"Who is not an agent here?": The Collateral Damage of Anti-Trafficking in Nepal

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Abstract: In this paper, I explore how the diverse labour migration practices of people who challenge their state's restrictive policies produce a form of stigma that extends from people to the places where they reside. Drawing on the findings of Participatory Action Research (PAR) conducted in Nepal, I demonstrate how people residing in one such place attempt to undo stigma by adopting diverse practices amidst restrictive anti-trafficking and migration policies. I reveal a novel practice of prospective labour migrants negotiating and receiving money from their choicest mobility facilitators to assist their unauthorised labour migration. This exchange of money potentially criminalises prospective labour migrants, their family members, unlicensed and licensed recruitment agents, community leaders, anti-traffickers, government officials, hotel owners, transport service providers, and airport immigration officials as traffickers. Underscoring the collateral damage of anti-trafficking in Nepal, I assert that the exchange of money to facilitate unauthorised migration expands the remit of criminalisation of citizens as "traffickers".

Keywords: human trafficking, citizens, traffickers, stigma, migration, participatory action research, Nepal

Introduction

In this paper, I draw on the findings of Participatory Action Research (PAR) conducted in a Nepalese village to demonstrate how restrictive labour migration policies connect localised spaces to the discourses of trafficking. In doing so, the paper develops an understanding of how mobility facilitators from these spaces are framed as "traffickers". While critical geography literature has highlighted, interrogated, and problematised the discourse of smuggling (Garelli and Tazzioli 2018; Kuschminder and Triandafyllidou 2020; Mountz 2003) and trafficking (Esson 2020; Laurie and Richardson 2021; McGrath and Watson 2018; Yea 2021), the geographical (and critical anti-trafficking literature at large) engagement on traffickers is limited (see Sharapov 2017). This lack of critical engagement could be attributed to the analytical focus on the migrant-receiving countries, prioritisation of victims over perpetrators, or difficulties in data collection on traffickers. This ignorance creates room for an uncritical justification of the representation and potential criminalisation of mobility facilitators as traffickers in migrant-sending countries (see Lindquist 2012; Palmer 2020). Even though the critical literature argues that traffickers, just like victims, are structurally

disadvantaged people (see McAdam and Gerasimov 2022), it recognises political binary of trafficked victims vs traffickers, which often draws emotional responses in the public discourses. The paper argues that these characterisations of traffickers inhibit an understanding of how the discourses of trafficking and restrictive migration and labour policies frame citizens belonging to a particular place as "traffickers".

This paper advances critical anti-trafficking literature in geography (Esson 2020; Laurie and Richardson 2021; McGrath and Watson 2018; Rogaly 2008; Sharapov 2017; Yea 2021) by demonstrating how restrictive labour and migration policies and practices extend stigma from people to the places where they reside. In particular, the paper builds on the work of Laurie and Richardson (2021:121) who demonstrated how geographical imaginaries produce and attach the stigma of trafficking "to specific bodies, people, groups, and places" by highlighting how such stigmatisation could criminalise citizens belonging to a particular place as traffickers. Through a case study of Nepal, the paper argues that the exchange of money to facilitate unauthorised labour migration expands the remit of criminalisation of citizens as traffickers, thereby strengthening the argument of the collateral damage of anti-trafficking discourse (Dottridge 2017). I first situate the category of traffickers by arguing how political categories like traffickers and smugglers are collapsed into the category of traffickers in migrant-sending countries like Nepal. I then detail the methodology before tracing the history of mobility facilitation from a particular site to argue how restrictive policy and practices transform localised spaces into places deemed as "trafficking prone" or "hotspots". Finally, I unpack how the exchange of money to facilitate unauthorised labour migration could criminalise citizens as "traffickers".

Situating Traffickers

In November 2000, the United Nations General Assembly adopted the Convention against Transnational Organized Crime, which offered protocols to combat human trafficking and smuggling (Gallagher 2010). These protocols offered legal definitions of smuggling (of migrants) and trafficking (in persons), but privileged crime control over rights and protection of people. While the definition of human smuggling assumes that migrants voluntarily contact smugglers who facilitate their "illegalised" mobility in exchange for payment, human trafficking stresses the victimhood of persons, especially women and children, who are moved by traffickers for the purpose of exploitation (Elliott 2014). As a result, the trafficking protocol provided a comprehensive, though voluntary, protection of victims as compared to the provision to protect smuggled migrants under smuggling protocol. However, the financial burden to afford protection to trafficking victims and the lack of guidance on the identification and distinction between trafficked persons and smuggled migrants provided the incentive for the state to identify irregular migrants as smuggled (Gallagher 2002). Critical scholars suggest that even if migrants are identified as trafficking victims, both investigators and prosecutors find it hard to establish the victimhood in court due to definitional ambiguities (Dottridge 2017). Due to this, migrants are often identified as smuggled, which

results in their criminalisation and deportation (De Genova 2017). While critical scholars argue that the distinction between smuggling and trafficking is political, they often engage exclusively with the categories of "trafficked victims" and "smuggled migrants" thereby reifying the distinction (see Campana and Varese 2016; Cockbain and Kleemans 2019; Kuschminder and Triandafyllidou 2020; van Liempt 2011).

