

## **Introduction**

1. Since 2012 Anti-Slavery International, in partnership with the General Federation of Nepalese Trade Unions (GEFONT) in Nepal and KAFA in Lebanon, has run a project examining the situation of migrant domestic workers (MDWs) from Nepal, prior to and after they migrate to Lebanon. The project provides training for female community health volunteers (FCHV) and male transport workers in the Nepalese district of Jhapa. The trainings focus on safe migration, knowledge of Lebanese culture, the support mechanisms available in both countries and facilitation skills to enable female community health volunteers and male transport workers to provide safe migration ‘briefings’ to women at the village level, which are supplemented by awareness raising through radio, video and online tools. The training also seeks to provide the community health volunteers and transport workers with the tools to identify women who are particularly at risk of trafficking and connect them with local service providers. It has proven important to provide trainings via community health volunteers, transport workers and GEFONT field staff as they have direct access to women and girls who show an interest in going abroad as domestic workers and because community health volunteers in particular are integrated and highly trusted members of the community. The project also works to develop support networks amongst Nepalese domestic workers in Lebanon and trainings for returnee migrant domestic workers.
2. GAATW has been working with member organisations – Alliance Against Traffic in Women (AATWIN) and WOREC in Nepal to better understand and improve pre-departure and prevention options for women considering migrating from Nepal for work, primarily as domestic workers. This project was built up on GAATW’s previous work on prevention, and exploring linkages between trafficking, migration, gender and labour frameworks. The project includes working with returnee women migrant workers to conduct a participatory appraisal of pre-departure training initiatives, complemented by desk based research on existing preparatory training modules and in-depth interviews. GAATW is also working with WOREC, Pourakhi, People Forum on Human Rights, and ABC-Nepal through a series of trainings to strengthen the human rights perspective and knowledge base of social workers so that they can share the learning with a larger group of community workers and work closely with migrating women in communities. GAATW’s contribution to the project is to increase the capacity of partner organisations to support women in their communities to be able to make informed decisions about their migration, drawing on new and deepened connections with interlinking social justice movements, including those focused on women’s rights and labour rights. GAATW has also undertaken research for the International Labour Organization (ILO), interviewing expert stakeholders in government, civil society and recruitment agencies as well as conducting interviews and focus groups with over 100 migrant women, about the age ban on women migrant workers from Nepal.
3. The following report is based on information gathered from these projects.

4. According to the ILO, Nepal is estimated to have one of the highest rates of labour force growth in Asia and the Pacific region.<sup>1</sup> However, due to various factors such as poverty, political instability, lack of opportunity, and barriers to accessing decent work within the country, the upward trend of migrant labour continued to present a seemingly lucrative economic opportunity,<sup>2</sup> particularly in the case of women who are the primary breadwinners in their families. This is demonstrated by the story of Nita, a returnee migrant domestic worker from Nepal:

*“My elder sister saw how hard I was working here in Nepal; I worked in carpet weaving, and I set up my own portable stall selling straw objects in the street. I was trying to do lots of different things, but I continued to face financial difficulties. Then my sister told me she would take care of my children so that I could leave the country. My mother had died, and my father was ill and later also passed away. My husband had been working in Saudi Arabia for nine years; he only visited me once and wasn’t sending any money home. It was for this reason that I decided to go abroad – it was for the sake of my children.”<sup>3</sup>*

5. “Push” factors in Nepal, such as poverty, unemployment, low wages, violence, environmental destruction, natural disasters, recovery from a decade-long conflict and violence against women, including domestic violence, push Nepalese women and men to migrate elsewhere in search of employment.<sup>4</sup> Nepali women migrants also face structural challenges that can lead to the decision to migrate. For example, Nepali women control fewer resources than males: Nepal’s population was 52 per cent female in 2011 but women and girls owned only 20 per cent of land or houses.<sup>5</sup> This, combined with an increasing demand for women migrant labourers, who can be employed on lower wages than men, has been drawing Nepalese women across borders to work mainly in the domestic work sector. Officially, only 3 per cent of Nepal’s migrant workers are women, though in reality it has been estimated that women may account for as much as 30 per cent of the total number of Nepalese migrant workers. Of those recorded, 66 per cent were employed in domestic work.<sup>6</sup> The discrepancy between recorded women migrants and the estimated reality is due to the legislation and bans in place on women migrants, both in Nepal and in destination countries. Nepal’s statement at the regional preparatory meeting for UN High level Dialogue on International Migration and Development estimated that women represent 90 per cent of irregular migrant workers from Nepal.<sup>7</sup> The economic circumstances faced by many potential MDWs in Nepal expose them to greater risk of

