, what is interesting to me and to this project is Nepal's structural dependence on foreign capital in the context of unstable politics, absence of reliable agricultural output (being a primarily agricultural economy) and lack of political will (corruption) or ability (resources) to generate a substantial amount of jobs within the country. Such a context has systematically fuelled labour migration from Nepal.

in response to the incoming foreign capital, the capital hardly "trickled down", and the rapidly changing "focus areas" of development, left little scope for thorough implementation of well-intentioned policies. The foreign capital did bring with it social exposure to Nepal, and brought along international communities and organizations that, if nothing else, shaped and conditioned material aspirations of young Nepalese which influenced migration-related decision-making and hopes among the potential migrants. It propelled the existing 'culture of migration' and encouraged "villagers and city folks alike (to) understand the modern world which they would all like to emulate" (Dixit 1997: 184).

Additionally, although Nepal is identified as an agrarian society in the global developmental discourse and Nepal's own national policies and plan, and although a majority of Nepalese identify themselves as farmers and peasants (Jeevan R Sharma 2021), agriculture in Nepal remains largely for subsistence and the sector has persistently failed to provide viable income opportunities for Nepalese who are then forced to look for alternative means of livelihood in non-farm sectors (2018; Jeevan R Sharma 2021). Unwilling land reforms, slow industrialization, absentee landlordism, and semi-feudal and caste-based elitism at the local level have ensured that the productivity of the agricultural sector, although employing around 90% of the workforce[32], is largely stagnant (Metz 1995; Sugden and Gurung 2012). This has led to reliance on the import of agricultural produce from neighbouring nations, increasing the cost of living in Nepal[33], further "pushing"[34] people to migrate for employment abroad.

The limitations of conditional foreign aid (in the form of loans/credit), the realization and disillusionment of its inability to effectively trickle down and create jobs, as well as the stagnation of agriculture have encouraged the ruling elite and the civil society actors to explore more bottom-up approaches to *bikās*. One such approach has been to shift the focus on another source of foreign aid- remittances- something that directly benefits the migrant households and does not rely on layers of bureaucracy or participating actors[35] to reach the pockets of the *bikāsi* (the one 'being developed'). As Srivastava and Chaudhary (2007) point out, "employment abroad has not only helped Nepal in minimizing ever-growing unemployment problem; it has also injected much needed foreign currency into our economy to fill up the foreign exchange and investment gap, thereby helping Nepal avoid a major balance of payment crises" (Ibid: 28). It has helped migrant households meet their basic expenses including food and other consumable commodities, and, has directly contributed to the improvement of health and education of the household members.

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[32] Reduced to 65% by 2020 (Mishra et. al. 2022)

[33] In Nepal, a significant portion of the remittances (almost 70%), hard earned by migrants from abroad, is evidently spent on purchasing food and other consumable commodities (Poudel 2016)

[34] A number of other "push" factors for migration from Nepal have been identified as political instability and violent uprisings, poverty and unemployment in Nepal, and a larger prevailing "culture of migration", conditioned by gendered and familial expectations from the working-class men (Sharma 2011).

[35] Developmental brokers such as aid agencies, NGOs, and other mediating actors

Nepal's turn to using remittances for its domestic development has been, like in other labour-exporting countries, rather serendipitous. Similar to other labour-exporting countries[36], the potential of remittances in Nepal as a more sustainable, bottom-up source of foreign capital was not something that was planned but rather 'discovered'. It was only in the mid-1990s that Nepal realized that about 1/5th (20%) of its poverty between 1995 and 2004 was eliminated by remittances alone (Lokshin, Bontch-Osmolovski, and Glinskaya 2010). Much before the state saw the potential of labour migration, Nepalese have been migrating for work abroad for decades. More substantially, from the 1970s, the flow of Nepalese migrants (among other South Asians) to the oil-driven economies of the Gulf region contributed to one of the significant waves of out-migration from Nepal, in response to which many recruitment agencies emerged to coordinate labour mobility. But it is only in the mid-1990s that Nepal saw the developmental potential of remittances and its reliability as a temporary[37], but more effective source of funding for national development. As a result, the Nepalese state gradually saw the incentive to institutionalize out-migration for the inward flow of (unconditional) foreign capital in the form of remittances.

Such systematic interventions of the state in response to the newly found potential of remittances have an immediate effect on share of remittances per household. The Central Bureau of Statistics of Nepal, for instance, shows how the household share of remittances doubled between 1995/96 and 2010/11, from 23% to a massive 56% of the households receiving income in the form remittances[38] sent in by relatives working abroad (CBS 2011). And within the same period, the share of households in Nepal that recorded inadequate access to food (and other consumable commodities), housing, health care and education, significantly dropped (Mishra, Kondratjeva, and Shively 2022). Within a few years, Nepal was recognized as the fifth largest remittance-receiving countries in the world, in terms of GDP[39], and the country found its new financial crutch, something which was now a globally recognized tool of development and something that International organizations and development brokers highly recommend as an effective developmental strategy. And soon enough, even the remotest villages in Nepal carried large posters and billboards with advertisements of remittance transferring companies and cinema halls advertising about being a good Nepali citizen and transferring money through formal channels.

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[36] Such as in EL Salvador. See, (Wiltberger 2014)

[37] Remittances are often seen as a "stop-gate" measure by labour-exporting countries, as a temporary measure to deal with the developmental crises and a long-term solution. However, research shows that reliance on remittances often continues long-term in practices, creating a new form of structural dependence that, in turn, commodifies migrant labour and creates little to no incentive for them to find jobs at home.

[38] And these were just the formal numbers. Experts argue that migrants often use informal money transfer mechanisms (such as the Hundi system) and carry large amounts of cash instead of formally transferring it through bank. This significantly increases the share of remittance per household.

[39] In terms of GDP share; World Bank Report (2019) Migration and Development Brief 3, Available at: https://www.knomad.org/sites/default/files/2019-04/Migrationanddevelopmentbrief31.pdf .

Image 2: In response to remittances becoming a tool of bikās in Nepal, a number of private money transfer companies have emerged, a market which is closely tied with the private recruitment industry and its activities

The turn to remittances for *Bikās* led to another interesting turn of events. With a focus on Nepalese migrants, instead of donor agencies or industrialized countries for development, the object of development (*Bikāsi*- or the one who is being developed- the Nepali citizen) itself became the tool of development. This is highly relevant because till the state saw the potential in remittances, it was merely interested in regulating out-migration. But as the *Bikāsi* became the tool of development through his active participation in the domestic growth, the migrant worker was not just regulated but also had to be protected and celebrated from time to time. This is also not a unique trend in Nepal, although the developmental incentives behind the making of the *Bikāsi*, is rather specific to the context. In other labour-exporting countries, most notably in the Philippines, scholars have recently pointed out how the migrant worker has become a 'new national hero', in how he/she performs his/her duties towards their country and generates the much-need foreign capital (Rodriguez 2002). This rhetoric is often accompanied by how these migrant workers are also victimized by the global capitalist order and therefore justifying interventions by state and non-state actors in controlling and regulating their movement in the name of protection, oscillating their portrayals between 'heroes' and 'victims' (Gibson, Law, and McKay 2001). This constant reference to *Bikāsi* is key in understanding the out-migration policies of Nepal that have constantly fluctuated between commodifying

migrant labour to de-commodifying and protecting them from possible vulnerabilities, something that will be taken up in the upcoming chapters. This dilemma of the state also explains how and in what ways it regulates the activities of the recruitment industry to protect migrants, thereby both facilitating and hindering the growth of the industry.

2.1. Constructing a 'culture' of migration: gender roles, modernity and mobility in Nepal

The ideology and discourse of development brought with it a distinct categorization of social experience of space. *Bikās* in Nepal introduced a lens for viewing *nagar* (urban area) as aspirational and *gaun* (village) as backward. As Pigg (1992) eloquently puts it "to speak of the generic villager is to identify oneself with is to identify oneself with *bikās*… As people move into, out of, and through the social spaces of *bikās*, their orientation within rural society changes" (Ibid.: 510). Creating the urban, salary-based lifestyle as aspirational, Nepalese, since the 1970's sought migration as a tool to get intimate with modernity and consumerism. Although agriculture continued to be a dominant activity, it was mostly for subsistence and experiencing the urban lifestyle through migration became an extremely important means to escape 'backwardness'. Here, the movement of people out of villages and out of an economic activity that is largely unproductive represented a move away from tradition as such (Pigg 1992; 1993).

This kind of aspirational mobility is often academically conflated with "culture of migration" (Cohen and Sirkeci 2011). This alludes to patterns of migration that cannot be explained by structural motivations (such as the typical push and pull factors of migration) but by social and cultural meanings of mobility. This has been particularly useful in explaining male migration from Mexico (Cohen 2004; Kandel and Massey 2002), Morocco (Heering, Van Der Erf, and Van Wissen 2004), India (Ali 2007; Osella and Osella 2003), and of course, Nepal (2018; Jeevan Raj Sharma 2011). It explores the gendered and familial expectations, symbolic meanings of mobility as well as the mundaneness of leaving the house for work as opposed to viewing migration as a significant, life-changing event[40]. Here, migration is viewed as deeply embedded in the male lifecycle, as a key livelihood strategy and as a rite of passage into becoming a man and providing for one's family. Without doubt, this perceptive (often emerging in social anthropology) offers a rich insight into how migration-related decisions are made and what they mean for the migrants. However, to explain transnational mobility by the logic of culture and meaning alone is short-sighted and we are left with answered questions around who benefits from the migration of Nepalese and who makes it happen for them. This is not to deny the relevance of social meanings of mobility but to rather look into the actors and

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[40] In Nepal, literature and culture has reverberated the social meaning of leaving the house for work abroad. A significant piece of writing used as an example to explain a prevailing culture of migration is "*Muna madan*", narrative poetry written in 1936 by Laxmi Prasad Devkota. It speaks of a newly-wed man Madan separating from his wife Muna to find work and business opportunities in Tibet. While the story is about love, longing and separation, it circulates around Madan's journey to Lhasa and back and engages with the necessity to migrate, the emotional losses of the journey etc. This piece is widely circulated and is still taught in schools as introduction to Nepalis poetry and literature.

processes that feed into and construct the culture of migration. The perspective of culture also limits itself to exploring migration-related decision making and focuses only on individuals and households ('family traditions of migration') as units of analysis in explaining the drivers of mobility (Seddon, Gurung, and Adhikari 1998). This is of course not enough in explaining labour migration of the scale and magnitude that we currently see in Nepal and "space of *bikās*" within which these aspirations are developed (Pigg 1992; 1993).

The 'culture of migration' then is to be understood in the context of post- 1970's global capitalist order whereby certain actors and processes have fuelled labour mobility, just as the demand for migrant labour has significantly expanded across sectors. Newly democratic migrant-sending countries also enabled migration in the scale we are witnessing today. Democracy and the ideals of developmentalism created both the opportunity to move abroad for work and attain an uplifted class and social position. In Nepal itself, the relationship between democracy and migration is very telling. Gartuala (2009) for instance shows that the peaks of out-migration from Nepal has coincided with the restoration (or experiments of restoration) of democracy in the 1990's. Furthermore, access to information, opportunity and freedom to move that accompanied the change in political order (Ibid.), also facilitated and enabled the culture of migration which already had its roots in Nepal, given its history of male migration. In the context of Nepal, the disillusionment with democracy and its failure to create jobs within and attain development as planned, also pushed many to seek employment abroad.

While the previous forms of migration (such as the Ghurkha military recruitment in Nepal) were driven by ethnicity and caste identity and often relied on social networks, democracy offered a space for anyone (irrespective of caste or ethic belonging) to attain class mobility through migration. Anyone with a desire to migrate could now technically do so and those who do not have the privileges of strong cultural capital and social networks, could now access foreign employment through market actors, who were sprouting up across Nepal in response to growing migrant demand. A significant portion of Nepalese migrants are in fact those belonging to lower-caste and lower-class backgrounds[41] and since the onset of "liberating" market principles, it has been noted that *Dalit* (one of the most marginalized caste groups in South Asia) households have the highest probability of receiving income in the form of remittances from abroad (Lokshin, Bontch-Osmolovski, and Glinskaya 2010). Democracy and access to cross-border labour markets have thus helped many Nepalese overcome the shackles of social inequality and feudal social order of their hometowns (Sunam 2014). The construction of the culture of migration also transformed migrants from mere workers to consumers of modernity and development, as Mills (1997; 1999) notes in the context of female migration

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[41] While local elite prefer seeking employment within Nepal and look for more stable, salaried jobs often with the help of connections and patronage (Seddon et al 1998) and send their children for higher education in foreign countries.

from Thailand. Here the familial and gendered expectations actually complement the modern, consumerist aspirations of those on the move, that is often marked by a distinguished sense of style, clothing, accessories and the use and display of technology upon return. Juggling between a sense of freedom and liberation from deeply entrenched social hierarchies and social obligations that both drives mobility and accompanies it, young (20-40 years) Nepali migrants have sought employment abroad, more so since the 1970's. Through consumerist aspirations and desire for social mobility, migrants do not just leave the country for a better life, but return to stake a claim as productive members of the nation-state, contributing to its development and renegotiating with their national identity.

Image 3: The return of the migrant worker is often accompanied by a distinct, almost ritualistic form of exit from the airport. Use and display of advanced technology, gifts wrapped in plastic foils and bags labeled with the name of the migrant and the country of employment, characterise such acts of return.

Could these aspirations be moulded by a culture of migration alone, in other words, could aspirations for foreign employment be explained a priori? Evidence suggests not. The question really is what drives and fuels an existing culture of migration and which actor group/s facilitates and benefits from it. Tina Shreshta's (2018) work on the foreign employment recruitment agencies in Nepal answer some of these questions. In her ethnographic work in Nepal, she demonstrates how recruitment agencies by the way of organizing and orienting their services of brokerage, "respond to and recreate migrant imaginaries and aspirational possibilities" (Shreshta 2018: 692). She observes the three-way interview and orientation sessions and shows how Nepali recruiters remind the migrants about their dreams of purchasing a house and other commodities, meeting the expectations of their family members and responding to their existing commitments (familial, debt/financial). They overemphasis how acquiring a 2-3-year employment contract in a foreign country will help these migrants attain an aspirational status and continuously deemphasize the hardships and struggles that the migrant worker will inevitably experience. In so doing, and eagerly presenting these workers as able and recruitable, the recruitment agencies recreate and influence the affective motivations (dreams, desires, hopes and aspirations) of migrant mobilities. In the context of an "ineffective" state and its inability to produce jobs within Nepal, the recruitment industry even considers it

its moral responsibility (as urban and educated beneficiaries of development) to facilitate foreign employment for the "poor" migrant from the village (Shrestha 2018); a perception of class positioning and boundary-making that has typically accompanied the ideology of *bikās* in Nepal (Pigg 1992; 1993).

3. State brokerage practices in Nepal

Although a significant body of literature in migration studies have portrayed mobility as independent of state intervention, given the prevalence of illegal migrations beyond the ambits of state regulation (Castles (Castles and Miller 2003), it has also been recognized that states-both sending and receiving- play significant roles in channelling mobility from one place to another by the means of restrictive and facilitative mechanisms; bringing our attention to 'state agency' in migration (Zolberg 1999). It has been noted that states have keen interest in 'management' of migration and from the point of view of the sending states, management takes precedence over restrictions on mobility because of the economic and political benefits that sending states reap from out-migration. 'Management' of migration thus entails "maximizing the benefits of out-migration by directing movements through official channels, thus allowing for greater transparency in labour transfers, employment conditions, migrant earnings and foreign exchange remittances" (Acacio 2008: 104). From this perspective, unlike the political tensions around globalization and presence of 'unwanted' migrants in destination country, the sending state looks at globalization as an 'opportunity' and not a threat (Tigno 2014).

This perceived sense of opportunity that out-flow of migrants and in-flow of capital brings, necessitates state's involvement in management of migration. Significant labour exporting countries in Asia such as Philippines and Indonesia have extensively used 'management' as a tool to channelize out-migration. These systematic practices of management of migration for specific economic and political interests, creates what Rodriguez (2010) calls a 'labour brokerage state'. The labour brokerage (sending) state sees institutionalization of out-migration as a neoliberal strategy and engages in institutional and discursive practices to keep its citizens mobile and the in-flow of remittances steady (Ibid.). Brokerage as a state practice is also considered to be an efficient 'institutional fix' that on the one hand caters to the global demand for cheap labour and on the other hand makes sure that the temporary migrants lay no claims to citizenship in the destination country and go back to their country of origin upon the completion of their contract, creating a pool of migrants who are tethered to their home country'. Brokerage as a state practice[42]

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[42] In this context, it is also interesting to note that 'brokerage' or state intervention happens in different forms and with varying levels of intervention, meeting specific contextual needs. Philippines for instance had two significant phases where one can see shift in state-business alliances. In its initial stage of labour brokerage in the 1970's, Philippines state decided to monopolize brokerage and took up all functions of organization of the market, only to realize its limitations within the same decade, leading to the incorporation of private actors as 'partners' of labour market organization. With this arrangement, the state took a back seat in organization of labour migration, still determining all its facets and playing a key role, just behind the market intermediaries. On the other hand, we have labour-exportingcountries such as Indonesia that has, over the years, intensified state regulation and formalized the mobility market by means of extensive documentation, tests and trainings that has 'far reaching regulatory effects'

therefore benefits both sending and receiving states. However, this logic fails to account for the interactions between state and non-actors in the constitution of migrant labour brokerage, something that this chapter seeks to elaborate on. Before we look into state's relationship with other non-state actors and its implications in the management of migration, I discuss here some key facets of state brokerage practices in Nepal. My observation of the data suggests that these practices are not unique to Nepal but the specific ways in which they emerge, are specific to the cultural and political context of this developing country.

3.1. Research and Promotion

In order to prepare for the demand, sending states increasingly engage in systematic research on destination countries, their changing industries and shifting demands. Unlike Philippines[43], which has designated government departments for research and promotion, Nepal's limited resources makes it outsource some these functions to non-state-actors. Nepal has been funding private research institutes and central universities to conduct research on labour market prospects for Nepalese migrant workers. Speaking of one such "arrangements", Dr. Nirmal Kumar Raut, a senior researcher and academic of developmental economics at the central university of Kathmandu, who is part of the research group created as a result of a memorandum of understanding signed between the government of Nepal and the university, explains,

> Our work mainly focusses on reassessing the current destination countries and find out newer destinations that would be suitable for Nepali workers. So, we studied the destination countries, the economic situation there, the demographic changes they are experiencing and the labour and immigration laws. We also look at what skills are required for which kinds of demands, the cost of living in that country, per-hour wage received, the unemployment rate in the country and working-age population trend. Based on these criteria, we score the countries and we send the government our 'first-priority' countries. So, Austria, U.K, Italy, Portugal, Slovenia, Germany, Denmark etc. among the 'first-priority' countries. In Asia, we looked at countries with which we don't yet have an (diplomatic) agreement. We also have to look at the potential sources of crisis…like the oil crisis in Gulf countries or take the pandemic for instance. These have an effect on the intake of migrants in destination countries. So, the second goal of our project was to look at other destinations...other than the ones our workers are already

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(Lindquist 2010, Xiang and Lindquist 2014: 133). Through a protectionist demeanour, the Indonesian state has adopted skilling of workers as a means to regulate their movement and bodies and has outsources skill training and certification to intermediaries (Chang 2018). From state- 'sponsoring' or state- 'provisioning', to state-'controlling' migration, different labour-exportingcountries have displayed different levels of state intervention across time (Shreshta and Yeoh 2018).

[43] For instance, Philippines state's designated departments such as POEA and ILAS monitor global trends in demand for foreign labour and they specifically study the immigration policies of countries with potential. Here the consulates and labour attaches in destination countries become the 'eyes and ears' of the state (Rodriguez 2010: 24).

> going (to). This is largely in response to the crisis...of demand in some current destination countries. I gave you the example of Gulf. So, the second goal was to look at possibilities of newer destination countries...such as Europe (24-10-20, Online)

The research conducted by the university is therefore to contribute towards promotion of labour migration for employment abroad, channelling demand for Nepalese migrant workers and diversifying their existing destinations to minimize risks emerging from migration blocks (in response to crisis, or market-related reasons such as shrinking demand in some sectors and corridors). Clarifying on the need to promote migration for foreign labour market participation, as Deepak Dhakal, the Under-Secretary of Ministry of Labour, Employment and Social Security says:

> We (have to) do a little bit of promotion. Because international labour market is competitive and we need a bit of promotion and our policy on the other side is to increase the volume of remittance. It means that we need to make our workers skilful for them to get higher paid jobs. We are a developing country and we have a huge population, we are not able to provide sufficient job opportunities for all of them. In that case we must send them for foreign jobs. Our aim should be to at least make them skilful and send them for higher salaried jobs (10-03-20, Kathmandu).

Research and promotion conducted by migrant exporting states indicates a significant change in global migration governance. Unlike the demand-driven migration systems of the past (such as guest worker programmes, Bhagwati et. al. 1984), sending states have come to occupy a key role in channelling demand from destination countries. Unlike waiting passively for the demand to knock the doors of migrant sending countries, these developing states such as Nepal have taken a proactive role in using data from research to create projections of prospective employment of its citizen-migrants. This has helped them anticipate demand in migration corridors that are currently unexplored, and even to 'prepare' migrants to comply with the needs of the destination country by influencing their skill requirements, tenure periods and by developing a general compliance towards the immigration regime in the place of work (Hugo and Stahl 2004, Rodriguez 2010: 23-24). This shows a strong supply-side intervention and commercialization of migrant labour.

3.2. Authorization and legitimacy

Another way in which sending states enact labour brokerage is by the means of authorizing the actors facilitating migration and identifying the 'legitimate' channel of mobility. Migration scholars have identified that states, mostly migrant-sending states, have been formalizing migration channels. One of the main goals of formalized circular migration regime is to systematically overcome anxieties about illegal, unregulated and informal channels of migration (Chang 2018; Xiang 2017). The migrant-citizens of the sending state are informed about these anxieties and are encouraged to 'buy' a legal migrant status and opt

for formal routes of migration (Xiang 2013). The entire focus of this approach is towards channelling workers in specified ways of 'legitimate human mobility', as Xiang (2017: 180) observes in the case of Chinese transnational migration.

The Nepalese state similarly formally and informally (see chapter 4) conditions the flow of Nepali labour migrants and prescribes the "proper" channel of mobility- through licensed recruitment agencies. While the involvement of recruitment agencies in facilitating out-migration of Nepalese point to several reasons including the distribution of accountability of migrants, convenient channelling and limitations of state capacity, the main purpose of prescribing a 'legitimate means of movement' (Torpey 2018) appears to be an interest in delegitimizing illegal channels of mobility. With a large emphasis on documentation and bureaucracy[44] (words such as standardization and bureaucratization are used to describe the phenomena in Nepal; Shrestha 2018), migration documents such as ID cards, biometric data on health and security clearance, training and orientation certificates, demand letters from employers verified by the Nepali embassy, work permit from Nepal, visa and many other forms of 'paperwork', become instruments of migration regulation. Scholars have claimed that such emphasis on documentation and bureaucracy makes migration extremely procedural and facilitation becomes an end in itself rather than actual mobility (Chang 2018; Shrestha and Yeoh 2018; Xiang and Lindquist 2018). This intertwines mobility deeply with immobility and produces sporadic periods of waiting (Sandhya: forthcoming).

Part of prescribing "proper" channel of mobility is by allowing migration in some corridors and banning in some others. Apart from signing bilateral agreements with migrant- receiving states and enabling mobility in those corridors diplomatically, Nepal has also banned some corridors from time to time. Mostly for migrant protection and wellbeing, such bans are put in place to disable mobility in specific corridors. One latest example of this is the ban on the Nepal-Malaysia corridor (2018-2019). Nepal banned this corridor when cases of migrant exploitation and syndicate of Malaysian medical screening firms charging Nepali migrants excessively came to the fore. As a result, recruitment agencies working within this corridor completely stopped their operations and no migration was legally permitted for over a year. In doing so, the Nepali state qualifies certain corridors as legitimate and certain other as illegitimate, authorizing mobility in the former and penalizing mobility in the latter. Another way in which it prescribes legitimate channels of mobility is by legally recognizing actors through which migrant can migrate and this is primarily done through licensing of recruitment agencies. The recruitment agencies that have acquired license from DOFE, uphold the it as a credential in their websites. This, they say, help them gain the trust of the potential client

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[44] Philippines is considered an 'award winning' example of labour export efficiency (Rodriguez 2010) and many smaller labour-exportingcountries such as Nepal imitate its 'best practices' (a migration management vocabulary).

or the employer in destination country. In these cases, license of the recruitment agency is a symbol of authorization by which the government corroborates the legitimacy of the concerned market actor in the facilitation of mobility. Additionally, recent interventions by International organizations such as IOM also provide recruitment actors with new kinds of certifications. For instance, IOM Nepal is geared towards 'capacity building' of recruitment actors by giving them trainings on ethical recruitment. It is interesting to note that new kinds of certifications of 'ethics'[45] are similarly upheld by agencies to gain trust of prospective clients.

While channelling is a key component of state brokerage, it also includes producing the 'right' kind of workforce for export, wherein 'who' [46]migrants is as important as 'how' they migrate. Here, identification and evaluation of workers based on a number of criteria defines the 'legitimate subject of migration' (McKeown 2012). One such criteria is skill. Skilling has been identified as an important state apparatus to regulate mobility and migrants. Upskilling of potential workers is aimed at reducing the liability of the state on matters of worker in destination country as skilling is associated with more bargaining capacity and lesser chances of exploitation (Chang 2018). It is also said to have a direct, but not immediate impact on wages of migrant workers and eventually the amount of remittance sent back home. According to Sita Ghimire, Team Leader of Safer Migration Project (a Swiss-Nepal funded migration management organization) that conducts training for potential migrants in Nepal in association with the government:

> "there is a clear monetary benefit of skill training among migrant workers. We have evidence that workers who work well and have obtained training certification (among returning migrants) get an upgrade in their place of employment and receive better salaries" (06-02-20, Kathmandu)

The way skill of the worker is communicated and verified to the employer and the receiving state is through certification and certificates are redundant without authorization. Authorization of migrant workers through skill training certification and mobility facilitating documentation such as through work permits, passports and the like, create "social(ly) guaranteed identities" (Bourdieu quoted in Rodriguez 2010: 21). While the commercial actors[47] play a significant role in obtaining authorization, the state's role in producing 'authorized' migrants cannot be overlooked. It works through the means of attestations, stamps and seals in documents and the perceived quality of the migrant worker is communicated with documents, whereby the

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[45] For more information on the market dynamics around 'ethics', see chapter 6.

[46] Nepal has banned female migration and migration of domestic workers from time to time for their protection from vulnerabilities beyond the control of Nepalese state, something which has received a lot of negative attention from civil society actors and media. As has been noted, Nepal has experimented with different kind of bans (sectoral, age-specific, corridor-specific) to protect its female migrant workforce. See https://www.nepalitimes.com/latest/nepal-town-to-ban-mothers-migrating/

[47] In the case of Indonesia, licensed private actors are to maintain a national standard of 'professionalization' of migrant workers, making training and recruitment an integral part of formalized out-migration (Chang 2018).

receiving country and the employers there recognize the authority of the sending state by the means of documentation (Rodriguez 2010). By doing so, authorization also has key implications for the understanding of trust in transnational state-state relations.

3.3. Return

Return of migrant worker is perhaps the most important aspect of state brokerage in circular migration regime. While a return migration can have different social meanings and implications for the migrant, the state and the society [48], return in circular migration trajectories can also be state-induced. The Nepalese state does not just facilitate out-migration but also makes it mandatory for the migrants to return. Recent regulations have reduced the contract period to two years in most corridors and in every 2-3 years, workers have no choice but to return back home. The Foreign Employment Act (2015) also mandates the return of the migrant to Nepal to renew his/her labour permit after the end of the contract period. This implies that even if the migrant worker has managed to acquire an extension of his/her contract in the same place of work, he/she has to come back to renew the documents. The government of Nepal also uses the recruitment actors[49] to facilitate the return of the workers to their country of origin (see chapter 4). Furthermore, sending states such as Nepal also projects the discourse of the migrant worker as a hero and a 'development partner' to bring them back to their country of origin after the completion of the contract, making the act of return itself heroic.

This aspect of state brokerage of bringing the workers back, whether on their own or through the help of non-state actors (recruiters, IOM's 'voluntary' return scheme etc.), is also tied to the return of foreign capital in the form of remittances and social capital in the form of skills acquired in destination country during the period of employment. The FE Policy (2012) acknowledges that foreign employment is an "attractive option to eradicate unemployment challenges of the country" and that the focus of governance in this new phase must be "appropriate management of economic-social remittances" to explore the economic and non-economic benefits of migration for work. This was enacted in two ways. On the one hand, there was an emphasis on formal channels of money transfer for safer and more efficient transfer of economic remittance. Th FE Act (2007) clearly lays emphasis on encouraging the use of formal channels of transfer for the 'repatriation of income of workers' or remittance money instead of the informal channels like the hundi or carrying cash while travelling, the latter is acceptable but not desired by the state. On the other hand, migrants and their families are educated about the use of this money and to think beyond mere consumption.

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[48] Return migration has been recently studied by anthropologist, showing different social meanings of the act for different sets of actors. From identity-driven returns (ancestral, ethnic or nationalist logic), to return as a victim, hero or social undesirable citizens (Christou and Yeoh 2022, Xiang, Yeoh and Toyota 2013), migrants returning to their family and society has different implications.

[49] Akin to Nepal, Taiwanese government also uses brokers in the market to bring the migrants back home after the completion of the guest worker programme's specified contract period (Tseng and Wang 2013).

The civil society organizations in Nepal take an active part in providing 'financial literacy' to the families of migrants, especially the wives of male migrants and help them manage the money sent by their husbands. Interviews with the IOM (Nepal division) indicates how the primary aim of financial literacy among migrant households is to educate them on "how not to waste money on day-to-day consumption" but learn to save and invest. Steps which are crucial for the state to realize its developmental goals.

Connected to the 'suggested use' of remittance money is the promotion of entrepreneurship among returnee migrants. As Deepak Dhakal from the Ministry of Labour, Employment and Social Security, says:

> "Besides this (reducing contract period from 3 to 2 years in Malaysian corridor), we are doing some work on the use of...productive utilization of remittance...their earning. Since few years we have also been awarding the returnee workers who have been establishing some kind of entrepreneurship in Nepal (smiles). There are some standards...based on which the award is given. We first seek application and many apply. And calculating the...there is a number in the system and on that basis, we select a few ones and award them. Even some monetary reward is also given to them. Another thing that we do is that…we are identifying some projects where these foreign worker's earnings can be invested. But this one is in preliminary stage. Roughly we have a plan of RemitHydro..it's a hydro power company where the foreign workers can invest their earnings. Other projects are also in pipeline". (10-03-20, Kathmandu)

Measures such as these are taken by the state to encourage timely return[50], spending of remittances 'productively' and initiate another round of migration, to sustain income in the form of foreign capital for the development of the country. To further promote return migration, the aforementioned rewards and recognitions are used as strategies apart from giving out discounts and/or relief on duty/tax on specified goods for returnee migrants and encouraging them to join agencies that provide trainings and develop "entrepreneurship and capital formation" (FE Policy 2012). The other side of this coin is the social remittance or the skills accumulated by the worker over the course of his/her employment. Migrant workers are expected to use their accumulated skills to *eventually* find employment within Nepal and help develop its own economy. However, given Nepal's uncomfortable relationship[51] with commercializing its citizens and using their income to facilitate domestic growth, emphasis on eventual return helps it see migration as a temporary phenomenon by which the workers can go abroad, acquire experience, accumulate skills and

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[50] Post 2007 was also the phase in Nepal when a lot of emphasis was placed on eventual return migration of the migrant. This corresponded with the fact that most Nepali workers had ''permanent return intentions'' (IOM 2017), implying that they are primarily target earners (Piore 1979).
[51] Given its ideological and political history and recent turn to nationalism; (see Thapa 2020). Migration and remittance dependence as a temporary stopgate measure then caresses the ideology of the communist party as well as makes use of the existing pattern of migration to utilize the economic and non-economic benefits of mobility.

save-up enough money for investment back home. This is tied to the idea of the migrant worker as a "development partner" who is to be used for "national development and poverty reduction by utilization of their skill and savings" (FE Policy 2012), and their temporary and eventually permanent return is key to materializing this developmental goal.

4. Key state relations emerging in migration management

When managing migration, the migrant-sending state enters into relationships with different non-state actors, including the migrants themselves. Migration management as a neoliberal paradigm of migration governance, emphasizes on distribution of typical state responsibilities to a number of non-state actors who are referred to as "stakeholders" of mobility. While one of the most important state relationships is with the market and actors mediating migration for commercial interests (taken up elaborately in chapter 4), there are other such relationships which cannot completely be defined by market pursuits, although there are often overlaps in interests. In this section, I discuss each of these key state relationships that emerge in the middle space of migration management and in response to state's brokerage practices.

4.1. State-migrant interaction: The double movement dilemma

Nepal, much like other labour exporting countries, struggles to maintain a "balance between promoting foreign employment and protecting migrant workers" (MOLESS 2020). This 'double concern' (Siracusa and Acacio 2004) of commercialization of its migrant workforce and their social reproduction and welfare is thus an 'essential dilemma' of state brokerage (Tigno 2014). Labour exporting states have 'packaged' their workers with respect to their uniqueness in relation to the skills that are offered, the price at which those skills are offered and also the general ease of recruitment procedure. At the same time, the state has responsibilities towards ensuring minimum labour standards and safe migration so that the commercialization of the migrant labour is not beyond the point of repair. State face this concern particularly amidst growing public outrage on labour rights violations and international media coverage on the migrant safety issues. And since regulation of working conditions in destination country is beyond the sending state's juridical capabilities, it needs to find precise mechanisms to balance both needs of commercialization and 'humanization' (Siracusa and Acacio 2004). or decommercialization of migrant workers.

Before getting into how Nepal has attempted to address this dilemma, delving on the dilemma itself may be important. Polanyi postulated about this 'essential dilemma' many decades back and he argued that an extension of market organization came with its restriction, pointing towards the dual role of the state in providing a conducive atmosphere for growth of market and on the other hand integrating institutions of 'protection' to counter-act on marketization of commodities that were not produced for sale such as land, labour and money (Polanyi 1957: 76). Here, both commercialization of labour for the promotion of market

and their decommercialization through welfare measures are considered two different and often opposing 'organizational principles' of society (Polanyi 1957: 77).

But the institutions of protection that the state integrates and its overall discourse of migrant welfare, is not just necessary for the state to address the dilemma but to reinstate its legitimacy and viability both locally in relation to the civil society and but also globally with supranational actors (Siracusa and Acacio 2004: 334), such as the ILO or the UN. More importantly, it has been pointed out that the state's welfare mechanisms and protectionist discourse is not necessarily antithetical to migration management (Tigno 2014: 29) and these have been successfully incorporated into packaging migrant workers as professionals who deserve social protection[52]. Having said that, the 'dilemma' continues to exist especially in a transnational labour market setting (Shire 2020) wherein commercial exchange of labour across borders and the limitations on the sovereignty of the sending state makes it even more necessary for the sending state to work towards 'protective countermoves' (Polanyi 1957: 76) for the welfare of their migrant workers. In the context of Nepal, this dilemma and the general unease (at least rhetorically) with migrant commercialization is very palpable in the recent name change of Foreign Employment Promotion Board (FEPB). The FEPB recently changed its name by removing the word 'Promotion' from it, making it Foreign Employment Board (FEB) -an organ of government that is now responsible for migrant welfare and outsources the function of market research to universities and research institutes and does 'promotion' only under the covers. Similarly, Nepal's legislative fluctuations with regards to removing barriers from female migration in 2007 to reinstating some of those barriers in 2013 suggests its discomfort with free reign of market vis-à-vis the vulnerabilities of female migrants in overseas labour market.

Interestingly enough, the question of migrant welfare or protection was much discussed in the pre-2007 phase of migration governance in Nepal. Although the 1985 FE Act had discouraged migration of skilled populace to combat brain drain and had heavily restricted the mobility of women and children due to their vulnerability in potentially exploitative working conditions, the discourse of migrant welfare and rights-based protectionism interestingly came along only with the post-2007, pro-market and pro-entrepreneurship phase of labour migration governance (see chapter 4). In this regard, it laid out a number of policy prescriptions and specifications in employment relations in favour of the worker. For instance, the FE Act (2017) grants the government the ability to specify minimum wages for its migrant workers according to the prevailing wage structure in the country of destination, something that was soon implemented in many

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[52] Philippines for instance had to call off labour export as a 'legitimate' means of national development and create a new national rhetoric of mobility as the migrant's rational choice, and thereby a right (Ibid). Indonesia on the other hand followed a slightly different path and emphasized on skilling as a tactic to self-regulate the migrants in the destination country (Chang 2018), by making extensive skill training mandatory for vulnerable/female-migrants so that the obligation of 'protection' is diffused from the hands of the state. Following the same logic, both these significant labour-exportingcountries have turned to a paternalistic protectionism as a response to the need to balance commercialization against welfare (Chang 2018).

BLAs and MOUs. The 2007 Act also grants the government to specify an upper limit to the 'service charge' and other migration related costs that the migrant has had to bear and this has been done to curb recruitment agency's ability to overcharge migrants and prevent debt bondage. The 2012 policy also dictates that the contract signed between the employer and the intermediary has to be translated in Nepali by the agency itself and the worker to be given a copy of the contract and also orally explained to avid situations of miscommunication about the nature of job, working conditions or salary. Several BLA/MOUs also prescribe conditions of living (like not more than 4 people in a room) for the migrant worker and the other responsibilities of the employer (such as food, lodging, insurance etc.). While the implementation of such pro-worker policies is questionable, the presence of such policies indicates the concerns of the sending states with regards to migrant welfare.

Apart from these, the FE Act (2007) had also created the institutional space for a designated department for the welfare of migrant workers and a designated welfare fund for foreign employment related remedies and compensations. According to the representative of MOLESS, the dilemma of double movement is also represented in the ministerial wings responsible for different tasks pertaining to foreign employment. While the Department of Foreign Employment (DOFE)- which the primary organ of government responsible for regulating the private employment intermediaries- is considered the 'left hand' of the government of Nepal, the Foreign Employment Board (FEB) and its welfare fund is the 'right hand' that takes care of the needs of the migrant workers. Further elaborating on the FEB and its role in countering excessive commercialization, Rajan Prasad Shrestha, the Executive Director of FEB says:

> Basically, we have been providing financial support to the migrant worker, those kin or spouse who get affected directly..700,000 RS. We have been providing financial support to those who get handicapped or have serious health problem from work abroad. There are 5 types of serious health problems we notice among migrants. We provide similar amount 700,000, which is the maximum amount, depending on the nature of the problem and the decision of the committee chaired the senior government doctors. So, based on their recommendation, we provide financial support to the migrant or family. We have also been providing scholarships support to those migrants who came here and got financial support from us or the children of labour migrants who died. Beside these things we have providing financial support to family members up to 50,000. We also support repatriation of dead bodies and free vehicle service for transportation of dead bodies from airport to home town of the migrant. We also support the finding of migrant workers who have disappeared in the destination country and run-away cases. These are all the welfare activities for migrants and their families. Besides this we also support in policy making and give recommendations to make it more labour friendly. Apart from

these, we design curriculum for training and certification of works, we have a call centre specially to address the issues of migrant workers abroad and we manage the work of local and international NGO's and use their technical help in running migration resource centres at the local level, spread awareness about importance of training, formal remittance transfers and investment and entrepreneurship for migrants (17-02-20, Kathmandu)

Despite these many pro-worker policies and mechanisms in place, there is a clear gap between policy and implementation in Nepal because of which the migrant workers continue to suffer. For instance, despite the ability of the Nepalese state in negotiating remuneration for the migrant worker in the destination country and despite this being translated into several BLAs and MOUs, Nepali workers are still among the lowest paid migrant workers in Gulf countries wherein other South Asian and East Asian competitors like Indian, Sri Lankan and Filipino workers earned much more (Sijapati and Limbu 2012). Similarly, while training, orientation and medical certificates are a must in formalized channels of migration in Nepal, commercial actors have from time to time facilitated migrants with fake certification to ease the process of migration formalities as my own research also shows. Also, despite the upper-limit on service charge of 10,000 NPR put in place for the welfare of workers, in practice, many migrants continue to pay much more for their recruitment and documentation and to escape penalization, recruitment agencies provide fake receipts of 10,000 NPR to migrant workers so that they cannot press charges against them once they get an employment. More on how service charge is negotiated and the illegality around it is legitimized will be discussed more in the next chapter on market practices.

4.2. State-state relations: Beyond labour diplomacy

State to state relations are key to institutionalizing labour mobility between two countries and in establishing and sustaining migration-remittance corridors. While they are important in promoting market opportunities for Nepali workers in foreign countries, these relations are also key to regulation of cross-border employment relations and migrant welfare. These agreements, whether in the form of general Bilateral Agreements (BLA), Memorandum of Understanding (MoU) or Memorandum of Cooperation (MoC), imply a shared political will and a commitment between the two countries concerning (often temporary) migration and employment of labour migrants. While the ability to hold actors accountable for misbehaviour (legal boundedness) of each of these agreements is qualitatively different[53], they are crucial interventions on the

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[53] Based on interview with and unpublished paper by Shom Luitel (migration-law specialist, professional lawyer, and civil society actor) on the differences between different types of agreements.

part of the sending state to regulate, channel or even redirect (in the case of transit migration) migratory flows and to protect migrants from extremities of commercialization[54].

DESTINATION COUNTRY	YEARS OF AGREEMENT	NATURE OF AGREEMENT
Japan	2009/2019	JITCO Agreement /Memorandum of Cooperation (MoC) for Specialized Skilled Workers
Mauritius	2019	Memorandum of Understanding (MoU)
Malaysia	2018	Memorandum of understanding (MoU)
Jordan	2017	General Agreement (BLA)
Israel	2015	Joint Pilot Program
Bahrain	2008	Memorandum of understanding
UAE	2007/2019	Memorandum of understanding
Republic of Korea	2007	Memorandum of understanding
Qatar	2005	General Agreement (BLA)

Table 1: Bilateral agreements signed by Nepal over the last two decades. Source: MOLESS

Over the course of last two decades, Nepal has signed several labour agreements with migrant receiving countries to institutionalize migration-remittance corridors (see figure 3). Nepal signed its first bilateral agreement with Qatar in 2005 and since then it has signed several BLAs, MoUs and MoCs with UAE, Republic of Korea, Bahrain, Japan, Israel, Jordon, Malaysia and Mauritius, with specific sectoral indications and annual quotas indicating the number of Nepalese that could be deployed each year to these countries. Most recently, Nepal has also signed labour agreements with Israel (2020), U.K (2022) and Maldives (forthcoming) to send care-workers, nurses and healthcare assistants in these newer corridors[55]. These agreements at the bilateral level are key to establish a political willingness, sense of shared responsibility and commitment to labour exchange and they also contribute towards sharing a clear intent of "promoting cooperation in the field of manpower recruitment" (Wickramasekara 2015).

Often it is the sending country that has more incentives to establish this formal state-state connection as most of these agreements address questions of migrant welfare in destination country, something that sending country cannot directly govern and has more at stake to negotiate. As a result, it is often observed that sending countries take a proactive role in initiating bilateral agreements with destination country. As Shom Luitel, a labour lawyer who specializes in migrant labour diplomacy in Nepal clarifies,

> „ ..the process of making BLA and MOU on labour migration issues, any country can initiate the process. Any country can initiate the basic dialogue. In this corridor approach, destination countries usually are not very keen...they don't initiate the

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[54] Tigno (2014) for instance recognizes that the 'marketing missions' of Philippines combined both functions of marketing and ensuring safe(r) working conditions for the migrant workers through its bilateral agreements (Ibid. 25-26).