Yet, a number of scholars have argued that the prioritisation of "victims of trafficking" and "smuggled migrants" over "traffickers" and "smugglers" in research overshadows the policy interest in the identification and prosecution of smugglers and traffickers (Russell 2018). While political geographers have problematised such exclusionary politics of representation in the migrant-receiving countries (Casas-Cortes et al. 2015; Garelli and Tazzioli 2018; Mountz 2003; Scheel 2019), I argue that the representation of smugglers and traffickers as irregular mobility facilitators plays out differently in migrant sending versus receiving countries. In the receiving countries, irregular mobility is understood as a threat to the immigration state which uses the figure of traffickers and smugglers to justify restrictive, often violent, immigration policies (O'Connell Davidson 2015; Vigneswaran 2020). Whereas, in the sending countries, irregular mobility is considered a threat to the citizens whose welfare and protection in the foreign labour markets is/should be the prime concern for the sending state (Hwang 2018; Lee 2017).

The migrant-sending states are concerned with trafficking as opposed to smuggling (Lindquist 2012; Palmer 2020). For example, the state of Nepal collapses trafficking and smuggling into one category of trafficking in its Human Trafficking and Transportation (Control) Act of 2007. The Act creates two criminal categories —traffickers and transporters. People are prosecuted as traffickers if they "sell" Nepalese citizens into prostitution or harvest their organs, whereas those facilitating unauthorised migration into forced and bonded labour situations are prosecuted as transporters (Malla et al. 2014). Legal practitioners in Nepal suggest that such "cases of crime" are tried under overlapping legislations, i.e. Labour Act 2017 (which criminalises forced labour), Bonded Labour Act (Prohibition) 2002 (which criminalises bonded labour), Child Labour (Prohibition and Regulation) Act 2000 (which criminalises forced child labour), and Foreign Employment Act 2007 (which criminalises fraudulent recruitment and labour trafficking [Shamir 2012]). However, both trafficking and transportation cases are often tried as foreign employment which falls under the remit of the Foreign Employment Act (FEA) introduced in 2007 (Paoletti et al. 2014).

The FEA promises the welfare and protection of only those citizens who migrate via authorised channels by regulating the recruitment industry. However, the law neither has any provisions for the state authorities to initiate investigations of exploitation of its own accord nor has any clause to help undocumented Nepalese citizens abroad (Malla et al. 2014). Since 2017, the law bans international migration for domestic work to protect its citizens from labour exploitation, thereby creating spaces for anti-trafficking NGOs to restrict migration before the exploitation takes place (Bhagat 2022a). While there is no way to determine whether a citizen is going for sex work or domestic work, the

involvement of anti-trafficking NGOs equates the historical stigma of sex work in Nepal (see Laurie and Richardson 2021) with unauthorised labour migration. Further, citizens who migrate via irregular channels are not recognised as subjects worthy of protection by the state of Nepal (see Bhagat 2022a). However, those who facilitate and support such migration practices could be prosecuted twice as traffickers due to the ambiguity between trafficking and transportation. However, despite these overlapping criminal justice provisions, the binary of trafficker and transporter collapses into trafficker outside the legal paradigm. In the public discourse of Nepal, those citizens who move via unauthorised channels are abandoned by the state, and who facilitate their migration are considered "traffickers".

Nepalese government data reported that in the last 10 years (2006/2007– 2016/17), 1,667 cases of trafficking were registered by the police (Bhagat 2020). Legal professionals suggest that several cases are either withdrawn by the citizens or are lost upon hearing. Despite such low figures, anti-trafficking NGOs in Nepal report a high volume of "rescues". For example, while the National Human Rights Commission—Nepal suggests that in 2016/17 "a total of 1,065 trafficking victims were rescued by five [anti-trafficking] NGOs of Nepal" (Dhungel 2021:201), official records reveal that 221 cases of trafficking were registered during the same year (Bhagat 2020). These data underline the pre-emptive victimisation of citizens as trafficked and the potential criminalisation of their mobility facilitators as traffickers. The question of mobility facilitators is therefore a crucial one. While much attention has been paid to their representation as brokers (Kern and Müller-Böker 2015; Lainez 2020; Lindquist 2017) and smugglers (Achilli 2018; Campana and Gelsthorpe 2021; Mountz 2003; Sanchez 2015), limited critical attention has been given to the "trafficker" (for the exception, see McAdam and Gerasi-mov 2022; Sharapov 2017). To address this gap, I now provide a detailed account of the methodology that was used to examine how Nepalese citizens navigate their international labour migration from a particular site.