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<sup>1</sup> *Labour and Social Trends in Nepal*, ILO, Geneva, 2010.

<sup>2</sup> Guichon, A., *Into the Unknown: Exploitation of Nepalese migrant domestic workers in Lebanon*, Anti-Slavery International, May 2014, p. 10

<sup>3</sup> Interview by Kafa with a returnee migrant domestic worker, conducted in Kathmandu on April 23, 2013.

<sup>4</sup> Allaw, S., *Dreams for Sale: The Exploitation of Domestic Workers from Recruitment in Nepal and Bangladesh to Working in Lebanon*, Kafa, 2014, pp. 6 & 19.

<sup>5</sup> *National Population and Housing Census, National Report 2011*, Nepalese Central Bureau of Statistics, November 2012.

<sup>6</sup> *Nepali Women and Foreign Labour Migration*, UNIFEM and NIDS, 2006, p. 138.

<sup>7</sup> Ghimire, P. (2013), *Review of migration and development policies and programmes and their impact on economic and social development, and identification of relevant priorities in view of the preparation of the post-2015 development framework*, Nepal Country Statement on Agenda Item 5, Asia Pacific Regional preparatory meeting for the UN General Assembly High Level Dialogue on International Migration and Development, Bangkok 29–31 May 2013.

exploitation by creating an environment that recruitment agencies and brokers can easily take advantage of in search of profit.

6. The risks faced by Nepalese migrant domestic workers are a continuum starting from recruitment in their rural villages and lasting until they reach their destination. At every stage of the migration process and employment, they risk being targeted for abuse or exploitation by a range of actors including recruitment agents and employers. Many are trafficked for forced labour, with some employers forbidding them from leaving the house, confiscating their passports and using violence or threats of violence to control and force them to work, often without pay. Others fall into bonded labour as a result of the transportation and recruitment costs, as well as the commission fees charged by the agent and/or broker and costs incurred in taking up a job abroad. They are put in this situation as a result of inadequate policies, discrimination, lack of preparedness, isolation and an absence of coordinated efforts to protect them. Insufficient regulation of recruitment agencies and brokers in Nepal, coupled with a discriminatory ban on the migration of women under 30 to the Gulf and the Middle East, has served to push the practice of labour migration underground. As a result, MDWs are less likely to have followed the official procedures put in place by the Nepalese government.<sup>8</sup>
  
7. In Lebanon, MDWs' human and labour rights are undermined in a number of ways, including denial of rest periods throughout the day and at least one day off a week, the confiscation of personal identification documents, restrictions on freedom of movement, deduction from wages and denial of contact with their families. MDWs' removal from the public eye through their work within the home increases the risk they face of abuse, sexual violence and forced labour. Accessing the Lebanese justice system is challenging for MDWs, largely due to the existence of a sponsorship (or *kafala*) system, which ties a migrant worker's residence permit to one specific employer or sponsor in the country.<sup>9</sup> This means that MDWs fear arrest and deportation should they leave their employer, thereby preventing many of them from lodging formal complaints against mistreatment and accessing remedy. In this regard, Anti-Slavery International and KAFA have submitted an alternative report for Lebanon's UPR – also scheduled for November 2015 - detailing abuses faced by Nepalese MDWs once they have reached Lebanon.