[55] My research indicates that Nepal has been preparing its careworker supply since it signed its labour agreement with Japan. However, the corridor is considered a failure in the market as only a handful of trained Nepalese could be sent. It is my impression that Nepal (state and market actors) channelled this 'pre-prepared' workers trained in nursing to newer destinations. This can use more research in the future to assert such a claim.

bilateral agreements. (It is) because the destination country will have more obligations in these agreements. So principally any country can initiate the dialogue but practically the sending country or country of origin is the one that initiates these agreements in matters of labour migration at least. The country that initiates also generally drafts the agreements and if the other country has any reservations and comments, they share before signing it" (15-12-19, Kathmandu).

The bilateral agreements and MOUs in Nepal similarly have made efforts towards systematizing the process of recruitment and training, employment contracts, provision of food, lodging and accommodation of migrant workers and identification of dispute settlement mechanisms. The Nepal-Malaysia MoU signed in 2018 is a case at hand. In this, Nepal specified that aspiring Nepalese migrants going to Malaysia for work need not pay any cost in the process of recruitment and that the employer will be responsible for covering all the expenses of the worker including the service charge of the concerned recruitment agency, the two-way ticket of the worker, and other promotional costs including the visa fee, medical check-up and security screening of the worker. The money spent by the worker on medical and security tests will have to be reimbursed by the employer as the worker joins the workplace[56]. Moreover, the government of Malaysia is obliged to treat the Nepalese workforce equally with regard to health insurance, accident insurance, security and other accidents[57]. This is in accordance with Nepal's 'Free Visa Free Ticket' and 'Zero Cost' policy[58] that had been important policy claims for the communist party in Nepal. This has also been in accordance with the FE Policy (2012) that suggests that 'bilateral, multilateral and international forums shall be utilized to make laws of destination countries in line with International labour standards framed by ILO' (FEP 2012).

On the other hand, Nepal's alliance with other sending countries has also been important for the country. As the Policy says, 'Basis of minimum remuneration for foreign employment workers shall be developed and fixed. For this, collective bargain to fix minimum remuneration with destination countries shall be executed in coordination with countries of origin of this region. (FEP 2012). With this policy preference in the background, Nepal is an active member of many 'inter-state consultative mechanisms' that are regional and inter-regional platforms for 'information sharing and policy dialogues' (IOM 2019: 136). On such platform is the Abu Dhabi Dialogue[59] which brings together both labour sending as well as receiving nations, with a focus on maximizing the benefits of temporary migration for both sides. In fact, the GCC countries which are also part of this dialogue, restrain from giving permanent residency to migrant workers and the

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[56] https://kathmandupost.com/miscellaneous/2018/10/29/nepal-malaysia-sign-labour-pact#:~:text=Kathmandu,Nepal%20on%20Monday%20signed%20a%20labour%20agreement%20with%20Malaysia%2C%20the,Nepali%20migrant%20workers%2C%20in%20Kathmandu.&text=As%20per%20the%20agreement%2C%20Nepali,in%20South%2DEast%20Asian%20nation

[57] https://thehimalayantimes.com/nepal/nepal-malaysia-ink-labour-supply-mou/

[58] https://kathmandupost.com/miscellaneous/2016/05/02/free-visa-free-ticket

[59] See for details https://mfasia.org/mfa_programs/advocacy/abu-dhabi-dialogue/

residential status of these workers is tied to their employment status. More important for Nepal perhaps is the Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia, popularly known as the Columbo Process (CP). Nepal is not just an active member in this forum of sending countries but is in fact the current Chair (2017 onwards). It is an informal and non-binding consultative process and has over twelve member-states from the region, sharing their labour export experiences and discussing 'best practices', discussing optimization of developmental benefits of organized migration and strategizing on fostering better dialogue with the destination countries (MOLESS 2020). In its chairmanship, Nepal convened the CP consultation in 2018 on "Safe, Regular and Managed Migration: A Win-Win for All" and this led to the adoption of the 17-point Kathmandu Declaration on the topic, followed by a consultation on GCM[60] implementation in 2019 to design a 'regional strategy' (Ibid.). Apart from these, the CP has also conducted several coordinating pilot projects with destination countries in the field of mapping complaint mechanisms and recognition of skill of migrant workers in destination countries. In general, these platforms along with the GCM have helped sending countries like Nepal to develop a common language among labour sending countries to initiate a dialogue on workers' rights in destination countries[61], with the 'best practices' leading to policy convergences and shared strategies (Hugo 2009).

But it has also been pointed out that the relations between the sending countries is not always cooperative and labour migration is also a source of tension among some of these countries because of the potential competitive threat one poses to another labour exporting country. While this competition is more palpable at the level of market actors in the case of Nepal, who seem to be very aware about the threat of competing labour market intermediaries in Bangladesh and Pakistan (for instance) and device ways to overcome this through a number of manoeuvres (see chapter 5), competition at the level of state is also existent but much subtler. It has been pointed out that the existing unequal geopolitical power arrangement (Chi 2007) and the structural inequality between sending countries like Nepal and the destination countries, limits the capacity of the sending state in negotiating bilateral agreements. This power asymmetry also increases competition between sending countries, some of whom might then settle for lower remuneration and poor working conditions thereby bargaining against the interests of migrant rights in the destination country.

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[60] The overarching frame of reference for many of these consultative processes is the GCM or the Global Compact for Safe, Orderly and Regular Migration. It is a global forum on discussion on migration governance organized by the UN, with the general motto of 'making migration work for all'. Currently, the Ministry of Labour, Employment and Social Security of Nepal is in the process of developing a national strategy for the implementation of GCM in Nepal.
[61] Apart from these policy dialogues and consultations, cooperation between sending states have also taken the form of bilateral agreements of mutual cooperation. Examples of this are the Philippines providing technical support on labour brokerage to Indonesia (2003 Philippines-Indonesia agreement) and to Lao (2005 Philippines – Lao People's Democratic Republic MOU). See (Wickramasekara 2015)

4.3. NGOs and 'development partners'

Another set of important actors mediating, conditioning and channelling labour migration are the NGOs, International organizations and development partners of states- or- the 'humanitarian' or 'rescue industry' (Gammeltoft-Hansen and Sorensen 2013; Hernandez-Leon 2005). These actors play an important role in representing state interests (remittance related or for border control) and in channelling donor funds and foreign capital into implementing state's migration-related projects. In Nepal, one can identify several ways in which these actors contribute to managing migration for the state. One way in which this is done is by the means of information dissemination. Information dissemination in the context of migration management plays a significant role in influencing mobility and migrant labour process including decision making and resource allocation. It speaks the language of 'choice' of the rights-bearing migrants in accessing 'good' channels of migration for 'productive' employment in foreign labour markets. As Pécoud (2010) points out,

> "(i)nformation is presented as a crucial element in distinguishing between 'good' and 'bad' migration. 'Informed' migrants would know the rules and respect them, thus behaving in a way that makes migration 'optimal' and beneficial for all, while 'informed' public opinions would support policies that aim at maximizing the positive impact of migration. Information is thus given a normative function: in this ideal world, all actors would be perfectly cognizant of migration realities and, consequently, of how they should behave." (Pécoud 2010: 187)

The idea behind this is that a mobile neo-liberal subject can make an informed choice after receiving information about the risks and opportunities of a particular action and this choice has bearing on his/her future and sense of security. Here, the civil society actors become the legitimate sources of information, that influence the migrant behaviour by making 'rational and well-informed choices' (IOM); making information dissemination a non-coercive and soft form of control and making migrant "self-govern" themselves in country of employment (Chang 2018). 'Kiosks' of information in migrant-sending countries, also known as MRCs, do not just provide information about pre-departure preparation but also provide migrants with practical suggestions on mitigating such risks. These include, for example, leaving a copy of the employment and travel documents with the family left behind. This is done to ensure migrant protection and safe return in case their documents are confiscated by the employer, putting the onus of their safety and redressal on the household. MRCs primarily target migrant protection by informing them about potential dangers of cross border mobility and some MRCs also manage call-centres and helplines to help migrants in need and advise them on how to protect themselves from adverse employment situations by referring them to relevant authorities or services without necessarily providing those services themselves.

Additionally, NGOs and civil society actors train potential migrants about the risks of foreign employment, without necessarily educating them about their rights. For instance, Sita Ghimire, the country head of the Swiss-Nepal funded civil society organization, points out:

> In destination country we have no access because these kinds of cases happen inside home of the employer...in domestic sphere. We can do nothing there. We can only empower and inform them well before they migrate. And once they come back, we can provide support of different kinds. Information can be really empowering like information on 'how to escape' and 'whom to contact in case of problem'. Although it's illegal to take passports of the employee, many employers still do that and the migrant worker may not have much say there. It's not practical to say that 'don't give your passport to your employer' because then they don't have the job. What we do tell them is keep an extra copy of the documents with yourself and wit your family. Not just (private) houses but companies also take passports and give them an ID card instead so that they don't run away. So, we cannot say 'don't give the passport'. (06-02-20, Kathmandu)

By training the working how to navigate potentially threating situations and how best to prepare for such occasions, these civil society actors do not encourage migrants to form unions, or engage in collective actions and even educate them about their rights in destination country. They prepare them for such occasions by learning to work around vulnerabilities rather than challenging them. These organizations continue to play a very important role at the local level in also teaching households how best to use remittance income, where to invest, how to seek redressal upon return and have an extensive network of

Image 4-5: Female garment workers being trained at a cost-free, residential training centre in Kathmandu. On the right is the dormitory for women training at the institute.

socio-psychological counselling that migrants can utilize, providing a crucial infrastructure for migrants to rely on, in the absence of state-instituted channels of redressal.

NGOs and international organizations also play an important role in skilling Nepali workforce to prepare them for foreign employment. Often designing curriculums based on new developments in labour market and state's bilateral labour initiatives, training centres run by these non-state actors are either free of cost or charge a miniscule of what commercially operating institutes charge. Funded by the Swiss government and managed by local NGOs, F-Skill pvt. limited was offering residential skill training for garment workers (for Jordon) and masons (for Malaysia) during my research in Nepal. At the time of research, Jordon was temporarily banned by Nepal government due to low wages for its workers. However, the training institute was using the ban period to prepare its female workforce in garment and textile work. The representative of this agency pointed out how they have very good connections with the employers, placement agencies and government in Jordon and although they are disappointed with the ban, they are planning to convince the government of Nepal to make migration legal again in this corridor. They also claim that the client companies recognize their training and certification, which helps absorb the prepared workers without legal or bureaucratic hurdles. The training is free of cost and residential (see image). The representative of the institute visits each migrant's family and convince them to send their daughters and wives to Kathmandu for the residential training and take accountability for their safety. Once the training is finished, the employer (or more likely their representative or placement agency) visits the training centre and conducts an examination. The selected candidates are then sent to recruitment agencies who then process their documentation and facilitate migration.

The Nepali state, by involving non-state and non-market actors such as NGOs and international development partners in drafting policies and using them for training, information dissemination, welfare and justice for migrant workers and for orderly and safe migration in general, manages migration from a distance. More recently, the government of Nepal is also using the assistance of this group of civil society actors in drafting a first of its kind national standards for recruitment agencies[62] (Interview, IOM Nepal, 28-01-2019). Apart from these, networks like Non-resident Nepali (NRN) was also to be used in the absence of diplomatic mission in the destination country to mobilize legal aid, emergency support and rescue of migrant worker (FE Policy 2012). Banks were similarly involved and systematically used to institutionalize remittance corridors, promote outward migration by providing loans to potential migrants as well as promote return migration by providing loans for investments back home. This dissertation acknowledges and recognizes the very important role played by these actors in migration management. However, as the rest of the chapters will unfold, this dissertation considers their role necessary but not sufficient. In the other words, while they

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[62] As indicated by Ms. Lorena Lando, Chief of Mission, IOM Nepal (27.01.20, Kathmandu).

are crucial in managing migration, it is the state and the market actors which are institutional entrepreneurs (DiMaggio 1988) or key organizers of cross-border mobility and transnational labour market participation.

5. Conclusion

Introducing the case of Nepal, this chapter traced and established the interests of the Nepalese state vis-a-vis labour migration and remittances. Under the constraints of Nepal's structural dependence on foreign capital in the form of aid, grants and later remittances, and given the existing conditions of unemployment, political unrest and a gendered collective aspiration to work abroad – commonly referred to as the 'culture of migration' in migration studies- Nepal has gradually become a mass migrant labour exporter in South Asia. Tracing this development, this chapter argued that infrastructures of migration are seldom "self-sustaining" or "self-perpetuating", and that networks of actors and technologies are insufficient in explaining why or how labour migrants move from one place to another. Rather, what is argued here is that states, especially migrant-sending states, have come to occupy a central position in coordinating labour migration for developmental benefits and that they perform a crucial role in "producing, distributing, and regulating" migrant workers across the globe (Rodriguez 2008: 794). States, thus, continue to be critically important actors in the study of labour migration. Transnational movement of labour or capital, hence, does not preclude an analysis of states, but rather calls for a study of restructuring of state's roles and responsibilities vis-a-vis the movement of migrant workers, or the capital they send back home in the form of remittances.

Towards this, this chapter showed how the Nepalese state mediates labour migration through systematic research on migrant demand in destination countries, anticipating demand in specific sectors potentially suitable for the Nepalese workforce as well as channelling the demand to Nepal through bilateral agreements with migrant-receiving states. This perspective complements existing work in the nexus of development and migration studies that has shown how states themselves become brokers and navigate demand for their workers diplomatically (Hugo 2009; Hugo and Stahl 2004; Rodriguez 2010; Rodriguez 1999). Additionally, the state is also shown to make legal migration both desirable and attainable for migrant workers, by prescribing 'legitimate' channels of migration and authorizing certain non-state actors for organizing mobility. Furthermore, the principle of rotation (circularity) is maintained and regulated by making the return of the migrant worker both necessary and aspirational, making migrants the 'development partners' of the state and encouraging them to contribute to the nation's material progress. Through empirical examples from the context of Nepal, this chapter thus examined the strategic role played by the states in facilitating and governing labour migration and what it means for a potentially supply-driven migration system, as opposed to the erstwhile guest worker programmes discussed in the previous chapter.

By examining key social relationships, especially between state and migrant workers, emerging from the state's brokerage practices in Nepal, this chapter was also able to point towards certain dilemmas that the state encounters as a result of being a migrant exporting state. Constantly oscillating between commercializing migrant labour and preparing them for participation in the labour market of the destination country, and decommercializing them with welfare mechanisms to ensure that the migrant labour power is socially reproducible and is not damaged beyond repair, the Nepalese state strives to achieve a "balance between promoting foreign employment and protecting migrant workers" (MOLESS 2020). This perpetual dilemma of the labour-exporting state has implications for our understanding of state-market linkages. Non-state actors, particularly the profit-making recruiters in Nepal, are engaged by the state to extend its responsibilities towards migrant workers in places which are beyond the sovereign control of the sending-state. The next chapter further explores the use of market principles in the organization and governance of labour mobility in Nepal and focuses on the interaction between state and market towards understanding this restructured role of the state in transnational mobility of labour.

Chapter 4

Market as a vehicle of development

1. Introduction

This chapter zooms in on the interaction between the state and the migrant recruitment industry (MRI, from here on), and discusses how in the context of Nepal, the state uses the market as a vehicle of *bikās* or development. Nepal's use of market principles for development can be traced back to the early 1990s. The structural adjustment programmes that were initiated in the mid-1980s by World Bank and the International Monetary Fund, also impacted Nepal's gradual turn to marketization. By the 8th 5-year plan, Nepal adopted a new developmental strategy- "to carry out development through a free-market-oriented economic system" (NPC 1992). With that, rules concerning labour migration from Nepal were relaxed, passport processing was decentralized, and banks were deregulated. Along with this, a turn to market as a vehicle of development was swiftly acknowledged and with it began the commercialization of migrants, facilitation and promotion of migration as opposed to mere regulation till the early 2000s and the making of the recruitment industry in Nepal. The liberal market economy and not the state, thus, began to be perceived as an engine of social progress and development (Rankin 2004)[63].

While many scholars studying migration and transnational labour markets have recently recognized the relevance of market-based principles in the organization of cross-border labour migration (Mense-Petermann, Welskopp, and Zaharieva 2022; Mense-Petermann 2020; Quack 2022; Shire 2020), we do not yet have substantial knowledge on contextually emerging state-market relationships and what it means for the organization and governance of migration. In this context, this chapter looks into the specific processes and mechanisms that define the relationship between the Nepalese state and the MRI. In so doing, it is able to present an analysis of the structural positioning of the migrant recruitment industry and explain the dependence on these market actors in mediating migration. Additionally, this chapter uses secondary analysis of policy documents, especially from 1985 to 2020, to examine the changing interests of the state

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[63] On Rankin's book, Harriss-White (2006) remarks, "wherever the state fails to regulate, or is forced to withdraw, other social forces – not at all egalitarian – step in". But in the case of the Nepalese recruitment industry, it is not the failure of the state or its withdrawal that defines the prominent role of MRI in Nepal. It is the state's careful assessment of its limitations – both within Nepal (mobilization of migrants) and outside Nepal (procuring demand for Nepalese migrants) – and its willingness to maximize the migratory flows, that explains the power the recruitment industry yields in Nepal. And it is this awareness of the state pertaining to its limitations and the institutional space it creates for the recruitment industry to flourish which is important for this thesis.

vis-à-vis the role of markets, and looks into state practices from 2000 onwards to explain its relationship with the MRI. As a result, it becomes clear from the case of Nepal that state-building has been intricately tied with market-making and market regulation (Fligstein 1996b; 2001), and neither can be studied without acknowledging the relevance of the other. In light of this, the chapter asks the following questions:

1) How do migration policies in Nepal influence and condition the organization of the recruitment market?

2) What explains the structural dependence of migrants and the state on the migrant recruitment industry?

3) What explains the moral anxieties of the state vis-a-vis the role of the market, and how does it deal with it?

Figure 3: This chapter looks into state policies and practices to understand how the Nepalese state uses the market as a means to create orderly and predictable channels of labour migration.

To address these questions, I use the existing conceptual tools within the new economic sociology, such as the organization of markets or the market-making approach (Aspers 2009; 2011) and politics of markets (Fligstein 1996b). Making of a market is essentially about introducing an institutional framework to regulate the activities of the market and introduce order, often centrally. Such an approach helps look into markets as something that are actively and constantly constructed by the constituting actors, whose changing interests impact the nature of order in the market. Seeing the state itself as a key organizer of the recruitment industry in Nepal with the aim of institutionalizing labour migration from Nepal (see figure), this perspective shows how the transformation of state interests with regard to migration and remittances influences the organization of the recruitment industry.

One key organizational element discussed in this chapter is the delegation of 'migration management'. Presented as a characteristic of markets-in-making (more specifically, a characteristic of sedimented or settled markets that are in an intermediate stage of organization), the state is shown to delegate the responsibilities of creating orderly channels of migration to the MRI. This, however, is not a flawless narrative of states delegating certain functions to the market actors, but rather a textured narrative of the problem of control emerging from such an act of delegation and the moral anxieties around regulatory inconsistencies that have a direct impact on migrant wellbeing. The

chapter thus looks into how the state *attempts* to regulate the market for the desired outcome of "productive", yet safe migration, but it is also about the challenges it faces in designating the task and monitoring the actions of the recruitment industry.

The chapter is organized into two parts: In the first part, with a focus on state policies, I trace the shift in migration policies of Nepal with regard to its interests towards remittances as a more sustainable, bottom-up source of foreign capital. Here, I also examine the effect of these policies on the making of the recruitment industry. The evolution of the migration policies is then studied vis-a-vis stages of market organization to argue that the proliferation of the recruitment industry in Nepal cannot be explained without the role of the state and the politics of market-making, despite the moral and political distance the state endures to keep between itself and the market actors. In the second part, focussing on state practices, I discuss how the state enters a brokerage relationship with the MRI in order to regulate migration through these commercial actors. It further shows the specific aspects of this relationship, such as informal contracting of the delegated task, scope and limitations of monitoring of task, as well as diffusion of accountability of migration *mis*management to the MRI. Lastly, it shows how, in the context of existing moral hazards and limitations in the state's ability to regulate them, the state engages in boundary-making with the MRI and creates a moral and political distance from these commercially motivated actors.

2. Migration policies and the making of Nepalese migrant recruitment industry

Studying state policy is a good starting point to understanding of state agency because policy is often a measure of state action (Acacio 2008), although not the only one. Looking at the evolution of migration policies of the Nepalese state is therefore a useful site to study the transformations of state interests around the subject of development, remittances and markets. While Nepalese have been migrating to foreign countries for work since the 1970's, optimal realization of remittances requires a substantial amount of migration. Remittances are then akin to economies of scale in that there are limits to how much an individual migrant can send money home but the when produced in substantial numbers (i.e. in aggregate quantity), these smaller contributions produce significant financial advantages to the country of origin. Stabilizing out-migration thus has been key to institutionalizing remittances as a sources of sustainable foreign exchange reserve. In the rest of this section, it is carefully argued that the Nepalese state organized the private recruitment industry to institutionalize labour migration. While there are other ways to organize labour mobility (networks, formal authority and exchange; see chapter 1), this section further explains Nepal's turn to market principles in the organization of mobility. Networks have been very important in the migration of Nepalese to India for informal employment. However, network-based mobility cannot be fully controlled by the state and can hardly be predicted. More importantly, such forms of migration have contributed to remittances only in smaller quantities and often through informal money transfers (2020; 2019). Although

Nepal attempts to institutionalize migration through formal authority from time to time (Government to Government/ G2G arrangements), and it is successful in doing so in select corridors (like South Korea), these arrangements produce only a small percentage of out-migration as the agreements are often based on demand for migrant workers in government-owned sectors. They have failed in channelling private sector demand for migrant workers, which constitutes the majority of migrant demand.

Having established the interests of the state and the conditions that enabled mass labour migration (see chapter 3), this section of this chapter looks into the migration policies of the Nepalese state to systematically trace the process of market-making in Nepal. It shows how the state transforms from being a mere regulator to a facilitator of mobility and institutionalizes the MRI to stabilize outbound migration and control migrant mobility through these commercial actors. Here, market-making is identified as a mechanism (M) that is employed by the state in producing the desired outcome of stable, predictable channels of labour migration.

2.1. From regulation to facilitation of out-migration

While Nepalese have been going abroad for work for long[64], a significant trend of transnational migration can only be seen in and after 1970's. Between 1973 and 1984, the Gulf countries experienced an oil boom and it created a heavy demand for cheap, foreign labour, especially in the construction sector. Many migrants, mostly men and particularly from South Asian countries started migrating to GCC countries in response to this demand. This was also the time when Nepal sees a proliferation of recruitment agencies. Although there is no significant study or data on this, it appears that the recruitment agencies emerged in response to the demand in the destination country, the perceived need of the market and the information deficit between demand for and supply of migrant workers in Nepal. Between 1970-1985 we see no formal intervention by the government and this group of labour market intermediaries appear to be functioning independently, and informally. To what resembles like a demand-driven enterprise, brokers at this stage were operating based on their own experience of migration, their existing contacts in the country of destination and their own personal migrant-broker network.

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[64] Scholars have identified 3-5 waves of cross-border migration from Nepal (Sharma 2018). From the migration of Ghurkha military personnel for the British army, large scale migration (and settlement) of Nepalese farmers and plantation workers to India, migration and employment of informal workers in the Indian cities requiring domestic workers, security guards etc., to migration of 'low-skilled' Nepalese to the Gulf region, Malaysia and other parts of the world, Nepalese have been migration in large numbers for work abroad. These patterns of mobility have been clubbed together and explained largely in terms of an existing culture of migration, which, as this thesis argues, is an insufficient in explanation institutionalized cross-border mobility.

Year	Migration trend	Legislation and Enumeration	Interests of the state	Discursive shifts in state policy and role
1970-1985	>Demand for low-semi skilled foreign workers in the Gulf countries. > Decentralization of passport issuance facilitated low-semi-skilled emigration. > Proliferation of brokers in reaction to the market need and information asymmetry (demand-driven).	No formal intervention by the state or regulatory mechanism in place.	---------	--------
1985-2005	> Newer destinations are explored. Scale of migration further increases due to favourable ideology of democracy and 'push' factors including Maoist activities and political instability. > Remittance becomes a key source of income in migrant households.	• Foreign Employment (FE) Act 1985 • FE Rules 1992 • FE Act Amendment 1992, 1998 • First formal enumeration of migrant workers going abroad (1993)	Indication of interests towards regulating out-migration from Nepal 1995 -2004: A fifth of Nepal's poverty is alleviated with remittance alone (Lokshin et. al., 2010)	State as a 'regulator' of migration Regulation of brokers, Restrictive Promotion of migration, Protection of Vulnerable Population (Women, Children), Concerns about 'brain drain'.
2005-2019	> Several Bilateral agreements are signed with receiving countries. >Demand dwindles in Gulf countries. Increase in migration till 2013 then sudden decrease due to collapse in Gulf market and earthquake in Nepal (2015). > Steady growth in remittances.	• Foreign Employment (FE) Act 2007 • FE Rules 2008 • FE Policy 2012 • FE Act Amendment 2012, 2017 • First formal enumeration of returnee migrants (2018)	Indication of interests towards institutionalizing outbound labour migration from Nepal Focus on skills, return migration, entrepreneurship, 'financial literacy' and domestic investment with remittance. > Migrant becomes a 'development actor' of the state	State as a 'facilitator' and 'promotor' of migration Regulation of recruitment market, rights-based approach to migration, reservation for vulnerable groups, pro-entrepreneurship, emphasis on return of workers, diversification of destinations and reintegration of migrants as strategies to tackle weakening Gulf corridors.

Table 2: This table depicts the transformation of interests of the state vis-à-vis existing trends of migration in Nepal. It also shows its legislative interventions at different points and what it means for its changing role from a regulator to a facilitator of labour mobility.

However, soon enough, these commercially operating actors embedded in migrant-broker networks and transnational connections, were legally identified and their activities recognized by the state. A significant milestone in migration governance in Nepal is the 1985 Foreign Employment Act (FEA). This Act for the first time attempts to regulate out-migration from Nepal by licensing brokers (operating as firms) as recruitment agencies. Scholars have noted that the 1985 FEA actually helped migrants to migrate legally and it also recognized and facilitated the businesses of recruitment agencies that prevailed at that time (Sijapati and Limbu 2012), implying that the early state intervention in regulating migration-related businesses did not just enable legal labour migration but also provided an institutional space within which market actors facilitating legal migration could prevail and thrive. While it did facilitate legal migration, the approach of the state was still leaning towards protectionism. The governance of migration between 1985 and mid-2000's is best described as restrictive promotion of migration and a tendency towards paternalism and protectionism towards migrant labour. The then government of Nepal restricted migration of skilled populace in the fear of brain-drain and it wanted to retain the qualified workforce within Nepal. Similarly, it also heavily restricted the mobility of vulnerable population such as women and children in the name of their protection from exploitative and unpredictable workplace situations in countries of employment.

Such a restrictive approach to migration, however, did not last very long. In the mid-2000's, as Nepal realized the importance of remittance for its economy when, between 1995 and 2004, a fifth of its poverty was alleviated with remittance alone (Lokshin, Bontch-Osmolovski, and Glinskaya 2010), we see a completely different discourse of migration governance in Nepal. This was game changing for Nepal. In 2007, a historic successor of FEA comes into place, that repealed the 1985 version. It makes a paradigmatic shift in its nature of governance by focusing on not just regulation of migration but on promotion and facilitation of migration. It also removed a lot of legislative barriers from migration of women. It promoted migration of vulnerable groups of population by announcing a 'reservation' for their better access to foreign employment. The FE Policy (2012) acknowledges that foreign employment is an "attractive option to eradicate unemployment challenges of the country" and that the focus of governance in this new phase must be "appropriate management of economic-social remittance". This worked out in two ways. On the one hand there was an emphasis on formal channels of money transfer for safer and more efficient transfer of economic remittance. On the other hand, migrants and their families were educated about the use of this money and to think beyond mere consumption and focus on investment and entrepreneurship upon their return. There are loans and awards given to returnee migrants for them to establish their businesses, invest in bonds or invest in government-initiated local developmental projects (such as the recent hydropower project that promises to set aside 24 perc. of its shares for migrant workers). The policy further states that "foreign employment-related curriculum" should be introduced at school or college level education system and it encourages academics and researchers to involve in this field of research and study. Similarly, subject of foreign employment is suggested to be included in the training modules of civil services. It further speaks about "create(ing) enabling environment for general public" to make informed choices about migration and for this it suggests the usage of audio-visual material for information dissemination and sensitization at the local level. This is also to include broadcasting and publishing 'awareness programmes' in TV, radio and local newspapers on a regular basis to inform the potential migrants of the possibility of migration and the channels to choose for safer mobility (FE Rules 2008).

These changes indicated that the Nepalese state no longer remained a passive regulator of labour migration but was becoming an active facilitator and promotor of mobility and cross-border employment. This also shows how Nepal embraced the existing paradigms of migration governance which uses a rights-based approach to facilitate, not prohibit migration. Beyond that, it initiated and signed several bilateral agreements with migrant receiving countries during this phase to institutionalize existing patterns of mobility, diversify newer corridors and promote labour mobility within these corridors. Simultaneously, its interactions with the private recruitment industry had also changed dramatically. In the next section, I trace how the Nepalese state uses market-making as a mechanism to consolidate the private recruitment industry

and use this particular market to institutionalize labour migration and regulate the movement of (and influence the remittance flow from) migrant workers.

2.2. Market-Making and institutionalization of migration

In order to stabilize and coordinate the cross-border mobility, labour-exporting countries require a 'private labour export industry' to implement its project and bring remittance as a national source of income (Hugo and Stahl 2004). Markets are however not an a priori social condition but a set of social relationships that are constructed, solidified and organized over time. States create 'institutional conditions' to produce a conducive atmosphere for markets to sustain themselves and they play a key role in not just creating markets but also aiding stability in them to ensure their sustenance (Fligstein 1996: 657, 660). Creating 'institutional conditions' can have both enabling and disabling effects but both indicate a certain level of intervention that is undeniable, challenging the neo-classical economic conception of mutual adjustment and self-sustaining equilibriums and spontaneous ordering of markets. Although the Marxist school of thought widely acknowledges the neoliberal connections between the state and the market, often seeing them as actors with aligned and mutually feeding interests, there is a clear dearth of knowledge on exact mechanisms and 'institutional conditions' put into practice that creates and sustains markets, more so in the case of markets facilitating migration.

Organizational sociology offers a novel perspective in this regard. By viewing markets as similar to organizations, it recognizes the interests and actions of constituting actors that, with different yet complimentary interests, create markets and sustain markets. It is argued that while most markets exist outside the terrains of formal organization, all of them needs organization (Ahrne, Brunsson, and Seidl 2016). Organization therefore becomes one of the very crucial modes of ordering a market, whereby different layers of social order are enacted through different constellations of organizational elements (Ibid. 7). While earlier studies have linked markets to organizations in which the resource distribution, transactions, relations and production require 'social' organization (Coase 1937), the relatively recent studies on market organization offers yet another interesting tool - looking at the market actors as organizers of market. This is a very useful approach to study the actions of the 'organizers' that have an enabling or disabling effect on the market and its activities. Markets have multiple organizers and they can be identified based on their interests vis-à-vis their positions in the market and the perceived outputs (Ahrne, G., et al. 2015: 8).

One such key organizer of the market is the state itself. States sets rules for actions and interactions between market actors, thereby fashioning the market itself. But, following the organizational approach, what is distinct about certain markets, like the one in question, is that the role of the state extends way beyond 'rule setting' and regulation. Viewing market as an organization and the market-making actors as organizers

enable a study of the precise actions that create and sustains markets in such a way that there is no lack of clarity on the agency of the actors involved (Beckert 2009: 616). Following this idea, one can effortlessly recognize the relevance of Nepal's discursive shifts in development-driven migration policy over the years and identify the interventions of the state that has fashioned the MRI in Nepal. The discursive shifts in state policy can be seen developing in relation to the changing interests of the state. In the later stage especially, we see the state becoming a promoter of migration and an enabler and organizer of the PRI. Introducing an organizational perspective to markets can explain how order in markets are created by the state based on their interests and positions in the market.

In the 1970's, primarily in response to the demand, the entrepreneurial activities at this early stage of market making were embedded in migrant networks, capitalizing on their migration experience upon return. These were informally operating recruitment businesses with the help of migrant networks, almost entirely outside of the ambits of formal regulation. This initial stage of market making is referred to as the Orientation (Aspers 2009) and Emergence (Fligstein 1996b) in economic sociology. In this, the market actors do not engage in these entrepreneurial activities with the intention of creating a market, but they merely cater to the existing need of the market, using the resources they have and with the motive of profit making. The function of the market also begins to get clear at this early stage and the market identities such as that of 'recruiters' or 'agent' forms gradually.

In the second phase, the state not just recognizes the existing trends of transnational migration, but also identifies the market actors and legitimizes their existence and activities through the mechanism of licensing, bringing them under the formal fold. This legitimacy helped the businesses to run legally and resulted in the solidification of their market identifies and roles. An initial form of contraction of market also happens when the state legitimizes some market operations, simultaneously delegitimizing some other market operations (such as illegal smuggling or trafficking of migrants). Control mechanisms are also sharpened at this stage, with the introduction of licenses, registration and penalties for offenders. Prescriptions for running the business is also dictated for the first time including how and when to advertise the vacancies on newspapers and radio, to how much the intermediaries can charge as service fee from the migrant (25% of the salary, at that point in time). In this early phase of organized market making, the state has thus already introduced mechanisms of organizing the market with regards to rules about membership, standard setting, monitoring and (negative and positive) sanctions (Ahrne, Aspers, and Brunsson 2015; Ahrne and Brunsson 2011). The private recruitment industry in Nepal is thus gradually consolidated by the state between 1985 and 2005.

Year	Stage of market-making	Characteristics of the market stage (Aspers 2009, 2011)	Characteristics of the market stage (Empirical findings)	Organizational tools of market-making
1970-1985	Spontaneous market-making Stage: *Orientation*	> Making market not an intention of actors. Indication of interest-based social order (Hirschman 1986: 41) > Market identities slowly emerge as a result of orientation between actors who share similar interests and market processes take place in the context of existing markets. > Function of the market gets clarified.	> Entrepreneurial activities embedded in migrant networks > Unregulated, demand-driven operations	Mutual orientation and localized sense-making
1985-2005	Organized market-making Stage: *Contraction*	> Market identities solidify and scope of roles get clarified > Market culture emerges, influencing expectations from actors > Still a great level of uncertainty can surface	> Political legitimacy benefits market actors in carving out a market identity ; state intervention enables certain businesses, disables some others > Control, licensing and penalties introduced > 'How to' and 'how much' of business prescribed for transparency and ethics (approval, advertisement, service fee 25%)	> Membership (Aspers 2015) > Rules (,,) > Standard setting (,,) > Monitoring (,,) > Sanctions (,,)
2005-2019	Traces of 3rd Stage: *Cohesion*	> Collective identities of actors emerge > Market activities get more predictable and certain. > Differentiation emerges among market actors in response to competition. > Differentiation among recruiters emerge, ethical recruitment develop to create competitive advantage	> Collective identities of actors like 'recruiters', 'local agents' are formed, pressure groups (NAFEA) are formed to represent interests of market actors. > Quantity of deployment becomes the driving force of market; state begins ranking recruiters based on number of deployments. > Distinction between 'good' and 'bad' agencies emerges in response to existing social and political changes. > 'Ethics' becomes a source of branding among elite recruiters and appearance of distinction in the market. > State contracts the market further for tighter regulation; local agents become illegal.	> Hierarchy (,,) > Regulation of competition (Fligstein 1996) by the state; consolidation of market actors, quota introduced in corridors, diversification of corridors, 'capacity building of recruiters' > Delegating functions ('rescue' and return of migrant worker as a function of MRI, financial and social accountability of migrant delegated to the MRI)

Table 3: This table shows the different stages of market-making in Nepal. The MRI currently shows traces of the 3rd, more advanced stage of market-making as it experiences cohesion.

But it is not up until mid-2000's that we see the state taking up the role of a full-fledged organizer of the market, with clarity on its interests in promoting the labour migration and using the MRI to regulate migrant mobility. In this context, scholars have identified different dimensions of organization. While the general purposes of organization are identified as a need for systemic order, coordination, cooperation, and division and integration of labour (Durkheim 1984, Parsons & Smelser, 1956 and other cited in Ahrne, Aspers, and Brunsson 2015: 10), specific organizational interventions can be identified as decisions on membership, standard setting, monitoring and sanctions (Ahrne, Aspers, and Brunsson 2015; Ahrne and Brunsson 2011). Overlapping with these, I identify three main organizational mechanisms adopted by the government of Nepal in the post-2005 phase of market-making. They are: the state regulating competition in the market nationally and transnationally, introduction of hierarchy and sanctions among market actors and defining employment relations and dictating terms for contract. These facets of market organization indicate that the market is showing traces of cohesion.

Regulation of competition

One significant way in which the state regulated competition in the recruitment industry is by consolidating the size of the industry. The government of Nepal took steps to consolidate the recruitment market by

reducing the number of 'active' recruitment agencies for two reasons. As the Director of DOFE says, "two reasons, one is that it is difficult to regulate more number of agencies and second is that many agencies are also cheating the workers" (17-02-20, Kathmandu). The larger prevailing rhetoric of 'bad agencies' that cheats workers and exploits them also feeds into this need to consolidate the industry. In response to this need, the government of Nepal adopted a number of recent measures. This was carried out in three ways. 'Bad' recruiters with pending cases and a history of allegations were blacklisted along with the help of Nepal Association of Foreign Employment Agencies (NAFEA), a lobby group of agencies. Secondly, the 2017 Act introduced the provision of mergers of agencies for the first time. This, along with the recent hike in security deposit and bank guarantee that agencies are required to deposit and renew each year, compelled many small to medium sized agencies to merge horizontally. Thirdly, a minimum annual deployment rate was set according to which the agencies which are unable to send 100 workers in a year were dismissed and their licenses were withdrawn. Apart from these, local agents were made illegal and opening of local branches were restricted. All this led to a consolidation of market actors, resulting in a decline in number of registered agencies from 1500 to 840 in just one year, something that has been claimed to reduce 'unhealthy competition' in the market.

Transnationally, the state regulated the competition by negotiating quotas for Nepalese workers in certain corridors. Quotas are a finite number of workers that can be sent to a destination country from the sending country, in a given and agreed-upon sector. This has key implications for our understanding of stability in market, something that will be taken up in a later section. Between 2019 and 2020 In Nepal-Korea corridor, 10,050 workers were exported, of which 3,000 in the agricultural sector and 7,050 in the industrial sector In Israel similarly there are agreements about export of Nepali labour in caregiving sector, but efforts are also being made to secure an agreement in tourism sector. This, according to my interviews with state officials, proves to be important for labour sending countries in the light of increasing competition from other sending countries for Nepali workers (such as Bangladeshi and Pakistani workers) in overseas labour market. Apart from securing quotas, the government of Nepal also paid attention to 'capacity building' of recruitment agencies and rebranding of Nepalese workforce in foreign labour markets. This is mainly carried out by civil society organizations under the shadow of the state to work on the bad reputation of Nepali recruitment agencies in destination countries and help them negotiate with the employer organization professionally and more ethically.

Diversification of destination countries was another strategy used to overcome international competition and dwindling demand in some popular destination countries. This was also a strategy against the prevailing competition in certain corridors and a means to ensure inflow of remittance from alternate migratory channels. The FE Policy (2012) seeks to mobilize the FE Board, the Non-resident Nepali networks and the Nepalese diplomatic missions to engage in identifying, "tracking, diversifying and promoting opportunities

of low risk and maximum income generation foreign employment at international labour market". It aims to explore beyond the existing corridors to further reduce the risks pertaining to restrictions in corridors that may be caused by suspension or prohibition of certain corridors for labour mobility. This is then tied to reducing dependence of existing corridors and generate more labour market opportunities for Nepal workers. The government of Nepal therefore made efforts to not just regulate competition within the market inside of its territory but also regulate competition for the market, outside of its territory to facilitate absorption of Nepalese workforce in foreign labour markets.

Introduction of hierarchy

Government of Nepal			
Ministry of Labour and Employment			
Department of Foreign Employemnt			
Kathmandu			
Report on Final Approved RA Wise for FY 2074-075 (2017-07-16 to 2018-07-16)			
S.N Recruitment Agency	Male	Female	Total
1 THE RIVER OVERSEAS PVT. LTD.	5142	662	5804
2 KOSHI INTERNATIONAL SERVICES PVT. LTD.	4658	814	5472
3 SOS MANPOWER SERVICE PVT. LTD.	4499	178	4677
4 INTERNATIONAL MANPOWER RECRUITMENT (P) LTD.	3990	332	4322
5 VISION & VALUE OVERSEAS PVT. LTD.	2699	333	3032
6 TRUST NEPAL OVERSEAS PVT. LTD.	2614	95	2709
7 SOUNDLINES RECRUITMENT (P.) LTD.	2621	42	2663
8 SAAN NEPAL PVT.LTD.	2581	13	2594
9 PARADISE INTERNATIONAL PVT. LTD.	2367	120	2487
10 MASS HUMAN RESOURCE PVT. LTD.	2384	86	2470
11 RAJ OVERSEAS PVT. LTD	2297	0	2297
12 MONTAGE OVERSEAS PVT.LTD.	2210	44	2254
13 SKYWAYS BUREAU SERVICES PVT.LTD.(SOCIETAL OVERSEAS SERVICES PVT. LTD.)	2178	0	2178
14 WIDE SPACE INTERNATIONAL PVT. LTD	2132	1	2133
15 ALL SKILLS INTERNRNATIONAL HUMAN RESOURCE PVT.LTD	2099	10	2109
16 ANJALI OVERSEAS SERVICE PVT. LTD.	1818	180	1998
17 AL - ASMACS COMPANY PVT. LTD.	1800	66	1866
18 SHIKHAR INTERNATIONAL MANPOWER SERVICES PVT. LTD.	1850	11	1861
19 SWIFT GURKHA INTERNATIONAL PVT. LTD.	1798	20	1818
20 AAKARSHAN INTERNATIONAL PVT. LTD.	1632	181	1813
21 OXFORD INTERNATIONAL PVT. LTD.	1548	193	1741
22 WAHAA MANPOWERS SUPPLIER PVT. LTD.	1283	413	1696
23 LUCKY H. R. SOLUTION PVT. LTD.	1573	30	1603
24 PRUDENTIAL OVERSEAS PVT LTD	1521	51	1572
25 LIFE INTERNATIONAL OVERSEAS PVT. LTD.	1509	59	1568
26 TRENDWAY INTERNATIONAL PVT.LTD.(AL SONDOS EMPLOYMENT SERVICES PVT. LTD) ,(A	1499	65	1564
27 AL SAMIT MANPOWER PVT. LTD.	1535	0	1535
28 OSHO RECRUITING AGENCY PVT.LTD	1395	139	1534
29 SAMPADA OVERSEAS PVT. LTD.	1433	94	1527
30 ANJULIMA INTERNATIONAL PVT. LTD.	1403	69	1472
31 LAL DHANUS INTERNATIONAL SERVICE PVT. LTD.	1405	61	1466
32 SCC MANPOWER COMPANY PVT.LTD.	276	1188	1464
33 BLUE SKY INTERNATIONAL PVT. LTD.	1440	10	1450
34 GORKHAS ASSOCIATE PVT. LTD.	1405	45	1450
35 FUTURE EMPLOYMENT SERVICES PVT. LTD.	1313	113	1426
36 TRANS WORLD MANPOWER COMPANY PVT. LTD.	1353	62	1415
37 DEWAN CONSULTANTS PVT.LTD	1077	305	1382
38 KABELI HUMAN RESOURCE PVT. LTD.	1324	41	1365
39 YACCA OVERSEAS EMPLOYMENT CONSULT (P.) LTD.	1262	78	1340
40 LINK INTERNATIONAL PLACEMENT SERVICE PVT.LTD. (NILE OVERSEAS PVT. LTD)	1239	18	1257
41 WHITE HORSE INTERNATIONAL PVT.LTD.	1203	32	1235
42 ALPHA SIGMA OVERSEAS PVT. LTD.	1203	18	1221

Table 4: DOFE 2017-18 "ranking" of recruitment agencies.