Methodology

Amidst recent debate on relaxed methodological accounts in geographical research lies growing distrust over the analysis, presentation, and authorial voice in qualitative research (Hitchings and Latham 2019, 2020, 2021). These discussions on opaque methodologies raise questions about the validity of the research on sensitive issues like "human trafficking", often debunked as shoddy research (Tyldum 2010). Critical scholars suggest that, due to ideological disagreements on what trafficking is and how to solve the issue (Wijers 2015), anti-trafficking researchers and practitioners often adopt opaque methodologies to generate knowledge which suits their political ideologies concerning work and migration (Molland 2014). They caution against the recommendations on combatting trafficking generated by such opaque epistemic methodologies and call for situated micro-research on trafficked victims (Goździak and Graveline 2015). However, despite micro-level critical studies on trafficked victims (Esson 2020; Laurie and Richardson 2021; Molland 2014), the policy focus is on positivist approaches

which attempt to (a) estimate the number of victims through extrapolation of "quick-tick" survey results (Bales 1999), (b) come up with new innovative indicators to measure trafficking (Cockbain and Kleemans 2019), and (c) offer new solutions to combat it (Zimmerman et al. 2021). Hence, these epistemological issues in researching human trafficking mirror complex methodological debates in qualitative research (see Hitchings and Latham 2019).

Whilst Hitchings and Latham (2021) argue that geographers using participatory research ought to be transparent about the methodology (see Klocker 2015), critics question the NGO-ification of PAR to combat "human trafficking" (Heynen and van der Meulen 2021; Molland 2013; Musto 2009). PAR engages people in the research process to transform their existing situations through an iterative process of action and reflection (Butcher 2020). However, the PAR method adapted to combat human trafficking reduces an ethical feminist research approach into an anti-trafficking intervention, and fundraising development programme (see Dharel et al. 2016; Miller et al. 2022). Hence, drawing on Haraway's (1988) notion of situated research, following Kindon et al.'s (2007) commitment to social justice through PAR, taking inspiration from Laurie et al.'s (2015b) PAR with "survivors of trafficking" in Nepal, and interrogating my own positionality as a participatory development professional who worked as an anti-trafficker at both policy and grassroots levels, I decided to adopt PAR as my research approach.

I conducted a scoping study in Nepal (June–July 2017) where I engaged with anti-trafficking/migration NGOs, civil societies organisations, UN agencies, trade unions, and government departments in Kathmandu and Sindhupalchowk. These initial discussions provided insights into the perception of trafficking research in Nepal, including repetitive research findings, non-existent research on migrant routes, lack of community involvement, insufficient presence of researchers in the community, and compensation for the researched community. The process engendered a snowballing which took me to the research site, inhabited by the Tamang people (Sharma and Tamang 2016), in the mountain region of Nepal. During my week-long stay in the community, I discussed the research idea with some community members who were trilingual—Tamang, Nepalese, and Hindi. We discussed challenges faced by the community members before, during, and after their labour migration and brainstormed the possibility of developing an information cell/resource centre in the research site to address some of them.

I returned to the community in November 2017. Upon my arrival, some community members highlighted political differences amongst themselves and encouraged me to organise a general meeting in the community. With the help of one community member, who later became the interpreter, I organised a general meeting in which more than 25 people participated, including the ward president, teachers, and local activists. While the interpreter opened the discussion on research in their native language—Tamang—I used my native language Hindi to discuss whether and how the community could support the research. Community members constituted a steering committee and selected a "trafficking survivor" as its president. I then took permission to conduct research from the steering committee. While we discussed several issues concerning the community members,

during the discussion on labour migration, I was told that "...everyone knows everything about the village, but no one will tell you anything about it".

The steering committee offered names of a few community members who could work with me and fixed a compensation amount for them. I, along with the interpreter, talked to many community members before selecting five people —a youth leader, a women's group leader, a social activist, a priest/social worker suffering from HIV/AIDS, and a person without international migration experience. These individuals called themselves "*sathi anusandhankarta*"—a combination of two Nepali words in which "*sathi*" denotes companion and "*anusandhankarta*" as researcher—research companions. I then organised 2.5 days of participatory training outside the community. During the training, we discussed issues, prioritised them, developed research questions, prepared intervention plans, brainstormed on methods, conducted participatory exercises—mappings, rankings, diagramming, trend analysis—and discussed participatory ethics. Once the meeting was over, we negotiated a safe space for action and reflection from community members and local NGOs, where we assembled every week to plan and discuss our activities. During one of the sessions, the research companions renegotiated their compensation amount which was fixed by the steering committee. They demanded that the compensation amount should be increased and that the payment should be made directly to them. During these action and reflection meetings, we planned, implemented, debated, and analysed several activities. These included house-to-house surveys (which were abandoned due to the reluctance of the people to disclose information), the formation of interview questions for Nepalese migration and anti-trafficking actors, the constitution of five focus groups, focused group discussions, awareness generation meetings, and interviews.

Interviews were the last activity we conducted in the research site. Initially, research companions, drawing on their social capital, floated interviewee names. We discussed these names and decided to interview some of them. Research companions then organised the date, time, and place for such interviews, and argued that interviewees should be compensated for their time, and we fixed a compensation amount for them. During the interview sessions, while I was the primary interviewer, sometimes research companions were present, sometimes they were asked to leave by the interviewee, sometimes the interviewee left between the interview, and sometimes there was a need to bring in an interpreter. Every week, we discussed and analysed the interview data during our action and reflection meetings. Research companions argued that to have a holistic understanding of migration experiences, we must continuously change the interview criteria. We captured experiences of returnee labour migrants, trafficked victims/survivors, those who escaped their exploitative employment, those who migrated without approval, domestic workers, construction workers, factory workers, etc.