### **The Ban on Migration for Women under Thirty**

8. After reports of widespread exploitation and abuse, and in some cases death, of Nepalese migrant domestic workers, the government of Nepal stopped issuing labour permits for domestic workers travelling from Nepal to Lebanon and other Middle Eastern and Gulf countries in March 2010. Although the measure was never embedded in a policy from the Department of Foreign Employment, Anti-Slavery International and GAATW research found that the department stopped issuing permits, hence creating a sort of de facto ban. The ban was removed later in 2010 but

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<sup>8</sup> Guichon, A., *Supra.*, n. 2, p. 2.

<sup>9</sup> Allaw, S., *Supra.*, n. 4, p. 42; KAFA, *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon*, KAFA, Beirut, 2012, p. 9.

was reinstated in August 2012, though it was limited to women and girls under 30.<sup>10</sup> The parameters of the ban are unclear; a press release issued by the (FEPB) on 3 September 2012 did not specify which countries the ban applied to<sup>11</sup> and a spokesperson for the Ministry of Labour and Employment told GAATW that, although the decision barred certain women from working in the Gulf, they were not “legally banned”. In mid-April 2014, authorities in Nepal issued a ban on all women migrating as domestic workers except for those who have already obtained a visa. This was extended in September 2014 to a complete ban on women migrating as domestic workers. This includes women who have recently completed mandatory trainings for migrant domestic workers. The Government of Nepal has stated that this is a temporary measure while it revises its labour migration policies.

9. Government representatives have stated that the widespread absence of birth certificates makes it easy for children to fake their age and pretend to be above 18; with an age-bar of 30, this is made more difficult. Whilst the decision was probably taken in response to the numerous cases of abuse and deaths reported amongst young women in the region, it is widely accepted that travel bans are not effective in preventing domestic workers from migrating abroad.<sup>12</sup> Indeed, according to the Lebanese Ministry of Labour’s statistics, in 2010 64.5 per cent of the MDW permits issued were for nationals of countries that have bans in place.<sup>13</sup> As such, with regards to Lebanon, the ban has proven largely ineffective partly because the Lebanese government has not respected it and has continued to issue pre-approved work permits and pre-approved visas.<sup>14</sup>
10. The continued migration of domestic workers from Nepal to Lebanon is largely due to Nepal’s open border policy with India, which allows women under 30 to travel via India to Lebanon through irregular routes. Today, the open border between Nepal and India is used by hundreds of thousands of migrant workers from Nepal, including MDWs, as a route to work in India itself, Middle Eastern countries and the Gulf. KAFA carried out a series of semi-structured interviews between mid-November 2012 and the end of July 2013 with both Nepalese and Bangladeshi MDWs in Lebanon, which revealed that most Nepalese MDWs had not complied with government regulations before migrating abroad and 28 per cent had migrated through irregular channels via India.

*“The agency told me that I was not allowed to go to Lebanon, and that I had to go via India. There were seven of us. We crossed the border in a bus, but were not accompanied by a member of the agency, and we did not act as a group. We each said that we were going as a tourist to India, or to visit friends or family there. I didn’t pay an extra fee to the agency, which paid for the bus fare, food, train ticket and one night in a hotel.”<sup>15</sup>*

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<sup>10</sup> Allaw, S., *Supra.*, n. 4, p. 22.

<sup>11</sup> FEPB, *Information for those wishing to migrate for domestic work* (translated), Press Release, 3 September 2012, <<http://fepb.gov.np/newsdetail.php?id=27>>.

<sup>12</sup> Hamil, K., *Trafficking of migrant domestic workers in Lebanon, a legal analysis*, KAFA, 2011.

<sup>13</sup> *Ibid.*, p. 24.

<sup>14</sup> Allaw, S., *Supra.*, n. 4, p. 9.

<sup>15</sup> An Interview conducted by KAFA with a Nepalese worker in Dora, Lebanon on April 7, 2013.

