

SANGLA BHACHHNU:  
IDENTIFYING AND PRIORITIZING KEY BARRIERS TO FIGHTING HUMAN  
TRAFFICKING IN NEPAL

by

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Human trafficking is a multifaceted humanitarian crisis affecting millions worldwide. Though a significant number of anti-trafficking entities and organizations are at work in the country of Nepal, there is still a significant problem. This project attempts to shed light on factors preventing progress and determine the most significant barriers to ending human trafficking in the country in order to prioritize strategies for action. Research involved two field trips to Nepal where 14 in-depth interviews were conducted with representatives from United Nations agencies, the US Department of State, the Nepali government, NGOs and INGOs, civil society organizations, and a national network of anti-trafficking organizations. Findings indicate that the most significant factors inhibiting efforts to combat human trafficking in Nepal include confusion in defining trafficking, the tendency of the Nepali government to misattribute cases of trafficking as labor violations, government corruption, and the growing cross-border network. Issues of secondary influence include underlying demographic variables perpetuating vulnerability (including gender, religion, caste, economic need and lack of education), lack of interagency collaboration, and inadequate disaster relief frameworks. Recommendations for

change (including ratification of the Palermo Protocol, exposing and rectifying corruption within the government, and improving mechanisms for safe migrant labor) are provided to influence the Nepali government and NGO personnel toward best practices in anti-trafficking efforts.



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## DEDICATION

For Ruth: You are stronger than you know, bahini.

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## PREFACE

I initially became acquainted with the problem of human trafficking in the summer of 2016 while volunteering in a safe house for rescued trafficking victims in Lalitpur, Nepal. As I developed relationships with rescued girls and their caretakers, I began to realize the severity of the evils of modern-day slavery. After the spark was lit to fight this injustice, I decided to focus my master's thesis on identifying the key barriers to fighting human trafficking in Nepal and determining which of these barriers are most urgent. My work as a member of a faith-based, Christian mission organization conducting outreach in Nepal has greatly impacted my desire to fight injustice. Working through this organization afforded the opportunity to meet and develop contacts with other NGO personnel working in Nepal to fight human trafficking. While I personally have a faith-based perspective toward fighting injustice, the problem of trafficking must be addressed by a range of institutions, including government, international agencies, NGOs, and other organizations, both faith-based and otherwise. It is my intent that this thesis will be instrumental in the fight against injustice, in what is one of the worst evils of modern times. Although my personal experiences motivated this research, I endeavored to complete it from as objective and unbiased a perspective as possible.

## CHAPTER 1: INTRODUCTION

Forced slavery is an alarming problem both within and beyond the borders of Nepal. With a population of 28.5 million, an estimated 234,600 Nepali citizens are currently living in modern slavery (Global Slavery Index, 2016). In the Global Slavery Index (2016), Nepal is ranked number 13 among 167 countries surveyed on the estimated proportion of the population living in modern slavery. The 2017 *Trafficking in Persons Report* created by the US Department of State considers Nepal a Tier 2 country, in which the government “does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so” (US State Department, 2017). Out of Nepal’s 75 districts, 26 to 29 are prone to international human trafficking (Sijapati, Limbu, Khadka, & Aryal, 2011). Although the Ministry of Women, Children, and Social Welfare (MWCSW) has expanded the District Committees on Controlling Human Trafficking to all districts of Nepal, a number of those in rural areas are not active (US State Department, 2016). Through the Human Trafficking and Transportation Control Act of 2007 (HTTCA, 2007), Nepal prohibits most forms of trafficking, including the selling of individuals and forced prostitution. Despite the fact that laws and policies are in place, trafficking remains a problem due to lack of consistent enforcement of laws and prosecution of offenders. Corruption in several areas of the government and frequent misattribution of trafficking cases as migrant labor violations further exacerbate the problem.

While significant research exists on factors that contribute to trafficking, this project attempts to shed light on the intricately linked, complex factors involved and to determine why there is still such a problem when many anti-trafficking entities and organizations have been operating in Nepal for years. It is expected that a holistic effort toward identifying the major

barriers to combating trafficking can aid government officials and NGO leaders in determining priorities for action going forward.