These action and reflection meetings were full of heated arguments, debates, discussions, and disagreements. The biggest disagreement took place when we decided to interview mobility facilitators. Consider this excerpt from an action and reflection meeting:

RC2: I am not going to contact him [agent], at any cost.

Ay: Why? We know that there are several agents in the community, they know that we are doing this research.

RC2: Look, you will go after this research, but then there will be a problem for us if we contact them.

RC1: He is right, they would not like us to contact them.

RC2: If you want to interview him, you can do that on your own; I cannot help with that.

The excerpt suggests that the reluctance to contact mobility facilitators by the research companions was an attempt to safeguard their social relations with them. As a result, I organised and conducted interviews with all the mobility facilitators on my own. While we were progressing towards the materialisation of the information centre, a few of the villagers expressed their doubts about it. I was asked about the sustainability of the centre and made aware of its repercussions on their long-term migration strategies. Interview findings suggest that most of the people from the community migrate via irregular channels, and any large-scale activity in the community would draw attention from anti-trafficking NGOs and the state interested in curbing their unauthorised labour migration. Further, the community members were historically trying hard to undo the stigma attached to their village due to sex work and domestic work mobility (I elaborate on the point in the next section). Hence, after lots of anxious reflections and discussions, which led to heart palpitations, sleepless nights, intermittent crying, and an overwhelming sense of being a failure, I decided to halt the planned intervention. Hence, after more than 100 days of living in the community, where I engaged with more than 150 community members via focus groups, captured 48 stories of mobility, interviewed key actors, recorded everyday encounters, and made friends, I decided to leave the research site during the first week of March 2018. Based on the interview data, I located sites where anti-trafficking NGOs restrict the mobility of the community members and went on to conduct observations and interviews on the move. I visited government offices, national highways, Indo-Nepal open borders, and four international airports—Kathmandu, Delhi, Colombo, and Kuwait.

During the last week of July 2022, I again returned to the research site and engaged with research companions, participants, and steering committee members. I organised a meeting which was attended by more than 20 community members. They asked numerous questions related to the representation of the community, the impact of the research, and the possibility of supporting stranded and exploited community members in international labour markets. While they were critical to some aspects of the research, everyone, including the new ward president, maintained that the research site should remain anonymised to avoid the anti-trafficking gaze on their migration practices. This reinforcement of village-level anonymity highlights community members' attempt to undo the historical stigma of "trafficking prone" attached to their place of residence. To show

this, I now historicise the ever-changing mobility practices from the research site and examine the processes which stigmatise certain places as "trafficking prone".

History of Mobility Facilitation from the Research Site: Extending the Stigma from People to the Places Where They Reside

While scholars consider that the Ranas (totalitarian rulers of Nepal between 1846 and 1951) preferred Tamang women in their courts to work as domestic workers, courtesans, concubines, entertainers, and sex workers (Devries 2012; Poudel 2009), community members suggest that the majority of such women (they used the local term *Him Kanyas* or "Snow Girls") belonged to the areas surrounding the research site. Asman (2018:42) suggests that Ranas "brought their families, their second, third and fourth wives, and so on, rakhels [kept women], mistresses, some of the dancers, entertainers, as well as other women and men from the staff at the palaces in Kathmandu". Hence considering this form of recruitment for the Rana family as "trafficking" (see Poudel 2009; Sarkar 2016; Simkhada et al. 2017) Ranas could be positioned as "evil employers", facilitators as "traffickers", and women as "trafficked victims". In 1950, the Rana government signed a peace and friendship treaty with India which reinforced the importance of the unrestricted "free" movement of people between these two nations (Kumar 2016). However, within three months of signing the treaty, following a political coup, Ranas and their family members were forced to escape to India with their Tamang servants (Manhas and Sharma 2014). Asman (2018) argues that while Ranas continued recruiting women for a while, many Tamang women left Rana households in India and opted for sex work and entertainment work in India. Joshi and Swahnberg (2012) suggest that these women later opened their brothels in various parts of India and started to return to their villages to recruit women for sex work.

Community members suggested that sex workers established networks with citizens of Nepal who once recruited women for the Ranas to facilitate mobility, starting from the late 1950s. As a response to such recruitment practices, the government introduced a chapter (no. 11) on human trafficking in the revised version of the Muluki Ain (National Code) of 1963—Law of the Land—of Nepal (Shukla 2010). Shukla (2010) translates Chapter 11 of the code as "*Muluki Ain Regarding Human Trafficking*" which criminalises: people engaging in several acts such as selling a person, taking a person for sale outside Nepal, buying a person, enticing a person, separating minors or retarded person without parental consent, intentionally abetting and assisting in sale and purchase of person (Shukla 2010). The code considered people facilitating mobility as traffickers. Nevertheless, the traffickers only became a political concern during the 1980s, a time when Nepal was witnessing increased rural to urban migration due to growth in the carpet industry (Sangroula 2001). During this time, community members started to run their own carpet businesses in Kathmandu. While interviews reveal that many women from the community went on to work in the carpet industry, Sangroula (2001) argues that jobs in the carpet industry were used to entice women

to migrate to the city and later coerce them into prostitution in India. The fear of traffickers coercing women into sex work in the public discourse of Nepal led to the enactment of the Traffic in Human Beings (Control) Act in 1986. Building upon the provisions of the National Code, the legislation provided punishments for offences committed under the act (Shukla 2010). However, this time the Act conflated trafficking with prostitution and understood traffickers to be those, including family members, friends, and relatives, who facilitate mobility in India for sex work. Nevertheless, due to lack of enforcement, these policy developments did not impact sex work mobility in the community.