11. Under article 22 of the Nepalese Foreign Employment Act, migrant workers must depart from their native airport – Tribhuvan International Airport – so that their journey can be monitored and the authorities can ensure a proper process of safe and legal migration. However, due to bans on migration, which have caused confusion among Nepalese women about whether they are allowed to migrate for domestic work, many choose to avoid the airport. In doing so they also hope to avoid having to pay the bribes, or so-called ‘setting fees’ often demanded by border agents at the airport.<sup>16</sup> In effect, the requirement to use the native airport has added extra costs for migrant domestic workers, particularly for women under 30 years, and operates as a kind of deterrent to regular migration. This, combined with the confusion surrounding the bans on migration, allows brokers to convince women to migrate via Delhi, thereby pushing women towards irregular migration channels.<sup>17</sup>
  
12. Anu’s case illustrates the ineffectiveness of bans and their failure to address exploitation and abuse. Anu was in need of money and spoke to a female friend in her village who had been to Lebanon. Through this woman, an agent came to her house and said that such an arrangement could be made if she paid him 50,000 NPR (USD 504). The agent then suggested that it should be kept a secret as police would not allow her to go to India if she told the truth. On the first day of her journey, the broker lodged her in his sister’s house in Siligudi, India, and then at night took her to the railway station to go to Delhi. She stayed in Delhi for five days before being flown to Lebanon. The employer came to receive her at the airport. She was then mistreated by her employer for three years before being returned to Nepal.<sup>18</sup> The ban effectively gives power to unlicensed migration agents who operate out of the villages. There are many reports of these unlicensed agents being associated with deception, fraud and trafficking of women.
  
13. The existence of the ban allows the Nepalese government to claim that it is responsive to the “vulnerability” and abuse suffered by its women citizens when in fact the inconsistencies in state policies work in favour of those wanting to exploit MDWs; by putting a *de facto* ban on migration in place while it in fact remains relatively easy to do so, the State is pushing female migration underground and encouraging women to follow unregulated migration routes, while failing to address the real causes of exploitation and abuse. Far from preventing violence against domestic workers, it instead “serves to reinforce assumptions about women as weak and vulnerable, and in need of state (or male) protection.”<sup>19</sup> Furthermore, when women use irregular channels for migration, it effectively leaves them without recourse to assistance from their own government, despite irregular status not being grounds for exclusion from most mechanisms under the law. For example, not having made contributions to the Welfare Fund (established by the Foreign Employment Act to provide safety nets for migrant workers), MDWs are not eligible for assistance from the FEPB, which would

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<sup>16</sup> Amnesty International, *False Promises – Exploitation and Forced Labour of Nepali Migrant Workers*, London, 2011, p. 56; In 2011 Amnesty International estimated that migrants paid between 10,000 – 60,000 NPR (100 – 605 USD) in setting fees to migration officers in order to leave the country, adding to their debt.

<sup>17</sup> Guichon, A., *Supra.*, n. 2, pp. 17-19.

<sup>18</sup> Interview by Gurung, G. for Anti-Slavery International, Female Nepalese Domestic Worker (name changed), 2012.

<sup>19</sup> Kapur, R. *Makeshift Migrants and Law: Gender, Belonging and Post-Colonial Anxieties*, Routledge, New York, 2012.

include financial assistance and compensation for any difficulties faced during overseas work. KAFA's semi-structured interviews revealed that most participants were not registered with a security fund or a social welfare fund and most were unaware this procedure was necessary, did not know they could benefit from it, and were not aware of its importance.<sup>20</sup>

14. The bans also violate the principles of gender equality and freedom of movement. This is despite the fact that the 1990 Nepalese Constitution included provisions regarding labour and movement which had direct implications on women's right to migrate, including a guarantee that all citizens had the right to freedom of movement throughout Nepal, the right to reside in any part of the country, and the freedom to practice any profession, or to carry on any occupation, industry or trade. The 2007 Interim Constitution, currently in effect, also provides various provisions towards increasing gender equality and eradicating discrimination at an overarching political level. This includes government participation, labour rights, social protection, and the elimination of discriminatory policies and practices. Even if the intention might have been to protect women migrant workers, the decision of the Nepalese government to introduce an age ban for women is in complete contradiction with Nepal's attempt at mainstreaming gender equality in its constitution and policies.<sup>21</sup> In addition to limiting women's economic opportunities, the ban is reducing women's access to information (including the official orientation and training) that would help them migrate safely and assist them if they find themselves in difficult working conditions. Potential women migrant workers are apprehensive about revealing their plans for fear they will be stopped from migrating.
15. Instead of establishing bans, government policy must focus on the situation of women in Nepal, addressing the root causes of migration, including access to and control over land and resources, to ensure that migration is a choice and not a necessity. The government must make it safe for women to migrate for domestic work by reducing opportunities for abuse and enabling them to recognise and realise their own power over their own situation. Adequate and accessible pre-departure orientation and training is essential in achieving this goal.