To meet this goal, interviews and participant observation were conducted in Nepal in the summer of 2017 with government officials, policy experts and NGO representatives in both the capital of Kathmandu and the rural district of Rasuwa. The investigator has past experience in the country and was assisted by a local NGO worker fluent in Nepali. Subsequently, the investigator attended a major conference on human trafficking held in Kolkata, India, in November of 2017 and made a return visit afterwards to Nepal for the purpose of conducting additional interviews in Kathmandu. The specific objectives addressed in the project were:

1. To delineate the role of key demographic variables underlying the patterns of trafficking in Nepal and the role these play in perpetuating the practice;
2. To determine how best to define human trafficking and distinguish between voluntary labor contracts (economic migration) and trafficking;
3. To determine what existing laws, policies, and reporting systems exist in Nepal in order to highlight gaps in these policies and to explore why many of these are not being consistently enforced, including the impacts of corruption in several areas of the government;
4. To address the role of globalization in the increase in cross-border human trafficking, and to determine reasons for the misattribution of certain cross-border trafficking cases as migrant labor violations;
5. To determine how the social and economic disruptions resulting from the 2015 earthquakes created an environment in which trafficking increased and which types of disruptions were the most significant contributors to these increases;

6. To determine the extent to which a lack of cooperation among anti-trafficking agencies poses a barrier to dealing effectively with the problem, and to explore the particular factors that make such collaborations difficult;
7. To synthesize the survey responses to make recommendations about how the various stakeholders fighting trafficking in Nepal might best prioritize efforts, and to suggest strategies for addressing the most important of these barriers.

This research was conducted in two stages. Initially, it focused primarily on barriers to interagency collaboration. However, interview data raised other key issues and barriers that were integral and, in some ways, more important contributors to the trafficking problem. Therefore, the sample and scope of the research was modified in order to explore in more detail the relationship between economic migration and human trafficking in Nepal and the particular issues associated with cross-border trafficking and secondarily the impacts of government corruption. To further complicate the problem, trafficking incidents are frequently being cited and, in instances where existing laws are enforced, convicted as migrant labor violations, which often places the punishment on the victim instead of on the trafficker. It also became clear that to fully understand the government's role, there needed to be a more comprehensive examination of the existing laws and policies on trafficking and the barriers to consistent enforcement of these laws. Finally, many interviewees raised the issue of the role of disaster, in this situation, the April 25<sup>th</sup>, 2015 earthquake and subsequent aftershocks, in destabilizing both local economies and the infrastructure needed to track and arrest traffickers.

The problem of human trafficking in Nepal and elsewhere will never be solved unless we create and carry out comprehensive, systematic solutions. Although some NGOs and faith-based entities are laudably successful in rescuing and working in care, rehabilitation, and repatriation

of trafficking victims (National Human Rights Commission, 2014), these activities and services are not available in all areas of Nepal (US State Department, 2017). Furthermore, even the most successful aftercare programs do nothing to solve the fundamental problem, because they only deal with the effects. Other international agencies address portions of the problem through activities such as placing countries with high trafficking occurrences on watch lists and by tying international funding or development loans to the enactment of recommended initiatives (US State Department, 2017). However, these activities do nothing to directly address local economic conditions that push families to sell their vulnerable women and children directly into trafficking or to take risks entering into dangerous situations which frequently lead to trafficking. Although local citizen groups in Nepal have taken important strides in enacting laws and pushing for reliable enforcement, corruption remains an issue at numerous levels (Personal Interview 1.1.4, 2017). While the problem is vast and complicated, a key starting point is to bring a more holistic perspective, one gained from applying the broader perspective of the multidisciplinary field of international studies, to an examination of the relationships among these barriers such that more effective plans for addressing them can be designed.

## CHAPTER 2: LITERATURE REVIEW

### 2.1: FACTORS INCREASING VULNERABILITY TO PATTERNS OF TRAFFICKING

The existing approaches to fighting human trafficking in Nepal are lacking in overall cohesion and collaboration. Within Nepal, trafficking victims are frequently sourced from rural areas and forced to work in larger cities, most frequently in the sex and labor industries. Outside Nepal, victims are often sent to India, the Middle East, Asia, and sub-Saharan Africa, most frequently for sex trafficking, labor trafficking, and domestic servitude. The open border between Nepal and India, across which citizens of both countries can move freely without need for travel documents, has largely contributed to the cross-border trafficking problem (US State Department, 2017; Kaufman and Crawford, 2011).