Sex work mobility in the community was impacted during the late 1990s as a result of the Mumbai brothels raid in 1996 (Shree and Abhurami 2015), the formation of a national anti-trafficking coalition and network in Nepal (Poudel 2009), increased media reporting against human trafficking (Konrad 2019), and increased HIV/AIDS cases (Poudel and Carryer 2000). The anxieties about HIV/AIDS during the late 1990s positioned sex workers as disease carriers and their mobility facilitators as traffickers. During the late 1990s, the ideological debates on trafficking (Kempadoo et al. 2012), the enactment of the UN Trafficking Protocol and the emergence of the US as a global anti-trafficking sheriff (Chuang 2006), forced Nepal to revise its existing legislation on trafficking. In 2008, Nepal passed the Human Trafficking and Transportation (Control) Act of 2008 which broadened the scope of trafficking to other sectors, like domestic work, but criminalised anyone who "went in for" prostitution. Shukla (2010) argues that the legislation, which created two offences—Human Trafficking and Human Transportation—criminalised citizens for unauthorised labour migration, and their facilitators as traffickers, those who sell or purchase people for any purpose, or transporters, those who facilitate or support such mobility.

This proliferation of the debate on human trafficking during the late 1990s impacted the community in at least three ways: (i) local community-level anti-sex work intervention; (ii) deaths of people due to HIV/AIDS; and (iii) anti-trafficking awareness generation. Many returnee sex workers emphasised that, during the early 1990s, the community members formed a youth club to prohibit their sex work mobility. While ex-youth club members acknowledged that youth club activities were a direct restriction on the livelihood of community members, their primary aim was to destigmatise the community from the label of "sex work" by getting rid of mobility facilitators who did not belong to the research site. However, over time, as the cases of and deaths related to HIV/AIDS increased, it stigmatised sex workers, sex work mobility, and facilitators of sex work in the community, and extended the stigma from people to the places. To undo such stigma, community members stopped discussing their sex work mobility and started looking for new departure avenues.

One such avenue was towards domestic work in the Middle Eastern countries. The oil boom in the Middle East during the late 1990s to early 2000s (Pyakurel 2018), brought alternative employment opportunities for the community members. Community members suggest that once the Gulf migration corridor opened, many returnee sex workers, mobility facilitators, and young prospective migrants from the village started moving toward the Gulf

Cooperation Council (GCC) countries —Qatar, Kuwait, UAE, Bahrain, Oman, and Saudi Arabia—for a variety of work, including but not limited to, domestic work, construction work, factory work, driving work, etc. They suggest that many community members who facilitated sex work mobility went to the GCC countries, established their ties with the recruitment agencies and employers, and started facilitating labour migration in Nepal. The recruitment industry of Nepal considers these mobility facilitators as the essential link to enable the massive labour migration (1,500 citizens a day) to sustain the remittance-based economy of Nepal (Kern and Müller-Böker 2015). To regulate labour migration, Nepal introduced emigration legislation—the Foreign Employment Act (FEA) of 2007, a consolidated articulation of all the existing emigration control measures of the state (Piya and Joshi 2016). To regulate the recruitment industry, the state established the Department of Foreign Employment (DoFE) under the FEA (Paoletti et al. 2014), which offers licences to recruitment agents for a fee of US$2,000. During the fieldwork, many unlicensed agents said that the exorbitant recruitment fees are the reason they do not want to be registered with the government. While the agents cannot afford the licensing fee, the community members cannot afford the recruitment fee, underscoring an exclusionary class dimension in the accessibility of regulated migration promoting debt in the community. As a result, most of them operate as unlicensed agents to facilitate labour migration of the community members. However, most of the unlicensed agents mentioned that they do not facilitate labour migration in the domestic work sector. This is due to the current migration bans on domestic work abroad imposed by the FEA (for a history of migration bans in Nepal, see ILO 2015; Pyakurel 2018).

The government of Nepal maintains that "these restrictions were imposed with the intention of protecting women from perceived dangerous and exploitative working conditions abroad, especially for domestic workers" (ILO 2015:5). Several migration scholars have highlighted the unintended consequences of these gendered migration bans in migrant-sending countries like the Philippines (Henderson 2021), Sri Lanka (Gamburd 2000), Ethiopia (Fernandez 2013), Malaysia (Killias 2010), and Nepal (Shivakoti 2020). These bans are complexly entwined with discourses of gender, religion, race, class, morality, security, exploitation, diplomacy, and national development (Bhagat 2022a; Killias 2010; Platt et al. 2018). Whilst the Nepalese government try to justify the bans on grounds of protecting their citizens from labour exploitation and abuse in the domestic work sector, the lack of sustainable employment opportunities forces the majority of aspiring citizens to rely on the services of facilitators to enable their unauthorised labour migration.