### **Inadequate Pre-departure Awareness**

16. Providing adequate pre-departure training information to prospective MDWs is a crucial step in making migration safer for women. If they are informed of the realities and potential dangers linked to working abroad as a domestic worker, women will be better prepared to respond to those dangers and know where to find the information and support they need.
17. The government of Nepal has formulated a number of policies aimed at regulating and monitoring state-sponsored pre-departure training. Under section 27 of the Nepalese Foreign Employment Act (2007) pre-departure orientation training from

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<sup>20</sup> Amnesty International, *Supra.*, n. 16; Allaw, S., *Supra.*, n. 4, p. 27.

<sup>21</sup> Guichon, A., *Supra.*, n. 2, p. 16.

institutions accredited by the FEPB is mandatory for foreign employment and a pre-condition to a worker being allowed to migrate for work. The orientation training is aimed at providing women with information that will minimise the risk of exploitation and trafficking, create a better work environment and establish better relations with employers. The curriculum has been designed to be covered in 13 hours over 2 days. Sixty accredited centres, all located in Kathmandu, deliver the training, which costs NPR 700 (USD 7). This cost is refunded by the government and the training is valid for 18 months, after which time the migrant worker must attend a refresher training.<sup>22</sup> In 2012, the government introduced a compulsory 21-day skill training, to be obtained from one of 17 qualified training centres selected by the FEPB. All 17 training centres are located in Kathmandu but provide training to those outside Kathmandu as well. The cost of the training is NPR 5,300 (USD 53). A part of the training cost is reimbursed by the government; the amount is determined each financial year.

18. Nonetheless, interviews conducted with returnee migrant domestic workers and with government officials as part of Anti-Slavery International, GEFONT and KAFA's project revealed shortcomings of the two pre-departure trainings. Their inaccessibility has been highlighted as the single most important reason why migrant domestic workers find them irrelevant. Many migrants come from very remote areas of Nepal and have never travelled to Kathmandu. The situation is worse for the skills training, as participants are required to find ways of sustaining their long stays in the capital city. The use of alternative routes of migration discussed above mean that many women would not be leaving from Kathmandu airport, and might not even know of the existence of the pre-departure provisions.<sup>23</sup> Furthermore, KAFA field research has revealed that many workers that went on the course considered it to be ineffective and it was not taken seriously, meaning that they forgot what they had been taught when they reached Lebanon.<sup>24</sup> GAATW's research has found that it is uncommon for women in Nepal to take the training. Instead, certificates are easy to purchase at a reduced rate and a government reimbursement package means a small profit can be made. The following testimony also reveals the disdain held by agents toward pre-departure training, mirroring the disrespect for domestic work and for domestic workers:

*"I asked my agent about the skills that it was worth having and whether I had to learn anything before travelling. He said 'What – are you going there to work as a doctor? Why would you have to learn anything? You won't be doing anything you already know. It's just basic cleaning work; like cleaning the windows and that kind of thing. Don't you know how to do that... how to iron clothes?' But I later found out that domestic work abroad is not like it is in Nepal. It's different."*<sup>25</sup>

19. In this regard, the training provided by FCHVs to potential MDWs through Anti-Slavery International, GEFONT and KAFA's project has proven successful in improving the pre-departure awareness of MDWs. FCHVs confirmed that as trusted

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<sup>22</sup> *Ibid.*, p. 25.