Based on a report by the International Labor Organization (ILO) and the Walk Free Foundation in partnership with the International Organization for Migration (IOM), it is estimated that 40.3 million individuals were victims of modern slavery in 2016. Of these 40.3 million, an estimated 24.9 million were victims of forced labor and an estimated 15.4 million were victims of forced marriage. In the five years prior to the publication of the Global Estimates of Modern Slavery, an estimated 89 million individuals were subjected to some form of modern slavery, ranging from time periods of only a few days to the entire five years. Trafficking rates were estimated cautiously, showing to be most prevalent in Africa (7.6 per 1,000 people), closely followed by Asia and the Pacific (6.1 per 1,000), and Europe and Central Asia (3.0 per 1,000) (8.7 Alliance, 2017). ILO data from 2014 reports that human traffickers earn approximately \$150 billion per year, with \$99 billion earned from commercial sexual exploitation, \$34 billion in construction, manufacturing, mining and utilities, and \$9 billion in agriculture, including forestry and fishing (Human Rights First, 2017). Human trafficking is the third most lucrative sector

within organized crime, following drugs and the arms trade, and is said to be the fastest growing source of income for organized crime (Omar Mahmoud & Trebesch, 2010).

There is no integrated data on human trafficking in Nepal, and thus there is no reliable, authoritative source of information to verify conflicting data. However, the data that do exist suggest the importance of certain key factors related to patterns of trafficking and influences that perpetuate the practice. These include the existence of gender inequalities exacerbated by lack of education and poverty (Global Slavery Index, 2016), social inequalities related to religion, caste and ethnicity, and the social disruption stemming from natural disasters (AATWIN, 2018). This interconnected web contributes to the worsening of the problem of human trafficking in Nepal. Barriers to solving these problems are entrenched and will require multi-faceted, holistic approaches to solve.

Women and girls are disproportionately impacted by human trafficking. This is largely due to factors such as gender-based mistreatment in families, child marriage practices, and cultural values holding men as superior to women. A joint report produced by the ILO and the Walk Free Foundation estimate that the 28.7 million enslaved women and girls comprise 71% of worldwide human trafficking victims. Women and girls comprise 99% of forced labor within the commercial sex industry, 58% of forced labor within other sectors, 40% of forced labor by state authorities, and 84% of forced marriages (8.7 Alliance, 2017). Notably, females are the more frequent victims of child marriage. Although data is limited in key regions such as the Arab States, it is estimated that incidences of forced marriage are highest in Africa (4.8 per 1,000) and Asia and the Pacific (2.0 per 1,000) (8.7 Alliance).

Trafficking in women and girls in Nepal began in the nineteenth century when the Rana family, an autocratic regime, ruled between 1846 and 1951. During this time, young, attractive

girls were forced to serve as housemaids, concubines, dancers, and singers (Subedi, 2009). After the fall of the regime, some Ranas escaped to India, often taking their housemaids. Some of these housemaids were forced to work in Indian brothels, and some later opened their own brothels in India and began recruiting young girls from their own places of origin in Nepal (KC et al., 2001). Though the forms, processes and purposes of trafficking have changed as the country has gone through a series of sociopolitical and socioeconomic changes, the problem of trafficking in women and girls continued to grow as the trade was commercialized and profits grew. This was further exacerbated by a lack of anti-trafficking law until 1984. The most vulnerable group of trafficking in women and children in Nepal today is girls age 12-18, especially those of lower castes.

Even though it is legal in most countries for children to engage in some forms of work, children are particularly vulnerable to slavery or slave-like environments, which is frequently a result of gender-based mistreatment or economic need and general financial despair, coupled with lack of education. One in four victims of human trafficking is under the age of 18, causing children to represent 18% of labor trafficking victims and seven percent of individuals subjected to forced labor by state authorities (though these figures are notoriously under-reported). Child victims of the commercial sex industry represent 21% of total sexual exploitation victims (8.7 Alliance, 2017). Children found to be in the custody of a non-family member who is forcing the child to engage in activity that provides financial gain for an individual outside the child's family and does not allow the child to leave may be in a forced labor situation.