The introduction of hierarchy in the market by the state is an important facet of this, more advanced phase of market-making. Apart from the moral framework of definition of good and bad recruiters, another categorization based on efficiency and productivity also came into being which worked in tandem with a range of positive and negative affirmations in the form of rewards and punishments. The 2007 Act says that, on the recommendation of the Board, the government can, on a yearly basis, reward and provide a letter of appreciation to select licensees for their excellent work in quantity and quality, on the basis of their "business capacity, transparency of activities, goodwill of license holders and work performance" (FEA 2007; FEP 2012). The DOFE also compiles a list of recruitment agencies each year based on the number of deployments done by a particular agency in one financial year. It is interesting that while the government intends to use this list to identify different agencies with different 'potentials' so that it can charge a security deposit and bank guaranty according to the size of deployment, the market actors believe that this list is actually a quantity-based ranking of agencies, with the 'biggest player' being the one who deploys the largest number of workers in a year (see Table 4).

Unintentionally therefore, the state creates a hierarchy in the market and in the context of the bar set by state concerning a minimum of 100 deployments in a year, this list is interpreted by the market actors as quantity-based ranking of the industry. The commercial benefit of this hierarchy for the recruitment agencies works very informally and mostly through word of mouth. As Abiral, the managing director of the 'top' recruitment agency in Nepal says,

> "We are the top recruiters in Nepal and the government of Nepal recognizes that. I mean the government can do more…maybe suggest our names in (bilateral) agreements or…something like that. But at least with this list we get more demand. The list is out there..in public..in internet. The government officers who deal with documents and others..they know about this and they know who is on top and who is good. So, when the candidates go to them..for something..maybe like issuing passport, they suggest our names. They say 'you go to this agency, they are top ones now, they do work without drinking your blood (exploiting)'. So, the candidates come to us'" (14-02-20, Kathmandu)

The state-induced (quantity-driven) hierarchy in the market thus sorts the market actors and also benefits the leading recruitment agencies, creating distinction and 'organized power' in the market (Ahrne and Brunsson 2011). This further dictates rules of membership as agencies that cannot deploy at least 100 workers a year, attract negative sanctions and their licenses are cancelled. Through these, the state attempts to determine decides who is a 'legitimate' market actor and how are they represented outside of Nepal. However, unlike some other labour sending countries where the hierarchy in the recruitment market is institutionally placed wherein different recruitment actors have different functional contributions to the market (such as in the case of China; Xiang 2012), the hierarchy in the Nepalese recruitment market is externally introduced by the state to distinguish amongst 'the likes' who, in terms of function are mostly identical. Although the civil society organizations constantly attempt to screen recruitment agencies based on "ethical recruitment", the industry still is largely quantity driven and encompasses different degrees of exploitation as a result.

Delegation

Another instrument of organizing the market that I identify in my data is the division of labour between the institutional organizer of market (the state) and commercial and logistical organizer of the market (MRI). Since the basis of using market as a means of stabilizing labour migration from Nepal is itself the acknowledgment of state's limitations in directly controlling cross-border mobility of migrants, delegation of migration-related tasks to the MRI constitutes a key feature of market organization. More specifically, as "low risk and maximum income generation (from) foreign employment" is its goal (FEP 2012), the state

delegates the task of reducing migration related risks to the private recruitment industry and assigns them the task of migrant welfare during the period of employment and their safe return.

As the next section would elaborate in detail, a significant way in which the Nepalese state regulates migrant mobility and employment relations is through the MRI. The state has thus entered into an informal contract with the MRI in that the financial and social accountability of migrant welfare and protection is delegated to the recruitment agencies. Delegation of traditional state functions of migrant protection and timely return to market actors has created a dependence on the MRI and migrants cannot access transnational labour markets without their mediation, even if they have access to networks and/or information about demand. This further explains how the case of the MRI in Nepal is that of a *structural dependence* on market actors created by the state and, intermediation here is not just a result of a functional logic of intermediation (information asymmetry or bureaucracy being intimidating etc.), as has been claimed by labour scholars and anthropologists of brokerage practices. More importantly, for the purpose of this chapter, delegation is also a significant tool of market organization as it clearly demarcates and solidifies roles, interests and scope of action of concerned market actors, to the extent that most of my interviewees among the MRI believe that migrant protection is their responsibility. This then expands their scope of work beyond mere commercial brokerage and intricately ties it with moral and political accountability of migrant wellbeing.

3. Delegation of migration management in Nepal

Since the last few decades, states have delegating migration management to private sector in different stages of the migration process. From the delegation of border control and regulation of immigration of 'undesirable' migrants in destination countries (2011; 2010), maintaining temporariness and controlling the movement of migrants and their local labour market participation (Anderson and Franck 2019), to instituting transnational mechanisms to prevent migration of 'potential illegal migrants' from the country of origin (Hirsch and Doig 2018), states have been using commercial actors to implement its interests regarding migration. These contemporary practices delegation of migration control to non-state actors does not in any way imply a retreat of the state but merely implies a reallocation of control (Djelic and Quack 2008). Neoliberal perceptions of efficiency, limitations of resources and infrastructural capabilities of states further explains this reallocation of control (Menz 2011; Surak 2017). Delegating migrant control also helps states towards 'cost shifting, blame avoidance, shifting of financial burden' of accidents or *mis*management' (Menz 2011: 119). This form of governance of migration "from a distance" (Kemp and Raijman 2014), through a "remote control" (2003; 1999), does not limit the ability of the state to control but instead expands it. This interesting relationship between private actors and the state, creates a distinct form of control that regulates the movements of migrants much more intimately than the state alone can (Anderson and Franck

2019). This arrangement between private and public actors[65] that regulates migrants (and migration) through commercially motivated actors, shows a form of control that is both intimate and distant at the same time and expands the scope of 'management' of cross-border migration, as is further broken down in the next sub-sections.

Delegation of migration management, however, is not the same as privatization or commercialization of migration facilitation and control, as has been sometimes assumed by some migration scholars working in the field of migration industry. Delegation, in this context, is a strategic transfer of a task or responsibility by the state to the market, either due to lack of resources and ability or due to lack of will to carry out the task by itself. Kiewiet and McCubbins (1991) in the Logic of Delegation, for instance, point out how delegation is not the same as abdication or giving up of authority. While it can mean the transferred responsibility or function is better employed by the delegatee than the delegator (logic of efficiency), it in most cases also implies a fulfilling of vested interests via another party (logic of convenience). Additionally, a delegator may delegate authority to an actor, not for efficiency but for the former's self-interest (Hamman, Loewenstein, and Weber 2010). This is particularly relevant when the concerned action is "immoral" (Ibid.), and the process of delegation lets the delegator avoid direct contact with such action, at the same time fulfilling it thorough the delegatee who comes to take the moral responsibility of such social actions. Delegation is also not an unconditional grant of authority but rather a *conditional* transfer of specific responsibilities to an actor who is deemed qualified to undertake the task (Hawkins et al. 2006). The conditionality of this transfer depends on the nature of the actions as well as the ability of the delegator to revoke the authority when the delegatee ceases to be beneficial or important in carrying out the concerned action. In the context of migration, scholars have pointed out how the state has, from time to time, granted and revoked authority from the brokers or intermediaries, demonized them and delegitimized their actions when found unnecessary and legitimized them again when needed (McKeown 2012). This then ensured that "laws on the one hand made brokers invisible and on the other hand, also made 'its most active enforcers'" (Ibid, 37). Delegation of migration management, therefore, is not just an organic development of neoliberal capitalism or an assumed retreat of the state. It is rather a strategic, and perhaps the only way, for the Nepalese state to effectively institutionalize labour migration *through* the recruitment industry.

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[65] Transfer of migrant responsibility and accountability to private actors does not just benefit the state but also benefits the concerned private actor. For instance, by tying migrant workers to their employers (as seen in many Gulf countries) and granting employers the ability to penalize 'deviant' migrant workers and deport them, migrant workers find themselves living at the mercy of their employers. This reduces their bargaining capacity vis-à-vis their employer, who in turn are able to exercise higher control and discipline onto their workers. In the context of many Asian countries on the other hand, states provide legal legitimacy to labour market intermediaries to operate, thereby enabling their market activities and providing them a market identity (see also chapter 5). The relationship between market actors and state is therefore often mutually beneficial and mutually dependent and has been shown to increase control over the migrant worker's mobility and livelihood. With no formal delegation of authority, states outsource migration control to these private actors, creating a consistently blurred line of migrant responsibility (Anderson and Franck 2019). This 'fuzzy' and decentralized organization of migration is a notable characteristic of infrastructurization of cross-border mobility (Spijkerboer 2018, Xiang 2012, 2008).

In the context of Nepal, migration is 'managed' (see chapter 1) by the state mostly with the help of the private recruitment industry, commercial training, orientation and medical centres as well as with the help of private banks and insurance companies (see Table 5). Delegating migration management to these profit-making actors, however, is not always a desirable choice but rather a convenient one. The Nepalese state, given its communist ideology, history of Maoism, and a cultural perception of brokers as profiteers of human sale ('*dalali*'), has had an uncomfortable relationship with the MRI and this reflects in its interactions with the market. However, the delegation of migration management to the MRI in particular but also the private sector in general is to be understood in the context of state's limited abilities in establishing stable channels of labour migration, both within Nepal (such as mobilizing migrants locally) and outside (generating and channelling demand for Nepalese workers among foreign employers). This acknowledgement of the need of the MRI constitutes an important precondition of state's relationship with the recruitment industry and in delegating of migration management to these commercial actors.

INSTITUTIONS	NUMBER OF ORGANIZATIONS
Active Recruitment Agencies	854
Branch Offices of Recruitment Agencies	38 branches of 24 Recruitment Agencies
Active Orientation Centers	148
Active Orientation Centers (domestic worker)	23
Medical Centers	226
Insurance Companies	14
Banks	23

Table 5: Migration in Nepal is primarily organized by a number of profit-making, non-state actors. The MRI (enlisted here as active recruitment agencies) continues to be the central agents of migration management in Nepal. Source: DOFE 2019, MOLESS 2020

The state officials interviewed point out how they cannot, even if they would want to, mobilize migrant workers locally the way the market actors do. The FE Policy also acknowledges that "private sector's role shall make (it) effective to track and promote attractive labour market" (FEP 2012) for the Nepalese migrant workers. Acknowledging their role and purpose, the under-secretary of Ministry of Labour, Employment and Social Security says:

> Of course, we need them. We have a foreign employment act and it allows private businesses to be involved in the recruitment process….our embassy's (presence) is limited in other countries and in the ones we have, they cannot reach every employer in those countries. Private companies are able to do those things...to reach out. In this sense, it may be right to say that they (MRI) *do our work* of promotion by reaching out.
>
> (10-03-2020, Kathmandu).

Here 'tracking' and 'reaching out' merely implies identifying labour market potential of Nepali migrant workers overseas, connecting with prospective employers, channelling demand, mobilizing local Nepalese to meet the demand and sustaining steady flows of labour migration for inward remittances. The usage of the word 'promotion' in this context also implies creating an active supply side infrastructure and generating demand for Nepalese workers and not merely waiting passively for the demand to reach Nepal. The MOLESS representative's acknowledgment, albeit a hesitant one, of the need of the MRI in sustaining labour migration from Nepal and creating labour market possibilities for its citizens clearly shows the gap in state's ability to undertake this activity by itself and an interest in delegating this task to the recruitment industry. Ability to perform, efficiency, resources and convenience thus plays an important role in decisions pertaining to delegation of tasks and in this context as well, migration management is delegated to the private sector for all of the given reasons which are relevant preconditions to the process of delegation.

In the rest of this section, I will discuss at length the key aspects of delegation as observed in the context in Nepal. The following sub-sections show how the state enters the brokerage relationship with the private recruitment industry, how it authorizes it to perform the task and makes it almost impossible for the migrants to migrate without their intervention, to what extent it is able to monitor the designated task (outcome) as well as the measures employed by the MRI in performing the task (action) and the possible moral hazards and uncertainties that the state encounters. Lastly, given the inability to fully control or observe the actions of MRI, the last sub-section also discusses how it engages in boundary-making with the MRI and transfers the moral, political and financial responsibility of misinformation and *mis*management to the market actors.

3.1. Informal contracting of the task

In Nepal, the state delegating migration management to the migrant recruitment industry is more implicit than explicit. This is primarily done by informal contracting migration management to the MRI, as can be observed through state actions around the MRI and migrants. This answers to why neither networks nor formal authority (in isolation), but rather markets which are used as the dominant principle of organization of labour migration in Nepal. In Nepal, an unwritten contract (implied through actions) between the state and the MRI explains why a majority of labour migration is channelled through the recruitment agencies, a process which mutually benefits both the state and the industry, as I explain in this section. Before that, it is useful to look into why the MRI has become inevitable in the process of migration, especially the ones with low-skilled labour migrants. The excerpt from the interview with Nilesh, the aspirant migrant worker (see page 2) is a case in point. The migrant worker had established contact with the employer and the employer had provided all the necessary documents including visa, ticket and employment contract. However, despite the worker's ability to obtain employment without mediation, he was forced to leave the airport and return after contacting a recruitment agency. This instance clearly shows that migrant workers are convinced, coerced or nudged by representatives of the state (local bureaucrats, airport authorities) to enter a

relationship with the recruitment agencies. This indicates an implicit form of contracting the MRI, that this section seeks to discuss. Similarly, another instance with Laxmi, a female recruiter in Nepal, shows how migrants in Nepal cannot migrate without intermediation.

> Laxmi: If the candidate (worker) has directly contacted a company while he was working at another company, and that new company is also interested in hiring him (due to worker's ability to convince a new employer without mediation), then the company will tell him 'go to this-this agency in Nepal and come through them'.

> Interviewer: Ah okay. But why? Now the worker has a contract, why does he need you?

> Laxmi: You understand? So that company has a few contacts (agencies) in Nepal and if a Nepali comes to them directly, they would guide them to go back to Nepal, exist the visa and contact us. There are a few cases like that. Like...in this month…we produced 145 visas roughly and in that nearly 40 of them were 'direct candidates'. We call it direct candidates because we get their reference directly through the company. There will still be medical (screening) and orientation (training) but it will all be very quick.. (30-01-20, Kathmandu)

In this case as well, the 'direct candidates' who approach Laxmi have established contacts with employers on their own. However, the employers are aware that Nepali migrants cannot migrate without the involvement of recruitment agencies. Here, the "need" for intermediaries is created by the state, rather than existing on its own. Anthropologists working on brokerage practices as well as labour market scholars studying intermediation often propose a functionalist approach to explaining why brokers or intermediaries are required, often along the lines of information deficit (Burt 1978; 2002; 2018; Burt and Celotto 1992; Gould and Fernandez 1989) between the employer and the worker or, in the context of cross-border migration, the processual nature of migration itself that makes it hard for migrants to navigate bureaucracy (Kern and Müller-Böker 2015; Xiang and Lindquist 2014), thereby explaining their dependence on brokers. However, this particular excerpt from the interview with this returnee migrant paints a rather different picture. The migrant's dependence on the recruitment agency is not because of his inability to access information about demand, which he clearly has. It is also not about his simplistic unawareness of transitional documentation work or his lack of experience navigating migration bureaucracy. The migrant's dependence on the recruitment agency in this context can only be explained structurally and the framework of delegation is useful in approaching this phenomenon.

In Nepal, there are two official channels (see figure 4) of obtaining labour permit for employment abroad - through recruitment agencies and direct application by the applicant. According to the MOLESS- the main

ministerial wing responsible for regulating outmigration, remittances and migrant welfare- around 90% of 236,211[66] labour permits issued in the financial year 2018-19, were processed through private recruitment agencies and this high rate has been steady since 2012-13[67]. The rest of the significantly small percentage of applications for labour permit come directly from the migrant applicant.

Figure 2: The dominant channel of labour migration is through recruitment agencies and this has been the case since 2012/13. The graph shows percentage of labour permits issued by recruitment agencies and ones obtained without intermediation. Source: DOFE, MOLESS 2020

There is thus no legal obligation for migrant workers in Nepal to use the services of a recruitment agency, yet in practice, through a number of informal mechanisms, most of the cross-border labour migration is mediated by these private actors. The numerous steps involved in processing a range of documents during the pre-departure period, indeed makes applications without mediation extremely difficult and intimidating for the migrant worker. Additionally, corruption and red-tapism does make migration bureaucracy harder to navigate, making job search through recruitment agencies easier for the migrant. In cases where job search is not required, and when the migrant worker has succeeded in obtaining a job offer from a specific employer, it is technically possible to apply directly for a labour permit. However, as the Neelam's interview

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[66] This number is for the category of 'new entry', which means a worker applying for a new contractual employment relationship with a given employer. For migrant workers returning to the same job, extension of labour permit under 're-entry' is made. This bulk of job seeking outmigration also excluded the majority of Nepalese going to India for informal job opportunities.
[67] Corresponding with increase in remittances, reforms in migration policy in Nepal including signing of several bilateral agreements and amendment of the FEA act in 2012.

excerpt shows, the ability to obtain a job offer is not enough and the migrant worker is directed to use the 'proper' channel of outmigration and apply through the recruitment agencies[68].

The framework of delegation offers us better perspective on why the actors representing the state (local bureaucrats and airport authorities, for instance) channel labour migration through the MRI. Having acknowledged the need for the private recruitment industry in managing labour migration, the state systematically discourages migration outside of this channel (unless it's a G2G or Government to Government labour exchange, which occupies only a small percentage of labour migration). In doing so, it is entering an unwritten contract with the recruitment industry, giving it a larger scope of intervention thereby expanding its ability to generate profits steadily and through legitimate means, in exchange for facilitating and sustaining labour migration. The tacit contract or agreement between the state and the MRI therefore rests on mutual benefits and as the MRI takes control over the designated task of migration management for commercial purposes, it is given the opportunity to expand its business opportunities legally. While the MRI welcomes this business opportunity, as a result of entering the tacit contract with the state, it also takes on responsibilities that are not purely commercial. For instance, apart from facilitating out-migration, the recruiters are expected to ensure the safety of migrants during the contract period and ensure their safe and timely return to Nepal after the end of the contract period. In fact, a large portion of interviewees among the recruitment agencies claim that the state makes protection of migrant worker part of their job profile and many have gone beyond their typical commercial roles to take care of workers sent through them (such as using charter flights to rescue them, paying part of their wages when the employer company goes bankrupt etc.). The designated task of migration management is therefore not merely about facilitating legal out-migration of workers but about managing the whole process of migration- from recruitment, employment to return- on behalf of the state.

The insinuated agreement on migrant protection is also tied to the skill level of migrants and their perceived vulnerability. It is often assumed by migrant-sending states that low-skilled migrant workers are naïve, susceptible to exploitation and in need of protection (Chang 2018) and that they are unable to make informed choices on their own. The state tacitly contracts the MRI and mandates their involvement in the migration process to help migrant workers steer away from such vulnerabilities. Explaining this logic, Shom Luitel, the labour lawyer and migrant rights activist says,

> Actually we...Nepal government discourages individual processes. Considering our people...their education and their (skill/class) status…if there is a problem, we can't do

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[68] Interview with a civil society actor and labour lawyer in Nepal further confirms that despite it being technically possible for migrant workers to apply for labour permit without mediation, they are often expected to, counselled for or forced to apply through a recruitment agency by the local bureaucrats and airport authorities.

anything. People here are poor, innocent, don't know much and if the recruitment agency is involved in the forefront, the total liability will go on to the recruitment agency.….If an educated person wants to go abroad for a skilled job, then its fine, it's alright. But for others, the government needs somebody accountable. That is why the government here is strict on individual (direct) process of migration. We made it tighter...unlike other countries. (15-12-19, Kathmandu)

This then implies that the state delegates the responsibilities pertaining to labour migration to market actors to also ensure their accountability as a deterrent against cheating and migrant exploitation in the destination country. This confirms my previous assertion that delegation, apart from its convenience, also helps the state to balance its dual roles of commodifying and de-commodifying migrant labour, in facilitation and promotion of migrant labour market and prevention of migrant exploitation (see chapter 3). Hence while technically migrant workers can seek employment on their own and without the mediation of recruitment agencies, the state mandates the involvement of MRI to prevent or limit migrant vulnerabilities arising from the perceived naiveite and 'innocence' of low-skilled[69] migrants (who occupy the majority of Nepalese migrants). The delegation of migrant responsibility to private actors, thus, is an organizational tactic on the part of migrant-sending state to, on the one hand sustain a steady outflow of labour and inflow of capital and on the other hand, reduce or repair the impact of commercialization of migrant labour through (delegated) migrant protection.

Delegation of tasks often involves no formal contract or a loosely formulated contract and it is often the vagueness of mutual expectations that defines the relationship of delegation (Hawkins et al. 2006; Kiewiet and McCubbins 1991). In the absence of a written contract that spells out the specificities of the designated task, how are state's expectations pertaining to out-migration conveyed to the private recruitment industry? A development-driven, labour exporting state such as Nepal has clear motivations regarding the stabilizing migratory flows (see chapter 3). The Nepalese state, akin to its contemporaries in South-East and South Asia, conveys its expectations about stable, institutionalized corridors of labour mobility to the MRI by the means of rewards and sanctions. In the absence of a formal contractual relationship, rewards and punishments conditions, to some extent, the activities of the recruitment agencies in the direction of the state's interests. In Nepal, as had been noted before, rewards and recognition for select recruitment agencies that outshine the others in terms of number of deployments per year (FEA 2007), conveys the message to

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[69] A 'skilled' worker on the other hand is expected to protect themselves better on account of their acquired 'know-how'. It has been pointed out by scholars that skilling has been used by states to promote 'self-regulation' of migrant workers in the destination country (Chang 2018). Acquiring skills is expected to increase the bargaining power of the worker as well as increase the chances of self-protection from abuses and exploitative circumstances in the destination country. In the absence of such perceived skills, the state tends to engage in protectionism towards migrant workers and in the case at hand, do so through the recruitment agencies and other non-state actors such as NGOs and diaspora groups.

the recruitment agencies that quantity of deployment is a key criterion in succeeding in the business. This further promotes competition among recruitment agencies to send more and more workers each year, increasing the net annual labour export and inward remittances. While attempts have been made to also reward recruiters based on the 'quality' of their service such as in the form of transparency of records, "goodwill" of recruiters and ethical business (FER 2012), the market remains quantity-driven and primary goal of delegation remains channelling migrants through formal recruitment processes, keeping a steady supply of labour migrants and using private recruitment industry to control and protect migrant workers from the extremities of commercialization. Negative sanctions in the form of fines, compensations and suspicion of licenses against recruiters also, to some extent, helps convey the state's expectations pertaining to migrant welfare and protection during the contract period. Overall, the expectation of "low risk" (migration and employment related uncertainties and risks) and "high-income generation" (net commercial profit and remittances for development) is, albeit vaguely, well communicated by the state to the MRI.

While "low risk and high-income generation" (FEP 2012) is the expected outcome of delegation of migration management to the private sector, the state has very little control over the course of action that the recruiters take to achieve this outcome. In the context of realization of incompatible interests (with regards to migrant worker) and potential risks arising from the process of delegation, the state installs monitoring devices to engage in alignment of incentives and regulate the actions of the recruiters. The next sub-section looks at the scope and limitations of such devices and discusses the possibilities of moral hazards emerging in migration management by private sector.

3.2. Scope and limitations of monitoring the task

The state uses sanctions and rewards to monitor the outcome of migration management by market actors. It has been noted by migration scholars that the number of licenced recruitment agencies in migrant sending countries has increased exponentially in the last two decades (Tigno 2014; Xiang 2012; Xiang and Lindquist 2014). Abella (1992), while discussing the similarities and differences in Asian labour exporting countries, highlights that "the commonest policy to control labour emigration is the licensing of recruitment, which governments have used very creatively" (Abella 1992, quoted in Acacio 2008). On the other hand, the criteria of obtaining and maintaining a licence has become tougher and more demanding. For example, in China, recruitment agencies could not apply for a licence without showing their familiarity with the migration bureaucracy as well as sustained deployment of a minimum of 100 migrants a year (Xiang 2012), something that has been replicated in Nepal as well.

In Nepal as well, the activities of the recruitment agencies are closely monitored by the state through licensing. Sending Nepali migrant workers without a license is illegal in Nepal and is punishable by law. Recruitment agencies in Nepal are considered private entities that can be registered under the Nepal's "Companies Act"[70] and the firm must obtain a license from the Department of Foreign Employment (DOFE) to be able to recruit and deploy workers abroad (FEA 2008). To be able to apply for a license, the recruitment agency has to provide the department a comprehensive business plan with details about the infrastructural capacity, staff and resources as well as demonstrate an absence of criminal offence or "moral turpitude" in the past. The head of the recruitment agency must also provide a proof to the department concerning their experience in the foreign labour export industry. Additionally, since the 2019 amendment of FEA, the licensed recruitment agency must also show a proof of a minimum of 100 annual migrant deployments to be able to maintain and renew their licenses each year. In case the recruitment agency fails to deploy a minimum of 100 migrants a year, for two consecutive financial years, their licenses are automatically revoked. This quantity-driven regulation of licenses of recruitment agencies, helps the state sustain a steady flow of labour migration and meet its development needs (Hugo 2009). Furthermore, the FE Act (FEA 2007: 34) granted the government the right to monitor the activities of recruitment agencies closely including demand record-keeping at will, expect timely submission of deployed worker files, ability to investigate any recruitment agency unannounced and carry out inspections at any time. Licensing as "neck holding" (Xiang 2012) of recruitment agencies has been, thus, an effective tool of monitoring the activities of recruitment agencies and controlling, to some extent, the desired output of managing migration.

While increasing the number of annual migrant deployment works in the interests of both the state as well as the recruitment industry, their interests do not always merge, especially with regards to migrant welfare and protection. Such uncertainties emerge due to regulatory inconsistencies (see chapter 5) as a result of state's inability to fully observe and monitor the market practices among recruiters. Such a gap in state's monitoring capacity leads to moral hazards and malpractices among recruiters and agents. The most widely discussed malpractice among the recruitment agencies is the practice
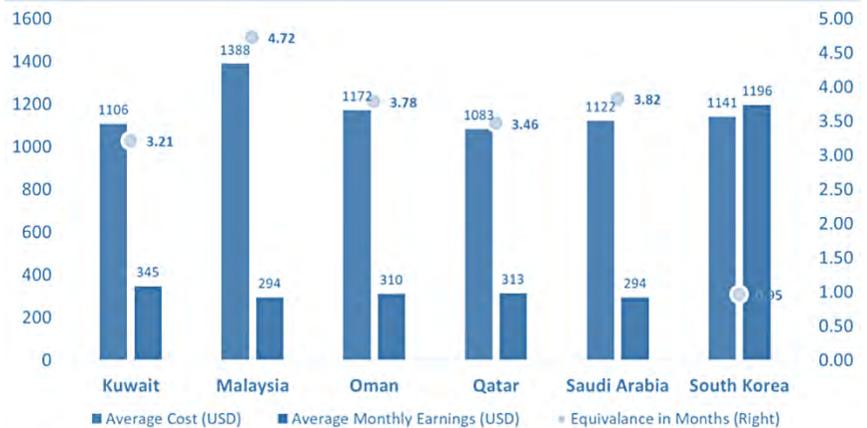
Figure 3: The average cost of recruitment and the monthly wages of Nepali migrant workers in select destinations. Source: IOM/KOICA

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[70] Recruiters in Nepal cannot register as individuals but only as companies under the company registration Act.

of overcharging migrant workers[71]. Recruitment agencies often charge migrants ten to twelve times more than their monthly salaries and this puts them is a cycle of debt and bondage that exposes migrants to a number of vulnerabilities. The state has no way to monitor the transactions between the migrant worker and the recruitment agency (MOLESS 2020). The only means by which the state can attempt to regulate these transactions is by setting up policies that sanctions malpractice of overcharging. Examples of this are the "free visa free ticket" policy, "zero cost", "employer pays" policy as well as its recently established legal cap on recruitment fee that forbids RAs to collect fee more than 10,000 rupees (USD 83) from the worker (FEA 2015). However, in practice, most of these transactions are informally conducted and often transacted in cash. Migrants pay much more than the legal cap and the receipt of the recruitment fee still remains under 10,000 rupees, making it impossible for the state to penalize recruiters. The ways in which the recruitment fee inflates and the compliance of migrants is further explained in chapter 6. But for the purpose of this discussion, it is sufficient to say that the monitoring capacity of the state pertaining to the actions taken by the recruiters is extremely restricted and this opens up the space for them to engage in activities that do not bode well with the state and migrant interests.

Other common malpractices revolve around misinformation and deceptions. International Relations and Labour Committee of the Nepal Parliament's report[72] on Nepali migrants in Qatar, for instance, shows that around 90% of the workers were made to sign an entirely different contract once they were in Qatar and due to their existing debt bondage, they complied with contract substitution and undertook the employment. It is also often reported how Nepali migrants are either not fully informed about the prospective employment or wrongly informed and that many have false expectations about wages, nature of job, employing firm, working hours and overtime payment as well as housing and accommodation. As preventive measure, the government of Nepal has put in place mechanism to monitor the transnational employment of workers such as involving the embassies in destination country to verify the nature of demand and qualify it as suitable for Nepali workers. But, these establishments have failed to be very effective and most of the blame pertaining to contract substitution or misinformation[73] is shifted to the private recruitment agencies who mediate these employment relations. What is relevant here is to point out that the state's ability to monitor such malpractices is limited and this leaves a lot of space for migrant exploitation. Migrant exploitation and "free reign of recruiters"[74] is often assumed to be a product of poor policy implementation. But, this chapter points to how it is in the very structure of the delegated relationship and the regulatory inconsistencies in

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[71] https://kathmandupost.com/national/2020/12/19/nepali-migrant-workers-continue-to-dole-out-hefty-amounts-for-overseas-jobs
[72] https://www.equidem.org/nepal-qatar-joint-committee-meeting-an-opportunity-to-address-challenges-faced-by-nepali-workers
[73] While there is no doubt that recruiters engage in such malpractices, these profit-making actors actually have the incentive to be honest with the migrant workers and inform them well about the employment abroad. Given the cyclical nature of migration, most RAs have regular and repetitive clientele among the migrants and it is in their business interest to ensure the migrants are well informed about their employment abroad. Existing practices of contract substitution and cheating indicates employer's misconduct, something that is outside the scope of this chapter.
[74] https://www.amnesty.org/en/latest/press-release/2017/06/nepal-unscrupulous-recruiters-given-free-rein-to-exploit-migrants/

Nepal (among other reasons, such as employer's misconduct) that explains such malpractices or mismanagement by the MRI.

3.3. Transferring accountability of migration *mis*management

As malpractices, uncertainties and moral hazards seem to be inevitable in the context of state's inability to fully observe and monitor market behaviour, it transfers the moral, political and even financial accountability of not only the designated task of producing stable and predictable channels of out-migration but of all things that can go wrong in migration management, examples of which are provided above. This is clearly observable in three distinct but overlapping situations: a) migrant complaint about employer and the channel of redressal, b) safe and timely return of migrant worker as well as c) financial responsibility towards migration *mis*management and uncertainties emerging from transnational employment.

Formally speaking, it is the Embassy of Nepal and labour attachés which are responsible for migrant welfare in the country of destination (FEA 2007; FEP 2012). However, the case of Nepal shows how the delegator, in the context of moral hazards emerging from the process of delegation, distances itself from problems emerging from the process of migration and transnational employment. For example, while the state representatives in the destination country are officially responsible for the welfare of Nepali migrant workers in the destination country, migrant redressal is often channelled to the recruitment agencies. As Laxmi, the female recruiter in Kathmandu, explains, if the migrant worker faces any problem with contractual obligations from the employer such as delayed wages or poor working/housing conditions, the Embassy of Nepal urges the worker to contact the recruitment agency. Despite the fact the it is the Embassy which verifies the employer's demand letter (see also chapter 5) and is legally responsible for ensuring that the employer can provide for the wellbeing of the worker during the contract period, it is the intermediary who is expected to either resolve the matter and retain the worker or bring back the worker safely. As she points out "if the candidate (worker) goes to the Embassy to complain, they (embassy officials) will strictly say 'go to your agency..your manpower'. Many candidates go there to complain. We (will) receive a call from the embassy that 'your candidate is having problem, do something about it". Similarly, as Gyanprakash (a recruiter operating an agency along with a partner in Nepal) shares the case of a particular instance of denied payment of overtime wages by the employer. He says:

> We sent more than 80 workers..(to a Leather manufacturing company in Malaysia). But the company did not provide OT (overtime payment) according to the contract. So, the workers complained to us. First, I tried…I personally went there. I discussed with the HR manager and we called few workers also to the HR office. They (HR) obviously started saying 'the workers are not good'...this and that…'not educated and all'. But they should have asked these things in the interview *na*. That is their responsibility. But we

can't fight with them…no point. So, I went to the embassy after that. Embassy said 'this is your problem, we can't do anything'. (13-03-20, Kathmandu)

Similar to the case of Nepal, it has been noted by scholars elsewhere that labour exporting states use joint liability as a technique to ensure that any violation in contractual obligations falls equally (or more) on the labour market intermediary or the concerned brokers. In many cases, the private recruitment agency has to generate proof for their innocence and disprove the allegation on them (Fernandez 2013), as also observed in Nepal. Although the joint liability technique also involves the employer to compensate the worker for the contractual violations, in practice, the employer largely escapes this obligation (Rodriguez 2002). Rechannelling migrant redressal to the recruitment agency clearly depicts a transfer of accountability of problems and uncertainties arising from transnational employment of migrant workers to intermediaries who mediated the labour exchange. This also helps the state avoid the responsibilities of moral hazards emerging from its relationship with the recruitment agencies and distances itself from the industry that is needed to stabilize labour migration but is "morally corrupt" and "turns people into profits" (Amnesty International 2017). Such instances are also observed in other migrant-sending contexts such as China, where state appears to blame the private recruitment agencies for problems arising from migration and employment and maintain moral superiority in the context of attacks on the state by media and civil society actors (Xiang 2013).

Secondly, the responsibility of safe and timely return of the migrant worker is also transferred to the recruitment agencies. FE Act (2007) clarifies that the government is only responsible for the return of the worker in case of natural calamity, epidemic or war. Also, in the cases of rescue related to illegal migration and trafficking, the government has to take the initiative in bringing back stranded Nepalese. In *any other case*, especially ones pertaining to foreign employment, the concerned recruitment agency is expected to take the responsibly for the return of the migrant worker. A number of recruitment agencies claimed that they have rescued and brought back Nepali migrant workers during the pandemic, from Afghanistan after Taliban takeover, from Israel after a political conflict, among other situations, with their own finances in the absence of state's proactive rescue missions. Even in the absence of a problem or a crisis (such as in the case of expiry of visa), it is the agency, in coordination with the DOFE, which is responsible for the return of the migrant worker.

As Rajan Prasad Shrestha, the Executive Director of Foreign Employment Board clarifies, legally speaking, migrant 'welfare' is still the responsibility of the state but in practice it is the responsibility of the concerned recruitment agency, especially during the contract period of employment. He says, **"during the contract period if something happens, some kind of problem occurs, then they (RA) are responsible"**. Supervision of the migrant wellbeing and their contractual obligations during the period of employment is an important

function of recruitment agencies. During the period of contract, conflict resolution is mainly the responsibility of the concerned recruitment agency (also see chapter 5). Brokers receive complaints from both employers and migrant workers, especially during the probation period of first three months. The brokers first try to resolve these conflicts by way of negotiation and convincing both parties to adjust and get along. However, if negotiation and threat[75] do not work, recruiters in Nepal are expected to provide a 'replacement' to the worker without additional costs and the FEA (2007) also requires them to ensure safe return of the migrant worker that is no longer required in the destination. As FEA (2007) says:

> In cases where a complaint is made by a worker that the employer institution has not fulfilled the contractual obligation or the licensee has not taken necessary and appropriate action to get fulfilled the terms and conditions set forth in the contract,…the Department (DOFE) shall order the licensee (RA) to provide such amount as is needed to bring the worker back to Nepal (FEA 2007: 35).

The intermediating recruitment agency is therefore expected to be responsible for not just conflict resolution but also for safe and timely return of the worker. Furthermore, as the migrant-sending state does not have the judicial capacity to penalize employer company or ask for migrant compensation, the failure of contractual obligations on the part of the employer is also to be addressed by the concerned recruitment agency. For instance, the 'Conditions for granting license to a recruitment agency', Government of Nepal says "if the employer company in destination breaches the contract, the recruitment agency should bear all the responsibility" (Gurung 2004, 46). Similarly, if the migrant worker is at fault or is caught in illegal actions or actions against the contract, it is the recruitment agency through which the worker got employed that bears the legal responsibility for such action. The 'conditions for granting license' further explains, "(i)f the workers get punished going against the contracted conditions, the recruiting agency should be responsible" and coordinate with the DOFE to bring back the worker to Nepal safely (Ibid.). The interviews with recruitment agencies further confirm that till the worker returns back to Nepal, the agency has to take the necessary actions to negotiate terms with employer, facilitate return of worker or find another job (often informal at first, gradually formalized) for the worker in short time to avoid the expense of his return and to prolong his stay in the destination country. Along the same lines, the FEA (2007) also requires the licensee recruitment agency, and not the employer company, to procure an insurance for the migrant worker for the duration of the contract in order for the worker or his family to claim compensation against accident or death

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[75] Interviews with recruiters show that they, at times, use threat as a means to continue an employment relationship without breaching of contract. To the workers they point out the dangers of losing the job prematurely and the problem of mounting debt. To the employers they remind that migrant workers can file an official complaint against the employer in case of their failure to meet contractual obligations and the company can be blacklisted, after which the employer cannot legally recruit cheap workers from Nepal. In case of bigger, more reputed employer companies, there is also the danger of unwanted media attention, reputational damage and pressure from civil society.

of the worker. These measures by the state shows how, for any problem or uncertainty emerging from transnational employment of Nepali worker or the process of migration itself, the private recruitment industry is held accountable for the wrongdoings, even when it may be the employer or the worker at fault.

Thirdly, overlapping with the other two situations, the state systematically transfers the financial responsibility of migration *mis*management to the recruitment industry. One such measure is by the means of security deposits and bonds that holds recruitment agencies financially responsible for uncertainties associated with cross-border labour exchange. The FE Act (5th Amendment; 2019b) classifies recruitment agencies into three categories (see also chapter 5). Based on number of annual deployments, the licensee recruitment agencies are required to deposit a high amount of security deposit[76] with the DOFE. The recruitment agencies deploying more than 5000 workers a year are required to deposit NPR 20 million cash (USD 166,667) and provide a bank guarantee of NPR 40 million (USD 333,333). The recruitment agencies deploying between 3000-5000 workers a year on the other hand must deposit NPR 10 million (USD 83,333) cash and provide a bank guarantee of NPR 30 million (USD 250,000). The smaller agencies' deploying less than 3000 workers a year have to still deposit NPR 5 million (USD 41,667) cash and provide a bank guarantee of NPR 15 million (USD 125,000). Elaborating on this, Deepak Dhakal from MOLESS comments,

> "In all labour agreements till date we have specifically mentioned the responsibility of the agencies and other stakeholders. It is clearly mentioned that it is the responsibility of the concerned agency to address the problems of the worker..whenever the worker needs any kind of assistance, they need to provide. They (agencies)..the concerned agencies..they need to assure the government that it can and will be responsible for such issues. Depositing the security is an assurance that (they) have the funds to financial(ly) meet the problems of the workers, if need be" (10-03-20, Kathmandu).

The security deposit and bank guarantee are primarily used against fraud, misinformation, and malpractice related to recruitment and deployment. While the DOFE, along with Nepali Mission in destination country, keeps a tab on employer companies and blacklists the ones which have engaged in contract violation of any kind, it is outside of the jurisdiction of Nepali state to be able to penalize the employers. The blacklisted employers' demand letter would be rejected by the Nepal government, which would act as a deterrent against future malpractices by the same company. But, given the transnational character of the market, the sending state has to rely on the destination state to take civil or criminal action against such violations. Given the inability to directly prosecute employer companies, much of the accountability of migrant protection is

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[76] https://thehimalayantimes.com/nepal/opening-manpower-agencies-to-cost-a-fortune

transferred to the recruitment agency, as pointed out earlier. Based on the joint liability of the recruitment agencies and foreign employers as per the FEA (2007), recruitment agencies bear the financial costs[77] of violation of contractual obligation, even if they are on the part of the employer company. The migrant worker can bring up evidence for contractual malpractices such as wage denial or delay and can take it up with the Foreign Employment Tribunal[78] (a semi-judicial body responsible for handling such complaints). In such cases, the concerned licensee recruitment agency is expected to compensate the migrant worker for "all expenses incurred in going for foreign employment" (FEA 2007: 36). In case when the recruitment agency fails to comply with the compensation, the agency is fined, in danger of revocation of license and the specific compensation amount is automatically deducted from the security deposit; keeping them financially responsible for the contractual obligations (wage, working conditions, accommodation etc.) towards migrant worker during the employment period.

Furthermore, the DOFE deposits 90% of the annual accumulated cash deposit from the recruitment agencies to a fixed-term account in a commercial bank (MOLESS 2020, ILO 2021). About 75%[79] of the net interest generated from this account is directed towards the Foreign Employment Welfare Fund (FEWF). A significant portion of this fund[80] is constituted by the contributions of the recruitment agencies and other training institutes in the form of security deposits but also from licensee application and license renewal fees. The Foreign Employment Board[81] which was instituted by the FEA (2007), is the primary wing responsible for the welfare of the migrant workers and their families. The welfare fund and its usage are the responsibility of this Board. According to the Rajan Prasad Shrestha of the Foreign Employment Board, the fund is utilized for a range of migrant welfare activities. It is primarily dedicated to providing monetary compensation[82] for Nepali migrant workers who got sick, injured, disabled or died during employment

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[77] This practice of holding private recruitment industry financially responsible for contractual violations as well as uncertainties and dangers of foreign employment, is not unique to Nepal but is a widely practiced phenomena in labour-exportingcountries. In China for example, the government did not just make obtaining a license difficult, but also increased the amount of mandatory security deposit substantially, developed elaborate mechanisms to monitor the recruitment agencies and the concerned agencies were held responsible for any dispute pertaining to the contract, with punishments in the form of fines and delicensing used to disciple these private actors (Xiang 2012, Xiang and Lindquist 2014). Similarly, in Indonesia, discipling of private recruitment actors involves making them financially liable for the migrant workers using their own security deposit and regulating the activities of local recruiters using biometric technology (Xiang and Lindquist 2014). Practices such as these systematically passes down the financial liability of dangers of cross-border mobility and employment to intermediaries who mediate the employment relationship for commercial interests and relieves the state from directly take the responsibility onto itself.

[78] A number of civil society organizations and social workers assist the Tribunal with their expert knowledge (lawyers) and human resources. The Tribunal also has tie-ups with some foreign governments (such as Swiss government) that assists Nepal with funds and expertise.

[79] With the rest 25% going towards a Foreign Employment Business Fund, to be used for "capacity development and welfare functions" of the recruitment agencies (FER 2008, MOLESS Report 2020). So far, this has not been implemented.

[80] A small amount of this fund is also contributed by the migrant workers themselves (NPR 1500 for contracts of employment of two years and NPR 2500 if it is for three years or over) and also through grants and funds from individuals and organizations.

[81] Initially known as the Foreign Employment Promotion Board with a focus on promoting out-migration (see also chapter 3). The board changed its name to Foreign employment board and remove 'promotion', reflecting on its discomfort with commercializing migrant labour.