<sup>23</sup> *Ibid.*, p. 26.

<sup>24</sup> Allaw, S., *Supra.*, n. 4, pp. 29.

<sup>25</sup> An interview conducted by KAFA with a returnee MDW in Kathmandu on April 4, 2013.

members in the villages, they often knew who was going abroad for work and felt positive that they could use their direct contact with women at the village level to “support their sisters”. Additionally, it was also felt that the information could also benefit men who are also cheated by employment agencies.

*“In that training we were told how to select manpower agencies, why it is important to go via Kathmandu’s airport and not via Mumbai or Delhi; we were also told about the amount of money women have to pay to go abroad for work. We were trained on different issues of migration. Trainers stressed the importance of keeping all documents up to date and keeping a copy of each document at home for record. They also stressed how important it is to go through government registered manpower agencies. At the training I also came to know about GEFONT’s role in helping to rehabilitate persons who are vulnerable and how important it is to keep all receipts of payment. This kind of training would be very useful to men and women at the grassroots level. It would be more effective. I would also love to participate in other such trainings and help women in the community.”<sup>26</sup>*

20. It is crucial that the Nepalese Government provide accessible and relevant pre-departure training to all potential migrants.

### **Insufficient Regulation of Recruitment Agencies and Agencies’ Deception of MDWs**

21. Nepal does restrict the recruitment process to licensed agencies and prohibits unregistered fixers and brokers. In 2013 there were around 934 recruitment agencies licensed by the Department of Foreign Employment and working under the umbrella of two organisations – the Nepalese Association of Foreign Employment Agencies (NAFEA) and the Nepalese Association of Foreign Employment.<sup>27</sup> However, this is a relatively small number of licensed agencies given the size of the country and the prospering migration sector. Furthermore, even those recruitment agencies that are licensed depend on a network of grassroots brokers in rural areas. These brokers are often not registered, in violation of Nepal’s 2007 Overseas Labour Law, which stipulates that recruitment agencies must register all the brokers that they interact with to the Administration of Overseas Employment. Although the number of registered brokers increased significantly from 2012, when there were no more than 9 registered, to 2013, when there were 250 registered agents, there is still a huge gap in this regard between policy and practice. In addition, the age ban has opened up an opportunity for unregulated brokers by pushing female migration underground and encouraging women to follow unregulated migration routes.

22. Brokers are usually responsible for the practical necessities of migration including obtaining passports and organising medical tests and means to travel to the airport, as well as monetary aspects such as facilitating the opening of bank accounts or the procurements of loans needed by the migrant worker to pay their migration

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<sup>26</sup> Anti-Slavery International interview, Female Community Health Volunteer, Jhapa, 2013.

<sup>27</sup> Amnesty International, *Supra.*, n. 16, p. 26.



expenses.<sup>28</sup> Nepalese MDWs and their families are often willing to trust and cooperate with brokers because they are people that are in some way affiliated with them, either because they are neighbours or relatives or because they are from the same or a nearby village or belong to the same ethnic group.

23. KAFA's field research indicates that Nepalese MDWs are not provided with sufficient information by agencies and brokers prior to travelling and that they were often misled about one or more of the following: the nature of the work and work contract, the circumstances of the family they would be working for, working hours, holidays, wages and regularity of payment, place of residence, and living conditions generally. GAATW's research with Nepali women migrant workers in Lebanon similarly found that many of the stories of abuse recounted by domestic workers involve some recruitment agent complicity. Where promised wages have not been paid, the recruitment agent has often played a role in telling the employer that they can get away with paying less than the stipulated amount on the contract. KAFA's research revealed that MDWs normally became aware of this deception either directly before their departure, at which point they had already taken out loans to cover migration and paid fees, thereby making it impossible to challenge the deception, or they became aware upon arrival at their place of work in Lebanon, at which point it is too late to complain to the agency in Nepal.<sup>29</sup>
24. MDWs migrating from Nepal to Lebanon and other countries of destination often sign contracts in Nepal; many of them do so without understanding the terms of the contract. This is due to reasons including lack of literacy, the broker not explaining the contract to the MDW and the contract being written in English. These contracts are exchanged upon arrival in Lebanon, where a regulated work contract in Arabic, another language the MDW is unlikely to read, is signed, usually containing conditions different from those set out in the original contract. Some MDWs surveyed by KAFA were misled into believing they would be undertaking work outside of the home in Lebanon. It was only upon arrival that they realised they had been deceived.<sup>30</sup>
25. Many MDWs are not given information by agencies about the number of hours they will be working in Lebanon or the number of days off they will receive.<sup>31</sup>