However, community members suggested that anyone who supports and facilitates unauthorised labour migration in Nepal is subject to anti-trafficking measures like border and route surveillance, airport surveillance, community-level anti-migration awareness generation activities, etc. (Bhagat 2022b). During an interview with a mobility facilitator, I was told that "if they [anti-trafficking NGOs] catch those who take women for domestic work from the village, they will directly go in [jail] for at least 10 years, under anti-trafficking [legislation], so no one will tell you who facilitates domestic work mobility". Many anti-trafficking NGO

officials policing the national highways in Nepal, Indo-Nepal checkposts, and airports revealed that they pay special attention to Tamangs from the mountains of Nepal. For them, "traffickers [always] think a few steps ahead of them" and they always find ways to take the "innocent" women residing in mountain regions abroad. Hence, the migration bans not only created spaces for anti-trafficking NGOs to streamline their existing interception activities to counter irregular mobility, but as a result, it reattached the stigma of "trafficking prone" to places with high female mobility. This place-based stigma was echoed during the interviews with government and non-government actors in Nepal, some of them asked me not to live in the research site due to the hostile nature of the community toward anti-traffickers, during the scoping study phase of the research. While I did not face much hostility from the community members, many said that "everything happens in the village, everyone is involved in the process, but no one will talk about it".

One practice which has not been talked about in the policy reports and critical literature is the exchange of money to facilitate unauthorised labour migration from Nepal. Interviews reveal a novel phenomenon where community members negotiate the amount of money they receive from the mobility facilitators to facilitate their migration. While legal practitioners suggest that this transaction could criminalise the prospective migrants and their family members, I caution that this exchange of money could criminalise many Nepalese citizens who are involved in the unauthorised migration process as "traffickers".

The Exchange of Money to Facilitate Unauthorised Labour Migration in Nepal

> What is the point in staying here? When men migrate, all responsibility comes on our heads. You need to take care of farmlands, forests, cattle, children, and family members in this difficult Himalayan village. On top of it, you listen to the abuses. We are not respected for what we do here. If we have to hear abuses and work as a servant, then why we should not earn money out of it? (A female participant during a focused group discussion)

Several female participants highlighted their everyday labour in the community. For many, the intensification of work is not much different from the work they are required to do as domestic workers in the GCC countries. Grossman-Thompson (2019) suggests that migration bans on domestic work demonstrate the coercion by the state of its most marginalised female population to perform social reproduction work. While the Government of Nepal fails to provide sustainable employment to its citizens, the combination of anti-trafficking measures and ever-changing migration bans, supplemented by anti-trafficking activities is blind to the precarious conditions of many citizens of Nepal (Bhagat 2022b; Laurie et al. 2015a). Community members suggest that at least one person from every household works as a domestic worker in the Middle East. Their desire to migrate irrespective of the migration bans and anti-trafficking interventions is a refusal to subjugate themselves to the state and non-state actors interested in restricting

their mobility. For them, the message, "you subordinate your actions to our judgement of what is necessary, and we promise to keep you safe" (Young 2003:226), is a blatant lie. Even licensed recruitment agents suggest that neither the government nor the recruitment agencies can do much to assure the safety of Nepalese migrant domestic workers abroad who have migrated through authorised channels. Hence, the community members adopt a variety of subversive ways to migrate using unauthorised channels, even if they know that their own nation-states will abandon them in the immigration regimes (see Bhagat 2022a). For them, the restrictive policies of Nepal increased the demand for trustworthy mobility facilitators who could provide safe passage to enter into labour employment of their choice.

Unauthorised mobility facilitation for domestic work in the GCC countries is predicated on a potential labour migrant's aspiration and connections with the employers and/or the recruitment agencies of the Middle East. Either the unlicensed agents contact recruitment agencies in the Middle East, or the community members directly contact employers. Facilitators initiate the process by sending photocopies of the passport, along with the picture of the aspirant, to several recruitment agencies in the Middle East. Interviews highlight that a common practice followed by Kuwaiti recruitment agencies is to place the individual profiles in a catalogue—often hard copies—and present them to potential employers. Employers then go through the profiles and select women they would like to employ. After selection, employers negotiate the amount charged by the recruitment agencies. A research participant reported that these agents, who are in contact with various placement agencies, accept the best available deal. For example, most of the facilitators told me that the local agent settles (if working independently) for at least 50–50% cost-sharing. After the cost settlement, the visa and money arrive, often via unregulated channels. Facilitators then contact the potential migrants and ask them to prepare for the journey. They use a portion of the money to facilitate mobility in the best possible manner.