It is difficult to provide an authoritative statement on the magnitude of trafficking of men, women and children from Nepal due to a lack of centralized database system for tracking trafficking in persons, because anti-trafficking entities in Nepal lack overall coordination and

cohesion with their work, and because the strong negative social stigma attached to trafficking makes it difficult to generate any realistic representation of the number of victims. It is estimated, however, that the number of Nepali female domestic workers trafficked for forced labor, largely to the Gulf countries, is estimated to be somewhere between 140,000 and 170,000 (National Human Rights Commission, 2014). The Central Child Welfare Board of Nepal reports that the number of missing children recorded in the 2012-2013 reporting period was 1453. Statistically, two in five missing children remain missing, but it is worth noting that one in every two missing girls remains missing. The National Human Rights Commission reports, “This fact provides the nexus of the missing children phenomenon with trafficking for sexual exploitation” (National Human Rights Commission, 2014:iii).

Factors motivating family members to traffic their children include instability and economic depression, poverty, lack of employment opportunity, struggle for livelihood, forced taking of property from minority groups, economic insecurity, and lack of industrialization. A study by the Central Child Welfare Board and the Save the Children Alliance (2005) indicate that poverty is the primary cause (36%) for child migration from Nepal to India. Particularly during the late-1980s to mid-1990s, absolute poverty led to parents selling their own daughters to brokers (Uraguchi, 2010:33). During this time, the growth of the Nepali carpet industry facilitated the movement of women and children from poverty-stricken areas. Half of the 300,000-persons labor force was comprised of child labors between the ages of 5 and 16, the majority of which consisted of the Tamangs, an indigenous group of the hill communities surrounding the capital.

Additionally, many Nepalis, particularly in rural areas, hold fast to the concept that education is unimportant for females. Unequal educational opportunity for female children

contributes to their likelihood of being sent into forced labor (Ghale, 2016). Child marriage practices increase children's vulnerability to trafficking. A 2012 UNICEF study shows that the exclusion of girls from education is an important factor affecting their likelihood of exploitative forms of child marriage (Hawke & Raphael, 2016). Furthermore, data from an unknown source (referenced in Personal Interview 2.4, 2017) show that most migrant workers left school before completing primary education. There is also a disconnect between the perspectives of teachers and the educational materials aimed at preventing human trafficking. Teachers often perpetuate the pervasive stereotype that sexual exploitation is the only form of human trafficking (Personal Interview 2.4, 2017).

Although women and children are disproportionately affected by trafficking, men remain in the profile of individuals identified as victims of various forms of trafficking. It is estimated that men comprise 29% of overall modern slavery victims, though the proportion of male victims varies across forms of trafficking. Despite this low overall affectedness rate, global estimates indicate that men are disproportionately affected by state-imposed forms of forced labor, which particularly impacts men in manual labor industries such as construction, manufacturing, and agriculture/fishing. Nepali men are frequently exploited through non-state-imposed forced labor and debt bondage, especially within the agriculture, forestry, construction, and manufacturing industries.

Again, it is difficult to provide an authoritative estimate on the number of male Nepali victims of trafficking. This is in part due to the factors considered above, and partially because there is a large social stigma associated with male trafficking victims, both in labor exploitation and otherwise (Personal Interview 2.). Although the pervasive stereotype is that only women and children are affected by sex trafficking, men and boys can also be victims of all aspects of

trafficking, including sexual exploitation and forced marriage (8.7 Alliance, 2017). Table 2.1 details the types of trafficking that victims of trafficking in Nepal typically experience.

<b>Types of trafficking</b>	<b>Forms of trafficking</b>	<b>Victims/survivors of trafficking</b>
Internal	<ul style="list-style-type: none"> <li>• Sexual exploitation (cabin, dance restaurants, massage parlors, tourism)</li> <li>• Labor exploitation (often in factories: carpet, garments, embroidering, brick kilns, etc.)</li> <li>• Other forms of exploitation (organ transplantation, child pedophilia, pornography)</li> </ul>	<ul style="list-style-type: none"> <li>• Children (particularly girls)</li> <li>• Adult women</li> </ul>
Cross-border (to India)	<ul style="list-style-type: none"> <li>• Sexual exploitation (brothels and non-brothels)</li> <li>• Labor exploitation (circus industry, agriculture and non-agriculture sectors)</li> <li>• Other forms of exploitation (forced marriage, organ transplantation and removal)</li> </ul>	<ul style="list-style-type: none"> <li>• Children (especially girls)</li> <li>• Adult women and men</li> </ul>
Cross-border (beyond India)	<ul style="list-style-type: none"> <li>• Sexual exploitation (especially in non-brothels)</li> <li>• Labor exploitation (especially in unorganized sectors in Gulf countries)</li> <li>• Other forms of exploitation (especially adoption)</li> </ul>	<ul style="list-style-type: none"> <li>• Children</li> <li>• Adult women and men</li> </ul>