[82] Up to 700,000 NRP (5.841,69 USD) per migrant/family, depending on the needs.

abroad. The fund is also to be mobilized to ensure the safe return of dead bodies of migrant workers and their timely repatriation to their families. The benefits are extended to the family members of migrants who dies in destination countries. For example, the children of a dead migrant worker would be provided scholarship for their study with the FEWF. The fund also supports legal assistance to Nepali workers who may have committed/charged for any offence in the destination country (FETR 2012). A call centre is also maintained with this fund for the migrants stranded abroad to get in touch with the authorities in Nepal[83]. The rest of the fund is directed towards skill training, curriculum building, advertisement of relevance of skilling through radio and television etc. The FE welfare fund, which is largely formed with the interest generated from the security deposits of recruitment agencies, shows how the state uses the income generated from deposits and bonds from the recruitment industry to cushion the extremities of commodification of Nepali migrant workers.

4. Conclusion

Migrant brokers and recruiters have been facilitating migration, recruiting migrants on behalf of employers and accompanying and supervising migrants' work for over a century, outside of the purview of the state. This chapter showed precisely at which point in the history of Nepal did the state intervene to consolidate the activities of this market and institutionalize labour migration. The state established rules for these economic actors by means of market regulation, in order to provide "stable and reliable conditions under which firms organize, compete, cooperate and exchange" (Fligstein 1996a: 657). Such rules provided "templates" for the market to organize, creating a conducive environment for market order, which commercial actors often rely on for stable social interactions (Fligstein 2018; Fligstein and Calder 2015). This chapter showed the role of state in not just creating this conducive environment for market order, but also its role in actively organizing it, and directly shaping the course of its activities. The recruitment market is shown to transform from a spontaneously arranged, mutually adjusted market, to a more consolidated industry with clarity on the rules of the game, market identity and roles, as well as rewards and sanctions to define and limit the scope of market behaviour. The case of Nepal also clearly shows the interlinkages between state-building and market-making, the empirically specific institutional conditions within which certain forms of markets emerge, and the role of the state in organizing the market for the desired outcome of orderly, predictable channels of labour migration.

This chapter also showed the specific mechanisms by which the state uses the market as a tool to organize and govern labour migration. By devolving the responsibilities of migration management to these commercial actors, the state hardly disappears from regulating migration, but rather continues to be relevant

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[83] This is primarily for stranded workers (such as in the pandemic) or workers whose visas are expired. In practice, all the complaints from workers with regard to employment is directed towards the recruitment agency.

in channelling, controlling or restraining labour migration. As has been noted above, sovereign restrictions on the ability of the state to sustain transnational flows of migrant labour, make it necessary for it to reformulate its role by assuming new ones and delegating some others. While this could be understood in relation to the question of 'capacity', it could also be understood in relation to convenience, power and hierarchy, as the case of Nepal suggests. Therefore, the delegation of migration management needs to be seen from the point of view of the state's lack of resources and abilities and its lack of will to commit directly to the regulation of mobility or take responsibility towards migrant welfare. The choice of market principle (as opposed to network or formal authority) in the organization and governance of labour migration is, therefore, not just one of 'efficiency'. It is also a political choice of convenience and moral distanciation from potential problems and uncertainties emerging in the process of migration and cross-border employment.

The framework of delegation offers an additional insight into the state-market relationship: the problem of imperfect control. Such a problem emerges from the fact that states do not have the ability to fully observe and monitor the market activities around labour migration, examples of which are discussed above. Friction between the "template" provided by the state and the market scripts created by the local actors may also contribute to such regulatory inconsistencies, as the next chapter further explores. The next chapter brings in the perspective of the market actors and looks at their interactions with the regulatory framework to examine the problem of imperfect control. This discussion is not just important to understand why the state cannot fully regulate the activities of the recruitment industry, but also to look into the meanings ascribed by market actors upon the existing regulatory mechanisms, and how such an interface affects the practices of brokerage.

PART II: MARKET

(in interaction with the state, migrants and employers)

Chapter 5

"How things get done":
Culture, perceptions and practices in the migrant recruitment business

1. Introduction

"Not everything is legal, and not everything is business. We have to find business in legal and also find legal in business" (Amir, 09-12-19, Kathmandu). I met Amir, a local agent hailing from a remote village in Nepal, on one of the early days of my fieldwork. I have to admit that when I heard Amir say these words, I could not completely understand the meaning or the density of this statement. The conversation happened past dinner time, and Amir looked drained and tired from the day's work. When he said these words, I merely assumed he was whimsically stating something without necessarily implying anything. But looking back into the conversation, I feel that Amir was saying much more than I initially comprehended.

Amir was previously a registered local agent with a valid ID card, affiliating him to a private recruitment agency. Since 2017, the Nepalese state has declared all local agents as illegal actors and has revoked their registrations and licences. Since 2017, Amir has been an illegal broker who brings workers from his village in the *Jhapa* district and introduces them to recruitment agencies in Kathmandu. Amir is the link without which migrant recruitment does not happen in Nepal. This thought-provoking statement that Amir made on the night of 9th December 2019, points to the complex interactions between market regulations on the one hand and, on the other hand, the everyday interactions and practices within the Nepalese migrant recruitment business. It compellingly points to the perception of recruiters about formal rules and regulations, how it is negotiated at the local level and what kind of social meanings emerge in such an interaction. It also lays the foundation for our analysis of the positionality of migrant brokers, an aspect that is closely dealt with in the next chapter.

This chapter brings attention to the MRI and examines how it is constituted and composed on an everyday basis. Having established that the recruitment industry is key to institutionalizing labour migration from Nepal (from the point of view of the state), this chapter seeks to explain how order is negotiated at the level of the market (from the point of view of the recruiters). While the state attempts to order and organize the market primarily through rules and regulations, fluctuations in governance may very well be a source of uncertainty and chaos in the market, as is observed in the case of Nepal. In such a context, social interactions in the market are ordered and made predictable using the culture of market- an interactive framework of

do's and don'ts that makes each market unique in its composition. "How things get done" in a market or its culture is primarily constructed in response to social meanings of interaction that guide market behaviour, as well as the existing legal structure set up by the state to organize market interactions. Discussing the culture of this particular market is important not just to understand how social interactions in the market are aligned to produce predictable market behaviour, but also to understand how conflicts and uncertainties are created and resolved by these profit-making brokers. Furthermore, examining how market actors interact with state regulations in a given context, also helps explain to what extent these regulations or instruments of control work (or fail, such as in the case of rule evasion), leaving the possibility of understanding the problem of regulatory inconsistencies. Keeping the perspective of brokers at the centre of analysis, this chapter asks the following questions:

1) What are the non-market conditions (social, legal, moral) which influence market decisions and behaviour among the recruiters?

2) What is the basis of order in this specific market, and how are interactions shaped and stabilized?

3) How do the brokers interact with the regulatory framework, and what meanings do they ascribe to formal rules and regulations?

To answer these questions, I use the conceptual framework of market culture (Abolafia 1998; Aspers 2011; Levin 2008) to explain the social and cultural embeddedness of this particular market and what it means for the question of order. Market culture is to be found in the realm of exchange, in its micro-foundations of order and is also closely tied to rules guiding the actions in the market (Abolafia 1998; Levin 2008). The expectations of 'appropriate' behaviour from fellow market actors are influenced by the existing framework of formal regulations on the one hand, and social norms on the other, with the latter being developed as a result of actors' interaction with the legal framework and with one another. These 'rules', along with the way they are perceived by the actors, shape and create 'common practices' that guide everyday interactions. Understood by Fligstein (1996b) as market actors' worldview and their "conceptions of control" and by Geertz (1983) as "local knowledge", the perception of actors helps them assess interactions with one another and reflect on how the market is ordered. The interaction between formal and informal rules and legitimations of social actions with market culture is an underdeveloped link in the sociology of markets, which can explain both compliance towards and deviance from existing rules and regulations. This further helps study how rule evasion and informality are deeply entrenched in the market of migrant recruiters in Nepal. Such practices of brokerage have a direct impact on migrant well-being and state interests, and by looking at how such practices are constructed, one can explain why they emerge in the first place and how they are negotiated.

The rest of the chapter is organized as follows: In section 2, I descriptively engage in market mapping. Here, I lay out the spatial, social and legal environment of the market to examine how non-market conditions shape market behaviour. This section also brings clarity into who constitutes the market (different kinds of actors), their different roles in organizing labour migration and the interactions among them that shape labour mobility in Nepal. In section 3, I explore the relevance of market culture in explaining the everyday practices and market behaviour. Here, I explain how and in which direction information and money flow in this market, how identities have emerged in this market and the nature of the interaction between formal rules and perceptions of these rules. It also looks into conflicts and uncertainties emerging in this market and how culture helps negotiate these on a daily basis. Picking up on the question of regulatory inconsistencies raised in the last chapter, this chapter ends with a discussion on the incongruence between the legal framework introduced by the state to organize the market activities and the cultural framework of "how to", explaining the gaps in state's ability to fully observe and monitor market practices around labour migration.

2. Market-mapping

The recruitment market in Nepal comprises of different kinds of market actors with distinct roles and identities. They exist in the form of individuals as well as firms, as legal actors as well as working in the legislative shadows. There are two sets of main actors organizing transnational mobility from Nepal: recruitment agencies and local agents. They both at one point had interest/pressure groups representing their interests to the government of Nepal- Nepal Association of Foreign Employment Agencies (NAFEA) for agencies and Association of Agents (AA) for local agents; the latter was scrapped as the use of agents became illegal in 2019. They have close commercial and personal connections with actors from other dependent markets such as hospitality and lodging, travel agencies, training and language institutes, medical check-up centres, insurance companies, and private money transfer companies. Additionally, they also have close ties with high- and low-level bureaucrats (depending on their position in the market) and government officials in relevant departments. These 'connections' or 'tie-ups' as they are call in the field, facilitates and fastens recruitment process and aids their business in the long run.

Recruitment actors in Nepal can be classified vertically (see Figure 6) in terms of their network ability to access certain other actors (proximity to workers and employers), size of business (position in the market, possession of capital and scope/reach of work), representation or ability to mobilize as a group, as well as their legal status. This categorization is very similar to the ones observed in other contexts (such as in China, see Xiang 2013) wherein the vertical and hierarchical arrangement of intermediaries within a country does not omit the possibility of horizontal cooperation between the actors.

Figure 4: Categorization of brokers in Nepal based on the size of business, influence over migration procedure, their network and legal status.

A significant portion of this market is constituted by local agents. Although, given their mobile nature, the number of agents in the field is unenumerated officially, scholars estimate that they exist in many thousands. One such estimate says there are 50,000 agents in Nepal connecting migrant workers to recruitment agencies (Jones, Morin, and Patricio Dobree 2017), with each recruitment agency using anything between 10-40 agents at any given moment in time. Almost all local agents have had some migration experience[84] of their own and have extensive networks of aspirant and returnee migrants that they mobilize upon the request of the recruitment agency (RA). My research suggests that, the local agents do not pose any competition to the RAs, because despite having better local contacts with migrants, they do not have the social (contacts with foreign employers), legal (license or legal authority) or cultural capital (English language skills, education, knowledge about legal system etc.) to compete against the RAs. Their only way to generate income is by working and cooperating with the RAs, and staying underground[85] and away from the eyes of the government. The local agents are very mobile. They are almost always on the move between Kathmandu (where all recruitment-related activities are cantered) and the local villages and towns. While many have agricultural lands in their own villages and their families working on the farm when they are away, the yield does not help sustain the household and the income of the agent is crucial to their survival. The local agents have to be present in Kathmandu to assist the migrants and the RAs through the recruitment procedure and they spend a significant period of the year in the city, making several trips to their village over the course of the year. They too are migrants, as one of them puts it. Like their transnational counterparts, agents send

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[84] Many a times, these local agents become migrants again as they find a lucrative employment opportunity appropriate for them. Here, the access to information about the job gives them an advantageous position.

[85] I observed that many local agents would pretend to be migrants to protect themselves from legal consequences of working without a licence. This also made it difficult for me to directly talk with local agents, as when asked, they all claimed they are migrants and are waiting to hear about vacancies.

'*talab*' (as one of them calls it) or allowances to their family each month when they are in Kathmandu. And when they return to their village, they take care of their meagre harvest, "collect" potential migrant workers locally and prepare them for departure to Kathmandu for the next round of recruitment. They are a number of invisible actors who use their kin, caste and community network to mobilize workers. In many cases, they are the first point of contact for the migrant worker and are key in producing stable channels of labour migration. Yet, all of these actors are now considered illegal in Nepal.

At the time of my fieldwork, the blanket ban on local agents was not fully implemented and some of the agents claimed to be 'registered' as opposed to the majority of them who were unregistered. However, with the ban (FEA 2019 amendment), all agents working in the field were considered illegal and illegitimate mediators of migration and foreign employment. These local actors embedded in migrant-broker network were banned on the pretext that agents exploit workers and are difficult to track[86] in the case of a complaint against them. It was assumed that mobile agents pose a threat to the welfare of the workers and are harder to prosecute as opposed to stationary recruiters with offices, licenses and a steep security deposit. The inability to keep the many thousands of agents in tight leash, was, the reason for the ban (interviews with state representatives). Since then on, all agents -both registered and unregistered- became illegal actors from the eyes of the government, although they continued to offer their services, albeit covertly. From the point of view of the recruitment agency based in Kathmandu, local agents are legally ambiguous but

Image 6: Local agents waiting in the reception area of a recruitment agency, Kathmandu.

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[86] Around the same time as the ban on use of agents, '*shakhas*' or local branches of recruitment agencies were also banned by the government. The rationale behind this was to increase the ability of the government to monitor the activities of recruitment market by centralising all migration-related procedures and actors to Kathmandu. It is also for this reason that only the Tribhuvan International Airport is allowed for out-migration and all migrants who wish to fly abroad are required to pass through this airport with a valid work permit (FEA, Govt. of Nepal, 2007).

socially necessary actors, without whom, direct contact with migrant workers[87] is hard, if not impossible. The agent merely needs to be informed about a potential vacancy and the skill level expected and agent in no time will arrive in Kathmandu with "a bag full of passports" and prospective migrants. Mutual dependency between recruitment agencies and local agents is conditioned by trust-based relationship between the two actors. While trust is important to generate required number of potential migrants in a timely manner to meet the employer's deadline, trust is also relevant in channelling workers 'safely'. Recruitment agencies always fear that police officers would pretend to be migrant workers to catch them in illegal acts through sting operations. However, if the migrant workers come to the RA via a trusted agent, the uncertainties regarding potential prosecution is dealt away with. The migrant workers coming through the local agent is often invested in the process of recruitment and migration and this reduces the chances of risk for the recruiters. These local actors are also key to channel returnee migrants through the same recruitment agency, as upon return, migrants often visit their local agents for the next round of foreign employed. However, this does not mean that the relationship between local agents and recruiters are always cordial. One agent has contacts with many recruitment agencies to diversify his own risks. This sometimes leads to agent leaking information (about potential demand) to a competitor, who may then approach the potential employer and "buy demand" from them. This increases risks and uncertainties for the recruitment agency.

The second, most important actor group are the firms operating as recruitment agencies based in Kathmandu. They are largely stationary actors but they do travel to migrant destination countries 1-2 times a year for networking, marketing and occasionally for settling disputes and conflicts. Unlike the many thousands of agents in Nepal, recruitment agencies are much more closely monitored by the Department of Foreign Employment (DOFE). Each recruitment agency has to obtain a license for brokerage, pay a hefty cash deposit and bank guarantee according to the number of deployments each year and size of business (see chapter 4), and renew the license each year based on annual performance. There were around 1500 recruitment agencies in Nepal but as a result of market consolidation efforts of the state (promotion of mergers and acquisitions and blacklisting 'bad' recruiters), there are currently only 854 active RAs in

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[87] There exists a very intimate relationship between the migrant and the agent and trust plays an important role in maintaining this relationship. The agent is able to mobilize workers in a timely manner because of his local connections and communal (caste and ethnicity-based) ties. However, he does more that mobilize workers. With his pool of "collected" workers, an agent goes to Kathmandu, usually in a long-distance bus and once in Kathmandu, the agent finds a suitable accommodation for the workers during the extended process of application, interview, recruitment, training, documentation etc. The agent usually arranges accommodation for the workers in cheap lodges or *dharamshalas*, which are either free or cheaply available lodging provided by charitable or religious organizations. Often as the number of workers are more than what the agent can accommodate in his own rented room (shared or non-shared), finding these cheaper options are the only way for the agent to keep the migrant's expenses low (usually paid in lump sum to the agent after selection). During the period of prolonged waiting that migrants go through in the city of Kathmandu, agents meet them on a regular basis, eat with them in cheap canteens run by ex-migrants and assist them in each step of the application procedure. They also help them access loans from local moneylenders, provide them contacts in the destination country and stay by their side till the departure in the airport.

Kathmandu. Among these 854 agencies, the DOFE classifies the agencies in three different categories: RAs deploying up to 3000, between 3000-5000 and more than 5000 migrant workers annually. During the research, only a total of 5 recruitment agencies filled up the highest two tier (3000-5000 and more than 5000 migrant deployments per year) and the majority of agencies fell under the lowest tier of under 3000 annual deployments.

Image 7: The recruitment agency in the image has the largest number of partners (7 partners) in the market. It is also very common in this market to have family business, with most employees especially in the top tier, recruited among family members.

The number of deployments also indicate the size and scope of business of recruitment agencies. While on the one hand there are small recruitment agencies which sometimes share one tiny office space to reduce expenses and work under separate licenses, there are also recruitment agencies that do not have offices, but campuses of their own, often with in-house travel agencies, training institutes, medical centres and orientation department (see image 7) of their own. Each of their campuses included multiple buildings, each with its own purpose. The campuses have their own reception area with a designated receptionist (some of whom aspire to migrate themselves in the future in the hospitality sector), interview rooms with giant projectors and screens for briefing, orientation centres, rooms or outdoor areas for physical training (masonry and carpentry for example) and hospitality training (mainly non-manual, coaching-based training), either under their own brand name or with that of a 'tie-up'[88] institute. They also often have their own notary and photocopy shops, security guards guarding the campuses, designated waiting areas for aspirant migrants and agents (pretending to be migrants

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[88] Tie-ups in the market are referred to official and unofficial collaborations between different market actors. In the case of tie-ups between RA and training institute, the business of one company feeds into the business of another company. For instance, all the selected recruits from an RA that has a tie-up with a training institute, are sent to the institute. This makes sure the recruits do not get a chance to go to any competing training institute and the institute in return works closely with the RA to meet its deadlines and needs. An example of this according to the interviewees is when, during an approaching deadline, the training institute either provides 'crash course' to the worker or even forges fake certification to meet the requirements of the recruitment. A tie-up is thus a mutually beneficial business arrangement between two different business actors, often from different but related industries.

when asked in the fear of prosecution), personal canteen/mess for the regular 50-60 staff members, etc. These elite recruitment agencies have strong "connections" with local bureaucrats and have a "tea and lunch kind of relationship", implying a close relationship whereby they invite each other to their houses and stay in touch and give each other favours from time to time. Some interviewees also claim that these elite agencies also have tie-ups with banks in Nepal, to assist migrants with loans for out-migration and some engaging in humanitarian causes have also facilitated rehabilitation of returnee migrants. These handful of elite recruitment agencies make this market aspirational for many small to medium recruiters and agents and many enter the business with the hopes of 'making it big'.

The recruitment market thus includes a range of actors with different roles and positions. Before getting into the specific ways in which this market is organized, it is relevant to look into the non-market environment within which this market is situated. Socio-political environment of a market guides and shapes the market behaviour and interactions, and shows the specific ways in which a market is embedded. In the following two sub-sections, I will discuss the role of morality and social perceptions around brokerage activities to explain its relevance on the market identity and look into how the interaction between recruiters and existing legal structure produces certain kinds of market behaviour. Both these aspects are detrimental in how this particular market is organized, how the actors view themselves and each other and how, and to what extent, emergent market practices can be regulated.

2.1. 'Dirty money': Source of income and market identity

The recruiters in the market say that even though many elite recruitment agencies have built huge enterprises around their work and have earned name, fame and capital with years of work, there has been a social stigma around their job. They say that the money they earned has been morally questionable in the eyes of the society and the recruiters are often referred to as '*dalal*'. A *dalal* literally means a broker or middleman and *dalali* means the process of intermediation. Culturally, however, it has been used to identify men who benefits from the trade of human beings. This negative connotation is usually referred to sex work and *dalals* are those middlemen or 'pimps' who mediate transactions around prostitution circuits. Being labour market intermediaries, these recruiters continue to face that stigma even though they deal with migrant workers who voluntarily seek their services of mediation for work abroad. Some recruiters who were interviewed claim that their friends and relatives refrain from borrowing money from them for the purposes of education or health because their income from the perceived sale of human beings is considered dirty and morally corrupted. Recruiters in Nepal negotiate such a stigma on their job on an everyday basis and this has deep implications on their market identity. Existing media coverage on migrant exploitation and vulnerability in destination countries also does not help their case.

Speaking about 'dirty money', Zelizer (1989) discusses the social and symbolic meaning of money and points out how a housewife's money may be perceived very differently from a wage or a salary for instance, throwing light on how not all forms money are equally used, circulated or perceived. Money therefore is neither 'culturally neutral or morally invulnerable' (Ibid.: 347). She argues that money is morally or ritually ranked and the source of the money is one of the important aspects determining this cultural ranking. The colloquial correlation between brokerage of sex workers and brokerage of migrant workers is a striking one and it shows that even though the recruitment market is acknowledged to be important for migration of low-skilled workforce, the income generated from it is looked down upon and considered socially illegitimate.

Explaining the source of illegitimacy of some markets, Satz (2010) argues that some markets elicit the emotion of revulsion and disgust as they engage with the sale of goods or/and services that are morally outrageous. Examples of such markets include sale of human organs, child labour, sexual or reproductive labour, and slavery. Irrespective of the demand and supply, the transactions around these 'noxious' markets are considered illegitimate and Satz remarks that the legitimacy of democracy in fact rests on prohibition of such transactions (Ibid.: 34). The participation of the object of transaction is key in defining this legitimacy of the economic act. Here voluntariness of the participation does not suffice and the structural impediments conditioning the participation is morally judged by the society. Talking about child labour, she says "the moral assessment of an action depends on one's views about the moral legitimacy of the socially available choices an agent faces. In other words, whether a choice confers legitimacy depends on other conditions besides its being voluntary" (Ibid.: 159). The agency of the object of transaction, along with structural vulnerabilities of the agent are taken into consideration while evaluating legitimacy of the market transaction. Also relevant is the outcome of the market transaction for both the concerned individual but also the society at large. Here the focus on the outcome emphasizes the potential exacerbation of vulnerabilities of the agent from before the market transaction. Weak or asymmetric information about the transaction and its potential outcomes also contributes to the disqualification of a market as legitimate. According to the recruiters in Nepal, the society at large and the Nepalese communist government[89], accuse them of 'making money' out of this trade of migrant workers who lack complete information about the job abroad or the working and living conditions they would face in destination and in turn experience exploitation and extreme vulnerabilities. The money generated from the desperation of migrant workers is considered "dirty" in Nepal and the recruiters navigate this stigma on an everyday basis.

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[89] It is interesting to note the government representatives interviewed held on to this contradiction whereby they viewed the recruiters as immorally operating at large, exploiting workers and profiting from their desperation. But, they also seem to agree that recruiters are inevitable for substantial labour export and cannot be fully replaced by government to government (G2G) intermediation.

The Nepalese context of cultural perspectives on *dalali* and its association with labour market intermediation shows that market-based exchange of migrant workers may be perfectly compatible with market values and but it may conflict with social and moral fabrics of society. What is interesting here is to note that recruiters in Nepal navigate this challenge to their market identity by engaging in "bouts of morally approved behaviour" (Etzioni 2010) vis-a- vis migrant workers.
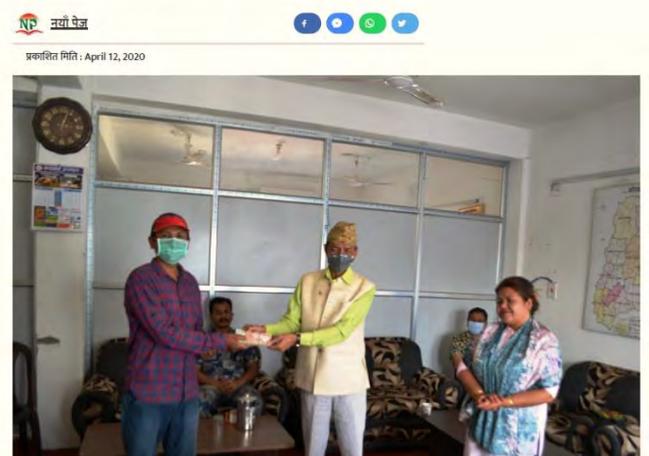
Image 8-9: News clippings of the 'top' recruitment agency in Nepal providing donations towards Covid-relief in the country. This RA also claimed that they have sent partial salaries to stranded and unemployed migrant workers in the Gulf region.

For example, recruitment agencies in Nepal, especially the elite ones who have the resources to support such an endeavour, engage in charitable acts for the welfare of migrant workers (see Image 8-9). Some of recruiters also claim to have sent charter airplanes for the rescue of migrants (for example, during a political crisis in Libya, during the pandemic from Gulf countries) in the context of state's inability to bring them back on time and with the belief that it is their "moral responsibility"[90] to safely bring back workers sent from their agency. While these are more extreme involvements of elite recruiters, many smaller and medium sized recruitment agencies also claim to "personally take care of" workers during the contract period by staying in touch with them and helping them in times of personal and employment-related crisis. Such acts of moral overcompensation help recruiters navigate the stigma of *dalali* and dirty money and helps them to redefine their market identity to some extent.

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[90] Amitai Etzioni (1988/2010) briefly speaks about the relevance of guilt in making moral decisions when he says that 'guilt often spills over and attaches itself to others', indicating that deviance from a moral commitment or norm can lead to over compensation by actors to other related fronts (or vis-a-versa, such as a show owner charging extra from customers to even-out his losses or previous expenses.)

2.2. Legality and encounters with bureaucracy

The licensing of recruitment agencies in 1985 and the legal recognition that they obtained as a result of formalization of the market, did help redefining the market identity of these actors. Licensing here acted as a tool of political legitimacy of recruitment business and helped them challenge the association of *dalali* with their profession. Although the recruiters claim that they still find traces of this older market identity in casual conversations, especially during interpersonal conflicts, the harshness of the stigma has considerably gone down. Their ability to legally facilitate mobility and recruit workers on behalf of foreign employers makes them different from their unregulated predecessors who were closer to the category of the *dalal*. Regulation in the market itself has thus contributed to the creation of market identity of these recruiters and has also helped them get more business (Sijapati and Limbu 2012). Additionally, the way the market actors prefer being called a manpower agency over a brokering agency points to the way in which language is being used to shape a socially legitimate market identity.

Migration scholars in the recent years have noted that more and more migration has become legal and regularized over the years and that the intermediaries tend to make a legal status both desirable and attainable, albeit with a higher cost (Xiang 2013). While law has historically pushed some intermediaries 'underground' and made them illegal, it has also provided some other intermediaries a conducive ground for market-based exchange of migrant workers, making them the "most active enforcers" of law (McKeown 2012: 37). Formalization of migration has also made mobility highly processual in that ID cards, medical examination and training became important instruments of regulating migration and several different layers of 'paperwork' or documentation has made mobility slow and highly involuted (Lindquist 2010; Xiang and Lindquist 2014). In Nepal, after acquiring demand from an employer and "collecting workers", a recruiter has to obtain 12 different documents and must go through 17 distinct steps on behalf of the migrant worker, all of which takes a minimum of three months to process. Additionally, corruption and red-tapism prolongs the process furthermore, creating undesirable periods of waiting and immobility for both the migrant worker as well as the recruiter processing his documentation.

Such a slow and prolonged process of documentation for legal migration does not bode well with deadline-drive business of recruitment agencies. At the point of contact, employers or their representatives often expect the Nepalese recruitment agency to have "just in time" workers (Garrapa 2016), which they often have or could be arranged with the help of local agents. However, their dragged encounters with migration bureaucracy (which is often put in place to protect migrants from risks of migration and foreign employment) sits uncomfortably with employer's requirements of readily available workers. It in the business interest of the recruiters that every formality pertaining to migration including training, certification, clearance, work permit and visa are finished as soon as possible. While their "tie-ups" with training institutes and medical centres fastens the process, such collaborations also produce fake and forged

certificates and documents which in turn puts migrants in a vulnerable position. For example, a recruitment agency in Kathmandu pointed out how when faced with a shorter deadline, they use their connections with training institutes to provide migrants with "crash course" which are often a day's task and conducted only for the purpose of training certificate. Some recruiters have also admitted on forging medical certificates 'for the benefit of migrants' and to fasten the process of documentation and clearance.

"Timely deployment" in a deadline-driven work also encourages corruption in Nepal. Many recruiters point out that they have a 'designated person' who visits the departments of government and that anyone except that person (including the recruiters themselves) cannot merely walk into a government office and seek appointment for migrants. Bibek, a young recruiter working with his maternal uncle in a recruitment agency, says, this person can ''with one call he can get the work done, even on Saturdays and Sundays'' (10-12-2019, Kathmandu). This broker, paid by the recruitment agency, is often a freelancer and tends to work for more than one recruitment agency at a time. He uses his personal connection among local bureaucrats to fasten the process of documentation, make them ignore inconsistencies in the migrant file, and to "push the paperwork" forward at the earliest. A labour lawyer and civil society actor working in Nepal argues that such institutional forms of corruption have existed in many South Asian countries for a very long time to the extent that most of it is considered harmless and called *'chaya-kharcha'* or literally translated as money for tea. He says that "it is normal practice to give money to the bureaucrat for 'chaya-kharcha' or money for tea (laughs). It is harmless and it is part of our culture to give something small to someone who helps you" (11-05-2020, Kathmandu). However, he acknowledges that the kind of "alliance based on money" between the recruitment industry and the political elite in the country, is far more harmful for the migrant wellbeing. In this context, many recruiters believe that having a "good relation with government" means the ability to navigate and manipulate legal framework to the best of their business interest. This is further justified by pointing out how the end result of bribing and other corrupt practices are often to fulfil the desires of migrant workers, who are desperate to leave the country in the absence of any suitable employment opportunity in Nepal. However, the recruiters are much more careful with engaging in such behaviour when it comes to female migrants. Laxmi, the female recruiter in Nepal admits that while it is extremely common to do these things in deadline-driven business and that the "designated person" with good contact is highly relevant in dealing with bureaucracy, they do not try to fasten the documentation work or make any other comprises with female clients (who are numerically a minority) as it can adversely affect their wellbeing in destination country and expose them to exploitation by potential employers.

While legal legitimacy has contributed significantly to the redefinition of *dalali* and their market identity, heterogeneity of institutional frameworks characteristic of transnational labour markets as well as Nepal's own swiftly changing rules and regulations around cross-border migration is a source of constant uncertainty for recruiters. To understand the institutional framework of Nepal and countries of destination, recruitment

agencies often have either lawyer of their own (in bigger RAs) or have collaborations and regular consultations with lawyers in Kathmandu. These actors help them stay updated on regulations related to migration, migrant workers, minimum wages, and employer responsibilities including lodging, food and other expenses. Within Nepal itself, rules regarding these issues have changed abruptly and as one recruiter says "what is legal one day, is illegal the other day" (30-01-20, Kathmandu). Practices such as using an agent, having local branches, charging a customary recruitment fee (calculated generally as a month's wage) were very common in Nepal, as is in many labour sending countries. However, many recent changes have prohibited all the practices. As these practices are deeply embedded in the market culture (see next section), recruiters continue to engage in them irrespective of their legal status. This, as Manish (a senior recruiter living in Nepal, originally from Bangladesh) says feels like "always walking on the rope" and navigating uncertainties as they come about.

In the context of fluctuating migration policies and regulations around migrant labour exchange, it is the culture of market that creates repetitive, predicable sets of actions and interactions. In the next section I discuss market culture in more depth and spell out the tensions around legal structures, their perceptions by recruiters and "how things get done" in the market and discuss what such tension means for state's ability to regulate the recruitment industry.

3. Culture as the basis of market order

Although market regulation is intended to create order in everyday interactions, it is also intended to limit or reduce 'marketability' or commercialization of certain objects of exchange, especially those that are not originally designed for sale (Polanyi 1944; Weber 1947). These two aspects of regulation create arenas of struggles between the state and the market that is navigated by a distinct culture of the market which is produced as a result of regular interactions and habituated practices emerging from the market often in relation to exiting regulatory structure.

Culture in social anthropology and sociology is a widely studied topic. For Raymond Williams (2011; 1995), culture is ordinary and has two distinct but complementary components: while on the one hand culture is a 'way of life' and denotes the 'common meanings' one attributes to one's and other's actions in a group, on the other hand it also constitutes forms of significations such as arts and artefacts. More importantly, culture is 'ordinary' and includes the known and new meanings that actors orient themselves to on an everyday basis. But these shared meanings and assumptions are not uprooted from the structural positionality of actors and as Williams notes, each class has its 'culture' and these are based on historically grounded shared experiences, linking culture and economy intimately. Shein (1985) brought this idea of shared assumptions in a group to the context of an organization to develop an idea of 'organizational culture'. This, he argues, includes assumptions and beliefs about conducting everyday life within an organization, which is learnt

from existing (old) members in the group and is used in situations of problems to cope and adapt. Once these assumptions are verified by repetitive use, they are internalized by new members as the 'right way' of conducting oneself in events of problem similar to the ones experienced before. Others like Martin (2006) later further develop the idea of organizational culture to include the ways in which the organization operates on a regular basis and how the members 'frame' internal and external events. This conceptualization takes us back to the more traditional ideas on culture and brings the organizational context to understand how shared knowledge among group members constitute the 'culture' of that organization[91]. In the context of markets, culture has been rather vaguely engaged with, with the exception of Abolafia (1998), who develops an extensive ethnographic approach to studying markets and cultures. He defines markets as the "loci of repeated interactions and/or transactions" that begins to "exhibit their own distinct set of mutual understandings" (Ibid.: 69). These understanding emerge in social interaction between the market actors and produce expectations of contextually appropriate behaviour.

Market culture may have traits or qualities generally shared by all markets (such as price setting or competition) and may have traits or qualities specific to a market (such as *how* price is set or *how* competition is negotiated in that market), creating the possibility of identifying general attributions of market society and uniqueness in market practices (Aspers 2011: 94). The culture of the specific market also tells us who contacts whom, who pays whom, how is the trust acquired between actors, who has an upper hand at negotiating the price, how can formal sanctions be escaped, how and in what ways can actor cooperate and how are conflicts between them resolved etc. In the next two sub-sections, I will elaborate on two of these components of market culture: flow of money and information in the market and conceptions of and interactions with existing legal structures. Understanding these two elements is to key to establishing the asymmetrical nature of this market that puts migrant workers at a disadvantageous position and the prevailing culture f informality that dictates every-day market decisions and practices.

3.1. Flow of money and information in the market

In a market that primarily caters to information deficit between buyers and sellers of migrant labour power, information is an asset among the recruiters in Nepal. While information about demand in potential or existing migration corridors is a prized possession in the market, information about sources of "suitable" workers, about local labour market dynamics of the destination country (whom to approach and how, for instance), nature of competition and formal and informal rules in specific corridors are also key to establishing every-day market interactions. It is not just the recruiters that compete to get hold of information

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[91] Culture has been similarly used to understand outcomes of social action such as in the context of industrial culture creating uneven regional development by the means of affecting the nature of work, conditioning perceptions of work, developing identities and by the organization of work itself (Sadler and Thomson 2001).

on demand, but sometimes, even the state competes with the recruitment industry and "steals" the demand[92] and establishes government-to- government channels of labour migration, making market information (and how, and to whom it is passed on to) vital for decision making among recruiters and market behaviour in general.

Sharing of information is essentially risky in this market. For example, recruitment agencies, when contacting a local agent to mobilize workers for a particular job profile, tend not give out the details of the employer or the name of the company that requires migrant workers. At the time of contact, they only pass on more relevant information such as gender, age, potential work profile of migrant worker and the tentative wage to the local agent. Many a times, they even do not inform them about the country of destination before actually getting the workers. This is primarily done to avoid risks pertaining freelancing agent "leaking information" to other recruitment agencies. As mentioned above, one local agent works with as many as 10-15 recruitment agencies at a time, with varying degrees of involvement. Recruiters note that local agents, in exchange for a larger commission or interpersonal commitments, can leak information about the demand that the concerned RA worked hard to acquire. Speaking of such experiences, Bibek, the young recruiter says "he (agent) can even tell what's happening in our manpower to some other manpower, exchanging word (leaking information) about a potential deal or demand saying 'this-this demand is happening in this-this country. Why don't you crack this demand by yourself' (contact the client)?" (10-12-2019, Kathmandu). Unless the RA has very strong connections in the destination country, in which case the demand will not be given to any other RA, a competing RA in Nepal can use the information to approach the potential employer company or placement agency, promise them a higher commission and supply them workers through their agency. Similarly, on the other side of the exchange, Nepalese RAs rely on a number of actors in the country of destination from who they either receive or share information to facilitate labour migration and timely deployment, and all such relations are uncertain. As Bibek further explains "this work involves a lot of confidentiality in business. One person does not want to share the source of demand to another person. How will trust be developed like that[93]? That is why it is a risky business. We cannot trust anyone simply. But at the same time, we need to trust to establish connections with people and get work done" (Ibid.). Information

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[92] Recruiters often complained how the Nepalese state "steals" business opportunities from them, contacts the employer group and negotiates sending Nepalese workers without market mediation.
Udgam, a senior recruiter working in the field for over 35 years, says: "they had contact with employers in Israel and were fetching demand, but government took away that opportunity from us, established G2G but it could not work very well as they cannot keep getting demand like RA and they don't know how the market works. No one benefited from that" (03-02-20, Kathmandu)
[93] In a later interview, Bibek points out how "putting money in business" is way to develop trust in this market where trust is difficult to forge. By this, he means how collaborating with someone who has invested money in the business, would be more reliable than others.

about a potential employer and demand is thus shared very selectively [94]and often with those with long-term, established social relations.

Information is not always exchanged for money, although it is sometimes. A migrant worker sitting in his house in remote village or waiting in the street corners of Kathmandu receives information about a potential vacancy from the local agent. In exchange, the worker pays a high price in the form of service fee (towards the agent, the recruitment agency and other intermediaries), often borrowing money from local moneylenders. However, most other transactions around passing of information is either based on mutual favours (reciprocity) or the prospect of profits in the near future without handing over a payment for the information received. For example, the employer receives information about "suitable" migrant workers from recruitment agencies. In exchange, the employer, in majority of cases, does not pay a service fee to the RA but provides them the prospect of making profits from the end of workers. In fact, it is the RA which "buys demand" from the employer in the context of cut-throat competition between recruiters in Nepal as well as in other migrant-sending countries. Similarly, the RA in Nepal receives information about potential workers from the local agents[95]. In exchange, the RA almost never pays the agent but rather provides him with a business prospect to charge his portion of the commission along with RA's service fee from the migrant workers. Such an indirect route of acquiring recruitment fee also allows them to charge much more than the legally prescribed limit.

Such transactions around information and direction of payment shows the highly asymmetric nature of this market, in which the migrant workers end up bearing most of the costs of intermediation. The asymmetric power relationship in the market is therefore starker in this financial arrangement in which the worker pays for mediation as a whole despite the employers using the services of the recruitment agency as much as the

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[94] However, even such precaution may not completely evict the possibility of risk in this business. Explaining why many recruiters in Nepal partner with extended family members or long-term acquaintances, Krishna (11-12-19) talks about their "representative" or partner who previously worked with their company and dealt exclusively with international marketing (contacting employers and getting demand), established contacts with many employers in the Gulf and gained their trust. Once these contacts were established, he registered his own agency and took all the clients with him. Explaining this he says "this is service sector. Whomsoever is in the front, dealing with the clients, the client will believe him".

[95] The local agents receive only '*cha-pani kharcha*' (literally translated as allowance for tea and water), a meagre amount for brokerage usually covering only a fraction of their expenses given at the end of a recruitment cycle (either for a person or a group of people). On the other hand, these agents derive most of their income from steady and long- term relationship with the migrant workers. This is usually done in stages. Sometime the migrant worker is required to pay an 'advance' to the agent which he uses as a security against the worker going to other agents. The agent in some cases also bears the expenses of the worker in Kathmandu city till his recruitment (it may also include prolonged period of stay and numerous unsuccessful interviews). The lumpsum of brokerage fee and the money spent by the agent on behalf of the worker is usually paid to the agent once the worker is 'successful' in all recruitment procedures and is days away from the actual deployment. Migrant workers, based on their past experience of cheating and hearsays, do not pay the agents before the employment contract is signed as the mobile agents may 'run-away' with money and leave the workers high and dry. The local agent and the migrant worker have, therefore, incentives in keeping each other close till they have signed contracts and in many cases also till the departure and actual deployment of the worker. Once deployed, the contact of the agent is not very useful to the worker and from then on, he tends to rely more on the agency representatives in case of problems or complaints. Once the worker returns after the end of his contractual period, agents often arrange meetings with them in Kathmandu itself. In many occasions, and if the relationship between the agent and the worker was cordial and mutually benefitting, the worker comes back with a small gift for the agent and returns the favour by channelling new potential migrants to the concerned agent.

worker. Being the 'client', the RA also gives more importance to the employer (company/representative) than to the workers, who are often communicated in groups or through the concerned local agent. According to the recruiters in Nepal, this differential treatment is justified because there are thousands of potential workers in Nepal but employers in destination countries interested in recruiting Nepali workers are relatively fewer and without them, many of these workers would stay unemployed in Nepal, making clients (employers) more important than candidates (workers) in the business equation. And as one of them says "they (workers) bring money but client (employer) brings business", rationalizing which set of actors are more important in their migrant recruitment business.

Service fee or service charge is the main source of income for RAs in this market. As per foreign employment regulations, there is a legal cap on this service fee and a Nepali migrant worker can pay up to NPR 10,000 (USD 83) to private recruitment agency for facilitation of out-migration and documentation and up to NPR 600 (USD 5) for the mandatory orientation conducted by government or semi-government authorities (FEA 2015). Additionally, since 2015, the communist government's policy of 'zero cost' and 'free visa free ticket' dictates that migrant workers from Nepal should not have to incur immense debts to travel abroad to work and employers will have to pay the service fee to the RAs and would have to bear the financial responsibility of out-migration facilitation including covering their visa, back and forth travel expenses and reimbursement of documentation (medical/security). However noble this political move was, Nepal's policy can only to a limited extent influence the labour market practices of destination countries. Despite bringing these initiatives up at the bilateral level, employers have little to no incentive in covering and reimbursing expenses of migrants especially when cheaper labour with lesser financial and legal liabilities are available[96]. In reality, the financial onus of out-migration falls completely on the shoulders of migrant workers and despite the political interventions to limit the consequences of such power asymmetry, migrant workers pay on an average NPR 160,000 (USD 1,350) for low-skilled and low-paid jobs and it takes several months for them to recover the costs from their salaries[97] (FairSquare 2021). It is quite common in Nepal for migrant workers to comply with rule evasion with regards to service fee and on paper, many in fact only pay up to the prescribed ceiling of NPR 10,000, while off-paper, the recruitment fee runs very high and is paid in cash. This kind of compliance as a result of desperation to seek employment abroad, puts the workers in a vulnerable position as they would not have 'proof' for overpayment and hence cannot file a formal complaint against the RAs. The transfer of payments in cash often also makes these transactions risky.

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[96] https://www.nepalitimes.com/latest/the-theory-and-practice-of-zero-cost-migration/
[97] In addition to this, recruiters in Nepal believe that the government of Nepal should legally allow them to charge one-month's salary of the migrant worker as the service fee, a practice legally acknowledged in Philippines.