*"I said to the broker that I wanted to go to work in Kuwait, but he told me that Lebanon was better, and offered me work there, including secretary work with a 'Madame' [female employer] in a company in the airport. When he took the money from me, he said that the work was indeed with the Madame, but in her house. He told me that I would be more like her guardian than her servant, that the wage would be \$200 with Sundays off, and that there would not be a lot of work. He said that if I did not like the Madame then I could go to the agency and change my job. I did not receive the promised wage, and I worked*

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<sup>28</sup> Allaw, S., *Supra.*, n. 4, p. 22; Amnesty International, *Supra.*, n. 16.

<sup>29</sup> Allaw, S., *Supra.*, n. 4, pp. 24-25.

<sup>30</sup> *Ibid.*, p. 25.

<sup>31</sup> *Ibid.*, pp. 26-27.

*most of the day and night, and, of course, they did not give me a weekly day off.*<sup>32</sup>

26. International labour standards recognise that it is the sole responsibility of employers to cover recruitment expenses and prohibits employers from demanding that a MDW cover any expenses or fees.<sup>33</sup> Nonetheless, many Nepalese MDWs are forced to pay high fees by agencies and sometimes employers, causing them to take out loans. In addition, employers in Lebanon are sometimes charged large amounts to finance the migration of workers – illustrating a multiplication of recruiters’ profits. The average amount that Nepalese migrants surveyed by KAFA paid to travel to Lebanon was roughly 581 USD. The Nepalese Department of Foreign Employment has set maximum levels for recruitment fees according to certain factors, but it does not stipulate fees according to destination country or work sector. Recruitment agency employees in Nepal surveyed by KAFA said that women migrant workers may be asked to pay 50 USD for ‘facilitating the process of applying for a work permit and paying insurance costs.’<sup>34</sup> This is clearly not the case, given the average amount paid by the Nepalese MDWs surveyed by KAFA. In addition, some workers are forced to meet additional travel expenses en route to Lebanon. The difference between the actual cost of the MDW’s migration and the amount that the MDW pays becomes an illegal profit to the benefit of the agent or broker.<sup>35</sup>
27. In order to meet the expenses involved in migration, the majority of MDWs are forced to take loans and, as this is difficult through official routes, they often borrow from moneylenders, sometimes through the facilitation of their agent or broker. According to KAFA’s survey, the amount borrowed ranges between roughly 100 and 1,000 USD; when compared to the average individual yearly income, this is equal to about a year’s worth of work in Nepal. As a result, one third of those surveyed that funded their migration through loans spent a full year of work paying off their debts – thereby exposing MDWs to debt bondage.<sup>36</sup>
28. Thirty-eight per cent of survey participants said that once in Lebanon, their employers deducted money from their salaries. The reasons for employers in Lebanon deducting wages from MDWs are multifaceted but some employers surveyed did justify this practice by stating that they had to pay the placement agency in Lebanon (33 per cent) or the placement agency in the country of origin (13 per cent). In some cases, a deduction was made from the MDWs wages in order to pay off the worker’s loan, which had been used to pay agents’ fees and provide profit.<sup>37</sup>
29. With the above in mind, it is essential that the Government of Nepal takes action to regulate recruitment agencies and monitor recruitment practices. As it stands, the practice of recruiting MDWs from rural areas of Nepal is largely unregulated. This

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<sup>32</sup> An Interview conducted by KAFA with a Nepalese worker in Zikrit, Lebanon on September 4, 2013.