**Table 2.1: Types, forms, and victims (Subedi, 2009).**

As the majority religion of Nepal, Hinduism plays a significant role in the culture of Nepal. Although the logic of the caste system within Hinduism is difficult to determine, there is a strong link between caste, ethnicity and vulnerability to human trafficking. However, one of the most threatening causes of trafficking is the result of caste-based discrimination (Ghale, 2016). A study on caste and ethnic composition of trafficking survivors performed in 1994 and again in 2011 revealed that among trafficked individuals, Dalit populations from the hills regions form

the highest portion (43.13%) of victims. This was followed by Brahmins/Chhetris (23.8%) and occupational castes (22.4%). Data from The National Human Rights Commission shows that individuals from the Janajatis group, understood to be a nomadic and non-caste ethnic group, were also likely to be drawn into trafficking (Uraguchi, 2010:24).

## 2.2: ISSUES OF DEFINITIONS, LAWS, POLICIES AND REPORTING SYSTEMS

Human trafficking is a global humanitarian crisis affecting millions worldwide.

Individuals in nearly every country of the world have fallen victim to this heinous crime. After centuries of neglect and indifference, the world is finally becoming aware of the evils of modern day slavery. The modern anti-trafficking movement began in December 2000, with the adoption of a series of publications to fight transnational organized crime and further agreements or protocols to combat trafficking in persons, smuggling and firearms. The full range of commitments are contained in the Convention against Transnational Organized Crime (United Nations, 2002), the Protocol to Prevent, Suppress and Punish Traffickers in Persons, Especially Women and Children (United Nations, 2000a), and the Interpretative Notes to the Trafficking Protocol (United Nations, 2000b). These three documents constitute the comprehensive set of international obligations which specifically address human trafficking.

The UN Convention Against Transnational Organized Crime, known as the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, outlines the internationally accepted definition of human trafficking. Article 3 of the UN Protocol states the following:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power

- or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
  - (c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
  - (d) "Child" shall mean any person under eighteen years of age (United Nations, 2000a).

The Protocol thus delineates trafficking into three elements: 1) WHAT is done: "Recruitment, transportation, transfer harboring, or receipt of persons"; 2) HOW it is done: "Threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"; and 3) WHY it is done: "For the purpose of exploitation...Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs" (United Nations, 2000a). It is

important to note that there is no requirement for the intent to have actually been achieved. Therefore, an individual who has been rescued before exploitation occurs is still a victim of trafficking.

The protocol, however, makes a key distinction between trafficking and smuggling; the latter of which consists of three elements:

1. “Procuring the illegal entry of another person
2. into another State
3. for the purpose of financial or material gain” (United Nations, 2000a).

This distinction is based on the assumption that migrants have consented to being smuggled. Traffickers, moreover, generate money from the continual exploitation of victims, whereas smugglers generate money exclusively from aiding migrants to travel to and enter other regions illegally. Thus, smuggling must, by definition, involve crossing a border, whereas trafficking does not necessitate a border-crossing.

Lacking a clear distinction between human trafficking and smuggling is problematic in several ways. First, trafficking victims typically require psychological, physical, and logistical support for extended periods of time. Smuggled migrants, on the other hand, are at risk of being exploited in the destination country. Second, if the category of trafficking is expanded to include smuggling, the scope may be limited by solely focusing on the set of victim and offender, thus excluding the regulators. Leaving out the regulators could lead to ineffective policies. The alternative involves focusing on work-related exploitation, which considers the actions of other entities, including state regulators and legal yet exploitative employers. As Campana and Varese (2016) state,

Ultimately, states (i.e. regulators) are not just bystanders whose only role is to “rescue” victims from the hands of traffickers: they are often key players,

having the ability to set rules regarding requirements for entry into a country, working conditions and business practices, as well as having the power to grant legal status to a given industry. A focus on exploitation easily allows policy-makers to devise norms that protect victims, while maintaining the distinction that is already in place (p. 101).