Apart from the cost of intermediation or the service fee, the recruitment agencies also expected to or are forced to pay the employer or the placement agency the price of getting the demand. Known among the recruiters as "buying demand", and in the context of employers' awareness about acute competition among recruiters in labour sending countries, RAs pay a certain amount (often per migrant/deployment) to acquire the demand before the other competing recruiters do. The employers tend to call this payment 'security' or 'guarantee' amount. Both these phrases have the same connotation in the field, in that the employers use this payment from the RA to work around the uncertainties related to transacting across border and to make sure the workers that are sent by the RA are suitably qualified. It also makes sure that once the RA is in contact with a particular employer, it *will* send the workers and meet the deadline. The payment here acts as 'guarantee' against misinformation, miscommunication or malpractice by the recruiters. Unfortunately, as many recruiters in Nepal are obliged to pay this amount to obtain and secure business in an already competitive environment, they tend to pass on this expense to the migrant worker as well, who then has a hefty recruitment cost to bear. This relatively high amount also includes payment made to other intermediaries, both within Nepal and in the destination country. The amount the migrant worker pays as a 'recruitment fee' or 'service fee' is often 10-times more than their monthly wage and depends on a number of factors, including the capacity and reach of the concerned RA, the nature of the employer company, the number of intermediaries involved, the duration of the deadline of deployment (the closer the deadline, the more expenses the RA has to bear to fasten the process), the quality of job and expected wages etc. Irrespective of these factors, the direction in which money and information flows in this market shows how fundamentally asymmetric it is and how the migrant worker is expected to bear not just the cost of intermediation but of acquiring demand for Nepal and its workers. While the flow of remittances from the country of employment to the country of origin is often captured in migration and development studies, the reverse flow of capital – from the pockets of migrant workers to the employers in destination country, mediated by a number of intermediaries – has received far lesser academic attention. But for the purpose of this chapter, it is relevant to note that while such practices are morally questionable, they are considered socially acceptable (among the market actors) as they bring demand for migrant workers to the ones who need jobs in Nepal. The next sub-section further explores the question of social acceptance, legitimacy and prevailing practices of informality in the market.

3.2. Culture of informality and its social acceptance

How 'things get done' in a market are a result of shared set of values and assumptions that are contextually designed over a period of time with repeated actions and interactions. These shared assumptions are deeply connected to existing rules, regulations and norms that shapes market behaviour. These practices also bring order in the social interaction as market actors come to expect the *appropriate* behaviour in the market and establish sanctions for downplaying them (Aspers 2011). It also shapes the general "rules of conduct that

enable, facilitate, and restrain human coordination" (Ibid. 95). A significant portion of the market actions in Nepal involve some level of rule evasion. Informality is very much part of this market's culture and most concerned actors including the migrant workers, the recruiters and the government agencies acknowledge that there are certain 'ways of doing things' that have always been there and it is difficult to break free from it. Most informal practices in this market are considered socially acceptable (by other market actors, not society in general) and therefore legitimate. Some examples of these activities include charging more than 10,000 Nepali Rupee from the prospective migrant worker or using local agents to penetrate local village networks to enable recruitment. Both these activities, for example, are considered illegal by the government and if caught[98], these agencies can be suspended or heavily fined. However, these practices are deeply rooted in the market culture and despite being legally delegitimized, they are socially acceptable and continues to be practices, although covertly.

Where does social acceptance of informality come from in this market of recruiters? Deviant market activity or conduct - such as, in the given context, where legal actors in a legal business violate existing regulations to maximize opportunities of work and income – must be located in the market culture that either legitimizes it or rejects it. As the recent explorations in the field of illegal markets (Beckert and Dewey 2017) demonstrates, market practices that are identified as 'illegal' can still be legitimate if there is social acceptance for it, in a way that the actors find the practices morally justified and exemplary (Mayntz 2017). What Mayntz (2017) calls 'legitimate illegality' precisely points towards the social acceptance certain practices that may be deemed 'illegal' by the state but is considered legitimate by the market actors. She says "where formal legality and social legitimacy diverge, legitimate illegality flourishes" (Ibid.: 3). The question to be asked here is 'what is the mechanism that ties legitimacy and social acceptance (used interchangeably here) to deviant market practices' and what is the basis of such legitimacy? One such basis or rationale of legitimacy of informal activities in the market of recruiters is the structural position of the object of exchange- the migrant workers themselves. Reversing Satz's (2010) proposition about the agency, vulnerability and potential outcome of a given transaction in the context causes moral noxiousness of that market, it appears that these very dimensions that makes a certain market noxious can be used by market actors to justify rule evasion. The recruiters in Nepal claim that about 90% of their daily activities are considered 'illegal' by the state but recruiters, migrant workers and even local bureaucrats find them legitimate because these actions *eventually* help the migrant workers in a country where unemployment is rampant and foreign jobs are the only, often desperate attempt of migrants to provide for their families.

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[98] But it is extremely rare for recruiters to be prosecuted for these kinds of rule evasion because fellow recruiters, migrant workers and even the local bureaucrats do not report these activities as they are considered part of the market culture and there is some level of tolerance for such activities. Scholars also report on relative impunity enjoyed by RA's in Nepal, conforming this observation and pointing to how much of what recruiters do outside of the formal channel is considered 'routine' (Taylor-Nicholson et al.2014).

Informal activities are justified in the market as long as they are not a threat to the object of market exchange- migrant worker's life or health- and as long as these actions help the recruiters obtain job opportunities for the Nepali workers, while securing their own business interests. They argue that abiding by the legal structure and following all formal recruitment procedures will only slow down the process of recruitment, which in turn delays mobility of the worker. They claim that their informal activities help 'poor' migrants attain class mobility and that the recruiters are the only reason why the most vulnerable population of Nepal could obtain decent living standards in the absence of a stable and efficient government. The categories of 'inefficient' state and 'poor' migrants are revoked to generate social acceptance of deviant market behaviour in Nepal. A significant number of the recruiters also have had a migration background and they use that history to also claim a morally correct position vis-à-vis the ineffectiveness of the state in generating employment opportunities for Nepalese with Nepal. While most of them acknowledge that deviance in the form of rule evasion is ethically and morally wrong[99], it is still justified for the larger outcome that it perceivably produces. From overcharging the migrant workers, paying bribes to bureaucrats, using agents that are deemed illegal by the state, to confiscating passports of the workers and paying employers a certain amount to 'buy' demand, most of the informal market practices are morally justified as long as it helps them survive and provides employment to migrant workers. In cases where some of these activities do harm the worker (such as in the case of overcharging the workers), it is often compensated for by a number of 'philanthropic' activities such as heavy donations and charities for the welfare of migrant workers to the more prevalent practices of personally looking after the workers during the period of contract by staying in touch with them and helping them in times of personal crisis. Activities that harm the health or life of the workers is still frowned upon by market actors and is not considered 'good business'. Market activities such as smuggling of migrants, placing them in wrongful contracts, or in hazardous places of employment etc. are considered morally unacceptable. The lines of morality are thus drawn in this business where rule evasion potentially threatens the life or health of the migrant workers.

A prevalent culture of informality does not, however, mean a complete disregard for state-imposed rules and regulations. As mentioned previously, abiding by the law is essential to the recruiters to maintain their market identity as brokers of free, waged migrant labourers and to sustain political legitimacy towards their market interventions. There is also evidence from the research that recruiters frequently adapt to changing regulations and respond to them quickly by finding *new* 'ways of doing things'. For example, Cosco Human Resources (pseudonym), a medium sized recruitment agency in Kathmandu, swiftly turned to "ethical recruitment" as soon as the Government of Nepal changed regulations about the recruitment fee in 2015. Prior to 2015, there was no ceiling on the recruitment fee and Cosco H.R. followed the existing market

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[99] Confirming Weber's (1947) proposition that even when there is a non-compliance or deviance, the legitimacy of the normative order is still recognized (Ibid: 124-125).

practices to charge workers anything between 50,000-10,000 NR for recruitment and processing of documents. However, as soon as the law changed, the recruitment agency embraced a new market identity, participated in training on "ethical recruitment" conducted by IOM and RBA and distinguished itself from the majority of recruiters in Nepal. They are one among the handful of recruiters in Nepal who use "ethics" as a form of branding and market distinction (certification of ethical recruitment is displayed in their offices and websites), and this has helped them gain business from larger, more reputed employers in Malaysia and Gulf countries. What is relevant here is to note that, this particular agency swiftly adapted to a changing regulation and responded to this change by embracing a new market practice that is being followed by a handful of recruitment agencies. The source of ethical recruitment in this case, is *not* morality or a sense of righteousness, but changed regulation concerning a specific market practice. This further shows how market actors adjust to external dynamics either by continuing a well-established but now illegal practice, or inventing[100] a new practice in response to the changed regulation and using it to the advantage of the firm.

4. Incongruence of "appropriate" behaviour and regulatory inconsistencies: *An example*

The example of Cosco H.R. showed how some actors adapt to fluctuating rules and regulations, and such fluidity on the part of the recruiters indicates a merger between the "template" (Fligstein 2018; Fligstein and Calder 2015) of order provided by the state and the scripts of market emerging from the culture or repeated social interactions. This is, however, not the most common practice. Even recruiters in Cosco H.R. admit to engaging in a number of activities that are deemed illegal by the state. This section attempts to capture the friction between regulatory template and cultural scripts of market using the example of migrant recruitment procedure. Such an analysis with a focus on one specific aspect of market practice shows the incongruence between "appropriate" market behaviour, as seen by the state and the recruiters. Looking at this specific practice, further helps understand why the state is unable to fully observe and monitor the recruitment market and why regulatory inconsistencies prevail, leaving space for moral hazards and uncertainties pertaining to migrant welfare.

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[100] Fligstein (1996), for instance, refers to conceptions of control as "inspired solutions based in the pragmatics of experience" (Ibid: 660).

The Nepalese government assumes that the process of migrant recruitment starts with the employer company indicating a requirement of migrant workers, contacting its government for approval, and getting in touch with a shortlisted recruitment agency in Nepal to initiate the process of recruitment. This assumptions rests on a demand-driven logic, which was a prevalent practice in earlier guest worker programmes (see chapter 2). This approach also assumes a minimal intervention by recruitment agencies (largely to mediate contact between employer-worker and to process documentation) and that, once migrant worker is recruited and deployed, the process of mediation ends. Needless to point out, this image of how formal recruitment and mediation happens, is highly restricted and underemphasizes the role of the recruitment industry in channelling demand for Nepali workers, facilitating circular migration, looking after the migrant interests during the contract period and ensuring their return.

Figure 5: Process of migrant recruitment as per the Ministry of Labour, Employment and Social Security (MOLESS)

The process of recruitment actually starts with the recruiter approaching prospective employer or a placement agency, either randomly based on market research or, more predominantly, through established transnational networks of intermediaries, "planted" in the country of destination. These intermediaries take several months to acquire a new client (employer) and it often involves several meetings and negotiations before demand is "bought". A lot of these meetings involve arguing for the suitability of Nepali workers for the concerned position, their relatively lower cost as compared to other migrant workers[101], their "calm and extremely loyal"[102], hardworking nature, and the relative ease of recruitment from Nepal, including flexible

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[101] Several existing research reports that Nepali workers are paid much lesser than other migrant workers for the same job, indicating existing patterns of discrimination based on nationality. See for instance, ILO-Donini (2019).
[102] http://www.grandshikhar.com/site/pages/about-nepali-workers

services from the recruitment agencies such as sending a replacement for "bad" worker with no extra cost. These attempts to increase the completive advantage of Nepali migrant workers, plays an important role in not just channelling migrant demand to Nepal, but to also generate demand for certain kinds of Nepali workers (low-skilled, lowly paid). Looking as skilling itself as a social process, recruiters play an important role in de-skilling workers to suit the needs of employer, up-skilling them with fake certificates or underplaying skills to emphasise the docility and ability to sustain harsh working conditions. This pre-departure phase of intermediation as well as the post-employment phase of return, and reintegration into the migration process are key to fully understand the role of recruiters in Nepal. This is completely absent in the state's narrative of how recruitment happens, creating gaps in its ability to observe the market practices.
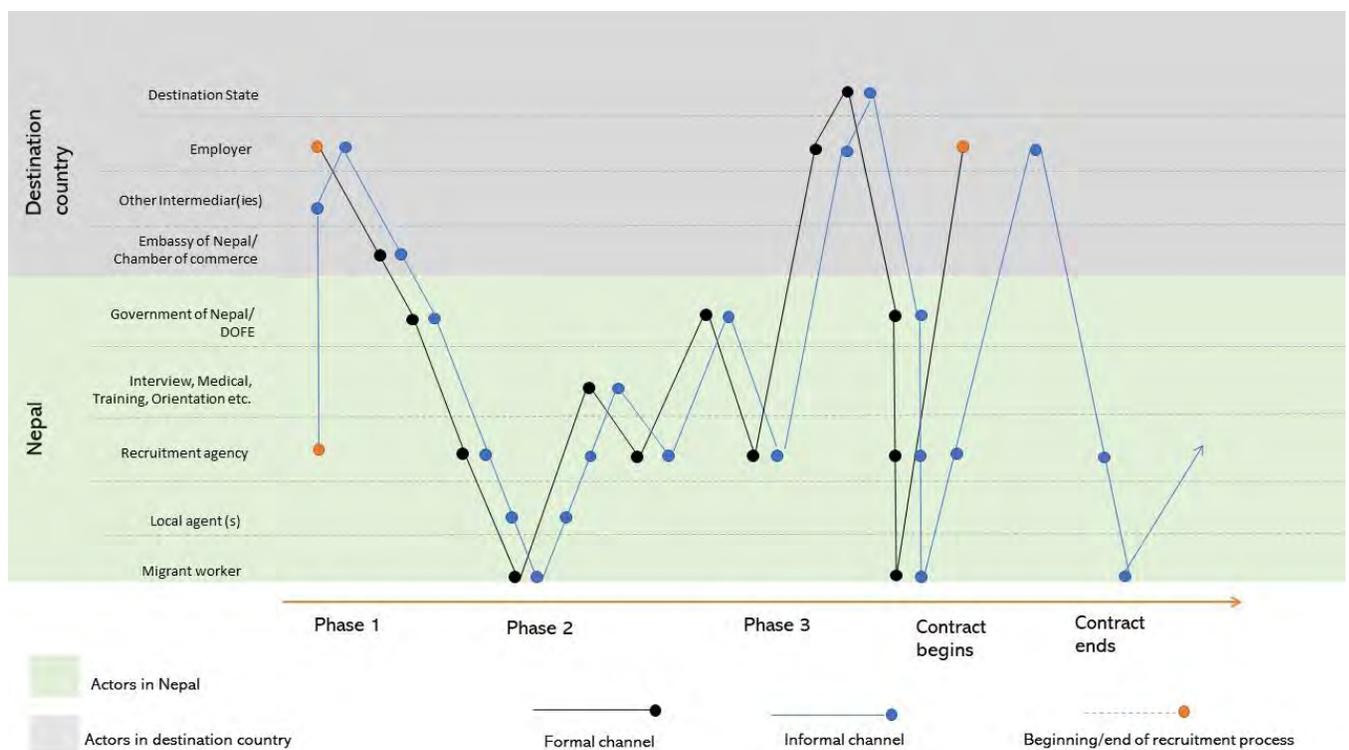
Figure 6: The "appropriate" channel of recruitment, its incongruence and proximity with existing market practices.

Focusing only on the process of recruitment as an example, the aim here is to show how incongruent the idea of "appropriate" market behaviour is for the state and the recruitment industry. However, despite this incongruence, the recruiters derive social acceptance for their market behaviour based on the proximity to the formal set of rules and regulations. Staying close to the formal channel of recruitment is still highly relevant for the recruiters to maintain their political legitimacy and prevent slipping into their previous market identity of unregulated *dalals*. The figure above shows how the informal channel of recruitment runs

parallel to the formal channel and "stay(s) as close to rules a possible" (30-01-20, Kathmandu). It is this proximity to the legal structure and state expectations that makes the culture of market socially acceptable among recruiters, migrants and local bureaucrats. The understanding and perception of formal channel, as prescribed by the state in its template of market order, thus shapes and structures market behaviour of the recruiters. It influences the scope of their everyday market activities and decision-making and makes legality desirable and attainable for the recruiters. It also leaves the scope for designing market practices that are "almost legal" and socially acceptable by a number of actors including the state. As Fligstein (1996b) reminds us, the "state must ratify, help create, or *at the very least, not oppose* a conception of control" (Fligstein 1996: 658). It is the latter which indicates tolerance for informal practices in this market by representatives of the state, such as among local bureaucrats, airport authorities and individuals in law and order (such as the police). Tolerance and social acceptance for these "almost legal" practices are, thus, key to continued prevalence of informality in this market. However, when the market practice becomes distant from the template provided by the state, as seen in the case of illegal activities during the pandemic (see Postscript), the tolerance by the state no longer exists and concerned recruiters are appropriately penalized and punished.

5. Conclusion

Neoclassical scholars view rules and regulations as incentives that stimulate and direct the action of market actors, while political theorists assume a normative role of market regulations. As sociologists studying markets, it becomes necessary to acknowledge these perceptions, but add to it the role of meanings ascribed by market actors to existing rules and regulations, and look into the interaction between formal and informal rules guiding market behaviour. This chapter took a step in that direction and centred the discussion on the perspective of market actors and their interactions with the legal framework and bureaucracy. It also showed how in the context of institutional heterogeneity characteristic of transnational labour markets, fluctuating legislative frameworks is one of the significant causes of uncertainty in this market. The chapter argued that, in this context, it is the culture of the market based on repeated market interactions and network-based socialization that serves as the basis of order in the market.

It has been noted by migration scholars that one of the significant gaps in the study of commercial migrant brokerage is the unexplored links in theories and empirical observations between regulated and unregulated practices of brokerage, which has been referred to as "regulatory inconsistencies" in migration governance (Van den Broek, Harvey, and Groutsis 2016). Economic sociology offers conceptual tools to understand such regulatory inconsistencies in migration governance, and this chapter has demonstrated a way of approaching such a problem by discussing the perception of market actors and understanding the incongruence between the state and the market's conceptions of 'appropriate' behaviour. While examining

the limitations of market regulation and the problem of control, this chapter explained regulatory inconsistencies emerging as a result of everyday interactions between the market actors and their social and legal environment. This further shows the prevalence of different, sometimes contradictory, perspectives of order shaping this migrant recruitment market. Classical works in economic sociology do offer some insight into such a problem. Weber (1947), in the Theory of Social and Economic Organization, for instance speaks about the possibility of alternative legitimacies deriving from different interpretations of the meaning of social order. In such a context, justification of non-compliance of one form of order can and would be perceived as legitimate, indicating the existence of contradictory systems of order[103]. Here, the existence of alternative ideas of social order creates both stability and instability in the market, depending on the extent of incongruence between regulatory templates and cultural scripts of the market.

The next chapter retains the focus on the market actors to understand the uniqueness of their social location, which gives them access to information, resources and control over the migration process. This is relevant not just appreciate their ability to coordinate migration across borders, but also to understand how they create both opportunities and vulnerabilities for migrant workers. Looking into this further helps substantiate why states delegate migration management to these commercial actors, and chooses market principles over network or formal authority in the organization and governance of labour migration.

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[103] The basis of legitimacy of order for Weber (1947) are tradition, affectual attitude (emotions), rational belief or an existing legal framework.

Chapter 6

Beyond recruitment:
Locating the role of brokers in the organization of labour migration

1. Introduction

Recent literature in the study of migration acknowledges that brokers or intermediaries play a crucial role in labour migration. Far from mere recruitment and placement of workers, brokers (as individuals and/or firms) produce "ideal" migrants in accordance with employer expectations and state regulations (Deshingkar 2019; Goh, Wee, and Yeoh 2017; Shrestha 2018), categorize workers into specific skills and create a need for them among employers (Faulconbridge et al. 2009), facilitate and control the direction and movement of migrant workers (Xiang 2013) and transcend myriad forms of boundaries (legal, bureaucratic, linguistic) to make mobility happen. As makers of transnational labour markets (Mense-Petermann 2020; Shire 2020), they occupy a central position in sustaining the flow of labour migrants from one place to another and matching them with the demand for low-paid migrant workforce. Their position as a third-party intervening in a cross-border employment relationship, further gives them access to information and the ability to literally 'translate' (Kern and Müller-Böker 2015) rules, documents and codes of conduct in a way that states cannot. This chapter aims to add another layer of complexity to the documented role of migrant brokers: their ability to produce migrant vulnerabilities as well as opportunities. This focus on the consequences of brokerage for the migrant worker is a relatively under-explored area, and by making such an aspect the centre of this chapter, I discuss how brokers occupy a contradictory socio-structural location that acts as the source of both exploitation and protection of workers on the move. Engaging with the two sides of the broker's positionality that, on the one hand aims to maximize profit-making, and on the other hand seeks to maintain a certain level of trust-based relationship with the actors (migrants, employers) being represented in the act of brokerage, this chapter asks the following question:

1) How are brokers equipped to coordinate cross-border migration and transnational labour markets?

2) What are the key facets of broker's socio-structural location? And, what are the conditions that shape such a location?

3) How does a broker's socio-structural location contribute to making the market more asymmetric, but also provide opportunities for migrant workers?
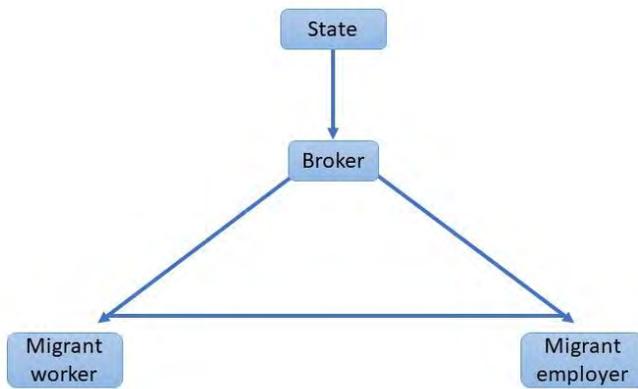
Figure 7: Migrant brokers do not just mediate between the workers and employers, but also between the state and workers. Such a position is key to establishing their socio-structural location.

In the context of labour migration, the social location of brokers in terms of their transnationally established network is certainly important in making it possible for them to establish stable, predictable channels of labour migration. Also highly relevant is their structural positioning, which is developed in relation to their interactions with the state, migrant workers and employers (see figure 9). This specific location that brokers occupy, puts them in a position that can prevent, reduce or exacerbate migrant vulnerabilities. However, unlike social network theory, which explains the power an actor possesses only in terms of their social position vis-a-vis other actors, determined by the strength of association between actors in the composition of the network, this chapter seeks to explore the influence brokers have, not just in terms of their position as mediators but also in terms of social practices that they produce, reproduce or challenge. This focus on practices in the understanding of the broker's location emphasizes the dynamic and relative nature of intermediation. This chapter also consolidates the empirical findings on the emerging role of migrant brokers and the impact of intermediation on migrant wellbeing. In so doing, it contributes to the existing literature on sociology of brokerage that provides crucial insights into the location of brokers as the third-party entering an employment relationship. Expanding the scope of this literature, this chapter systemically looks into the dilemma between trust and self-interest. Such an approach shall help explore the social dynamics present in the act of intermediation and develop a nuanced understanding of the role of migrant labour brokerage in Nepal.

The rest of the chapter is organized as follows: The next section approaches the role played by migrant brokers in the coordination of labour migration and examines the mundane ways in which they influence different aspects of mobility. Section 3 breaks down the key aspects of migrant labour brokerage and understands their mediation in terms of the opportunities and vulnerabilities they create and amplify as a result of their intermediation. The last section further examines their socio-structural location, identifies network, knowledge and power as key elements conditioning their location, and defines the scope of their market actions.

2. Approaching the role of brokers in coordinating labour migration

Brokers several aspects of migrant labour mobility. They produce stable and substantial number of migrant deployments to aid the state's project of development through remittances. They, by the means of negotiations, also have some influence on wages, working conditions, form of employment etc. of the migrant worker. In general, employers decide what kind, and how many workers are required by the firm at a given point in time. But recruiters in Nepal can also, to some extent, influence this aspect of recruitment. For example, Bibek and Kiran (business partners and kins operating migrant recruitment business in Nepal) were conducting interview on 09-12-2019 for a Malaysian firm. Several groups of migrants arrived early that morning, along with their local agents, to participate in the interview session (see image below).

Image 10: Migrant workers waiting in the interview room, observing the interview of fellow migrants.

This one instance wherein the recruiters convinced the employers to take rejected candidates shows how brokers are in a position to not just mediate the interview session but also influence it, sometimes for the interest of the migrant workers.

Speaking about the interview session on the 9th of December, Bibek and Kiran say:

> Interviewer: When will the result of yesterday's interview be out? Because I saw them waiting outside while coming in today..
>
> Kiran: The result is out..out of the total 29 people who interviewed, 15 got selected. The guys who came from the village together *na*? 8-9 of them… Among them only 4 got selected. But they want to go (to Malaysia) together…they want to go together, wherever they go.
>
> Interviewer: So, did they say no (to the job offer)?
>
> Bibek: They are saying…'if you can try, send us all. Otherwise we four will not go (without the others)'.
>
> Interviewer: So, will you convince them or the others (the employer)?
>
> Bibek: No, we tell the party (client) that they (the candidates) are not willing to go as four. And that if they want to call them, they will have to call all of them together.
>
> Interviewer: And can you say something like this?
>
> Bibek: Yes, we can. We already told them. They said that's okay, send them all. (10-12-2019, Kathmandu)

This instance provides a small peak into the position of brokers in cross-border labour migration. Given the nature of job, the skill requirements of the employer in this case are rather low, giving the broker the leeway to negotiate. This particular employer was looking to recruit around 50 workers anyway, so it is not that the recruiters convinced the employer to take more workers than their firm needs. But what is interesting here is how candidates who were rejected, got selected upon the interference of the brokers. This points to two things: the fluid criteria of evaluation of low-skilled workers and the ability of the brokers to influence key aspects of migration and employment. It also shows that migrants continue to be an important set of clientele to the brokers and they are expected to meet their expectations and represent their interests, despite commonly help perceptions around brokers prioritising employer interests at all times. As a result of their intermediation, this group of migrants hailing from the same village, could be deployed as a group. Consequentially, this group of men would "spread good words" about this particular recruitment agency and this would further help attract more workers towards them.

However, negotiations by brokers do not always help the migrant worker and they may also compromise on the interest of the worker for the benefit of employers. For example, a call from an employer based in Qatar interrupted my interview with Laxmi, a young female recruiter in Kathmandu. The employer was seeking a receptionist-coordinator for his private office in Qatar and was looking for a skilled Nepali worker with experience of working in GCC countries, along with three "labour" or unskilled workers for cleaning and maintaining the office space. The phone call proceeded as follows:

> "..for the receptionist as you told me yesterday, 12 hours for 1200 Dirham...and he is a very experienced candidate. I don't think he will go (for 1200 Dirham). I will try my best to convince him. Sure sure..and for that salary you need an experienced candidate? (rolls her eyes). 1200 Dirham for 12 hours is like cleaner salary, Sir. Receptionist…it's a 900+400 right? Ya, so 1300. Actually, I have shortlisted many candidates who can speak English but don't have experience. Is that ok? If they know English its ok right? No experience?...Okay. Sure sure. And 3 labour also I will give….True true...it's a very good salary (rolls eyes). True true. So, let me..No experience is fine for coordinator one? GCC experience I am talking about. Having computer knowledge ..umm umm.. ok. Give me some time okay? I will call you" (30-01-20, Kathmandu)

In this instance, the employer is seeking an experienced worker who would act as a receptionist but also coordinate all the activities of the office. The employer is proposing to pay 1200 Dirham for 12 hours a day. In this conversation, Laxmi is trying to increase the wage from 1200 Dirham to the minimum wage of 1500 Dirham (as prescribed by Nepal government in Nepal-Qatar bilateral agreement). Explaining the situation to me, she says "As per Nepal government, labour (unskilled worker) gets 900 + 300 Dirham per month and skilled ones with experience are supposed to get anywhere between 1500-2000 Dirham, depending on the qualifications". This particular instance shows violation of minimum wage requirements on the part of the employer and the broker's compliance towards it. Keeping the interests of the worker at the centre of negotiation, Laxmi was able to increase the wage from 1200 to 1300 Dirham but the promised wage is still below the one prescribed by Nepal-Qatar MoU. As the employer was only willing to go as high as 1300 Dirham, Neelam offered the employer other shortlisted workers who do not have work experience but can speak English. While she is not sure at the moment if these shortlisted migrants have the ability to use computers, she assures me later that "people learn as they go. You do not need certificates for these things" (30-01-20, Kathmandu). Such a response to the expectations of employers shows a dynamic practice of intermediation, whereby the broker has to maintain a minimum level of trust with both the parties that their interests will be represented in the act of brokerage. In this case, however, such mediation amounts to substandard wage for the worker and exacerbation of asymmetry in the market.

The recruitment market is a market of labour market intermediaries with two sets of clienteles[104]- the workers and the employers. For a stable market relationship with both the parties, the recruiters have to ensure that the conflicts emerging in the employment relationship do not escalate and are resolved at the earliest. Part of the motivation behind conflict resolution is seeking long-term, repeated clientele. In a business that requires effort and time in building trust with the migrants as well as the employers, recruiters benefit from establishing long-term relationship with their clients. In the case of employers, such a relationship makes mutual expectations clearer, actions more predictable and (amidst tough competition) the prospects of getting demand higher. In the case of workers, recruiters benefit from keeping their trust as satisfied migrant workers who return to Nepal after the completion of a contract and may most likely use the services of the same recruitment agency. This will not happen if the worker returns with the feeling that the concerned agency did not represent his interests. Despite the asymmetric structure of the market, the recruiters have commercial interests in ensuring the well-being of the migrant worker and his safe return.
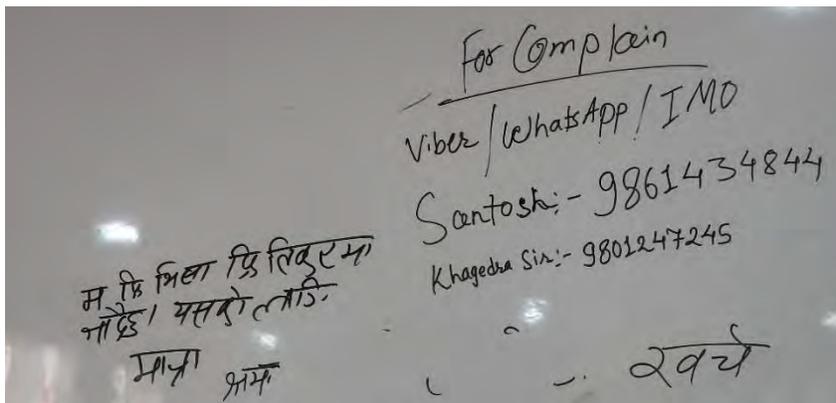
Image 11: Recruiters at Nee-Way Pvt. Ltd. share their personal contact numbers to migrant workers during the orientation meet.

It is a very common practice among recruitment agencies in Nepal to share their personal contact numbers with migrant workers before the departure (see image). During the contract period, when an employer or a worker feels unsatisfied, cheated or threatened, they contact the recruiters who then immediately attempt to resolve the matter and 'nip it in the bud'. Recruiters point to how they are the first point of contact in case of a conflict or tension and how, as a recruiter remarks, "parents (of migrant workers) call us, client (employer) calls us, government says take care of the situation" (25-02-20, Kathmandu). Conflict between the employer and the worker is usually resolved in three different steps. The most common approach to conflict resolution is by attempting to peacefully negotiate and reason with both the employer and the worker (often individually). In a majority of cases, such forms of negotiations work. In cases when the complaint is serious,

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[104] Aspers (2007) approaches markets where actors do not permanently hold one position, as switch role markets. Switch role markets, as opposed to fixed-role markets, are market in which sellers become buyers and actors hold a fluid market position/role vis-à-vis the product/service exchanged. Market of intermediaries are also switch role markets in that brokers are sellers of migrant labour power, but are also buyers of migrant labour power. While brokering a transnational employment relationship, brokers 'switch' between their roles as buyers and sellers of migrant labour power. Such a structurally complex market has distinct dynamics of loyalty, trust, and self-interest, that can only be examined with empirical caution.

the recruiters also fly to the destination country to personally resolve the matter. Manish explains this and says, "In such cases you would find two different stories, one from the client and one from the company. In that case we request them (client) to arrange a meeting, face to face. This usually settles the matter and avoids miscommunication" (17-12-19, Kathmandu). But such negotiations do not always work. The recruiter sometimes also threatens the worker or the employer to make a situation work. They may remind the workers that if they do not cooperate, their debts will remain unpaid and they will become a burden to their families, or may say that if they want to terminate the contract despite their debt, they would have to pay for their own flight. In some rare cases, the recruiters also threaten the employer, especially "when they are being too greedy" and violate the contractual agreement in significant ways. In such cases, recruiters warn the employer about potential blacklisting of their company and how, when the embassy intervenes, they may never be able to recruit workers from Nepal, as Bibek shares in his interview (10-12-2019, Kathmandu). However, Bibek also admits that taking this extreme step only harms the recruiters because the embassy is known to not take adequate actions against employers and, threatening the employer also suspends further contact with them, causing potential loss of business. The most common last resort in managing conflict in this market, is by cordially ending the employment relationship, prior to the end of the contract. In such cases, the recruiter (upon observing that the conflict cannot be resolved by negotiation or threat) requests the employer to send the worker back and promises to send a "free replacement" in his stead. The return of the migrant worker would have to be funded by the recruitment agency itself, making this option expensive for the recruiters. However, this is considered a cordial arrangement, helping maintain trust with both the parties. Once the worker is back in Nepal, the recruiter puts them in an existing reservoir of "ready to be sent" workers who can be deployed into another employment contract as soon as the opportunity arrives.

3. Key aspects of migrant labour brokerage

Migrant brokers therefore play an extremely important role in coordinating transnational labour migration. In the rest of this section, I identify three key aspects of migrant labour brokerage that further provides insights into their positionality. Looking into this also helps understand how brokers occupy a position that generates vulnerabilities for the migrants, but also protects them during the migration process and employment abroad. Examining these aspects of brokerage further helps understand the role of brokers in making and sustaining labour markets that cross borders.

3.1. Stocking-up and circulating migrant labour

As has been indicated in the last chapter, the process of intermediation starts from the supply side- by contacting potential low-skilled migrant workers and keeping them ready for timely deployment. It is often only after getting in touch with workers, that employers are contacted, as the time of the employer is

considered much more valuable than that of the workers. This is also done to avoid uncertainties about migrant deployment and any potential delay for the employer. This process explains the several periods of waiting and immobility migrant workers face in Nepal, who are often seen sitting, squatting and fiddling with mobile phones in the street corners of Kathmandu, in anticipation of mobility.

Towards this, one significant role that brokers play is creating a reservoir or inventory of migrant labour, controlling their movement both within and outside Nepal and ensuring circularity in their movement. Creation of a migrant inventory, by collecting passports and CVs of migrant workers, is done for the purpose of timely deployment. Creating an inventory then is stocking-up potential workers and keeping them immobile for prospective mobility in the near future. However, the inventory cannot be too big as it would be costlier in terms of time and money spent on maintaining the inventory, and riskier for the business. An optimal size of inventory is often maintained by recruitment agencies in Nepal[105]. As soon as the broker finalizes a business arrangement with a potential employer, he/she uses their local agents to mobilize these workers, who then brings them to Kathmandu (in cases where they are not already in the city). This helps them recruit and place migrant workers "just in time". Bibek, the young recruiter working with his maternal uncle explains this here:

> Bibek: Agents come from remote areas, bringing the workers from there. Agents you know..they roam around..to each and every manpower (agency). He knows the demand. He then goes to his village, or neighbouring village. Ok? He will go to village and tell one guy and ask him to tell his friends and family and other people in village that 'this-this demand is coming, this-this will be the salary and this-this will be the charge (service charge). He will then tell them 'if you are willing to go give me your passport, I will take it to Kathmandu and arrange things for you'. He will bring (to Kathmandu) a bag-full of passports (laughs mildly)..he has that much capacity.
>
> Interviewer: So, people trust him with their passports?
>
> Bibek: They do and in fact they have to. They don't know anything. They have not been to Kathmandu. Malaysia is very far and unimaginable for them. They don't know what channel they can use to get a job outside. So, this agent will take their passports and tell them 'when I am gone, you arrange for money, take loan or whatever' (10-12-19, Kathmandu)

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[105] According to Ramlal, another young recruiter in the business, his recruitment agency often has an inventory of 1000 migrant workers, almost all with lower-skill levels and desperation to work abroad (22-02-20, Kathmandu)

Image 12-13: Passports of migrant workers collected for an interview session (left). Passport entry book at another recruitment agency to keep a record of migrant inventory (below).
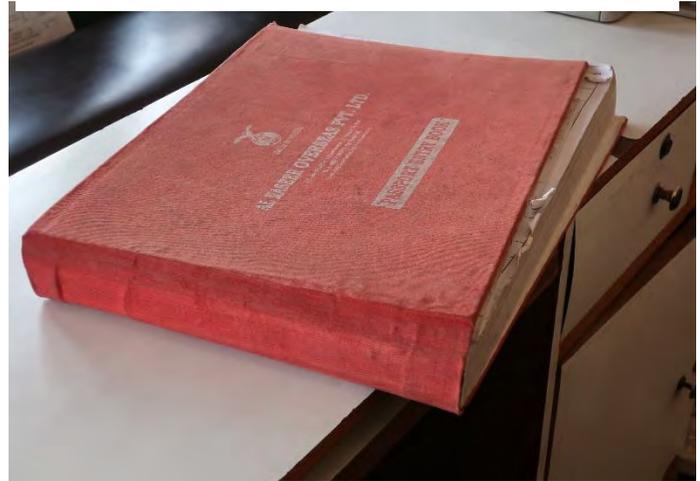
Recruitment agencies in Nepal claim that keeping the passports of migrant workers, although admittedly illegal, does not just help them keep an inventory of "ready to go" workers, it also helps deal with uncertainties concerning migrant workers. For instance, they point to how keeping their passports makes sure that the worker does not approach another, competing recruitment agency. This, the recruiters believe, causes them immense loss and keeping their passports (as a form of bondage) keeps their inventory from dissipating. Bibek asserts that while approaching the employer, the recruiters have to show the confidence of having this inventory, otherwise the employer does not feel secure to enter the exchange.

Moving, placing and maintaining circularity: Example of "run-away" migrants

Another key aspect of broker's location is their ability to control the movement of migrant workers, both within Nepal, but also outside. An important example of this is the case of migrants who "run-away". Running away among migrants has been looked at from various viewpoints: from the exploitative nature of work, to running away as a form of migrant resistance (Killias 2010). However, the case of Nepali migrants running away, or exiting an existing employment relation by leaving the work space and running away from the employer, also points to the strategic position that brokers hold which gives them the space to both protect migrant workers from threats, but also lets them create vulnerability for these workers. Bibek and Kiran explain this aspect further:

Bibek: Now we spoke about these four men who ran away... We told them they will work in a poultry farm, which comes under agriculture, where you have to feed the poultry, take care of them, help them grow, clean everything… but if anyone (migrants) does not like doing this, they run away!... They will say ' I will do every work', 'I will be disciplined'. They will say everything. But suddenly they will change their mind once they reach there. Someone will tell them 'I will find you a nicer job' and then they will run away. But…if the police catch them with a different visa..they will be arrested. They were sent with a poultry visa.. . If they are not found in that work but in some other work, they will go to jail and it is very difficult (for us) to take them out. Also, our party (employer)...our relationship with them...that is disturbed. They reduced our demand and gave us only 50 this time. That (was) our loss.

Interviewer: So, what did you do?

Bibek: No, we caught them ourselves before getting arrested.

Kiran: We settled the matter on time before the police could intervene.

Interviewer: How did you do that?

Bibek: We just...

Kiran: We convinced them.

Interviewer: You convinced them?

Kiran: Yes. we convinced them and now they are back (to the place of employment). (10-12-2019, Kathmandu)

Later, explaining this further, Bibek said that he used his network in Malaysia to find the runaway workers and threaten them about the legal repercussions of leaving an employment relationship prematurely. He also explained it to them that if caught, they will disappoint their families and can never pay back the debt they have incurred over the years. In the context of extensive transnational network, the ability of recruiters to track runaway workers and bring them back to potentially exploitative working conditions is important to recognize here.

A contrasting instance of recruiters dealing with "running away" is relevant here to point to the flip side of broker's location: their ability to prevent migrant vulnerabilities and *assist in running away*. The interview with partners of Global Nepal Recruitment Agency (pseudonym) brings light into this aspect. Gyanprakash

and his business partner deploy Nepali workers to Malaysia and the Middle East. One of the employer firms in Malaysia, in one instance, refused to pay over-time wages to the workers he deployed. As the Embassy failed to intervene and ensure that the workers got their dues, the recruiters first tried to negotiate with the employer. But when the employer refused to pay the workers, the only legal option left for the recruiters was to bring more than 40 workers back to Nepal, at the expense of their recruiting firm. As this would have been a very expensive endeavour and would have incurred them a massive loss, the recruiters, using their local Malaysian agent, placed the workers illegally into another firm. As they were still on the employment visa generated by the previous fraudulent employer, they could not generate new legal documents for the workers with the new employer. As a result, they 'moved' the workers to this new firm without any formal approval or documentation. Explaining this they say:

> Gyanprakash: (My Malaysian agent) is good. At that time, he understood that if this company doesn't work out and candidates complain and if we bring them back to Nepal, we will lose much money by giving compensation to them (workers). To avoid a situation like that, he made arrangements with this cosmetic production company (in Malaysia) and sent our workers there illegally at first, and later we made it legal. He (agent) promised me that 'within 6 months all your workers will be legal'.

> Interviewer: How did this work out?

> Gyanprakash: At first when these workers had to shift immediately, my agent found them work in this new company and move them there without any paper work or anything. They just started working there because of the good contacts of my agent with the company. Later, slowly, we did all the paperwork and made them legal workers...but it took some time. (13-03-20, Kathmandu)

In this case, the recruitment agency was able to facilitate running away, terminate the employment relation prematurely for the interests of workers, place them informally in another firm and later regularize their employment. This again was possible due to their deeply entrenched business network spread across migration corridors. In this particular instance, the act of facilitating running-away disturbed the broker's relationship with the employer and the relationship of trust was broken for the interests of the workers. This example is highly relevant in showing the complex positionality of brokers and their relationship with profit-making, self-interest, but also trust and morality. Such rich depictions of brokerage help overcome simplistic perceptions of intermediaries, but also highlights the limits of state agencies in their ability to regulate cross-border employment of their workers. In this case, the reluctance and inability of the Nepalese embassy to prevent or prosecute contractual violation on the part of employers further shows the context within which brokers act.

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3.2. Creating and channelling demand for Nepalese workers

An important aspect of maintaining a migrant inventory is acquiring demand for these stocked up Nepali workers. Recruiters in Nepal do not merely match demand to an existing supply of migrant workers. They create and channel demand for low-skilled workers and fit the profile of stocked up workers to the demand thus acquired. It is thus an active attempt at sending Nepali migrant workers abroad instead of passively waiting for the demand to reach Nepal, as the previous chapter also mentioned. This is done in two different ways: by creating demand for Nepalese workers by selling the idea of an "ideal" low-skilled migrant and by "buying" demand and channelling it to Nepal.