<sup>33</sup> ILO Convention No. 181 related to Private Employment Agencies, 1997, Article 7 (At the time of writing Nepal has not ratified this Convention).

<sup>34</sup> Two interviews carried out by KAFA with two recruitment agencies in Kathmandu on May 20 and 22, 2013.

<sup>35</sup> Allaw, S., *Supra.*, n. 4, p. 36.

<sup>36</sup> *Ibid.*, p. 36.

<sup>37</sup> *Ibid.*, p. 38.

lack of regulation increases the risk of women being trafficked, being in a situation of forced labour and/or debt bondage, as a result of inflated debts and deception about their future employment.

### **Lack of diplomatic representation**

30. Under article 68 of Nepal's Foreign Employment Act (2007), the government is obligated to appoint a labour attaché to all countries "where five thousand or more workers have been sent for foreign employment". Despite the high number of workers in the country and the severity of abuse and exploitation reported, there is currently no official representation of Nepal in Lebanon. The Labour Attaché with responsibility for Lebanon is at the Nepalese Embassy in Cairo. Until 2012, two Nepalese individuals assisted the Honorary Consul in Lebanon by providing support for Nepalese citizens in distress or trouble, especially MDWs. Since their departure, Nepalese MDWs in difficult situations have been unable to call upon any representative from their country. Currently, the Nepalese government considers that there are not enough Nepalese in Lebanon to justify a consulate/Embassy, although in theory the presence of around 5,000 workers should justify a labour attaché.

### **Recommendations to the Nepalese Government:**

- i. Ratify and implement ILO Convention 189 on Decent Work for Domestic Workers, which in addition to providing all domestic workers with the rights and protection to which they are entitled, provides measures to address the specific issues experienced by MDWs;
- ii. Ratify and implement ILO Convention 29 Concerning Forced or Compulsory Labour and P029 - Protocol of 2014 to the Forced Labour Convention, 1930;
- iii. Implement the Committee on the Elimination of Discrimination against Women General recommendation No. 26 on women migrant workers.
- iv. Ratify and implement the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Ensure that the incorporation of this standard into national legislation uses a definition of trafficking that applies to all genders and covers trafficking for labour exploitation into all labour sectors, including in the informal sector. Harmonise policy and practice in relation to migration for domestic work in Nepal. Repeal all age bans on migration; this will encourage women to take official routes to migrate for domestic work and eventually reduce the risk of being exploited if done in the context of the other recommendations put forward in this report;
- v. Provide accessible and relevant pre-departure information to all potential migrants. Current provisions for pre-departure training and orientation do not reach the women it should. The trainings should include information on the human and labour rights of migrant workers in the country of destination (including their right to retain possession of their personal identity and travel

documents); relevant contact details in the case of any problems (such as labour attachés), and details of how to access complaints and redress mechanisms in Nepal. Training should be de-centralised and possibly delivered at the Migrant Information Centres operating across the country;

- vi. Regulate recruitment agencies and monitor recruitment practices. The current lack of regulation increases the risk of women being trafficked and the risk of situations of forced labour and/or debt bondage;
- vii. Establish government-to-government arrangements with Lebanon and other countries of destination that would *de facto* limit the contribution of private recruitment and placement agencies to a logistical role, and would therefore limit exploitative practises by agents and brokers, as well as the debt incurred by MDWs.
- viii. Establish embassies in countries of destination with Labour Attachés;
- ix. Stop the exclusion of women migrant domestic workers from the benefits provided by private insurance and the FEPB through the Welfare fund, ensuring that all migrant workers, regardless of their migration status, have access to a transparent and effective complaints mechanism through which they or their families can seek redress, including compensation, if they experienced exploitative terms or conditions, or if they are deprived of benefits to which they are entitled as a result of accidents, illness or death while in transit or the country of destination;
- x. Support the self-organisation of migrant domestic workers with the view of organising them into trade unions. Work with and learn from returnee migrant domestic workers how they can best be supported to come together to provide peer support and advocate for and defend their own rights.