When the Protocol came into effect in December 2003, only one third of the countries covered by the United Nations Global Report on Trafficking in Persons had legislation against human trafficking. By late 2008, four-fifths had anti-trafficking legislation. As of 2017, 170 countries had ratified the Palermo Protocol (United Nations, 2005). Ratification requires acknowledgement of and adoption of the definition of trafficking outlined in the Protocol. In a 2005 United Nations analysis of national legislation and measures relevant to the provisions of the Protocol, numerous parties expressed difficulties that hindered the passage of national legislation to implement its provisions. Several signatories expressed a need for technical assistance in multiple areas, including the need to train inexperienced staff and the need for improving local criminal justice and training for law enforcement capabilities, among others (United Nations, 2005).

While the Smuggling of Migrants Protocol portion of the Palermo Protocol is a milestone in global efforts to prevent and suppress smuggling and protecting victims, a series of concerns and objections exist which have caused 45 states to refrain from becoming Parties to the Protocol. These states include Afghanistan, Bangladesh, China, Eritrea, Iran, Jordan, Malaysia, and Pakistan, which all have a significant role in the source, transit, and destination of smuggled migrants. Barriers to ratification include a false perception of lack of incentives, a faulty view that national laws or non-binding regional initiatives have already adequately addressed the issue, and a reluctance to adopt binding obligations on concepts and issues that are traditionally topics of national concern (Schloenhardt & MacDonald, 2017).

Nepal has ratified several international human rights instruments, including those relating to combating trafficking and forced labor, but it has yet to ratify the Palermo Protocol. Instead, the Domestic Law of Nepal through The Human Trafficking and Transportation (Control) Act (HTTCA) of 2007 considers human trafficking to including the following actions:

- a) Selling or purchasing a person for any purpose,
- b) Forcing someone into prostitution, with or without any benefit,
- c) Extracting human organs except as permitted by law,
- d) Engaging in prostitution as a client.

Additionally, according to the HTTCA (2007), persons deemed to have committed any of the following acts will be deemed to have committed illegal human transportation:

- a) Taking a person out of the country for the purpose of buying or selling that person,
- b) Taking anyone from his or her home, place of residence or from another person “by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurements, influence, threat, abuse of power and by any means of inducement, fear, threat or coercion to the guardian or custodian and keep[ing] him or her [in] one’s custody or [taking him/her] to any place within Nepal or abroad, or [to] handover him/her to somebody else for the purpose of prostitution and exploitation” (p.2).

According to Section 9 of the Nepal Treaty Act (National Legislative Bodies, 1990), if there is a conflict between international and national laws, international laws take effect. Despite this provision, Nepali law is still lacking in adherence to international laws on numerous fronts. More significant, however, is the lack of consistent enforcement of the laws and policies that the

Nepali government has passed and ratified. This is further complicated by pockets of corruption in all levels of the government, including the misattribution of cross-border human trafficking cases as migrant-labor violations, largely due to the relative ease of obtaining convictions for migrant labor violations. These issues will be discussed in further chapters.

A complicating issue in Nepal, which will be discussed further in Chapter 5, concerns cases of labor exploitation that are frequently registered under the Foreign Employment Act (Department of Foreign Employment (Nepal), 2007) without investigation regarding potential trafficking crime involvement. Corruption also remains a problem at all levels of government. Because corruption influences the classification of cases as labor violations or trafficking, the prosecution of trafficking and the enforcement of penalties, it too must be considered in more detail as a barrier to government efforts to solve this problem.

### 2.3: GLOBALIZATION, CROSS-BORDER HUMAN TRAFFICKING AND MIGRANT LABOR

In a rapidly expanding society characterized by interconnectedness and globalization, tourism and transportation have greatly increased. Journeys that previously took weeks now take merely days or even hours to complete. The rise of globalization in recent years has greatly increased interaction and cross-border travel between the nations of the world. The Levin Institute at The State University of New York refers to globalization as

A process of interaction and integration among the people, companies, and governments of different nations, a process driven by international trade and investment and aided by information technology. This process has effects on the environment, on culture, on political systems, on economic development and prosperity, and on human physical well-being in societies around the world (The Levin Institute, 2016).

In this increasingly globalized society in which borders between nation states become markedly less relevant as cross-border trade, travel, investment and employment are increasingly

common, the effects reach into the realm of human rights. Increasing globalization creates disparities between and within countries, which in turn accelerates migration as citizens seek to improve their lives. Unfortunately, much of this migration is undertaken illegally or irregularly, which places migrants at increased vulnerability to exploitation. The risks of child sexual exploitation have also increased (The Levin Institute, 2016; US Department of State, 2017).