In the context of high competition among migrant sending countries and amidst segmentation of labour market in destination countries, we find brokers from different migrant sending countries fiercely competing against one another to acquire demand in the peripheries of destination country's labour market. In particular, it is believed by the Nepalese recruiters that workers from Bangladesh, Pakistan, Sri Lanka and recently many African countries are competitors for Nepali workers and Nepalese recruitment business. Recruiters in Nepal believe that employers evaluate the quality and perceived skill of migrant workers based on their country of origin and they assign a wage according to this prejudicial assessment. Nepalese recruiters partake in such discriminatory practices, and sometimes contribute to it, in order to acquire and channel demand to Nepal. This categorization of workers based on their nationality and perceived quality is based on essentializing migrant workers. As Udgam, one of the senior-most recruiters working the industry remarks "They (Bangladeshi workers) are trouble makers according to what companies (employers) say. They are not obedient, they are not punctual. They marry a local girl and try to settle there. Nepali always comes back.. And if a Bangladeshi lands in the Gulf, he will not return home for another 20 years! (laughs)" (03-02-20, Kathmandu). Distinguishing themselves from the workers on the same 'level' of that of Nepali workers, recruiters distinguish their offer from the others. Explaining how such practices of social othering work in the context of existing segmentation of labour market, Udgam says,

> "You know what Philippines does, right? They prepare and sell their workers as very qualified ones….with proper, good English, with good looks…suitable looks for Hospitality work. They (government and recruiters) prepare them well for these high (status/paying) jobs. They are *not* a competition to us. They are on a different…high level. Manpower from Vietnam may compete with them, (but) we cannot. When client needs some high level of worker, he thinks of Filipino or Vietnamese worker. When client needs a labour…or you know…a helper, then he thinks of us. That is when we tell him that we are better than Bangladeshi people or African people. Because we are sincere you know?" (03-02-20, Kathmandu)

This kind of migrant categorization and essentialization is largely employer-centric, in that it tells which kind of worker is suitable for the employer's need; who is 'ideal' from the point of view of the client and who is not. Almost every recruitment agency's website in Nepal has a "Why Nepal" section which rhetorically engages in this kind of distinction and tells the employer that Nepali migrant worker is better suited for their needs. Here is an excerpt from the website of one such recruitment agency:

> Why Nepali Workers? Nepali workers are calm and extremely loyal to their employers and they are devoted to their duties only. The fact that Nepalese people are committed cannot be denied because of which countries especially the Middle East Asian countries have shifted their interest towards Nepalese manpower by recruiting them in different categories. The reason could definitely be the honesty, hard work, loyalty, discipline and above all commitment of Nepalese people towards their duties and responsibilities. Nepali workers have experience in working in the extreme climatic conditions. Nepali workers are laborious and sustain their working capability even in the most arduous conditions. Human resources in Nepal are comparatively cost effective and hiring Nepali workers costs lower as compared to hiring workers in other countries. The employers have the advantage of choice due to availability of various types of workers.[106].

Nepali workers are also represented by recruiters in these websites as "easily adjusting" to foreign culture and atmosphere, "easily trainable" to learn anything new and quickly adapt and "cope up with the demands and pressure of their work"[107]. They are also portrayed as "peace loving, simple minded" and as ones who do their designated work "without any hitch and without any kind of discontent"[108]. It is to be noted here that none of these qualities are recognized as 'skills' under the current regime of migration management and this form of representation can be understood as a means of highlighting the qualities of a worker in the low-skilled category. It discursively points to how Nepali workers are different from the others and more appropriate for certain kinds of jobs, especially in the unskilled and semi-skilled category. It therefore argues that Nepali workers are better candidates when it comes to hiring manpower for lower skilled- therefore lowly paid- occupational categories. The idea that they are perceivably hard-working and laborious yet peace-loving and simple, points to the employer that Nepali workers are not 'trouble-makers' and would not protest or act against their employers and would go back to their homes after the completion of their

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[106] http://www.grandshikhar.com/site/pages/about-nepali-workers

[107] https://oshorecruiting.com/dashboard/menu/5/2/15

[108] https://dhrnepal.com/why.htm

contract period. It also highlights how with a relatively cheaper investment, employers get a high price-performance ratio by recruiting Nepali workers, weaving an essentialized representation of an ideal, low-skilled migrant worker.

Recruiters in Nepal, therefore, play an important role in creating demand for Nepalese migrant workers by selling the idea of an ideal low-skilled migrant worker from Nepal and essentializing his qualities. Instead of merely responding to an existing demand for migrant workers, these recruiters create and manifest the demand and convince the employers to enter into business arrangement with them over intermediaries from other migrant sending countries. *Secondly*, apart from feeding into the existing, prejudicial categorization of migrant workers, they also channel demand to Nepal by paying a price for sending migrant workers or "buying demand". Buying demand is the act of paying a certain amount of money to the employer as a token for their future employment relationship, unofficially known as 'commission'. Recruiters (in Nepal but also in other South Asian countries like India, Bangladesh, Pakistan and Sri Lanka), then don't just weave an essentialized portrayal of an ideal migrant worker but also 'buy' the employer's interest in recruiting Nepali migrant workers before a competitor approaches the employer with the same offer. The employer being aware of the excessive competition between recruiters, exploits the situation and the desperation of the workers by taking a payment for a service they are formally required to pay for. Sajith, a recruiter who mostly works in the GCC corridors but aspires to expand in the European countries[109], calls Nepal's recruitment industry a "blue-collar business". By this he implies that Nepal's labour export primarily comprises of low-skilled workforce that are compelled to leave the country in the absence of decent employment opportunities back home. Bibek argues that employers and placement agencies are aware of the skill levels of the migrant workers and they design the pay package and 'commission' according to the perceived quality of the worker. He says,

> He (employer/representative of the employer) *knows* the market value of Nepal..of India, of Bangladesh. *Each country has its own rate..its own value*. Mostly in Bangladesh, for one visa they (recruiters on behalf of the worker) are paying minimum 1500 USD. (For the) same visa we are paying 200-300 USD. Bangladeshi people are dying to pay…they are willing to pay. They don't have any employment and to survive they want to leave the country. So, the man in Dubai (employer/representative of the employer), he knows...he knows. He knows that 'if I give this job order (demand) to Nepal, I will get this much money…this agency will give me this much money. If I get agency from Bangladesh, I will get this much money for the same share of job order'. (30-01-20, Kathmandu)

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[109] This recruiter already has successful business in Malta.

He later explains that employers in destination countries have an "internal scale" by which they engage in valuation of migrant workers, often based on nationality and culture. Many recruiters point to how Nepalese workers are paid much lesser than workers from other countries for the same job profile. Ignorant of the fact that migrant workers are aware of such practices of discrimination, employers are reluctant to pay the same wage for the same work. Laxmi, the young female recruiter in Kathmandu, says "they (workers) all know how much each other is making. Because you see, in a room, 4-6 candidates are staying together. So, they talk and they know who is getting what" (30.01.20, Kathmandu). Although my research shows that almost all recruiters negotiate to increase the wages of Nepalese migrant workers, they tend not to reflect on the fact that they themselves engage in discursively producing the category of low-skilled migrant worker who is "peace loving, simple minded" and therefore hiring a Nepali migrant worker "costs lower as compared to hiring workers (from) other countries" (see page 141). In fact, most Nepali workers tend to be employed in loosely defined occupational categories such as 'general worker' or 'helper'. By selling the idea of a flexible, low-skilled migrant worker, recruiters in Nepal manage to attract employer's attention but at the cost of worker's fair employment benefits.

Nepalese recruiters, therefore, create demand for migrant workers by essentializing their qualities and channel it towards Nepal[110] (amidst competition from other sending countries) by paying a price for demand. Also known as a 'guarantee' or 'advance' payment, this amount of money also works as a security against fraud committed by recruitment agencies, their inability to send workers on time or for misinformation and supply of *mis*matched workers. According to the recruiters in Nepal, this price for demand also covers a significant portion of immigration-related costs that the employer is required to cover but passes on the expenses to those whose livelihood depends on the migration of the migrant labour force- the recruiters, who then conveniently pass on the cost to the migrant workers. This further exacerbates the vulnerability of migrant workers and puts them in frequent cycles of debt. But not all employers or their representatives charge 'commission' from the recruiters in Nepal. Nepali recruiters point out that companies of 'high status' (reputed and renowned) firms would not take the risk by charging money for recruitment. This, of course, cannot be generalized and the recent incident with FIFA world cup in Qatar (2022) points to how many migrant workers from the global south were required to pay hefty amounts of recruitment fees[111] and the responsible representatives of FIFA benefitted from such practices of charging a fee for giving demand.

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[110] In cases where the recruiter is unable to fulfil the requirement of a larger demand, it is also a common practice to "share demand". For example, if Agency A cannot fulfil the demand on its own, it may either become an invisible mediator by passing on the formal contractual agreement to another agency it is cooperating with in exchange for a commission, or it may pay Agency B to help fill the gap in supply and send the workers formally through its own agency. Either way, only one recruitment agency would appear on the documents of the migrant worker and in many such cases, the worker remains uninformed. This kind of cooperation makes sure the demand does not go to a bigger competitor and the profits are shared between the two (or sometimes more) smaller agencies.

[111] https://www.theguardian.com/global-development/2022/mar/31/migrant-workers-in-qatar-forced-to-pay-billions-in-recruitment-fees-world-cup

This specific aspect of intermediation points to how the broker's location helps them draw and channel demand to Nepal, contributing to a significant source of livelihood for Nepali workers. But, it also consequentially places migrants in the peripheries of global labour market and in severe debt, which further leads to endless cycles of circular labour migration.

3.3. Skilling as "making it work"

> "A lot of what we do is like marriage brokers. We know a girl (worker), we know a boy (employer)…we ask what the boy wants from his wife[112], we try to find those qualities in the girl and see if it's a match. (*looking at his partner and joking*) That is why they still call us *dalal*[113]! (laughs). When asked what if the boy does not find the qualities he is looking for from the girl, Krishna points out "well in that case we make it work. Isn't that what all arranged marriages are about? (laughs)" (11-12-19, Kathmandu)

Krishna is a middle-aged recruiter based in Kathmandu and his association of the idea of arranging marriages to arranging employment relationship, while deeply entrenched in a patriarchal worldview, derives partly from his decade-long work experience in the recruitment industry and partly from his understanding of the asymmetric employment relationship that defines the experience of migrants. My research among Nepali recruitment agencies indicates that skill as we know it, is not an objective category defining an individual's ability to perform a task. Observations of interview and training sessions as well as interview with the recruiters point to how skill requires identification, interpretation, recognition and categorization of perceived abilities by a number of actors. It is fundamentally a social process in which the recruiters engage in a number of practices of skilling (such as sorting workers, deskilling or upskilling workers to suit the needs of the employer) to match the existing reservoir of migrant workers to the acquired demand, making skilling a process of "making it work".

A relatively new concept of the latter part of 20th century[114], skill and skill categories, in the context of migration management, are integral part of migration regulations, which speaks to the geographical and historic specificity of the concerned occupational profile (Nowicka 2014). It is like Fuller's (1967) "legal fictions", which by themselves are not true but are still used for bureaucratic purposes and for the categorical

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[112] Although the recruiters have dual clientele, it is the employer's interests which are considered while recruiting. As a website of a recruitment agency says: "We start the recruitment process with the identification of our client's specific needs and finish with the placement of ideal candidate and it is the code of our recruitment practice." https://www.manpoweragencynepal.com/what-makes-us-different

[113] As mentioned in the previous chapter, a term *dalal* (broker) or *dalali* (brokerage) has a culturally negative connotation and is often associated with sale of human bodies such as in the case of prostitution and sex trade.

[114] Liu-Farrer et. al. (2020) point out that the categorization of migrants as 'skilled' or 'unskilled' is an invention of the latter part of the 20th century as and when skill-driven migration programmes were initiated by more industrialized countries.

legibility of people on the move[115]. Skills are also conditioned by a range of actors including governments, employers, international organizations and - more importantly for the given thesis- intermediaries, brokers or migration entrepreneurs. Categorization of migrant workers into 'unskilled', 'semi-skilled', 'high-skilled', 'specified skill' directly corresponds with the migration policies of the sending and receiving states. These categories are used to legitimize the presence of migrant workers (in destination), their participation in foreign labour markets, and have an influence over their wages, working conditions and rights. Many migrants see migration itself as a process of skilling and acquire experiences over years of employment, which are often overlooked under this quantified segmentation of perceived abilities. The 'categorical control' of skills, while assisting absorption of some migrant workers into certain occupational roles in cross-border labour markets, also traps many migrants into low-wage occupations (Liu-Farrer, Yeoh, and Baas 2021). My interviews conducted with civil society actors who provide skill training to migrant workers in Nepal, also shows that there are limits to how skill certification works in a transnational market and, that despite having proof of certain 'skills', these certifications may not be recognized by employers in destination country or despite recognizing them, may not necessarily pay Nepali migrant workers according to their acquired skill (06-02-20, Kathmandu). Given the institutional limits to standardization of knowledge (Quack 2022) and recognition of qualification and skill across borders, recruiters play a key role in the literal translation and interpretation of skills. The rest of this section shows how the recruiters in Nepal 'match' the inventory of potential migrants to low-waged, 'low-skilled' occupational categories, highlighting their role conditioning skills and absorption of migrant workers in peripheral job markets (Piore 1979).

Sorting of migrant workers

How are migrant workers evaluated or sorted when majority of these workers fall under "low-skilled" or "unskilled" category? In other words, how are workers evaluated in the absence of formal parameters (such as certificates) of observing quality and ability of a potential worker?

The main site of evaluation in the migration process is the interview session, while the pre-interview procedures such as training and certification also play a significant role in assessing the perceived quality of the migrant worker. Interviews, even before the Pandemic, would happen both online and in-person, provided that the employer sends a representative or a team to conduct these sessions and directly recruit, in which case the interview sessions happen in the offices or campuses of the recruitment agencies. Sometime these sessions also happen in rented multi-purpose convention halls (referred to as "party halls" or "party palace"), depending on the number of potential candidates and on the resources available. In cases when the employer is unable to personally come to Nepal or send their team/representative, the interviews also happen virtually. Going back to the interview session conducted by Bibek and Kiran (09-12-2019) in

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[115] Scholars have recently reintroduced the framework of 'legal fictions' in migration studies to understand the categorization of migrants as opposed to refugees and its political implications. See for instance Rebecca Hamlin (2021).

their recruitment firm, one can recognize the role played by recruiters in sorting migrants and preparing them for selection.

The interview at GHK International (pseudonym) was for the post of 'general helper' in a T.V manufacturing factory in Kuala Lumpur, Malaysia. Bibek tells me that the employer had around 150 vacancies in 2-3 occupational categories, however his uncle only managed to 'fetch' and pay for 50 of those vacancies for the position of general helper. The rest of the demand was distributed among other recruitment agencies in Nepal, depending on their capacity and resources- a common market practice and a technique employed by the employer firm to distribute uncertainties associated with depending only on one recruitment agency for its needs.

Image 14-15: Recruiters holding the phone in turns as the interview lasted for about half a day. They kept correcting the postures of the workers and promoted them to greet the employer and show respect. At times, they were also prompted to turn around and move away from the camera to display the full physique of the worker.

The interview was being conducted by a Chinese employer and his Nepali representative, who seems to have gone as a worker himself but was promoted to a higher position within the same company. As the interview began, few general questions were asked to every candidate. The interview started with name of the candidate, the village that they hail from, age (in cases where it was not visually obvious), education, work experience in Nepal, work experience abroad, family (marital status, children), last salary received, reason for leaving the last job etc. In between the interview Bibek and his uncle (recruiters) also kept prompting the candidates to 'say namaste sir', 'stand straight', 'talk loud and clearly', 'make eye contact', 'keep your feet together and not wide apart', 'keep your hands open not crossed'. At times they also

intervened to elaborate what the candidate said or means to say. For instance, in one case a migrant said he is 35 years old but looked much older and weaker. When the employer's representative did not seem convinced about the age, Bibek interfered and jokingly said he is 35 but the work over the years has made him look much older. In instances where the candidates could not understand what the representative had asked, they also repeated it to them and in some cases paraphrased it to them for clarity.

One important criteria of evaluation of prospective migrant workers in the 'unskilled' category, in the absence of certification of skill, is their physical ability to work. While the workers who have worked in Malaysia previously and knew the language and culture had an advantage over the others, the ones who particularly interested the Nepali representative from Kuala Lumpur were the ones who looked 'strong', well-built and seemingly able to endure long hours of work at a stretch. Once the basic questions about place of origin, age, experience etc. were asked, the Employer representative asked the candidates to take a few steps backwards in order to get a full view of the candidate's body and physique. Vivek and his uncle prompted the men to stand straight and show their whole body, sometimes asking them to turn around and return to the position. The Nepali representative then inspected their bodies virtually and took screenshots of the candidates he seemed interested in. The ones who claimed to have worked in Malaysia before were asked a couple of questions in the local language to test their honesty and linguistic abilities. One migrant worker particularly interested the representative once he heard that he has worked in Malaysia for 8 years and once he observed that the worker looked strong, healthy (a bit muscular and not very lean and thin) and fit. He also joked with him causally in the local language and in the end said "good good, we will then meet in Kuala Lumpur soon"(09-12-19, Kathmandu).

Similarly, in another interview conducted in Kathmandu for a reputed airline catering service in Dubai, one of the main components of briefing before the interview included how the workers in hospitality need to look clean, take shower multiple times a day, and how they *must* not smell. The video played for the candidates waiting in the hall before the interview showed how the workers have to work standing the whole day and the interviewer pointed out "do you see any stool or chair anywhere in the video? That is because you cannot sit while working". The interviewer also remarked that it would get extremely hot inside the pantry and the candidates who cannot endure such heat, look and smell clean and stand for over 7 hours in a shift need not wait for the interview and can go back home. The physical ability to endure long working hours hence appears to be an important criterion of evaluation in unskilled and lowly skilled work. Similarly, the worker's mental and emotional capacity to stay away from family during the contract period and work in a foreign land, also counts in evaluating their quality and suitability for work. In GHK International on the day of the interview for general helper in Malaysia, questions about the family obligations of the worker were also raised by the employer's representative to the ones he seemed interested in. To one such worker, the representative enquired about wife and children back home and jokingly asked "can you really do this

work or will you want to cry and run to them (wife and children) every time they have a problem at home?" (09-12-19, Kathmandu).

Evaluation often refers to benchmarking of standards and conferring of value onto things and people based on socio-cognitive qualifying scales, it often involves institutionalized 'judgment devices' that reduces uncertainty about the thing/person being evaluated (Karpik 2010, Aspers 2018). While devices such as standardized certification, formal rankings system etc. help evaluate high 'skilled'[116] personnel crossing borders, for occupations seeking relatively 'low-skilled' workforce, employers and recruiters heavily rely on more contextually produced socio-cognitive and moral devices of judgment. While the mental and physical ability to persevere in the highly demanding work abroad was one of the main qualifications sought by the employer among low-skilled workers, a general willingness to '*work more and ask less'* and docility were considered equally relevant while recruiting. For example, the candidates were asked about their willingness to work hard and interest in taking up extra shifts or 'over time' (referred in the market as OT) if there is a need from the employer. To most of the questions that were asked by the representative, the migrant workers answered in affirmative without any further question about the work or remuneration. However, in one instance a worker asked about the monthly salary, to which a seemingly irritated, disappointed representative responded by saying 'focus on your career and not on money. You know I came to Malaysia as a worker just like you. I did not ask about money. I did not run after money. I focused on my career and see where I am today. I will be your supervisor here'. There were no further questions about remuneration in the room that day. Later, Bibek explained that, as a recruiter acting on behalf of the employer while sorting the workers, it is often helpful for him to know the financial obligations of the worker and being poor and in debt is in fact a positive attribute as it ensures that the worker would in fact persevere with the contractual obligations and will not 'run away'. Bibek argues how 'running away' happens when workers have many opportunities (argued in terms of migrant networks, existing resources and not being poor enough) and when they are not desperate to continue a job. Docility among workers caused by poverty and debt hence acts as criteria of evaluation and a mechanism of control by the employer and the recruiter who benefit from such 'sincere' workers whose financial obligations force them to take up highly demanding and poorly paid jobs.

Additionally, workers are also evaluated based on their place of origin and the culturally perceived differences in 'quality' and docility of workers. Laxmi, the female recruiter in her mid-30s, for example argues that she knows what kind of skill a Nepali worker would have depending on where he is coming from. She says,

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[116] Research also shows that possession of certification of high skill does not necessarily imply an easier absorption into foreign labour markets. Non-recognition of national certification outside of one's territory and counterfeiting of certification limit the prospects of standardization of knowledge pertaining to skill acquisition and reduces trust among employers and governments.

If I need construction labour, I will look for agents from Tarai region to contact workers from there. If I need hospitality staff like cleaner or waiters, its mostly from the hill region…. Well in hill region, you find more educated people like 8th pass or 10th pass. In Tarai the workers are like 3-4th pass. I don't mean to say that there are no educated people in Tarai region. Of course, there are. But from my experience, the candidates who come to us from this region are barely educated. In Tarai region we find more people for construction work and also for somewhat trained people like electrician, plumber etc. In hilly region, there are more educated ones like 8th and 10th pass and they are clean and they are fair in look. That makes a difference. In hospitality, malls, cleaning etc. they want fair complexion people who look clean. So, they (client) strictly say that 'we don't want people from Tarai for this job' for example… Not just that, sometimes when we go to the eastern part of Nepal, the people there are more aggressive, they are very smart. Smart in the sense…some companies don't want that kind of workers! People from Jhapa and Dharan and they are creating problem over there! For example, if they (clients) are not giving the salary on time, these people are the ones who are making strikes first! They are the ones who are going to the embassies and complaining. That is the reason why the companies don't want them. (30-01-20, Kathmandu)

Evaluation of migrant workers based on where they hail from, is of course highly problematic and essentializing. However, it helps recruiters sort out "unwanted" or "trouble-making" workers from the more docile and desperate workers who are willing to (or rather situationally compelled to) work hard for lowly paid jobs. Such culturally defined measures of evaluation help them overcome uncertainties pertaining to the quality of the worker they are representing, negotiate a wage appropriate for that perceived quality and meet the needs of employers.

Skilling as an interactive process: de-and up-skilling of migrant workers

In the beginning there isn't a clear salary difference according to skill. The reason for this is that our certificate is not recognized by the compan(ies) there in destination country. Even the Nepal government training like the CTEVT (Council for Technical Education and Vocational Training) is not recognized by destination countries. They (destination country) have their own system and they do not recognize the training given by other countries..their standards. That is why there is no immediate difference in salary of our trainees. But we have been told that eventually the skill is recognized when the worker works well and exhibits skill, they get upgraded and they may receive a pay hike. (But),

> in the beginning they all go in the same rate (wage), in the same category (as unskilled/low-skilled). (06-02-20, Kathmandu)

This is an excerpt from an interview conducted with Sita Ghimire, the regional head of SaMi (Safer Migration Project), a bilaterally run and funded project between government of Nepal and Switzerland. SaMi facilitates cost-free vocational training for prospective Nepali migrant workers using services of several local NGOs and its own skill training centres. This interview revealed a very important problem with transnational migration process – the recognition of migrant's skill in the destination country. It shows the institutional limitations of standardised skill certificates and how despite being trained vocationally, most migrants are employed in un/low-skilled work. Here, what is also interesting is how she points to the performance of skill and its 'eventual' recognition in the absence of standardised measurements of skill evaluation. It is in this specific gap, that we notice a prominent role played by recruiters and brokers evaluating and translating the skills of workers and negotiating a value for the same. A significant part of "making it work" or skilling[117] is that it is subjectively oriented to the needs of clients (migrant workers as well as employers) and is thus fundamentally social and interactive in nature. Part of this could be upskilling (projecting their qualification as higher than reality) and deskilling (projecting their qualifications as lower than reality), thereby deeply conditioning the perception of skills of Nepali migrant workers, which in turn has a strong influence on their wages.

A key part of evaluating and translating the skills of a migrant worker is trust - trusting the concerned worker or the training institute that the worker in fact possess the skills based on which the wage negotiations are carried out. This trust is not easily generated. As Krishna, the Nepali recruiter sending workers primarily to Saudi Arabia[118], says:

> Krishna: But this instance when we sent drivers…We sent men as drivers because that was (the demand). Later the workers call us and tell us 'they did not give us job of a

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[117] In the context of migration studies, scholars have noted that skilling is a highly interactive (in that it is oriented towards actors other than the migrants themselves) and situated practice in which there is often a mismatch between the actuality abilities of the migrant worker (formally or informally acquired, or acquired through years of work experience) and their perception by recruitment agencies, employers and states. This further determines the social mobility of the migrant workers, which has been a key motivation for migration. Speaking specifically of deskilling, scholars have noted how it happens largely in response to destination state's unwillingness to recognize credentials of migrant workers, their experience or cultural know-how (Siar 2013). Some have also shown how migrants may be willing to deskill themselves and seek job opportunities in the peripheral labour markets as a strategy to enter the labour market, and given their status as temporary migrants and a sense of being "target earners", allow devaluation to happen for immediate financial gains (Piore 1979). Alternatively, deskilling is also seen as more institutionalized forms of migrant marginalization, whereby the status quo of the native workers is preserved in destination country, by systematically deskilling and devaluing migrant workforce (Bauder 2006). Skilling is thus a highly multi-dimensional activity and there is some groundwork in migration studies that throws light on the role of employers and labour market intermediaries in the process of skilling and placing migrant workers (McDowell, Batnitzky and Dyer 2007; Walsh and O'Shea 2009).

[118] He also has a JITCO licence and is eligible to send workers to Japan. However, the Japanese market has not been favourable to his business.

driver'. Employer on the other hand says 'your men don't know the work of driver'. This was in Saudi (Arabia).

Interviewer: Why did this happen?

Krishna: The outgoing candidate gave us a duplicate license. (Then)…what we did was..we requested the company, sent him (worker) his ticket and made him come back. Of course, we sent a replacement. This was a loss. (11-12-19, Kathmandu)

Migrant workers claiming to possess a skill that they do not have is a risk that recruiters deal with from time to time, something that has a direct impact on their business. They do not just incur the loss but there is always a risk of tampering of reputation and the employer not giving further demand to the agency. While in this case the worker was directly vouching for the abilities he has, in some cases, the training institutes and the certificates they issue are also a source of risk for the recruiters.
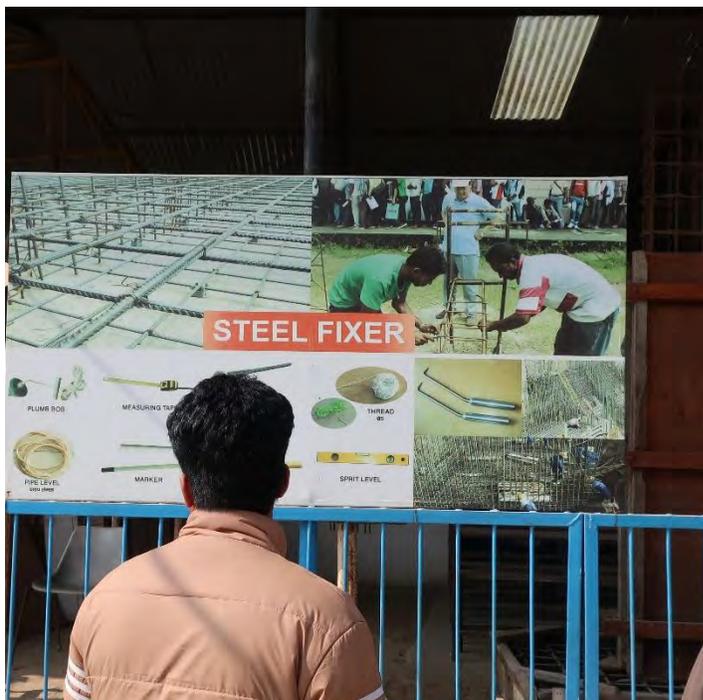
Image 16: A prospective migrant worker looking at the instructions of tools required to be a 'steel fixer' at the premises of a training institute in Kathmandu.

The main observable sites of migrant skilling are the numerous training institutes found all over Kathmandu city and this is where (in interaction with the concerned recruitment agency) that skills are evaluated, forged, or reproduced. Training institutes offer a range of vocational trainings, often in response to job opportunities emerging in destination countries for Nepali migrants and the ongoing "trend"[119] of demand. The training can be for 1-3 months, but it can also be for 1-2 days. A trainer in Kathmandu explained this and told me that if there is an urgency for the deployment of migrant worker and there is deadline approaching, they conduct "crash course" of 1-2 days also. While this is not opposed by most recruiters in this deadline-driven business, where time can be crucial in deploying

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[119] For instance, after the bilateral agreement between Nepal and Japan was signed for the mobility of care workers and nurses, a number of training institutes sprouted in Kathmandu, preparing workers for this particular corridor.

workers, some recruiters point to how these crash course may not 'skill' the workers as per the need of the employer. Speaking of such uncertainties, Krishna continues, "we need our men to be trained well and if they are not fit once we send them, it is a problem for us. To ensure that they did not just make money, we ask them to *make video of the candidate being trained* and send the video to us. Some trainings are long..15-20 days, some are shorter. Whatever the duration, we ask them to make 2-3 minutes video of the candidate performing the task." (11-12-19, Kathmandu). To deal with the risks and uncertainties associated with training of migrant workers, recruiters such as Krishna create strategies to generate proof of skilling, such as through videos in this particular case.

Contrarily, recruiters in Nepal also de-skill the workers to match them with the demand in hand. As a recruiter from the top recruitment agency in Nepal sending more than 6000 workers on average in a year, says "there is no such thing as being over-qualified" and that if a job demands a certain kind of work, the worker must go through with it, irrespective of their skill level. During 'orientation' before an interview session conducted to recruit helpers in a reputed airline pantry in Dubai, the recruiter encouraged the candidates to be flexible[120] and give up their egos. He suggested them to 'flow like a river' and take on the job opportunities with dedication and that this would be their only way to build decent lives for themselves and their families. In fact, my research in Nepal suggests that the occupational category of 'general helper' or 'labour' are the most fluid, vaguely described and least paid job profiles that expects the migrant worker to take on a number of physically and mentally demanding work. Baas (2018), for instance, recognizes this usage of the term 'labour' as an envelope category of low-skilled worker. Unfortunately, many Nepali workers tend to be matched to these occupational categories and intermediaries play a significant role in this. Laxmi's phone call with the employer concerning a receptionist in Dubai (see page 133) is an example of how recruiters negotiate around the skill and experience of migrant workers. Similarly, Krishna explains that when there is urgency from the employer's end (with respect to deployment of the worker) or from the end of the worker who is desperate to leave immediately, he sends these workers as 'labour' and in such cases no training is necessary. The focus, on such workers, is the ability to persevere and take on any task given by the employer. He says, "we tell them 'if you can get the training do that, if you can't and if you need to go abroad right now, I can only send you as a labour'. As a labour I can send…(with) no experience, no knowledge. But labour work is possible" (11-12-19, Kathmandu). It therefore appears as though the recruiters have a very flexible, often situated, approach to the question of skills and the purpose of

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[120] One of the candidates sitting in the room whom I spoke to later confirmed this tendency by saying how he has worked as a waiter, technician in a pest control enterprise and a security guard before applying for a position as a helper for this reputed airline. Recruiters therefore also devalue and deskill workers as per the requirements of the employer (for instance, Nowicka 2012).

intermediation with regards to skills is primarily to "make it work" or match the exiting reservoir of workers with the demand.

This is not to say that all forms of intermediation de-skills migrant workers, some also up-skill a worker. Often with the help of fake and forged certificates, produced with the help of training institutes, up-skilling primarily involves presenting the workers as more qualified (in terms of skill) or more able (in terms of other qualifiers such as health) than they actually are. The example of Batu is insightful on how recruiters work around potential hurdles in assessing the ability or quality of a worker and focus on deploying them, irrespective of their shortcomings. Batu is a young migrant worker who started migrating when he was 18 years old. He is now 29 years old (at the time of interview) and was diagnosed with tuberculosis (TB) in early 2000's when he was applying for work in Saudi Arabia. He got selected for the position and had prepared all the documentation including training certificates required for the job. But right before he could depart, he had to go through his mandatory medical examination which declared him medically unfit for foreign employment. This interview excerpt was from our first meeting where he is seen denying having TB. But in the later meetings he admits that he has TB and worries that he may never go back for foreign employment.

> Batu: It's just Pneumonia you know..it's nothing major...no 'side-effect' (not contagious). They thought I have TB..maybe they thought its transferrable. They strictly…did the medical (examination)… declared me medically unfit….my visa was cancelled. That is it. That's the story (*looks frustrated*).
>
> Interviewer: When did you find out you have TB?
>
> Batu: I don't have TB…I don't.
>
> Interviewer: Ok when did you find out about Pneumonia?
>
> Batu: Pneumonia? This is…before I went abroad...since then…here (shows throat larynx area)..all this was also hurting. When I was young...maybe in 2010 or 11.
>
> (01-03-20, Kathmandu)

Image 17: Migrant workers waiting outside a medical centre. Many such medical test centres have close connections with recruitment agencies, which sometimes helps them fasten the process or negotiate tampering with the results.

The TB gave him a particular kind of lesion in the neck that he hides with a scarf when meeting people. He was covering his neck when he met me as well but opened the scarf to show me the lesion. But between 2010 and 2020, Batu took up several foreign employment contracts, despite being deemed 'medically unfit' by one medical centre. Batu's story points to an intriguing aspect about the role of brokers in ensuring migrant's mobility and conditioning their 'fitness' for foreign employment.

> Interviewer: So how did you clear medical examinations after 2010-11?
>
> Batu: For that..umm..I took a medicine. There is a medicine available in shops…If you take that medicine before taking the X-ray, it hides...it hides your problem…your scratch. I asked the doctor...it cannot be removed. Since 2010 it's there. But this medicine helped hide that..from X-ray reports. Now that medicine is not working (on me) anymore...they (recruitment agency) used to give me that medicine before medical

examination…to not show (the TB) on X-ray. Now that medicine is not working on my

body anymore (*looking sad*). (01-03-20, Kathmandu)

The case of Batu shows that recruitment agencies intervene to not just condition the skills of the migrant worker, they also sometimes use illegal techniques to "make it work" and send the migrant worker for a particular employment position. In this particular case, a recruiter's extra-legal involvement has provided employment opportunities for Batu and allowed him to continue his foreign employment[121], despite the medical shortcomings. But, in other cases, the role of the brokers can systematically de-skill migrant workers and can place them in positions much below their qualifications. But again, in the words of Abiral, the leading migrant recruiter in Nepal, "there is no such thing as being over-qualified" in a low-skilled labour market (14-02-20, Kathmandu). Although skilling is still relevant for these actors in specific skill-driven corridors such as the Nepal-Japan corridor for care workers or Nepal-Israel corridor of garment workers, most of their work requires a much more flexible and often creative approach to skill formation. Hence, forging of certification and documents is not uncommon in this market[122]. These findings around skilling as an interactive process of 'making it work', contributes to our understanding of migrant (e)valuation in a cross-border labour exchange.

4. Contextualising brokerage

How are the brokers able to do what they do? In other words, what existing conditions enable and restrain their practices of brokerage? If we closely inspect the three aspects discussed above, we can identify the conditions that influence the socio-structural location of the brokers. This section, takes the focus away from individual brokers and their narratives, to the migrant recruitment industry (MRI) to understand and contextualize the scope and limitations of commercial brokerage in Nepal. The coding of the interviews suggest that three main existing conditions influence the work of the brokerage industry (see figure): the broker network spread across Nepal and in migrant-receiving countries, the situated knowledge of the market as well as the prevailing asymmetric structure of the market. In this section, I delve on these conditions to contextualise MRI's location in cross-border labour migration. These conditions play an important role in not just enabling brokers to act in a particular way, but also are key drivers of their market-decisions and help in resolving coordination problems emerging from the exchange of migrant labour.

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[121] But he is worried that this medicine does not work on him anymore and that he may never be able to go back to working abroad. At the time of the interview, Batu was working in a forest reserve as a daily wage labour helping out in the kitchen.
[122] It may be important to note that skilling is perceived different by different actors in the market. While the government authorities and civil society actors stress on skilling among workers as a means of empowering them, increasing their bargaining capacity and promote 'self-regulation' of worker (Chang 2018), recruiters have no incentive in doing so. This tends to create different narratives on skilling and migrants find themselves in between all of them, often treating skill certification as just another document required by the migration bureaucracy.
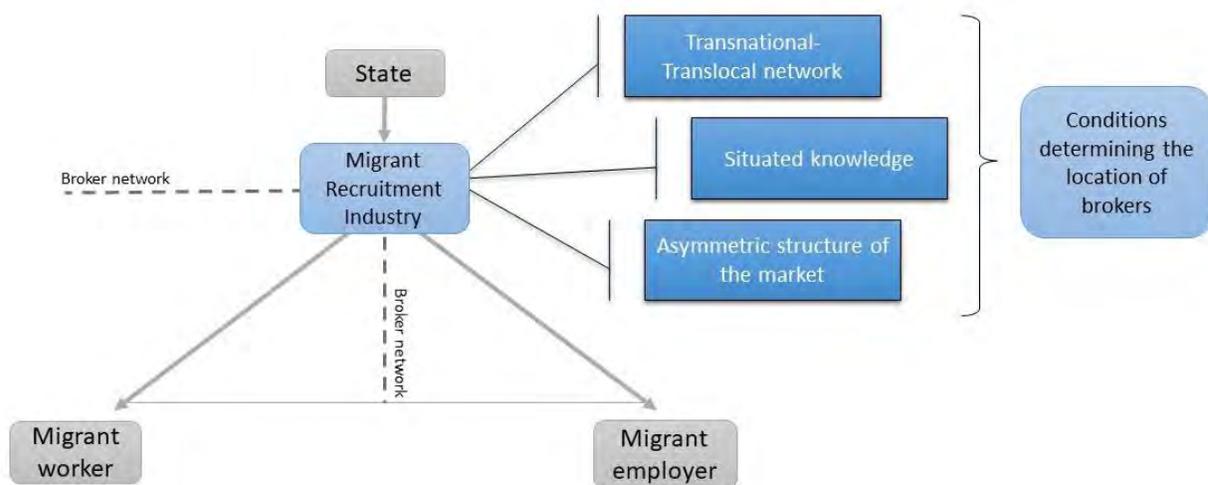
Figure 8: Conditions determining the socio-structural location of MRI. The dotted lines represent vertical and horizontal broker networks, a key facet of their location in addition to their relationship with the state, migrants and employers.

The previous chapter examined the relevance of social ties between recruitment agencies, local agents and migrant workers for the timely recruitment and supply for workers. Profit-making among local agents and trust-building between them and the migrant community runs hand-in-hand (Faist 2014; Lindquist, Xiang, and Yeoh 2012). Trust is intricately developed using caste, kinship and communal ties, and when trust is broken or disturbed due to self-interest of the concerned local agent, socially legitimate sanctions exist at the local level to set examples for future interactions and exchanges with agents. Yatindra, a 37-year-old migrant worker, shares some insights into how 'bad' agents, who are legally invisible, are prosecuted locally by the community for cheating migrant workers. When Yatindra was looking for a third contractual employment opportunity in Malaysia, after working there for around 6 years, he met a 'bad' agent in his village who promised him well-paying job as a helper in a glass-manufacturing company. Although Yatindra has "tasted the air and water" (interpreted as gained experience) in foreign employment, the persuasive 'urgent' (agent mispronounced) provided Yatindra a job in another, very dangerous setting that he does not wish to speak of. He recalls that the work was very dangerous and he witnessed many accidents and serious injuries among other co-workers. After returning to Nepal prematurely from the worksite, he tracked the 'bad urgent' and dealt with him and made sure that his recruitment fees were returned to him fully. He recalls "At that time there was much Maoism happening in our village. My father was so upset with the *urgent* (agent) that he gave me bad job and that my brother is still working there to make money...that when the urgent visited our village..my father found him and the beat him blue-black. He beat him up so much and made him call the agency in Kathmandu. He (agent) started saying 'I don't have money in my phone I

can't call the agency'. He (father) arranged another phone and made him speak to the agency and I got my money back" (14-03-20, Kathmandu). Now that he is known as a 'bad' agent in the village for providing misinformation to the migrants, he does not get as many customers as before. Socially acceptable sanctions such as these exist to compensate for the legal invisibility of local agents. A fragile relationship based on trust and communal belonginess (and accountability) and the network of local agents their intimate relationship with the migrant community serves as the basis of RA's translocal network that is mobilized in response to an existing demand.

Image 18: Nepali recruiters have deeply entrenched transnational networks that help them sustain labour migration form Nepal.

Most of the recruitment agencies, irrespective of their market position and scale of business, also have strong transnational connections which helps them generate and channel demand for Nepalese migrant workers. Recruitment agencies in Nepal "plant contacts" in destination countries to acquire new client companies (employers), maintain relations with existing employers and to personally look after the interests of both workers and the employers. For instance, GHK International (pseudonym) is one such recruitment agency in Nepal to have done so. Their 'chairman' Mahesh, aged 48, went to Malaysia as a migrant worker himself and after several years of formal and informal contractual work assignments, rose to a relative position of authority in a plastic manufacturing company in Kuala Lumpur. He says that he is in a position to influence recruitment of Nepalese within his company as well as in other employer companies in Malaysia and he aspires to further expand his recruitment business so that he 'no longer has to work for someone else'. Over a period of roughly 18 years in Malaysia, Mahesh realized that he could capitalize on his experience of migration to this destination country, his contacts in Nepal and physical presence in Malaysia to run a smooth cross-border recruitment business in Nepal-Malaysia corridor. His brother and nephew run the business in Kathmandu under a licensed recruitment agency called GHK International and once Mahesh informs them of a potential demand (size and nature), they begin mobilizing workers from remote areas to match the demand. Mahesh is in fact also a union member and takes personal interests looking after the welfare of the workers sent through him and when things get complicated and 'go out of hand', he ensures the safe return of the migrant worker to

Nepal. Once the RA sends off a batch of workers to Malaysia, he personally picks them up and provides them a temporary accommodation till the employer company takes them over and takes care of their official housing arrangement. He is also responsible for negotiating with the employer and the worker, prevent a potential crisis, ensure amicable employment relationship at least till the end of the contract period. He personally negotiates terms of employment, cost of recruitment and process documentation on behalf of the employer, making coordination between demand and supply smoother. He claims that his presence in Malaysia and his command over the local language is key to establishing a relationship of trust with the client companies and avoid placement agencies or other intermediaries, who would increase the cost of migrant deployment for both workers and employers. Such transnational locations of Nepalese recruiters help furthering business-to-business network based on mutual trust and reciprocity, and these relationships play a key role in responding swiftly to the needs of the market. Apart from these, connections[123] between recruiters in Nepal, placement agencies in destination countries and a vast array of transnationally mobile intermediaries also continue to be relevant and Nepalese recruiters talk about "favours" or an obligation "to refer" their connections to a potential employer or placement agency. Such practices are essential in sustaining the transnational network of migrant brokers.

On a related note is the second important condition that both enables and restricts the location of a migrant broker: the situated knowledge of the market. Situated knowledge of the market involves knowledge about how much to pay an employer for a worker, whom to contact when approaching a potential employer, where demand for Nepalese workers comes from, where to find specific kinds of Nepalese workers for specific employers etc. This kind of knowledge emerges from two distinct sources. One the one hand, Nepalese recruiters speak about the relevance of socialization or learning from each other in the market. Migrant recruiters enter business very early on in their lives. However, they do not often immediately become a recruiter or apply for a license as a recruitment agency. The initiation phase of this business often involves observing from a distance and learning from more established recruiters and brokers. This proceeds in the form of working for a relative who is in the recruitment business or getting in touch with friends or

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[123] Apart from 'planting' representatives like Mahesh, recruitment agencies also open formal and informal branches in destination countries for the same purpose. While in some cases, depending on the laws and regulations of the concerned country, they operate under the same brand name as in Nepal and have local and Nepali employees working to coordinate between branches. However, in most cases, offices run by Nepali recruiters in destination county operate under another brand name, often involving local personnel and local brand names. An example of this is Gespo International Recruitment firm (GIR; pseudonym). GIR is a registered recruitment agency based in Kathmandu and mostly deploys workers in GCC countries. In particular, they have strong employer networks in Dubai as well as Qatar. In Dubai their company is called Al-Mahanadir recruitment company whereas in Dubai it's called LPS Corporate Service Providers. The latter is run by a "sponsor" who is a national of Dubai and agrees to be the legal owner of LPS in exchange for a fee. The restrictions on non-national in opening a business and to avoid complications regarding the status of the company, Nepali recruiters sometimes purchase services of such sponsors who only represent the company in paper while all the everyday operations are conducted and managed by the Nepali recruiter. Apart from using such services, and having strong connections with placement agencies that introduces them to potential employers, Nepali recruiters also go on marketing trips 1-2 a year to expand their clientele and make newer connections. Their transnationally located connections are key to establishing stable channels of labour migration and the inter-dependency and mutual reliance of these businesses are often the only source of trust in an otherwise volatile industry.

acquaintances who are familiar with the market. This early market socialization familiarizes these actors about the role of different government agencies, different market actors, mutual dependence between market actors, and the general know-how of the market. Such forms of socialization are often embedded in an existing network of brokers or involves simultaneously creating a network of trustworthy, like-minded actors for potential collaborations in the near future. Here imitation and trust plays a key part in understanding the ropes of the game. Often gathering tacit knowledge from other market actors, indicating a mutual orientation of these actors, Nepalese recruiters and agents use their immediate network to learn how and in which way to conduct the business in a socially acceptable manner.