At this stage, some participants negotiate money with their informal agents. Potential labour migrants contact several agents at the same time and choose those who provide the best deals to facilitate their journeys. Deal packages include ticket costs, clothes costs, health check-up costs, and most importantly, the amount of money the agent will offer to the family once the aspirant leaves. Consider a participant's testimony from a focus group discussion:

> ... do not think that villagers are fools; they are very sharp ... every family receives money [from the facilitator] when someone leaves the community [for domestic work in the Middle East]. They don't engage in bad business ... Everyone knows that these people [facilitators] receive a lot of money. Some people [family of potential migrants] do not get any money, some get 10,000 NPR [US$82], some get 40,000 NPR [327], and some up to 70,000 NPR [US$573]. It is all about luck and the agent ... That is why even though there are so many agents living all around us, these days people choose them very carefully. They talk to friends [working in the Middle East], family members, relatives to see whether the agent is trustworthy or not, whether the agent will be able to do the job or not, and then select the one who is ready to provide the maximum benefits.

Some participants mentioned that their families received up to 70,000 NPR (US $573) from the agents. This alternative marketplace of recruitment has recently evolved due to mobility bans, anti-trafficking interventions and the ever-changing (often imperceptible) mobile practices of the people on the move. Most research participants acknowledge that the residual amount becomes the fees of the agents who ensure the labour migration process which includes but is not limited to, staying in their house in Kathmandu, forging documents, paying bribes, staying in transit locations, the provision of food during the stay, and sometimes additional stipends during prolonged stays in sites like Delhi and Colombo. In some cases, these facilitators help migrants to subvert their exploitative labour relations in the Middle East, if and when community members perceive their labour relations to be exploitative.

However, anti-trafficking NGO members argue that whoever participates in this marketplace could be penalised under Nepal's anti-trafficking laws. They consider that this new marketplace has the potential to criminalise everyone in the village. Consider this testimony from an anti-trafficking lawyer in Nepal:

> This is a great strategy adopted by these people [facilitators]. The distribution of the black money among the family members transforms them into the "seller" of the woman. If something goes wrong and the family members file a complaint, the first question the agent will ask is, "So who took the money? You! Who assisted the migration? You! And who will go to the jail with me? You!"

This testimony of the lawyer suggests that due to the exchange of money family members involved in the process of unauthorised migration facilitation could be prosecuted under Nepal's anti-trafficking legislation. The practice of family members receiving a share of recruitment money is widespread in Nepal. While legal practitioners suggest that this exchange of money could criminalise family members as "traffickers", community members argue that several state and non-state actors also receive a portion of the same money arriving from the GCC countries. Hence, I argue that every citizen of Nepal who receives a share of this recruitment money could be criminalised as a "trafficker".

Criminalising Citizens as "Traffickers"

> Ay: Who are considered agents in the community?
>
> Mobility facilitator: Who is not an agent here?

This testimony broadens the definition of the mobility facilitator in a complex manner. For example, community members used diverse names such as "agents", "traffickers", "helpers", "uncles", "aunties", and "relatives" to talk about their mobility facilitators. For many interviewees, these facilitators were social workers always ready to help migrants, and the first responders if anything goes wrong during the migration process. For mobility facilitators, the entire family is associated during the process of migration. They suggest that in order to escape the anti-trafficking surveillance at the Indo-Nepal border, it is the responsibility of the family members to facilitate the border crossing.

Local anti-trafficking NGOs and other development NGOs were found to be aware of these activities. While some anti-trafficking NGOs use awareness generation to deter unauthorised labour migration, others use national highways and Indo-Nepal border surveillance to detain and deport citizens of Nepal back to their villages (Bhagat 2022b). During the ethnography at the Indo-Nepal border, many people, like hoteliers, restaurant owners, transporters, auto-rickshaw drivers, and hawkers working along the border suggest that while many anti-trafficking NGO members patrol it, there are many routes and ways one can cross. Some assured that if I plan to take people to the other side without any checking, they can arrange it. Interviews with anti-trafficking NGO members at borders suggest that they are aware of precarious socio-economic conditions; however, they mention that it is their moral duty to protect, detain, and deport women who try to cross without appropriate permission from their guardians and the state. I observed the process of detention along the border by these NGOs. I was told that these people are mostly women trying to cross borders, young men accused of drug dealing, eloping women, and helping their unauthorised migration projects. In one anti-trafficking detention centre, I observed a police official requesting the release of a girl who belonged to his village. Community members were very critical of such practices of the anti-trafficking NGOs of Nepal. For example, during an action and reflection meeting, a research companion asked: "Why do these NGOs aligning with specific political parties in Nepal allow agents associating with their party to take women across borders, while other agents are not allowed?" The question offers an opportunity to understand the politics of selectively positioning some mobility facilitators as traffickers by anti-traffickers. If these narratives are true, anti-trafficking NGOs in Nepal become part of the problem that they attempt to solve.

Many in the community believe that mobility facilitators have strong connections with recruitment agencies, employers, anti-trafficking NGOs, and government officials. Interviews with recruitment agency owners suggest that while licensed recruitment agencies often distance themselves from agents who facilitate mobility in domestic work and sex work, they acknowledge that the facilitation of international labour migration via regulated channels is also dependent on such agents. However, a trade union member informed that these licensed recruitment agencies have started to send migrant domestic workers under different labels of hospitality sector jobs to the Middle Eastern countries. Hence the argument of simultaneous reliance on and distancing from unlicensed agents accused of facilitating unauthorised migration does not hold much water given their own transgressive and deceptive ways.