Theoretical literature on human trafficking (as cited in Majeed & Malik, 2017) indicates that globalization is an important contributing factor to the growing problem of human trafficking. Social globalization facilitates trafficking by assisting traffickers to identify and reach victims through increased interconnection of personal contacts, information flows, and media. Socio-economic disparities, illiteracy, endemic poverty and gender inequalities are all fueled by globalization. Beck (2000) argues that the effect of the breakdown of basic assumptions by which societies and states have been conceived as independent territorial units is far-reaching. Country integration into global networks has also integrated the networks of human traffickers (Beck, 2000; Majeed & Malik, 2017).

Affecting the largest proportion of human trafficking victims (64%), forced labor occurs when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other means of coercion to compel someone to work. Forced labor involves the full range of activities: recruitment, harboring, transporting, and providing or obtaining persons. Migrant worker populations are particularly vulnerable to forced labor throughout the world, both internationally and intranationally. Female labor trafficking victims are also frequently abused and exploited sexually (US State Department, 2017). Additionally, a worker's legal status in the destination country hinges on the employer's preparation and approval of documents. Workers may endure abuses due to fear of losing their employment, defaulting on their debts, or

subjecting family members to threats, loss of property and loss of vital foreign remittances (US State Department, 2017).

Chilufya and Chitupila (2011) consider globalization to be the root cause of human trafficking, arguing that efforts to control human trafficking will not be effective without addressing the existing endogenous factors. Globalization results in a breakdown of the influence of sovereign state government and effective border control. Additionally, transnational security threats including terrorism, drug trafficking, and nuclear proliferation are accelerated by globalization. Inequality, poverty and unemployment are fundamental contributing factors to the problem of human trafficking. Whereas openness of economy and high rates of prostitution have been shown to increase the demand for trafficking victims, unemployment markedly fuels supply of victims. Findings from Peerapeng and Chaitip's (2014) study investigating the role of economic globalization in human trafficking in six Greater Mekong Sub-Region (GMS) Countries (China, Thailand, Vietnam, Myanmar, Laos and Cambodia) predicts that economic globalization contributes significantly to increases in human trafficking in GMS countries. Additional significant causative factors include exchange rate, migration, population and democracy. Lack of adequate vocational training, education, microfinance credits, and low per capita GDP further exacerbate the problem (Majeed & Malik, 2017).

Women's mobility and economic independence is at a magnitude unlike ever before in Nepali history. The growing presence of women in a variety of cross-border circuits has also played a major role in illegal trafficking. Through studies conducted by numerous conventions and advocacy groups, Saskia Sassen has determined that the entry of organized crime into sex trades, the formation of cross-border ethnic trafficking networks, and the growing transnationalization in many aspects of tourism suggest that the global sex industry is likely to

see further development (Sassen, 2001). “New estimates on movement...illustrate the fact that cross-border movement is closely allied with forced sexual exploitation” (CWIN Nepal, 2016).

Sassen considers cross-border sex trafficking to be most frequently caused by financial need, suggesting the possibility of systemic links between the growth of alternative methods of survival and profit-making, as well as major impacts of economic globalization on developing countries as more “traditional” employment options decrease (Sassen, 2001). The majority (86%) of sex workers in a 2008 study reported being trafficked as minors, by individuals previously known to them. Victims were either commonly kidnapped from public settings using drugs or force, or were promised economic opportunity (Sarcar et al., 2008:229). Economic need as a result of unemployment adds pressure to children to find alternative ways to ensure household survival. Even if foreign employment agencies are not involved in the direct trafficking of persons during the recruitment process, reports frequently indicate that upon arrival in the destination country, workers are often forced to work difficult jobs in unsanitary conditions for low pay (Subedi, 2009).

Within the Nepali government, the Ministry of Women, Children and Social Welfare is the ministry primarily responsible for handling efforts to fight human trafficking. The Ministry of Labor and Employment is responsible for overseeing any violations to migrant labor contracts that may arise. Due to a lack of sufficient collaboration among these and other branches of the government, cross-border human trafficking cases among Nepali citizens are sometimes prosecuted as migrant labor violations (Personal Interview 1.1.2, 2017). This is caused by numerous factors. First, it is easier to obtain a conviction related to migration than it is to obtain a conviction related to human trafficking. When transnational labor trafficking has taken place, it is not difficult to register a complaint to the local police (though follow-through on registered