Much of this knowledge also comes from experiences or "learning by doing" and testing the bounds of social acceptance of a particular practice by performing it. In the absence of formal training on how to conduct a transnational business and familiarise oneself with market dynamics, rules of the game and constantly fluctuating laws and regulations, "learning by doing" with the help of immediate broker-network proves to be effective in conducting the business in a relatively stable manner. Experiential knowledge is often derived from experience of working in a particular corridor. This can be knowledge about the sectors that have higher demand in a given corridor, the general expectations of employer or worker, expected delay in paperwork and documentation in a particular migration corridor, testing candidature in an interview for suitable profiles, amount of bribe to be paid to a local bureaucrat for fastening the deployment etc. This knowledge helps make crucial market decisions and ensures some amount of predictability and certainty in work. In newer corridors, such decisions are harder to make as lack of experience in sending workers in that specific new channel is absent and there is uncertainty about market culture and client expectations in the destination country. To work around this uncertainty, recruiters speak of exploring the corridor and seeking advice and "tips" from market actors in other migrant-sending countries with whom they have a connection. It involves a preliminary effort by the Nepalese recruiters to make a new corridor work by understanding the demand and existing competition. Much of the information about specific corridors, especially new and emerging corridors, comes from hear-says and market gossip, which turn out to be important for making crucial market decisions, depending on the source of information (better the trust, stronger the belief on information received). Fligstein (1996) calls such references and practices "cultural stories" of firms in a market (Ibid. 660). Here, situated market knowledge, emerging both from experience and socialization, serves to create an awareness among the recruiters about the wider nature of the business, the larger environment within which their market exists as well as the scope (often network-based) and limitations (in terms of existing regulations and perceptions of morality) of their actions. In all the three facets of migrant broker's location discussed above, knowledge of the market is an important condition which determines how they use the information, allocate resources and make decisions.

Lastly, what also enables many of the actions of brokers is the prevailing asymmetric structure of the labour market which they mediate. Migration research is replete with examples of how circular labour migrants get trapped in bondages of debt, whereby every new debt is incurred to meet the expenses of the migration and every cycle of migration is organized to meet the existing debt. Here, debt does not just trap the migrant workers in perpetual cycles of mobility but also acts a strategy of labour discipline that is intended to keep the workers docile (LeBaron 2014). Migrant brokers often become the enforcers of such control (Lindquist 2010) and use reminders of existing debt to disciple and regulate the movement and aspirations of migrant workers. Furthermore, the inadequate employment opportunities at home and the desperation to migrate for employment, further puts the migrant workers at the mercy of both brokers and employers. Without addressing such a power asymmetry, it is difficult to explain why Nepalese migrant workers willingly comply with high recruitment fees or agree to let the brokers confiscate their documents including passports. It is this asymmetry of the market that also explains the existing employer practices of 'buying demand' by which the entire cost of migration and the cost of intermediation is transferred to the migrant worker. Migrant brokers, therefore, intervene in an already power imbalanced labour market, and come to mediate both extortionist employer expectations and aspirations of desperate migrant workers who have no choice but to leave the country to provide for themselves and their families. On the other hand, the mediation of migrant brokers amplifies these imbalances further as they create outcomes that puts migrant wellbeing at risk. The existing competition among migrant brokers across sending countries in South Asia, South-East Asia and increasingly many African countries, and lack of job opportunities in many of these places further shifts the power over to employers and their representing mediators who bargain against the wellbeing of migrants, and brokers find themselves amidst the perpetual dilemma of keeping trust with migrants and acting on self-interest.

The asymmetric structure of the transnational migrant labour market, the mutually dependent and reciprocal business network of brokers both within and outside Nepal as well as the situated knowledge of brokers acquired through experience and market socialization, thus, conditions the ability of brokers in coordinating cross-border labour migration. The vertical positioning of recruitment industry vis-à-vis the state as well as the legal limits of their actions (see chapter 4 and 5), further enables and restricts the scope of broker's action and influences their socio-structural location. Such an approach makes it necessary to look beyond the practices of intermediation, to examine the context and conditions producing such social actions.

5. Conclusion

The last two decades have produced a significant amount of scholarship in the field of migration studies that has adequately recognized the role played by recruiters or brokers in the process of migration. This chapter contributed to the existing research on the role of migrant brokers and showed how recruiters do much more

than mere recruitment. They create and channel demand for low-skilled Nepalese workers, move, place and circulate migrant workers, condition their skills and project them as more or less qualified than they are. Their intermediation, thus, is much more than mere 'matching of' migrant demand and supply, but is about making mobility happen and coordinating the transnational migrant labour market for the pursuit of profit (Mense-Petermann 2020; Shire 2020). This further shows the role of intermediaries in addressing the uncertainties inherent to a voluntary and competitive exchange of migrant labour across borders. This chapter also took a step backwards (from 'what they do') to examine the positioning of brokers in the process of migration (to understand 'how they do what they do') and their socio-structural location, which helps understand their role as intermediaries. Such an approach also helped explain the outcomes of migrant labour brokerage. The section discussing the key aspects of migrant labour brokerage further broke down the specific opportunities and vulnerabilities their intermediation creates and amplifies for migrant labour. Furthermore, the dilemma of a broker concerning trust building with migrant workers, which is an essential component of intermediation, and profit-making, is also very palpable in this narrative. Looking at the location occupied by migrant brokers, embedded in a specific social and structural setting, therefore, offers a significant vantage point in studying brokerage sociologically.

This chapter raised another important aspect of migrant labour brokerage, or brokerage in general- the role of brokers as the third-party intervening in a structurally distant, dyadic relationship. The merits of bringing sociological insights into the study of migrant labour brokerage are manifold. A sociological analysis of brokerage intuitively seeks to address, firstly, the interests of the brokering actor in initiating a brokerage relationship. Self-interest in the form of profit-making, power or status motivates intermediaries to enter a brokerage relationship and mediate structurally disconnected actors (Gould and Fernandez 1989; Simmel 1950). In the context of commercial migrant labour brokerage, profit-making continues to be the key driver of initiating a brokering relationship between worker and employer across borders. Secondly, complicating such a simplistic positioning of brokers vis-à-vis their self-interest, this chapter pointed to the relevance of upholding a trust-based relationship with migrant workers that makes acting on pure self-interest challenging for these market actors. For brokerage to happen, migrant workers need to have a certain minimum level of trust in the brokers that their interests will be represented in the act of mediation. Trust here is also created on the basis of a sense of community and belonginess to a village, caste or kindship network. This bare minimum level of trust cannot be compromised in most brokerage relationships, barring exceptions of total abandonment of migrants and abuse by brokers. In case of breach of trust, this chapter also showed empirical examples of extra-legal prosecution of brokers by migrant communities. Such extensive arrangements shape expectations around the role of the brokers and influence their market decisions and activities. Juggling between the pursuit of profit-making and maintaining this minimum level of trust with the migrant workers, the brokers occupy a complicated social location. Lastly, this chapter also

opens up the possibility of studying the consequences of brokerage on the status of the actors being represented and their social relationships. A third-party entering a social relationship changes the dynamics of the dyad and creates distinct outcomes for the participants (Burt 2002). This chapter showed how the strategic position occupied by brokers creates both opportunities and vulnerabilities for migrant workers. While responding to the prevailing asymmetric structure of the transnational labour market that puts employers and their interests in the forefront of workers', brokers can produce further asymmetries and power imbalances which often works against the interest of the workers. Bringing the state back into the centre of discussion, this chapter claimed that such vulnerabilities are usually not produced in an institutional vacuum. The empirical findings of this research show that the interaction between commercial brokers and state regulations, creates space for systemic vulnerabilities for migrant workers.

The location of migrant brokers, as politically legitimized actors who have the incentive to, and knowledge about the exchange of migrant labour, with access to network and information about both demand and supply, opens up the scope of their market actions. With their legal status and market identity, they can penetrate the destination country's labour market in a way that the sending state cannot. They can, as a result, influence the labour market outcomes of Nepali workers, including positioning them in certain kinds of occupational categories, influencing their wages and working conditions to some extent, and resolving conflicts between them and the employers through a number of informal mechanisms, as discussed in this chapter. On the other hand, because they are not the state or a representative of the state, they can also engage in a number of illegal activities to make mobility happen and organize the transnational migrant labour market. This dimension of their location is particularly convenient for the state, which is shown to systematically transfer the accountability of migration *mis*management to these market actors, as discussed in previous chapters. The uniqueness of the broker's location is, hence, the fact that they are both politically legitimized (through licenses) yet conveniently distanced (transfer of accountability) by the state, creating a unique institutional gap which they come to fill, explaining their presence and proliferation in contemporary migration systems.

Chapter 7

Conclusion

While people migrating from one place to another in search of work and livelihood is as old as history, migration as we know it has changed conceptually and in terms of density, flow and direction. Firstly, the significance of migration from one developing country to another developing country, or 'South to South' migration as captured in the intra-Asian flows, has increased and become more evident in the recent past (Bakewell et al. 2009). Secondly, migration is becoming increasingly circular and less linear (De Haas 2010; Hugo 2009). What makes circular migration distinct from other forms of migration is in how it is tied to both more formalized and temporary mobilities, of 'coming and going' between country of origin and the country of destination (Hugo 2009). Circular migration is also closely associated with the idea of development that views migrant workers as development partners of the state and as sources of potential investment in the home country upon return (De Haas 2010). Thirdly, migration across borders for employment has become more mediated than ever before. Between the migrant worker in the sending country and the employer in the receiving country, there are a range of state and non-state actors that facilitate and condition the mobility of the workers (Hernandez-Leon 2005). My research addressed these three recent developments in migration as a phenomenon, especially the development around migration intermediation by brokering firms, which I referred to as migrant labour brokerage.

Recapitulating the conversations with prospective migrants waiting in the street corners of Kathmandu, in particular Nilesh (see page 2) - the returnee migrant worker aspiring to go to Dubai to work as a driver, we noticed the peculiarity of migrant labour brokerage early on in this dissertation. Despite knowing the employer personally and having obtained the employment contract, along with other necessary documents including the visa and passport, Nitesh was sent back from Tribhuvan International airport and was directed by airport authorities to come through the "proper channel", i.e. through recruitment agencies. This example was particularly important as Nilesh did not need an intermediary firm to find employment for him, or negotiate wages and other employment benefits on his behalf. Given his history of migration and experience of working with the concerned employer in Dubai, he was able obtain the necessary information about demand and procure the relevant documents for migration. However, he could not migrate without intermediation and this dissertation attempted to systematically address how, in this context, private recruitment firms have come to occupy such an important position in the migration of low-skilled workers from countries like Nepal.

Existing literature in sociology of brokerage and migration studies do not address this problem adequately, creating a vacuum in the study of migrant labour brokerage. While existing sociological work on brokerage or intermediation reduces the role of brokers to their ability to access information, resources and power based on the structural holes or gaps they fill, migration studies so far has been unable to fully grasp the structural and institutional interactions around migrant labour brokerage. Additionally, the latter field projects an underlying assumption of "self-sustenance" of migration infrastructures, blurring the interests and roles of actors organizing migration. These two streams of scholarship, do not help understand how migrants like Nilesh are unable to migrate for employment abroad, despite having the information about demand and the necessary social contacts to obtain the employment contract. They, although immensely useful, fail to explain how brokerage in the context of labour migration, continues to be relevant.

In order to address these gaps and explain migrant labour brokerage in Nepal, I adopted a historical-institutional approach. By approaching intermediation by profit-making brokers through the lens of the market, this dissertation was able to trace exactly at which point in the history of Nepal, did the recruitment market get organized. Such an approach also helped understand the interests and the role of the state in making the market, making the Nepalese state a key organizer of the migrant recruitment industry. Thereafter, I looked closely into the interaction between the state and the market throughout the dissertation to identify different tonalities of this interaction including delegation of migration management by the state to the private sector, boundary-making in the case of mismanagement or emerging moral hazards of delegation. Such an approach further addressed the problem of limitations of sending state's sovereign authority that determines transfer of migrant accountability to certain non-state actors. The second part of the thesis further broke-down the state-market interaction from the point of view of the market actors and examined how state regulations are negotiated by these actors on an everyday basis. Here, the discussion on the culture of the market is central in how recruiters see, interact with, and respond to existing regulations and what implications it has on the migrant wellbeing and 'management' of migration. The perspective of the market actors was also critical to understand their socio-structural location derived from their transnationally embedded social network, situated knowledge and existing asymmetries in the market, that defines the scope and limitations of the commercial brokerage.

This dissertation used existing conceptual tools from economic sociology to study the practices of migrant labour brokerage in Nepal. Using the framework of market-marking and organization of market, I examined how states transformed spontaneous evolving, mutually oriented profit-making actors into a more or less organized industry that coordinates cross-border migration and employment of Nepalese men. I traced the developments around market-making in Nepal from the 1970's and identified different stages of market organization and argued how institutionalizing labour migration *through* the recruitment agencies has been a key motivation of the state in organizing the market. The dissertation also extensively used the existing

frameworks of market regulation and market culture to understand the interaction between the state and the market as well as the interpretation, translation, negotiation of formal rules and regulations. This further helped understand the limits of market regulation and the practices of informality that are deeply entrenched in the culture of the market. Sewn together, concepts of market organization, regulation and culture complemented each other to understand how order, in a market of transnational character, is negotiated by the state and market actors.

1. Migrant labour brokerage in Nepal: its form, practices and consequences

This study claimed that migrant labour brokerage cannot be adequately studied from a network-oriented conceptualization offered by existing scholarship in sociology and migration studies, and neither can it be studied in an institutional vacuum. It argued that, in order to fully understand the presence and proliferation of migrant brokers and acknowledge their role in organizing labour migration from Nepal, one needs to examine the interaction between migrant recruitment industry and the state. Driven by developmental concerns and reliance on remittances as a 'bottom-up' source of foreign capital, the Nepalese state is shown to not just facilitate and promote labour migration but also use market as a medium of organizing and governing labour migration. By setting rules of membership, introducing rewards and sanctions, regulating hierarchy and determining codes of conduct including which country to send workers to, how much to charge as recruitment fee or how many workers to deploy, the state is shown to play a key role in organizing the recruitment market. Furthermore, it is shown to delegate responsibilities of the migrants to these commercial actors, who constantly juggle between their profit-making interests as well as migrant welfare. This study argued that migrant labour brokerage cannot be studied without acknowledging such state-market interactions that determines how, and to what extent commercial intermediation prevails. In so doing, it claims that migrant labour brokerage exists in a specific institutional space created by the state and the activities of brokers or intermediaries are embedded in the regulatory framework within which they operate. As such, there is hardly anything "self-sustaining" (Cohen 1995 cited in Goss and Lindquist 1995) about migrant labour brokerage in Nepal. Brokerage practices, thus, need to be contextualized within the specific institutional and historical arrangements that they are part of, driven by actors with vested interests in the potential outcome of intermediation.

While state-market interactions are highly relevant in understanding migrant labour brokerage in Nepal, also important is the intra-market interactions and the location of brokers, which explains their continued importance in many migrant exporting countries such as Nepal. Markets allow access to information, resources and ability to navigate sovereign restrictions of nation-states. As survival becomes the basis of market actions, the logic of everyday market actions also conveniently blurs the boundaries between legal and illegal practices. In such a context, the recruiters in Nepal occupy a central position in transnational

labour markets by their ability to mobilize demand for Nepalese workers, recruit and channel migrants through state-sanctioned corridors as well as facilitate the return of the worker, maintaining a "revolving door" (Hugo 2009 :8) of circular migrant workers. Given their deeply entrenched commercial network spread across corridors and their situated knowledge of intermediation acquired through market socialization and experiences, these market actors have an outreach that the states themselves do not. The mutual dependency between state and the migrant recruitment industry, whereby the industry requires political legitimacy to function and the state requires market actors to sustain labour outflow, further characterizes brokerage practices in Nepal as well as the mediated migratory experience of the workers.

Intermediation, however, is not without consequences. Since the early attempts by the Nepalese state in promoting labour migration and organizing it through market actors, the rate of out-migration as well as inflow of annual remittances have steadily increased, making Nepal one of the largest remittance-receiving countries in the world[124]. However, what has also come to the fore are numerous cases of migrant exploitation and abuse, in both the country of origin and destination. This study claimed that contextually emerging brokerage practices have specific consequences on the migrant wellbeing and the migration process. Migrant brokers, in interaction with the existing regulatory framework, produce both opportunities and vulnerabilities for the migrant workers. A number of examples were discussed in this regard. From recruitment agencies and local agents overcharging migrant workers for access to information on demand, to illegal placements of migrants in destination country, this study showed the latent consequences of certain "pro-migrant" state policies on migrant wellbeing. Such an analysis of consequences of migrant labour brokerage, emerging as a result of interactions between the state and the market, helps overcome simplistic perceptions of brokers as actors "turning people into profits"[125]. Furthermore, it also helps understand how migrant precarity is often created systemically, whereby how recruiters and brokers interact with, and respond to existing regulatory framework determines the impact of brokerage on migrants. It also helps fathom the misfires and disfunctions of state policies that are originally designed for migrant protection, but have consequences beyond the control or reach of the state, further helping contextualize moral distanciation by the state from the market.

This dissertation also alludes to one of the key contradictions of state-market relationships emerging in Nepal, hiding in plain sight in the public discourse on development-driven labour migration. International organizations such as the IOM and their ideologically compatible civil society actors, under the regime of migration management, claim that migration is productive for the sending countries as remittances continue to be highly relevant for migrant households. However, to what extent migrants benefit from labour export

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[124] In terms of GDP share; World Bank Report (2019) Migration and Development Brief 3, Available at:
https://www.knomad.org/sites/default/files/2019-04/Migrationanddevelopmentbrief31.pdf
[125] https://www.amnesty.org/en/documents/asa31/6206/2017/en/

strategies of sending countries like Nepal, is questionable. This dissertation acknowledged that migrants pay excessively for intermediation and often in disproportionate amounts to their income, furthering debt traps and forced mobility. As a result, the flow of money going from Nepal to migrant receiving countries in the form of recruitment and placement charges, is considerably high when compared to inward flow of remittances, which has been the driving logic of migration facilitation by the state. For example, in the context of Nepal-Qatar corridor, an annual flow of "commission" paid to intermediaries (cost of intermediation) ranges between US\$17m to US\$34m, which constitutes a substantial portion of total remittances received from Qatar to Nepal (Endo and Afram 2011). This further challenges our existing perceptions about the transnational flow and direction of capital and labour in contemporary context. The populist assumptions about migrants "stealing jobs" in destination countries or the assumption by civil society actors that migrant households successfully absorb remittances generated by their employment abroad, also remains challenged as low-skilled workers from sending countries like Nepal end up spending a significant share of their income towards the cost of intermediation. These findings further point to the impact of choice of migration channel, actors involved in mediating mobility as well as the effectiveness of existing institutional arrangements in governing cross-border migration, on the labour market outcomes and wellbeing of migrant workers.

2. Empirical and theoretical contributions of the study

The field of scholarship within which this study is situated is economic sociology and migration studies. Although the dissertation used the case study of Nepal, the findings have scope conditions beyond the chosen case. It resonates with, and builds into existing work on trends and practices of migration management in many migrant exporting countries. Migrant recruitment markets in countries such as those described in the cases of Indonesia (Lindquist 2010), China (2013; 2012), with the exception of the Philippines (Rodriguez 2008) and Mexico (Hernandez-Leon 2005), are still at an initial stage of the process of institutionalization, or what Aspers (2009) calls market contraction. As this thesis shows, Nepalese migrant recruitment industry is also not fully organized and much of the frictions with the state regulations and uncertainty about market actions, reflect this tension of ordering of market, and such uncertainties are characteristic of an intermediate stage of market-making.

The first significant contribution that this study makes, especially towards literature on circular labour migration, is the relevance of supply-side interventions. With the exception of Rodriguez (2008), the recent scholarship on labour migration fails to fully grasp the importance of supply-side strategies by the state and market actors in creating a demand for migrant workers from certain parts of the world and sustaining mobility corridors for different, yet compatible (development and profit-making) interests. This study showed the extent to which sending states such as that of Nepal systematically enter brokerage relationship

with market actors to facilitate timely deployment and return of the migrant worker. From conducting research on potential destinations for Nepalese migrants, initiating diplomatic relations with destination countries to create political legitimacy for their "project-based" movement ('management' vocabulary, see chapter 2), to creating incentives for timely return of migrants and encouraging their investment towards national development projects, sending states have come to occupy a key role in how labour migrants move. In contrast to erstwhile guest worker programmes that were predominantly demand-driven (Bhagwati, Schatz, and Wong 1984), the case of Nepal and other similar migrant sending countries show a proactive intervention on the supply side. These countries that excessively depend on remittances sent by migrant workers, institutionalize labour migration through systematic research and promotion. This has helped them anticipate demand in migration corridors that are currently unexplored, and even to 'prepare' migrants to comply with the needs of the destination country by influencing their skill requirements, tenure periods and by developing a general compliance towards the immigration regime in the place of work. Similarly, the use of market as a medium of creating stable migration corridors is another side of supply-side intervention that this study explored. The role of migrant brokers and intermediaries, while discussed at length by migration scholars, is not studied in relation to state's project of migration management *through* markets. The interactions between the state and the market has been the core of this thesis and the tensions around their interests vis-à-vis the migrants continue to shape how mobilities are created, channelled and controlled in sending countries. It also contributes to our understanding of migrant labour supply chains, role of labour market intermediaries and their unique socio-structural positionality in coordinating transnational labour markets.

The second contribution this research makes is towards economic sociology in general and the study of markets in particular. Building on existing work on the organization and politics of market (Aspers 2009; 2011; Fligstein 1996a), this dissertation examined how certain markets get formed and for what reasons (non-market interests in the making of a market). In doing so, it empirically contributes to our understanding of specific institutional arrangements that shape and condition the initial stages of market organization. Keeping the question of institutions and norms at the heart of its analysis, this study also pointed to the limits of market regulation. It showed how market culture, which offers the bedrock of localized order in any market, need not always align with state regulations. Market culture, emerging in response to existing rules and regulations, could also challenge the regulatory framework, giving rise to a number of illegal and informal market practices. Such an approach makes the perspective of market actors important in understanding how rules are understood, accommodated, or denied and deviated from, exposing the scope and limitations of market regulation. This study also used the example of Nepalese migrant recruitment industry to examine the different stages of market-making and the characteristics of each stage. Such an empirical examination of market-making threw light on the fluidity of each stage and questioned the

linearity of market-making. Markets need not always follow a linear and progressive design and some markets may in fact be stuck in an intermediate stage of organization, as appears from the case of Nepal. Despite the attempts of the market organizers (state, in the case of Nepal), certain markets may never be fully organized, become 'cohesive' (Aspers 2011) or stabilized (Fligstein 1996a). They may, in fact, go back to their previous stage of market organization and the actors might have to reorient themselves to new changes (see Postscript). This research, thus, also contributes to inconsistencies, incoherence and non-linearity of organization and governance of markets, especially the ones that deal with migrant labour power.

Lastly, this research also contributes to the study of brokerage. Brokerage, in this dissertation, is understood as a practice of mediating a socio-economic relationship, and examined from the point of view of its contextual specificity and consequences that such a mediation produces. As a third-party intervening a cross-border employment relationship, brokers and intermediaries occupy a significant social and structural position that gives them access to information, resources and control over the migration process. This thesis explored how such a position creates opportunities as well as vulnerabilities for migrant workers, extending our existing knowledge of how migrant brokers act. This is an important contribution not just to migration studies but also sociology of brokerage that has largely restricted itself to studying mediation from the point of networks. Such an approach also helped understand how brokers often find themselves confronting opposing interests whereby their drive to intervene (profit-making) often stands in opposition to sustaining trust-based relationship with migrants, which happens to be a precondition of a brokerage relationship. This dual aspect of being a broker substantially impacts the employment relationship and the experience of migration for the workers.

3. Limitations of the study and way forward

A key limitation of this study has been the absence of receiving-side or demand-side dynamics of migrant labour brokerage. Migrant brokers and intermediaries do not act in isolation and have strong transnational networks that are mobilized for managing migration on behalf of the state, as has been acknowledged in the dissertation. However, due to travel restrictions imposed by the global pandemic, the research on the migrant demand-side stayed incomplete, which has significantly curtailed the scope of this study. Nevertheless, and despite the physical inability to study brokers and employers in destination countries, this dissertation attempted to capture the transnational connections that shape labour migration, from the perspective of actors *in* Nepal. Also, the study restricted itself to focus on state-market relationship and only passively engaged with other actors including migrants, employers and non-state actors such as international organizations and NGOs, who play a crucial role in how transnational labour markets are structured. The way forward for this project would be to study social and economic interactions *across* migration corridors. Such an analysis would help examine how transnational labour markets are created, what kind of

coordination problems around value, competition and cooperation appear in a market that crosses borders and the emerging role of non-state actors like NGOs and international organizations in shaping and curtailing migratory flows, often on behalf of the states.

Postscript

Addressing inconsistent findings and alternative brokerage practices

1. Introduction

This postscript questions everything. It challenges the key findings of this study and addresses some countervailing evidences and narrative inconsistencies emerging in the study. Three of the key findings of this study have been that:

1) The Nepalese state requires remittances as a source of foreign revenue. To sustain remittances, the state has interests and motivations in facilitating, and even promoting, labour migration.

2) The Nepalese state, given the limitations in resources, ability and will, requires the migrant recruitment industry and its profit-making actors to organize and govern labour migration.

3) Political legitimacy is important to the recruitment industry. Given the social stigma around their work and inability to conduct business of this scale without legal recognition, staying "as close to" existing legal framework is key to their market identity and survival.

Although these arguments continue to hold credibility, they are inconsistent with certain empirical developments, that challenge the very framework of this dissertation. The rest of this postscript shows instances in which these arguments do not hold ground. Section 2 looks into the case of female migration. It examines instances in which the state has taken a protectionist standpoint and a restricted approach to the migration of women, despite the growing demand for female migrant workers (especially as domestic workers and care providers) and the potential of maximising remittances. Section 3 explores attempts by the Nepalese state in monopolizing migration corridors and systematically excluding the private recruitment industry from organizing labour migration from Nepal. Looking into the case of "market-free" corridors, this section discusses the ways in which the state has been attempting to reduce its dependence on the private sector. Later, in section 4, the example of the pandemic is explored to understand the emerging illegal practices among market actors in the context of restrictions on out-migration. It looks into how some recruitment agencies test the limits of their market activities and experiment with practices that are deemed illegitimate, not just by the state but also by fellow market actors. This is then shown to create uncertainty and de-consolidation in the market, taking it back to its pervious stage of organization and challenging our linear perceptions of market-making.

Addressing these contradictions is important for at least two reasons. Firstly, it shows the dynamism of migrant labour brokerage and the contextually emerging practices that undergoes rapid changes, posing a challenge to theorization. Secondly, and on a related note, it helps us understand the changing logic of the state and the market. In the context of Nepal, the market is still not fully organized and the state is still experimenting with democracy. The fact that states are not internally consistent and that market actors navigate their relationship with the state and the society with more pursuits than profit, makes negotiations around the question of social order an important anchor point in the study of migration and labour markets. In such a context, their role vis-à-vis one another, and towards migrant workers, continues to undergo change as these actors constantly define, redefine and question their interests and scope of actions. This postscript is an attempt at capturing such empirical dynamism of migrant labour brokerage in Nepal and it offers a prelude to furthering discussion on the economic sociology of migration, a field in its very nascent stage.

2. Forced immobility and restrictions on labour migration: Female migration in Nepal

While the Nepalese state has been tacitly and overtly promoting labour migration through newspaper, advertisements, radio, school curriculum etc. (see chapter 3), it has also discouraged and stopped migration against the will of migrants, such as in the context of female migration. Migration in Nepal is a predominantly male activity and only around 5% of women seek labour permits for employment abroad (MOLESS 2020). While gendered household expectations of migration have a large bearing on this trend, restrictions placed on female mobility also contributes to it. The Nepalese state has experimented with different forms of forced immobility on female labour migrants. Over the last 25 years, it has had a rather uncomfortable relationship with migration of women and this is reflected in its policies on labour migration and bans imposed on female mobility including age-specific bans, occupation-specific bans, sectoral or industry-specific bans as well as blanket bans on female migration. This has been largely in response to Nepal's inability to fully control exploitation of women in destination countries, especially in domestic work and informal labour market. Concerns around trafficking and abuse of women and their vulnerability in the destination country have also heightened the restrictions on female migration.

Such a protective stance on female labour migration is starkly contradictory to its general policies on labour migration. For example, the Foreign Employment Act (2007) prohibits any form of discrimination based on gender with regards to labour migration. Also, it states the possibility of providing reservations (as quotas; positive discrimination) to vulnerable population in Nepal (such as women, certain caste/tribe groups among other vulnerable communities) for easier and safer access to foreign employment. Yet, from time to time, it has placed different forms of restrictions on the migration of women, often in response to instances of exploitation and abuse.

Conditions imposed on women's migration for work	Month/Year
Requirement for female migrants to get re-approval from the government for continuation of foreign employment after returning home for the holidays or other reasons.	March 2003
Requirement that women obtain prior approval to migrate from both their local government and their family.	May 2003
Ban imposed on embarking to Gulf countries and Malaysia.	September 2008
Ban imposed on migration to Lebanon.	November 2009
Lifting of ban on migration to Gulf countries for all women, and new protection measures put in place.	December 2010
Ban lifted for Nepali women to migrate for work to any country in the world as per Foreign Employment Regulation 2064, 2008.	May 2011
Ban imposed on women less than 30 years of age from migrating as domestic workers to the Arab States.	August 2012
Ban on all women migrating as domestic workers (worldwide) except for those who have already obtained a visa.	Mid-April 2014
Total ban on women migrating as domestic workers.	September 2014
Lifting of total ban on migration of women for domestic work; new age ban of 24 years of age and new protection measures put in place.	April 2015

Table 6: Different forms of restrictions on the migration of women in Nepal from 2003-2015. This has been in response to cases of migrant abuse, particularly in domestic work sector and more so in GCC countries. Source ILO: 2015

More recently, in response to protests and agitation from civil society actors and feminist activism in Nepal, the state has been discouraging migration of women in more subtle ways instead of implementing a blanket ban. Recent examples of such a move include expecting female migrants to provide a 'letter of permission' from family members in Nepal and a local ward (in destination country)[126], and restricting women with children under two years to travel for employment abroad[127]. Such restrictive measures have negatively impacted the wellbeing of female labour migrants. International Labour Organization's (ILO 2015) report on the impact of bans on female migration in Nepal points to how such restrictions have forced women to undertake irregular channels of migration such as through India or Bangladesh, or through visit/travel visas. Such channels fail to enumerate female migrants as labour migrants, depriving them of the protection of the state and its welfare mechanisms created specifically for labour migrants. Such irregular channels further expose female migrants to dangerous intermediaries and traffickers, and women migrating through these channels often do not have a say on the nature of employment provided or any bargaining capacity with respect to wages and working conditions. Irregular female migrants are also excluded from insurance (health/life) and any accident or abuse they may face, would not be reported. They further face the danger of being deported or imprisoned anytime and live in constant fear and vulnerability. Manju Gurung, director of Pourakhi, a migrant rights NGO in Nepal, in an interview to the Guardian says "Most Nepali women are not documented [by the Nepali government] when they migrate and they become very vulnerable. Due to this, women are paid less, or not paid. Their passports are often confiscated by their employer. They also face lots of physical abuse, sexual exploitation. They are modern day slaves."[128] State's ban on migration of women in Nepal has only proven to be counterproductive and the very vulnerability such a policy has attempted to circumvent,

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[126] https://www.nepalitimes.com/here-now/history-of-female-immobility-in-nepal/
[127] https://www.nepalitimes.com/latest/nepal-town-to-ban-mothers-migrating/
[128] https://www.theguardian.com/global-development/2020/feb/14/how-nepals-migration-ban-traps-female-modern-day-slaves-in-the-gulf

has been generated. Shivakoti (Shivakoti 2020; Shivakoti, Henderson, and Withers 2021), examines such a practice of banning female migration in labour exporting countries such as Nepal, Sri Lanka, Indonesia and Philippines, and argues that such state policies either emerge from diplomatic negotiations with destination countries around better working conditions and migrant rights, or emerges from a paternalistic position whereby traditional gender norms reflect forced immobility among women. While the former has relevance in bargaining better employment benefits for the workers, even such a stance has had unintended consequences on migrant wellbeing, as mentioned above. Akin to banning female mobility in different forms, Nepal has also placed blanket bans (irrespective of gender) on specific migration corridors from time to time. One recent example of this is the Nepal-Malaysia ban that lasted over one year (2018-19). The ban was put in place for all Nepalese willing to migrate to Malaysia for employment, as the Nepal government suspected "foul play"[129] on the Malaysian side. It accused Malaysia of allowing a handful of private companies to form a syndicate and charge high processing fee from Nepali workers.

For the purpose of this dissertation, it is important to note that restricting or preventing migration of vulnerable population, is indicative of state's "essential dilemma" (Tigno 2014), discussed at length in chapter 3. The dilemma of the state with regards to commodification of migrant labour as a result of its interests in promoting and facilitating mobility across borders, and migrant welfare and protection of workers, is palpable in Nepal. The case at hand is banning of female labour migration and mobility (irrespective of genders) in specific corridors. Secondly, such initiatives are also indicative of state's inability to fully observe or control malpractices in organization of migration, and as a way of blame avoidance and distribution of migrant accountability, something that emerges as a significant finding in my dissertation. In the context of sending-state's limitations in its sovereign capacity to monitor malpractices in migration or its inability to identify or punish those accountable, the state finds its convenient to diffuse migrant's responsibility to a number of non-state actors including NGOs, recruitment agencies, and even to migrants and their households (as is apparent in the case of female migrants being asked to present permission letters from their families). In line with such findings, scholars have recently noticed how, under the current regime of migration management, sending-states tend to engage in migrant 'self-regulation' (Chang 2018) and expect the workers to protect themselves from potentially exploitative situations. NGO's and religious groups have similarly taken up a significant portion of migrant social protection in the absence of state-instituted welfare provisions (Gray and Levitt 2022; Levitt 2022). While appearing at first to contradict the key argument of the thesis, these findings around forced immobility complement the recent developments around management of migration captured in the study.

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[129] https://www.malaymail.com/news/malaysia/2018/07/28/minister-urges-nepal-to-reconsider-migrant-worker-ban/1656975

3. Establishing "market-free" migration corridors: Example of South Korea, Israel and Japan

While the dissertation points to the reliance of the Nepalese state on the recruitment industry to organize labour migration, the last few years have shown instances of the state opting for 'market-free' channels of emigration. Largely in response to malpractices observed among 'unscrupulous' agents and the recruitment industry which "turns people into profits"[130], the state has attempted to monopolize organization of migration in certain corridors. Consequently, it has signed government-to-government (or 'G2G') agreements with South Korea (2007), Japan (2019) and Israel (2020). Such a modality attempts to coordinate shortlisting, skilling, language training, recruitment, placement and timely return of migrant workers between the governments of both sending and receiving-countries, without involving the private recruitment industry. Interviews with government officials in Nepal points to how such agreements are aimed at eliminating reliance on profit-making actors in order to sustain labour migration and make migration safer for the workers. Such attempts have uncanny resemblance to the erstwhile guest worker progarmmes (see chapter 2), in a way that the state seeks to monopolize organization and governance of labour migration on the pretext of migrant welfare, demonizes intermediaries and seeks to eliminate them (McKeown 2012). As a result, it engages in what can be called an allocation and placement of migrant labour across borders without market interventions. However, such channels of migration have been unsuccessful on more than one account, as I discuss in this section.

Image 19: Despite monopolizing organization of labour migration, the state has been unsuccessful in preventing migrant abuse.

Not unlike the guest worker programmes, the state has been ineffective in completely eliminating the recruitment industry in these specific corridors, despite the intent, and the institutional framework to implement such an idea. Take for example the Nepal-Israel G2G corridor. The agreement was signed between the countries in 2020 to facilitate the migration of caregivers from Nepal,

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[130] https://www.amnesty.org/en/documents/asa31/6206/2017/en/

primarily to work in geriatric homes and care centres. In this corridor, migration brokers or intermediaries have worked under legislative shadows, continued to act as a bridge between the state and the migrants, and provided the migrants with key information about access to jobs, sometimes in collusion with local bureaucrats (see image 19). The migrant workers still seek the services of trusted local agents to understand the prospects of foreign employment and get guidance on the migratory process, and the state has been unsuccessful in fully eliminating their role. Furthermore, as they are not formally recognized in this specific corridor, the workers who used their services, cannot claim for compensation or report abuse/malpractice, as there is no proof of transaction with these brokers and the government would blame the worker for involving brokers in a G2G corridor.

ASIA

Migrant workers exploited

Intimidation, deception, forced labor - a new report by Amnesty International finds that South Korea's Employment Permit System is contributing to the abuse of migrant agricultural workers.

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"At the vegetable farm, I regularly worked from six am to midnight with only an hour lunch break. The employer got angry anytime we took a break to stretch our body [...] When I complained to the job center, the caseworker just called my boss and accepted at face value the promise he made to her. She did not follow up, so nothing changed." These are the words of CF, a Cambodian migrant laborer in South Korea, speaking to Amnesty International (AI) in Gyeonggi Province in February 2013.

Image 20: The Nepal-South Korea corridor is considered a "successful" example G2G corridor in Nepal. However, it has not been able to fully prevent exploitation of migrants, which has been a key motivation of excluding private actors from the process.

Similarly, monopolizing organization of migration, does not eliminate the possibility of migrant abuse and discrimination, a rationale that has been the key driver of establishing G2G corridors. For example, Nepal signed its G2G agreement very early on with South Korea under the Employment Permit System (EPS). South Korea, akin to Japan, has had an uncomfortable relationship with labour migrants. Given the shortages of labour in its country due to ageing and declining population, and its outright preference for ethnic and social homogeneity, South Korea and Japan have been reluctantly allowing labour migrants in industries that are largely rejected by the citizens of these countries (Surak 2013; Tseng and Wang 2013). As a result, South Korea has signed labour agreements with around 15 countries, including Nepal. The agreement clearly seeks to replace private recruitment industry and tasks the government of the sending-country to coordinate recruitment and facilitation of migration of selected workers. The selected workers, with no necessary skill requirements, are permitted to work for about three years in labour-intensive industries such as manufacturing, construction, fish-breeding, agriculture or livestock-breeding. But, as civil society organizations and migrant rights groups have highlighted, Korean EPS system has shown examples of migrant rights abuse on numerous occasions. It has been documented how employers frequently confiscate passports and other

documents of migrant workers, and pay them remunerations below the prescribed minimum wages[131]. Akin to guest workers programmes that tied workers to their employers, workers in EPS find it difficult to report abuse or seek redressal[132]. Nepali workers also continue to pay heavy recruitment fees to the government for processing the documentation and facilitating deployment, contradicting Nepal's own "zero-cost" and "employer pays" policy. Researchers have also documented rising number of suicidal deaths[133] among Nepalese migrant workers in South Korea (Atteraya, Ebrahim, and Gnawali 2021). Responding to such events in G2G corridors, Nepali recruiters point to how a significant part of their brokerage business is to address and settle the grievances of the migrant workers. They claim that in state-operated migration corridors, there is no point-of-contact for these workers and they find themselves in highly isolated environments. As has been discussed at length in chapter 6, it is in the commercial interest of the brokers to respond to the needs of both employers and workers, and while their pursuits of profit may cause vulnerability among migrants, migrants continue to rely on them in destination country to navigate the foreign, and often exploitative labour market. Eliminating market from the organization of migration, has thus not necessarily worked in the favour of migrant workers.

Even strictly from the point of view of efficiency, state-to-state channelling of labour migration has not created substantial migrant deployments. An interesting case at hand is the Nepal-Japan migration corridor. The G2G agreement was signed in 2019 under the Specified Skilled Workers Program (SSWP), which allowed migrant-sending countries like Nepal to send workers to Japan in select labour-intensive industries. The first one to be explored was the caregiving sector. Under this scheme, Nepali workers could work in Japan as caregivers for up to 5 years and could also change their employer within the same sector. As per the agreement, Nepal's Department of Foreign Employment (DoFE) would establish a 'Japan Unit' to advertise vacancies in Japan, conduct or coordinate language and skill test in cooperation with the Japanese side, and facilitate migration of selected workers, completely eliminating market actors in the process. The skill test has two components: test of caregiving/nursing skills and test of Japanese language pertaining to the caregiving sector. Aspirant migrants who clear these two examinations, are qualified for work under SSWP and as per the agreement, they would immediately be deployed to a suitable employer in Japan. However, the reality has been quite different in Nepal.

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[131] https://madenetwork.org/sites/default/files/Policy-Brief-Human-Rights-in-G2G-Agreements.pdf

[132] https://apmigration.ilo.org/resources/south-korea2019s-employment-permit-system-a-successful-government-to-government-model

[133] The case of Keshav Shreshta, a young Nepali worker in South Korea, came to the fore in 2017 as his suicide note read "*Hello, everyone. I am saying goodbye to the world today. I've had health problems and I can't sleep. I've been receiving treatment, but it hasn't gotten better. This time has been so difficult for me, and today I decide to leave this world. I've had to deal with stress at work and want to go to another factory, but to no avail. Even though I've tried to go to Nepal for treatment, I haven't been able to do so because the company did not allow me*". See http://english.hani.co.kr/arti/english_edition/e_international/806571.html

In response to the Nepal-Japan caregiving agreement signed in 2019, a number of caregiving and nurse training institutes rapidly sprouted in Nepal. This was in addition to an already expansive market of Japanese language institutes, which played an important role in sending Nepalese migrant workers to Japan as international students[134], explaining why a significant portion of Nepali migrants in Japan are 'students'. These language and skill training institutes soon began preparing a huge pool of Nepali workers eligible to migrate as potential caregivers to the ageing Japan.

Image 21-22: Scenes from a Japanese language institute in Kathmandu. 20-01-2020, Kathmandu.

However, despite the quick reaction of this particular market that trained potential workers in Nepal in anticipation of demand, the ambiguous modality of SSWP and the absence of recruitment agencies in this specific channel, left thousands of young Nepali migrants trained and prepared, but unable to migrate. A Nepali recruiter who has lived and worked in Japan for several years before starting a recruitment business in Nepal says:

> You know I have gone to many Japanese language classes...I have seen how so many people are interested in taking these classes. Why? They read in newspapers and internet and Facebook that 'Japan is now taking SSW(P) workers', 'it's like Korea..it's free', 'Japan is a new market'. Government is advertising it so much! So, these people (aspirants) are very eager. All the rumours… and this kind of thing is making them take

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[134] Interview with Sita (11-02-20), Principal and founder of a leading Japanese language institute, shows how she has been recruiting Nepali migrants as students and sending them to Japan with study visa. Once in Japan, these young Nepali migrants enter the labour market by taking part-time jobs (Sita has collaborations with newspaper companies that need part-time workers to distribute newspaper in the wee hours of the day and manufacturing companies that need migrants to load and unload goods from vehicles). Sita's husband operates a recruitment business in Nepal and she often sends her students through his recruitment agency, if the migrant is going as an intern to Japan.

language classes and training. Suddenly so many of them are taking these training. But for what? How many are placed in jobs? Nothing! (27-02-20, Kathmandu).