Moreover, these facilitators are well connected to government officials who, as per the community members, help them transgress migration bans in Nepal. Consider this statement by a research participant about an unlicensed agent: "He is the first point in contact if anything goes wrong … It's not very difficult for him to help people to move for foreign employment as one of his relatives works in the Department of Foreign Employment office in Kathmandu". Many community members acknowledge that most of the facilitators are well connected with the government officials in Kathmandu who help them to forge documents. The

2021 US Trafficking in Persons Report also highlights the prosecution of a high-profile foreign employment government official:

> In November 2017, the Commission for the Investigation of Abuse of Authority arrested the Director General of DFE [Department of Foreign Employment] and two DFE officials for allegedly attempting to collect a bribe from a foreign employment agency. In December 2020, the former Director General was convicted and sentenced to one and a half years in prison and a one million NPR ($8,550) fine. One of the DFE officers received the same sentence as the former Director General, and the other was acquitted. NGOs alleged some police and political party leaders were complicit in sex trafficking ... (US Department of State 2021:410)

In the community, most of the participants were sceptical of the sanctity of the government, police, and NGO officials. They mention that everyone receives a portion of money in the process. Hence, if the participant files a case on trafficking upon exploitation, then the government officials and recruitment agencies may be prosecuted under anti-trafficking legislation. However, research companions suggest that community members do not file complaints even if they are exploited and abused in their labour employment due to a lack of understanding of and trust in the complex emigration regime of Nepal. Some participants assert that the labour migration outcome is always a matter of luck and the probability of them being rescued by their mobility facilitators is more than the state if anything happens to them abroad. Almost everyone interviewed spoke highly about their mobility facilitators, and none of them has ever filed a complaint against them, regardless of their migration outcomes.

However, anti-traffickers in Nepal argue that migrant workers do not file a court case because it would criminalise them and their family members under the anti-trafficking legislation of Nepal. In this paper, I extended their argument and showed that filing a court case would criminalise everyone who is part of this exchange of money. Hence, from this vantage point, casting mobility facilitators as traffickers could criminalise many Nepalese citizens, including but not limited to, prospective migrant workers, community leaders, anti-traffickers, government officials, recruitment agencies, hotel owners, transport service providers, and even the immigration officials at the airports as "traffickers".

Conclusion

In this paper, I have examined and problematised the category of "trafficker". Based on the study conducted in Nepal, I demonstrated how restrictive migration and labour policies and practices of the state and non-state actors link localised spaces to the global discourse of human trafficking. I highlighted how Nepalese citizens who migrate via unauthorised channels are pre-emptively victimised as "trafficked victims", those who facilitate their mobility are represented as "traffickers", thereby extending stigma from people to the places where they reside. The empirical analysis indicates that gradual transformation in mobility and control practices represents attempts by the people inhabiting the place to undo the stigma. One articulation of changing mobility practices is the recruitment cost-

sharing between migrant workers' families and their mobility facilitators. I argue that this exchange of money could criminalise many Nepalese citizens as traffickers under the anti-trafficking legislation of Nepal, underscoring the "collateral damage" of anti-trafficking discourse.

The argument of anti-trafficking interventions leading to the potential criminalisation of citizens as traffickers is not only important for the critical geography literature but speaks to wider critical anti-trafficking and migration studies. I demonstrated how attention to the localised spaces suggests that the binaries such as trafficked victims vs traffickers, traffickers vs smugglers, and traffickers vs transporters (in the case of Nepal) collapse into the label of "trafficker". As a result, the repercussions of casting mobility facilitators as traffickers are multi-fold. Apart from their potential criminalisation, it transforms their modus operandi creating alternative, often opaque recruitment ecologies. Understanding and unlocking such alternative ways of being and becoming could be done through small-scale place-based critical research. In this paper, I offer a way to conduct such research. The PAR methodology elaborated in this paper also suggests the importance of building long-term relationships with the people and being more open to the complexities, challenges, and failures of situated ways to approach the world.

The research findings challenge critical migration studies that consider North American and European countries as privileged sites of research, activism, and theorisation in a number of ways. The paper draws on a case study from the global South to problematise criminalisation of citizens. Hence, there is a need to move beyond the current understanding of the criminalisation of citizens in immigration regimes (Kapoor and Narkowicz 2017) and transit spaces (Tazzioli and Walters 2019) to interrogate other geographies of the criminalisation of citizens. While I understand that a migrant is both an emigrant and immigrant at the same time, we must take the emigration regime seriously in terms of theorising how citizens contest borders, carceralities, immobilities, and institutions. Further, the article highlighted that Nepalese laws do not recognise their citizens who migrate using unauthorised channels as subjects worthy of protection in the immigration regime. Critical scholars must explore the lives of those precarious migrants whose citizenship rights are withdrawn by their own nation-states in the immigration regimes. Whilst critical migration studies problematise the exclusionary immigration regimes, to allow room for a radical understanding of ways citizens of the global South experience, negotiate, escape, and subvert their restrictive, classist, gendered, and racist emigration policies and practices, Western-centric critical scholarship must move beyond their destination biased analysis.

Acknowledgements

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