As a result, young Nepali migrants who were trained (skill and language) for caregiving work in Japan, stayed in prolonged periods of waiting[135], mostly because of lack of information on demand, and later also because of the pandemic. Such prolonged periods of immobility and waiting tend to be intertwined with the experience of migration itself. As Tirtha, a young Nepali entrepreneur working at a Japanese language institute in Kathmandu, says "it's (Nepal-Japan corridor) not working very well. Because the process is not clear! And it gets frustrating because many of our students clear the exam and what after that? We don't know...the government doesn't say. Even the passed (qualified) students are confused...they are waiting to hear about a vacancy and get selected. So once the candidate clears all exams, he or she has to apply for a position and see if he/she is called for an interview. But they don't hear about vacancy. We have many students who passed all exams but still haven't had a single interview" (24-02-20, Kathmandu).

So, what was the problem? Through labour diplomacy, Nepal and Japan aligned their interests in organizing and governing labour migration of workers with specific skills such as caregiving. Institutional framework within which such an exchange and allocation of labour was to take place, has also been formalized. There continues to be a high demand for caregivers in Japan and there are thousands of qualified migrants for such positions in Nepal. So, why were the migrants put on wait[136] and why is it that the deployment was not successful? Reflecting on this, Tadashi, a Nepali recruiter working within the Japanese corridor says:

The problem is that the Nepal government is only looking at the side of the ..thinking only of the workers...about how to make them safe. But they make no effort in understanding the policy of the other country...of the receiving country who gives us demand. Without understanding their system..how will it work? They (Nepal) convinced them (Japan) to sign the G2G. But Japanese policy...their work is not like this. They do business private (business) to private (business). Japan will never follow our system.

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[135] I contacted one such qualified caregiver in waiting through Facebook, but he was reluctant to speak about his situation. Many young Nepali workers prepared for caregiving seemed desperate and angry that despite being qualified, they could not migrate to Japan.

[136] Scholars have reflected on the idea of waiting among workers in a fascinating way. For example, in the context of informal sector in India, Breman (1996, 2020) speaks of 'footloose' workers, or workers who are always on transit, moving from one job assignment to another. Throwing light on flexibilization and casualization of work that forces workers to be footloose, Breman points out how the global capitalist regime uproots workers and keeps them mobile, never allowing them to fully settle down. Similarly, Xiang (2004) describes the Indian IT workers being 'put on the bench' and kept waiting indefinitely for suitable allocation of jobs. 'Benching' of workers happens either before a new job or during periods of unemployment, during which time they are forced to take up a number of unskilled, lowly paid assignments to survive the wait. Similarly, Gidwani and Maringanti (2016) speak of 'floating workers' as ones who experience episodic unemployment as a result of casualization of employment relationships and how these workers are neither fully included nor completely expelled from the reserve army of labour but are rather caught up in a "spatio-temporal flux in and tenuousness of the capital's embrace" (Gidwani and Maringanti 2016: 121). More recently, looking at the social meanings of waiting among Nepali migrant workers, I have noted elsewhere that waiting has become an integral part of mediated labour migration (A.S. Forthcoming).

> There are so many people from so many countries who are interested in working with
> Japan...they have options. (27-02-20, Kathmandu)

Similar concerns are often raised in the market, that the government of Nepal initiates labour diplomacy and drafts agreements without considering the market practices of the destination country. Most cited examples include acceptable recruitment fees in different destination countries and use of chains of intermediaries in communicating and approaching a job offer. In the context of Japan, recruiters claim that the government is unaware of migrant recruitment practices in Japan, which has been operating extensively without the involvement of the government for decades. Migrant networks, language and training institutes have had a "system" which had placed Nepali migrants in the labour market of Japan. But with the recent G2G initiatives, recruiters claim that the state is imposing a system that is foreign to the Japanese recruiters and employers. Additionally, there continues to be a gap in information that the state is unable to bridge. Speaking about such a gap, Tadashi explains that having a 'Japan unit' at the DOFE is not enough and Nepal needs market actors to "grab demand". He says:

> But they don't understand that...who will give demand to that (Japan) unit? Demand is
> not given to you..it is to be caught...grabbed. It is not spoon-fed to you. (In the context
> of Korea is being used as an example of successful G2G channel)..Korea already has a
> quota for Nepal (7000 Nepali worker in a year, as of 2019). So, if so and so company
> needs workers, it has a quota for Nepal. It will then inform EPS unit that it needs
> workers. They will then be screened and sent. But in Japan, there is no quota (provided
> to Nepal). It is up to the agencies...up to us..to go there (Japan) and do good marketing
> and get the demand. The onus of getting the demand in on agencies...to go, and find and
> convince them to offer the...the demand. That is the thing! When the government
> realizes that it cannot keep us away, this market will work. Otherwise, it's a waste of
> opportunity for everyone. (27-02-20, Kathmandu)

The Memorandum of Understanding clearly states the intent of "elimination of malicious intermediary organizations", without fully clarifying the modality of recruitment and placement. This has left a lot of ambiguity regarding who will procure demand for Nepalese workers (Japan is also recruiting caregivers under SSWP from other Asian countries such as Vietnam, Myanmar, Indonesia etc.) from the employers, and how will it be matched with the available workforce. Recruiters in Nepal claim that it is the Nepalese state which has insisted on making the corridor 'market-free' and that Japan has no interest in eliminating the private recruitment industry. The representatives of the government also confirmed that it is Nepal who proposed making the corridor G2G and that the Japanese side has been 'convinced' of the malpractices of intermediary agents and firms. In response, and angered by the inability to make use of a potentially lucrative

labour market, the association of recruitment agencies NAFEA has been putting pressure on the government to allow the private sector to take over the organization. On the other hand, few recruitment agencies with an existing JITCO license[137] have formed an unofficial alliance (who have established networks and work experience in the Japanese corridor) called the Japan Employment Coordination Council (JECC)[138]. Registered as a 'non-governmental organization', the alliance aims to bring together recruiters in the Japanese corridor under one umbrella organization and convince the government on both sides to allow them to coordinate SSWP. So far, the alliance is considered illegitimate. However, recruiters such as Tadashi whom I interviewed and are part of this alliance, claim that they are on the verge of convincing the Nepalese government concerning their role in the corridor.

For the purpose of this postscript, it is important here to acknowledge these findings around "market-free" corridors, that seemingly contradict the key argument concerning state's dependence on private recruitment industry. However, upon closer inspection, these findings are indicative of state's sovereign limitations in penetrating the labour market of destination countries and procuring demand for its workers, in a way that market actors can. It, therefore, aligns with the premises of this thesis concerning the role of the recruiters in coordination of labour migration (see chapter 6) and their ability to "fetch demand" for Nepalese, even by taking extra-legal measures. Despite the state's limitations in sustaining mobility without the intermediation of brokers, it is still important take a note of these emerging findings as it points to state's interest in balancing commodification of migrant labour with protectionism.

4. Illegality and de-contraction of the market: Case of the Pandemic

The Covid-19 crisis caused a range of socio-economic disruptions around the world. More specifically, the global migration context changed dramatically since the beginning of 2020. Both within and between countries, there has been a substantial curtailment in movement. Commercial flights stopped their operations and immobility became a norm to prevent the spread of infections. Many migrants were stranded abroad and many were repatriated, or had returned involuntarily, disturbing their acclimatized rhythm of circular migration. Remittances were badly affected; many employment contracts became meaningless and a significant number of migrants lost their existing jobs. The ones who managed to retain their jobs faced many hardships including non- or- delayed payment of wages, accommodation in crowded dormitories

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[137] JITCO or the Japan International Trainee Cooperation Organization- a semi-governmental organization- has been taking unskilled migrant workers from labour-exportingcountries as "interns" under its Technical Intern Training Program (TITP). Such a programme, since the early 1990's, has helped Japan meet its labour requirements without granting employment benefits to migrant workers and regulate temporary labour migration of workers. In Nepal, there are about 206 recruitment agencies that have JITCO licence (renewed annually) who are eligible to send Nepalese as interns in select industries for the JITCO. In terms of numbers, such a channel does not amount to a significant scale of labour migration. As such, the SSWP emerged as a hope for recruiters working in the japan corridor.

[138] https://kathmandupost.com/national/2020/08/21/recruitment-agencies-fight-among-themselves-over-japan-employment

increasing their risk of viral infection, unpaid leaves and a general lack of access to social security cover including access to proper healthcare services.
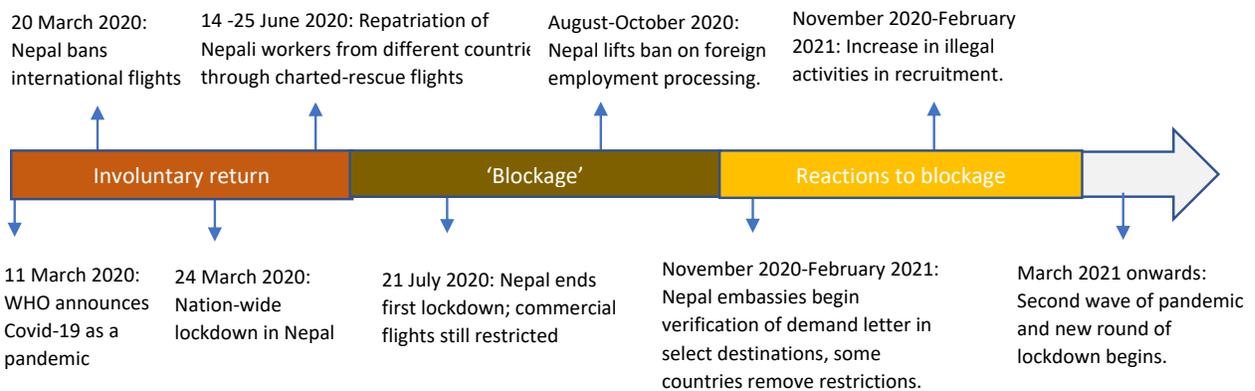

Figure 9: Timeline of first extended lockdown (March 2020-March 2021) in Nepal.

Due to the precarious conditions and loss of jobs in destination countries, a huge wave of return migration was witnessed in several labour-sending countries. Scholars have referred to this sudden wave of mobility caused by fear and panic as 'shock mobility'- an exodus of migrants moving from one place to another in a state of distress (Xiang 2021[139]). In the case of Nepal, the apex body created to cope with the pandemic-COVID-19 Crisis Management Centre (CCMC)- estimated that around 1.3 million Nepali workers wanted to return to Nepal from several destination countries during the first few months after WHO's declaration of Covid-19 as a pandemic. Additionally, pressures from destination countries to 'take back migrant workers' (such as in the case of the UAE) where the government threatened to re-evaluate and suspend existing bilateral labour agreements with countries of origin that do not repatriate their workers[140], further pushed the government of Nepal to repatriate[141] its workers.

4.1. Crisis as experienced by the brokers

During this post-exodus period of desperation and distress, around 85% of agencies had fully stopped functioning and only the remaining few were in a position to sustain some operations (ILO 2021). Between November 2020 and February 2021, many destination countries, especially in the Gulf region, slowly opened their doors to foreign workers. This, and in response to criticism from recruitment agencies in Nepal concerning 'blockage' (see next section) in migration bureaucracy as caused by Nepali embassies in destination countries, the embassies gradually began resuming verification and attestation of demand letters

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[139] https://www.eth.mpg.de/molab-inventory/shock-immobilities/shock-mobility
[140] https://timesofindia.indiatimes.com/world/middle-east/uae-to-take-action-against-nations-refusing-repatriation-of-migrant-workers-report/articleshow/75114063.cms
[141] Despite this, only a fraction of the migrant workers could actually be repatriated. The structural limitations of the government of Nepal in carrying out mass repatriation including quarantine capacity and arrangement of flights resulted civil society criticism of government initiatives. See https://kathmandupost.com/national/2020/08/16/government-plan-to-repatriate-only-500-migrant-workers-a-day-comes-under-fire

in November 2020[142]. During this phase of the crisis, recruitment of migrant workers resumed to some extent and according to the data produced by Department of Foreign Employment (DOFE), around 14,753 migrants received labour approvals between December 2020-January 2021, with workers going mainly to the UAE (4,772), Qatar (3,882) and Saudi Arabia (3,763)[143]. This is also the time when the government experimented with an online labour permit renewal system to ease the burden on embassies and foreign employment departments[144]. However, my interviews with recruiters during this phase suggests that this platform broke down on a number of occasions and was inefficient in practice. Between November 2020 and February 2021, the recruitment agencies that survived and could get demand were able to send workers to Gulf countries, but Malaysia remained closed for business indefinitely. As opposed to complete halt in their business till October 2020, some agencies picked up business to survive in the market (ILO 2021). But, there were still some institutional hurdles that prevented recruiters from fully operating their business. The ILO report (2021) shows that many agencies could not deploy workers despite getting their labour permits issued and many workers could only finish their recruitment procedures partially, resulting in a loss of investment of time and capital. Many agencies reported a high demand[145] for Nepali workers but their inability to capitalise on it due to government restrictions and travel-related uncertainties that caused distress among the market actors. According to the general secretary of the Nepal Association of Foreign Employment Agencies, the losses of the recruitment industry had 'run into billions'[146]. Recruitment agencies in Nepal complained about government's apathy towards foreign employment sector and businesses. Many agencies on the verge of collapsing demanded that the government liquidates the security deposit and makes it flexible for the agency to use it to survive[147] in the business. They had also requested the government to scrap the 100-person annual deployment rule, according to which the agencies that could not deploy a minimum of 100 workers in a year, would face suspension of their licenses[148]. This was temporarily addressed by government by relaxing the deployment rule during the pandemic.

4.2. 'Blockage' in migration bureaucracy

The experience of the pandemic was different for different recruiters, depending on their size of business. On one extreme were the small recruitment agencies that were on the verge of collapsing and shutting down their businesses, some of whom locked down their offices for several months and dismissed their employees

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[142] A) https://kathmandupost.com/national/2020/11/06/nepali-missions-abroad-yet-to-verify-demand-for-workers
b) https://www.business-humanrights.org/it/latest-news/nepali-mission-in-qatar-resumes-verifying-workers-demand-letters-paving-way-for-recruitment-to-restart/
[143] https://www.nepalitimes.com/latest/the-long-wait-before-flight/
[144] https://thehimalayantimes.com/kathmandu/online-labour-permit-renewal-on-cards
[145] https://apmigration.ilo.org/news/demands-for-thousands-of-nepali-workers-start-pouring-in-from-saudi-arabia
[146] https://kathmandupost.com/national/2021/06/21/pandemic-battered-foreign-recruitment-industry-seeks-government-support
[147] https://www.nepalitimes.com/opinion/brokers-going-for-broke/
[148] https://kathmandupost.com/national/2021/06/10/foreign-job-recruiting-agencies-renew-call-for-removal-of-law-they-deem-discriminatory

or delayed their wages. On the other end of the spectrum were the elite recruitment agencies whose active deployment-related activities were halted, but had enough capital to provide generous donations to the government of Nepal and its embassies abroad towards the welfare of stranded workers (see chapter 6). Between these two extremes were a large number of recruitment agencies that were merely surviving and 'laying low'. Across this spectrum however, recruiters perceived the crisis as 'blockage' that needs to be worked on. The recruiters believed that there was no dearth of demand and no shortage of supply. What was in fact stalled was the migration bureaucracy and the formal channel of recruitment, due to which the market had come to a standstill. They repeatedly used the metaphor of blocked pipes to make sense of this experience. As Bibek, providing updates on the impact of the pandemic on the market in a virtual interview, says:

> "There has been such scarcity of (migrant) workers in Malaysia. *Mama ji* (uncle) was in touch with the companies as usual and he knows that there is a lot of demand. It's just that the demand was not able to reach us...like a blockage in the pipe. If the blockage is removed, there will be a big flow of demand and we can make up (for our losses)"
> (04-01-21, Online)

Blockage in this context is referred to the general inability of brokers to function as they used to and supply workers abroad, despite there being a heavy demand for migrant workers. Recruiters in this phase of the crisis believed that with upcoming international events such as the Qatar word cup and Dubai Expo, there was an ongoing demand for migrant workers and Nepali workers stood a high chance in obtaining these employment opportunities. However, due to Covid-induced restrictions pertaining to immigration and mobility, these opportunities could not be utilised. The metaphor of 'blockage' used by recruiters to define their experience of the crisis, meant on the one hand these general restrictions that had stalled their businesses. On the other hand, they also referred to 'blockage' as specific nodes of inactivity in the formal recruitment process.

Coping with the 'blockage'

In the context of such prolonged immobility, Nepalese recruitment agencies devised certain ways of coping with the perceived blockage in migration bureaucracy. As observed elsewhere (Tran and Sandhya Forthcoming), the recruiters used promises to employers as a means to accumulate demand for Nepali workers during the pandemic, and used the time of inactivity to secure employment contracts for Nepali workers in the near future. Although much of this involved illegal practices such as confiscation of passports of the migrant workers till they could be deployed, these were still legitimized by the market actors and considered necessary to control the movement of migrant workers till they could be deployed formally. Such a strategy of coping with the blockage was contained well within the existing culture of informality

that defines this market (see chapter 5). Seeing these practices as necessary steps to surviving the crisis, many recruiters in Nepal used 'collection' of demand and creating a reservoir of workers as ways to work *around* the blockage.

As opposed to this, a handful of recruitment agencies also came to challenge the blockage. Recruiters who held significant market share in deployments, were elite and established firms in Nepal with high level of political connections and were, given their market position, able to take more risks, decided to grab the market prospects materializing during the crisis period. Instead of 'waiting it out' and postponing deployment like their counterparts, they pushed the limits of socially approved market behaviour and initiated the recruitment process without formal approval. A relevant example of this is the case of the Qatar Police recruitment. Four reputed and old recruitment agencies in Nepal accessed their existing contacts in Qatar to acquire a huge, enviable size of demand for security personnel for the World Cup 2022. Given that the recruited workers were to be trained thoroughly for the global event and the process of recruitment and training would take a long time, the employer group in Qatar desired a quick recruitment from Nepal. Given the travel restrictions and general delay in all bureaucratic processes, the recruitment agencies decided to recruit Nepali workers completely outside of the formal channel. In November 2020, they began interviewing for the positions in Kathmandu even though it was, at that time, illegal for the recruitment agencies to begin recruitment processes without demand verification by the embassy and authorization by the DOFE. Apart from this, other legal requirements of 'proper' recruitment including advertising the vacancy on newspaper before carrying out the interviews or sending a copy of the selected workers' personnel information to the DOFE, were also ignored by the concerned recruitment agencies[149]. These four agencies, according to the other market actors, were hoping to create a syndicate of recruiters which could monopolise this particular corridor of migrant mobility. Similarly, many other recruitment agencies during the crisis, pushed the legal limits of socially approved market behaviour which further led to increased sense of uncertainty in the market. Some other recruitment agencies ventured into the legal grey zone by trying to send workers on 'visiting visa' instead of 'employment visa', as the latter was prohibited during the crisis. Many others excessively charged the migrant workers and sent them through India to evade Nepalese regulations. The association of recruitment agencies also condemned such behaviour on commercial and moral grounds[150] and even though informality is deeply entrenched in the market culture, recruitment and

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[149] One of the agencies involved was interviewed by the author during her fieldwork in early 2020 and the agency, that had recently celebrated its 30-year anniversary, took pride in its ability to help migrant workers get employment, even if that meant 'bending the rules' once in a while. One of the partners of the agency also told the author that they have gone out of their way to help workers such as by sending charter flights for their rescue during a political crisis in Libya and during the pandemic and this, in the context of the a 'weak and inefficient' Nepali state, justified their legally compromised activities.

[150] The Qatar Police recruitment was challenged by the other market actors, not on the grounds of morally or ethics, but on the grounds of market share. It was argued by some recruitment agencies that the concerned four recruitment agencies were trying to form a 'syndicate' and monopolise the deployment of security personnel to Qatar, which they presume would last beyond the World Cup 2020 . One of my interviewees, managing director of the 'top' ethical recruitment agency in Nepal, confirmed that he

deployment without formal approval was not legitimized by fellow market actors, creating an array of conflicting moralities and questioning of 'appropriate' market behaviour. The state also responded stringently, conducting elaborate and rather performative sting operations to prosecute the concerned recruitment agencies. This, along with the financial insecurity, prolonged stalling of market activities and prevailing immobility, created a general sense of unease and uncertainty in the recruitment industry, as is discussed further in the following section.

4.3. Disordering and market-(un)making

The pandemic brought with it a range of disruptions in the exchange relations, mutual expectations, as well as uncertainty about market identity, appropriateness of market behaviour, and unpredictability of future in the business. These disruptions caused *dis*ordering in the market, creating a general sense of insecurity and chaos that led many recruiters to shut down their work, diversify to other domestic businesses or 'lay low' and merely survive. What does such a blow to a relatively stable market interaction mean from the perspective of market-making? This last section discusses how rupture in market culture can potentially de-contract a market and push the actors to reorient themselves to the new changes, and how certain markets are more prone to inconsistent market organization that some others.

Organization of a market typically proceeds progressively from the stage of disorder to order, often hand-in-hand with state interventions and market regulation (Fligstein 1996a; Polanyi 1957). The recruitment industry in Nepal had a similar fashioning- from an unregulated and fragmented terrain with a number of entrepreneurs capitalizing on the existing demand for migrants and using their knowledge of migration and transnational connections to facilitate mobility of Nepali workers, to a relatively condensed set of market interactions by licensed recruiters aiding the state's developmental projects (see chapter 3 and 4). The distinct culture of the market also appeared in response to state regulations and certain "ways of doing things" specific to its context. In fact, market culture does not appear in a completely disaggregated market and only appears in markets are that already "settled" (Levin 2008). Here settling refers to a particular stage of market organization whereby the actors have already oriented themselves and market-making has advanced to a stage in which actions 'make sense' to fellow actors.

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got information from his sources about this syndicate formation for the Qatar corridor and he tipped off the ILO's Nepal branch and DOFE and the Nepal police, who then conducted a sting operation based on this information. While the reasons for tipping off is claimed to be on the grounds of ethics of fair recruitment, the prospects of this top recruitment agency gaining the demand share in the Qatar corridor once the syndicate is suspended is also highly plausible. As Bibek, who runs a small RA in Kathmandu said, "the 'huge' demand from Qatar Police is not going to trickle down to smaller agencies like us. Once the syndicate-forming four agencies are suspended, the demand will automatically go to the top recruitment agencies...we cannot imagine it coming to us" (04-01-21, Online).
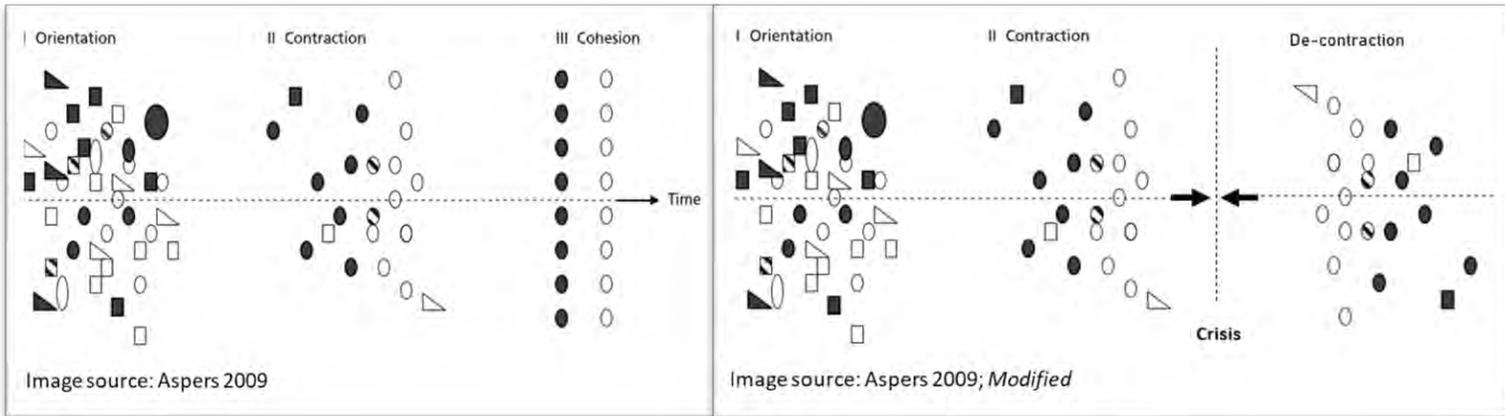
Figure 10: Stages of market-making (Aspers 2009) and crisis de-contracting the market (Modified by self)

A culture of the market then appears in the stage of relative 'stability' (Fligstein 1996a) or what Aspers (2009; 2011) calls 'contraction'. Aspers (Ibid.) argues that market culture cannot appear in the first stage of market-making, as actors in the stage of orientation (or 'emergence' in Fligstein 1996b) are still figuring out their identities, interests and 'what the market is about' (Ibid.: 156). On the other hand, in the second stage of market-making or 'contraction' (see figure 12), markets begin to develop a culture of their own, in that the actors get familiar with their identities and interests, have some idea of what to and what not to expect from other actors and *realise the extent of their actions*. At this stage then, the market actors understand through socialization (in spontaneous markets) and indoctrination (organized markets) what can- and cannot- be done in the market (Ibid.: 154-156).

If an internal or external event affects the market, the actors use the existing culture to frame the event and decide the course of action (Martin 2006). And in case the crisis is strong enough to disrupt the market, as appears in the case of Nepal during the pandemic, the market actors tend to go back to the previous stage of market-making to reorient themselves to the new changes, something that may take a few weeks to months depending on the nature of the crisis and the actors' responses to it. While Aspers (2011) cursorily remarks that in the case of a crisis, a market could to go back from cohesion (3rd stage) to the stage of contraction (2nd stage), it appears that market-making, does not have to operate in a linear fashion. The evidence concerning market disruptions in Nepalese recruitment industry suggests that, in the case of a crisis, a market may very well go back to its previous stage. In the recruitment industry in Nepal, such a series of events have caused the market to de-contract. De-contraction here implies that the market identity created and solidified over the years got diluted or contested, and the market roles got murkier. Similarly, the legal and social extent of market actions got pushed to its limits and challenged, creating plethora of interactions that were not be legitimized by the fellow actors, or tolerate by the state. Mutual expectations and the general 'how to' of the market also got destabilized and the market actors found themselves in a position of unpredictability about their future in business. In this particular transnational labour market, the cross-border

networks formed with employers and other intermediaries are crucial in maintaining labour outflow. However, with the interruptions in market activities, such social ties also got affected. The range of emotions expressed by the recruiters- from fear of prolonged immobility, to anxiety and hopelessness about their future in the business- speaks of the immense instability experienced by these actors during the crisis. Such series of events have caused reorientation of actors to new, emerging realities and changes, making us rethink our perceptions of market organization.

5. Conclusion

This postscript attempted to capture the dynamism of migrant labour brokerage in Nepal. As social scientists, it may be challenging to come to terms with constant changes in the subject of research but it is rewarding to inspect it longitudinally to understand the relevance of changing contexts and emergent practices. While the main propositions of the dissertation appear to be challenged by the aforementioned findings, it does not contradict the underlying arguments. For example, banning of labour migration at the cost of impeding remittances, continues to hold ground from the perspective of state's "essential dilemma" (Tigno 2014) concerning commercialization of migrant labour and their decommercialization to prevent damage beyond repair and sustain social reproduction. Similarly, while the illegal market practices discussed here superficially contradicts the assertion that recruiters require political legitimacy to sustain their market identity, the absence of social acceptance for these practices among fellow market actors or the intolerance by local bureaucrats, points to the continued relevance of political legitimacy and proximity to legislative framework for migrant brokerage business in Nepal. The discontinuities and disjunctures discussed in this postscript, thus, complement the main arguments of the thesis, and offers a prelude to furthering our understanding of brokerage, markets and migration.

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Appendix A

Skeletal interview guide for semi-structured interviews

Consent for interview and name of the interviewee
Work profile of the interviewee: Tell me something about your work. What is it that you do?
• How did you get into this work (past work experience, chance and why this business?)
• Is there anyone else in your family who does this work? Do you work together?
• **Structure of the company**: What are the services that are offered by the company?
• Are there partners involved in the company? Tell me more about it.
• **Change in market**: how was it before, how is it now?
• **Process of recruitment**: Take me through the exact process of recruitment. How does it all work?
• How do you know about the vacancies in the destinations country and what do you do next?
• Do you have some connections in these countries that help you get information on vacancies? Do you take tours? Do you have tie-ups with placement agencies there?
Relationship with migrants
• How do you meet the migrants?
• What are their qualifications and what work do they come for
• How long is their contract usually
• Do they come back? Do they go back?
• Contracts (client and agency) and agreement (agency and worker)? Who signs these documents?
Corridors: Which countries do you send labour to? Why not other countries (name country, reason)
• How are they different from one another in terms of your work?
Relationship within the industry: What is your relationship with other agencies like?
• What do you have to say about reduction in registration of agencies and no new license rule?
• Do you feel there is much competition in this business?
• What about collaborations? What about Manpower bazar? How is it important in this business to stay close spatially?
• What do you have to say about mergers? Do you think they make sense? What are the prerequisites for mergers?
• How is your relationship with agents? How many do you have?
• Do you see them as a threat? What if they directly contact the employers in destination country?
• Any regular dealings with placement agencies in the other country? Why/why not?
• What is the scope of vertical mobility in this market? Agent-agency? Labour-supervisor?
Relationship with government:
• How familiar are you with government legislations on migration? How do you keep yourself updated?

• Different laws in different countries a problem?
• Do you have a lawyer? Why are they needed?
Uncertainties I (complaints): Do you receive complaints from clients and/or migrants?
• How do you handle these complaints and negotiate between the client and the migrant?
Uncertainties II (challenges): What are some of the challenges in this kind of work?
• What happens when the migrant does not get a job despite paying the fee?
• Is there any insurance provided?
• What happens when the recruit fails to reach, or leave work prematurely? How does it affect your work? Runaway cases?
• How is this controlled/managed?
• What about losses and bankruptcy? Does it happen in this business?
Overcoming uncertainty: What happens when something wrong/unplanned happens? What do you do?
Influence over migration/employment: do you have any role in signing of contract?
• Do you have any control over placement or contract period?
• Do you have any influence over working conditions?
• Do you have any influence over wages?
• Can you negotiate any other thing at the destination country?
• Is rescue of workers your responsibility? Why/why not?
General ending: What can the government do to help you and your business?
• Is this even a successful business?
• Do you plan to develop this work? What are your future plans to improve this business?
Further help: contact with agent(s) and permission to observe interview or meetings with client/migrants.

Appendix B

List of interviews, meetings and observations

S. No	Name (Pseudonymized where appropriate)	Date	Work profile	Affiliation (Pseudonymized where appropriate)	Country Focus	Documentation
1	Amir	9.12.19	Local agent (previously registered, now illegal)	Brij Mohan Overseas Pvt.ltd.	Local	Recording: Avlb. Transcript: Avlb.
2	Bibek and Kiran	10.12.19	RA, Senior Management	GHK International	Malaysia	Recording: Avlb. Transcript: Avlb.
3	Krishna	11.12.19	RA, Senior management	Milieu Recruitment Services	Saudi Arabia (with JITCO authorization)	Recording: Avlb. Transcript: Avlb.
4	Manish	17.12.19	RA, Senior management	Arora Consultant Human Resources Pvt. Ltd.	Gulf countries and Malaysia	Recording: Avlb. Transcript: Avlb.
5	Milan	17.12.19	RA, Senior management	Kathmandu International Manpower Pvt. Ltd.	Qatar	Recording: Avlb. Transcript: Avlb.
6	Jeeju	23.12.19	Employee	Benaam Medical Test centre	Mainly Malaysia	Recording: No Transcript: No
7	Laxmi	30.01.20	RA, Senior management	Vimal Recruiting Agency	Gulf countries	Recording: Avlb. Transcript: Avlb.
8	Sajith	30.01.20	RA, Senior management	Vimal Recruiting Agency	Gulf countries	Recording: Avlb. Transcript: Avlb.
9	Rajni	31.01.20	RA, Senior management	S.K. Orientation and Training Pvt. Limited	Gulf countries and Malaysia	Recording: Avlb. Transcript: No.
10	Udgam	03.02.20	RA, Senior management	Sri Krishna Manpower Services Pvt. Ltd.	Gulf countries and Malaysia	Recording: Avlb. Transcript: Avlb.
11	Abiral	14.02.20	RA, Senior management	The Champion Foreign Services	Gulf and Malaysia	Recording: Avlb. Transcript: Avlb.
12	Ahupathi	13.02.20	RA, Senior management	Al Mahadir Pvt. Lmt.	Malaysia and Saudi Arabia	Recording: Avlb. Transcript: Avlb.

13	Ballab	13.02.20	RA, Senior management	Abraham Foreign Employment Agency	Qatar, Saudi, Dubai and trying Malaysia	Recording: Avlb. Transcript: No
14	Ramlal	22.02.20	RA, Senior management	Srikamal Group of Companies	Gulf countries and Malaysia	Recording: Avlb. Transcript: Avlb.
15	Batsa and Lekha	25.02.20	RA, Senior management	Cosco Human Resources	Malaysia	Recording: Avlb. Transcript: Avlb.
16	Tadashi	27.02.20	Manager of one agency in Nepal and owner of another agency in japan	Nepal Job Explorers	Japan	Recording: Avlb. Transcript: Avlb.
17	Sejun	10.02.20	Tutor	JLCC branch office	Japan	Recording: Avlb. Transcript: Avlb.
18	Garvesh	11.02.20	Recruiter, owner of many training centres and consultancy in Nepal and convener of NRNA	Hiroshi Overseas, Non-resident Nepali Association (NRNA)	Japan	Recording: Avlb. Transcript: Avlb.
19	Sita	11.02.20	Principal	VPLL Japanese language and culture training centre	Japan	Recording: Avlb. Transcript: Avlb.
20	Taral	12.02.20	Executive officer and head of Nepal	Pearl Global Institute Pvt. Ltd.	Japan	Recording: Avlb. Transcript: Avlb.
21	Tirtha	24.02.20	Tutor and manager	Emiko International Academy	Japan	Recording: Avlb. Transcript: Avlb.
22	Gyanprakash	13.03.20	RA, Senior management	Global Nepal Recruitment Agency	Malaysia and Middle East	Recording: Avlb. Transcript: Avlb.
23	Bibek and Kiran	04.01.21 (Online interview)	Senior management	GHK International	Malaysia	Recording: Avlb. Transcript: Avlb.
24	Abiral	06.02.21 (Online interview	Senior management	The Champion Foreign Services	Gulf and Malaysia	Recording: Avlb. Transcript: Avlb.

		)				
25	Sajith	16.01.21 (Online interview)	Senior management	Vimal Recruiting Agency	Gulf countries	Recording: Avlb. Transcript: Avlb.
26	Batu	01.03.20	Returnee migrant and Aspirant	---	Gulf countries	Recording: Avlb. Transcript: Avlb.
27	Yatindra	14.03.20	Returnee migrant and Aspirant	---	Malaysia	Recording: Avlb. Transcript: Avlb.
28	Prapti	10.03.20	Female Aspirant	---	Dubai	Recording: No Transcript: Avlb.
29	Shom Luitel	15.12.19	Migration Law Expert, Lawyer and Activist	People Forum for Human Rights	Nepal and other corridors	Recording: Avlb. Transcript: Avlb.
30	Lorena Lando	27.01.20	Migration trends Development	Chief of Mission, IOM	Nepal	Recording: No (Technical problem in recording) Notes: Avlb.
31	Sita Ghimire	06.02.20	Civil society governance in migration	Team Leader, SaMi	Nepal	Recording: Avlb. Transcript: Avlb.
32	Bholanath Gurugai	17.02.20	Government and regulation	Director, DOFE	Nepal	Recording: Avlb. Transcript: Avlb.
33	Kumar Prasad Dahal	18.02.20	Government and regulation	Director general, DOFE	Nepal	Recording: Avlb. Transcript: Avlb.
34	IT personnel	18.02.20	,,	DOFE	Nepal	Recording: Avlb. Transcript: Avlb.
35	Rajan Prasad Shrestha	17.02.20	Government and regulation	Executive Director, FEB	Nepal	Recording: Avlb. Transcript: Avlb.
36	Deepak Dhakal	10.03.20	Government and regulation	Under-secretary, Ministry of Labour, Employment and Social Security	Nepal	Recording: Avlb. Transcript: Avlb.
37	Ram Chandra Bhusal	03.03.20	Transborder social and market actor	Director, JAAN-JICA	Nepal-Japan	Recording: Avlb. Transcript: Avlb.

38	Dr. Jeevan Baniya	05.03.20	Assistant Director and Researcher	CESLAM	Nepal	Recording: Avlb. Transcript: Avlb.
39	Dr. Nirmal Kumar Raut	24.10.20 (Online interview)	Assistant Professor	Tribhuvan University	Nepal	Recording: Avlb. Transcript: Avlb.
40	Shom Luitel	11.05.21 (Online interview)	Migration Law Expert, Lawyer and Activist	People Forum for Human Rights	Nepal and other corridors	Recording: Avlb. Transcript: Avlb.
41	Migrants in waiting *(observations)*	12.12.19, 20.01.20, and 15.02.20	Conversations and participant observations (waiting with them) in street corners of Kathmandu			Photographs: Avlb. Memo: Avlb.
42	F-Skills garment workers training session	05-01-20	Observation (non-participant) and conversations at training centre operated by civil society actors for prospective migrants.			Photographs: Avlb. Memo: Avlb.
43	Training session for security and food safety	18.02.20	Observation (non-participant) and conversations at training institute operated by Rivers recruitment agency.			Photographs: Avlb. Memo: Avlb.
44	Training session for Japanese language	03.02.20	Observation (non-participant) and conversations at Oxon Japanese language training institute.			Photographs: No Memo: Avlb.
45	Interview session for Malaysia	09.12.19	Observation (non-participant) and conversations at interview session conducted by JP Overseas			Photographs: Avlb. Memo: Avlb.
46	Interview session for Dubai	02.03.20	Observation (non-participant) and conversations at interview session conducted by Rivers recruitment agency.			Photographs: Avlb. Memo: Avlb.
47	Caregiving training	05.01.20	Observation (non-participant) and conversations at a care-giving training institute, emerged in response to Nepal-Japan agreement.			Photographs: Avlb. Memo: Avlb.
48	'Faces and bags'	01.03.20, 05.03.20	Observations (non-participant) at Tribhuvan International airport, note taking and photography of migrants arriving and being received by family and friends.			Photographs: Avlb. Memo: Avlb.

Appendix C

Interview consent form

An Economic-Sociological Study of Migration Market

Participant Consent Form

I.. voluntarily agree to participate in this research study. I understand that even if I agree to participate now, I can withdraw at any time or refuse to answer any question without any consequences of any kind and that I can withdraw permission to use data from my interview anytime till it is identifiable, in which case the material will be deleted. All information I provide will be treated confidentially and the data will be anonymised and will not be identifiable thereafter. I understand that data from my interview may be used in this scientific/academic research and in any other relevant and related scientific/academic research in the future and the disguised extracts from my interview may be quoted in the dissertation, in academic conference, papers or other scientific publication. I also understand that the data from my interview may be stored with some external research data archive for storage and documentation purposes only.

I am adequately informed about the research and I am also informed about the contents of this consent form orally. I have received a copy of this consent form for future reference.

I agree to my interview being audio-recorded. ☐

Name of participant_____   Name of researcher_____

Signature _____   Signature _____

Date _____   Date _____

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Appendix D

Coding and analysis

Step 1: In-text coding of raw interview data (sample)

Interview transcript	Analysis notes	Codes
S: I don't understand. Why did you go to Qatar? A: Just like that…randomly. I wanted to know what this manpower business is. I wanted to know how are men supplied there and what kind of job offers come. S: You went alone?	Did not plan going to Qatar. Need to 'know' the market influenced decision (possibly after quitting previous work).	**LENOVO** Acquiring knowledge of the market before being 'in the field'
A: Yes, alone. On my own… I wanted to know how the manpower (agencies) get demand. So I went…how do you get job order and how can we send men? I wanted to know the process as no one teaches you these things. S: You didn't have any problem going there alone?	Eagerness to know the source of demand and the channels of accessing them. Eagerness to know as a result of absence of hands-on training in the field.	**LENOVO** Acquiring knowledge of the market, and of 'process' (in vivo)
A: No, I had some Indian friends there who helped me, they were from Kerala. They made it easy for me to get visa and other things. If I say today, they would get me visa tomorrow. It was not difficult. S: and your first trip was how long? A: Umm 45-46 days I think. S: What did you learn there?	Contact with informal ties in Qatar helped entry into the country and access the market. A month and half long trip in Qatar	**LENOVO** Network (in destination country) Informal ties Cooperation
A: It was tough at first because I didn't know anything. Didn't know the language or the culture. Didn't know how the people there are…Friends helped me and told me how to proceed. I then visited a few companies and told them I am from a Nepal agency and that if you need men, I can supply them to you. I asked them 'what category of workers do you want?'. S: What did you learn about demand then?	Difficulty in the beginning of the trip because of language and culture. Guidance of informal ties. Initiated visits to companies, introduced work and offered Nepali workers.	**LENOVO** Network in destination country help understand market in that country.
A: It wasn't very tough at that point of time because not many people went for marketing abroad. At that time, most of Nepal's business would come through Mumbai, not directly. Maybe only 10% went for marketing. But that's it. Not more… S: Why did your relative's company shut down? A: I don't know… S: So did you start this company or was it a partnership?	Relatively easier access to companies because of limited competition from other 'marketing' people. Business of Nepal channeled through India. Reluctance to speak about past work experience.	**LENOVO** Lesser competition in destination country because of lesser 'Nepal business' (in vivo)
A: Yes, my friends who are my partners had their company in Qatar. So they were also marketing and I was also marketing. So we decided to join hands and together we	Informal ties became partnership.	**LENOVO** Collaboration within network, 'join hands' (in vivo)

Step 2: Establishing connections between 'code categories' and interpreting data (sample)

No.	Code Category: **NETWORK**	Notes (bolded words are related code categories)
1.	Network in home country	Circuit of actors working in recruitment or aligned business in home country can initiate actors into the recruitment business, by sharing **market knowledge**, contacts and offering a starting position. These also help set-up formal collaborations and potential joint ventures.
2.	Recruitment through network	Recruitment that happens through either the social/kin/village network of agent or agency. This channel uses existing social **reputation**, **trust**, **and word of mouth** to sustain itself.
3.	Network in destination country	Circuit of actors working in recruitment or aligned businesses in destination country that are considered resourceful in terms of their social contacts. They further help **'get demand'** through **trust** and visibility and help get **'market awareness'**. This channel uses mutual benefits and favours to sustain itself (*need more data on this*)
4.	Severed network	Business relationships that no longer exist and no sustained effort of contact made between parties, usually a result of sour history and **conflict**.
5.	Cause of severed network	-Change in field of work, -**Fission** and feud between market actors -Personal (family-related, in the case of **family-run businesses**)
6.	Collaboration within network	2 or more interested actors 'joining hands' to work together, with or without any formal contract or legal identity, for a common, shared benefit such as brokering between established agency (in Nepal) and client company (in destination).
7.	Collaboration turned into partnership	The aforementioned relationship can over time, based on **trust** and success of previous endeavour, transform into legal partnerships and formation of joint ventures.
8.	'Tie-ups', 'Ties', 'Relations'	Words used to refer to formal (tie-up) and informal (ties, relations) networks with or without commercial interests (like commission).
9.	Merger	2 or more existing (usually small) agencies combining their businesses to become one unit (at least legally and on papers). This was triggered mainly by changes in **government regulations**.
10.	Joint venture, Partnership	2 or more agents 'joining hands' to become a business unit by either buying an existing business or starting one together. The investments and risks are then shared by the actors.
11.	Established network vs broker	This can work on both ends (home and destination). The agency then has the choice of tapping onto its existing network or pay an **agent**/**broker** to use his network. In some case the agency can use both these options simultaneously.
12.	Moral obligation to 'refer' in network	The exact of 'how' of how networks function can be answered by this. To '**refer**' someone is then, like gift giving, something that is done within a circuit and where members are morally obliged to pass on the favour by referring (*need further data)* and help acquire demand.

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