complaints remains unsatisfactory in many countries). In cases of labor trafficking abroad, the mechanism for filing a complaint is through the Department of Foreign Employment (DoFE). Because the DoFE does not match with the terms and conditions of the law in how they handle such cases, victims are frequently not provided the services of the law (Personal Interview 2.7, 2017). Furthermore, there is a pervasive stigma that instances of labor trafficking are not truly human trafficking. In Nepali culture, human trafficking is largely considered to be a women's problem, solely relating to sexual exploitation. Even when the same indicators are present for men, it will not be considered to be trafficking and will be filed as a labor issue. Additionally, it is considered taboo for a man to file a case as a victim of human trafficking because they will be considered "broken or gross; [therefore, men] prefer to file under the Foreign Employment Act" (Personal Interview 2.7, 2017). These and other crucial issues will be further investigated in Chapter 6.

#### 2.4: DISASTER, RISK REDUCTION AND PREPAREDNESS

Although a negative correlation between natural disasters and human trafficking is frequently cited in the literature, to the researcher's knowledge there has been no quantitative study performed to date. Natural disasters often destroy shelters and economic security and frequently force individuals to migrate, which increases vulnerability to trafficking. Bowersox (2018) studies the ability of nations to properly address human trafficking within the context of natural disasters. His findings show that states are often more likely to meet obligations in confronting the problem of human trafficking in post-disaster situations. He reports that although relief camps are often securitized for placing strong protection mechanisms on persons displaced from natural disasters, this heightened level of security aids in the reduction of trafficking. Unfortunately, these heightened security measures and adequate management of displaced

persons camps are not available in all nations post-disaster. Adoption and proper implementation of disaster management frameworks is crucial in the wake of disasters in order to ensure these protections to vulnerable citizens.

Although significant research exists on factors that contribute to trafficking, further research on significant social disruptions, such as the 2015 earthquakes in Nepal, is necessary. Severe disasters destroy normal safety and security, placing particularly women and children at heightened risk of sexual violence, gender-based abuses, unsafe migration, and human trafficking. In the midst of disasters, the underlying desire is understandably to survive. In the wake of this primary disaster, however, victims are frequently unable to provide their own resources. Eighty percent of the world's population who are living in hunger, also live in countries with frequent natural disasters. Thus, a secondary disaster relating to social structure can easily ensue. It is crucial to consider the connection between the risks faced by populations in disaster situations and the reasons for their vulnerability to hazards. Attentiveness to the manner in which disasters are perceived within the larger society and allowing such observations to inform a framework from which to build policies aimed at reducing crises in disaster situations is crucial to the survival of victims (Blaikie et al., 1994).

It is vital that preventative frameworks be developed and implemented in disaster situations. The World Vision Disaster Management Continuum divides disasters into categories according to rate of onset. The Continuum focuses first on influencing the institution of frameworks to create change, and second on the programming level in response to disasters, offering various response models according to the situation. World Vision India also places emphasis on the protection of children in emergency situations (World Vision India, n.d.). The United Nations' Sendai Framework for Disaster Risk Reduction (Aitsi-Selmi et al., 2015) sets

targets and priorities toward proper preparation and management of disaster situations. Though these models delineate needs and priorities in disaster situations, they do not explicitly address the after-effects of social disruption related to trafficking. However, data indirectly indicates that human trafficking and crimes against women and girls escalated after the 2015 Nepal earthquake and subsequent aftershocks. These and other models will be further discussed in Chapter 7.

## 2.5: BARRIERS TO INTERAGENCY COLLABORATION

A vast number of organizations are working in Nepal to fight human trafficking at the local, district, regional and national levels. These include United Nations agencies, government organizations, NGOs and INGOs, religious groups and civil society organizations. Yet an effective response to the problem remains elusive in part due to a lack of effective collaboration between these diverse groups. Because these organizations often have difficulty agreeing on basic and fundamental aspects of how the problem should be defined and which barriers should be targeted through intervention, comprehensive solutions are lacking and cooperative networks are difficult to form. Some of the key disagreements among these organizations in Nepal are what constitutes human trafficking, the role of children in the labor market (whether by force or personal volition), prostitution and the sex industry, the concept of border “rescues” and interceptions, and the role of law, policy, and reporting systems in combatting the problem.

In a study on issues of responding to child sex trafficking in Thailand and Cambodia, Davy (2014) finds that organizations often having differing perspectives on important elements of the child trafficking problem, coupled with further complications such as donor demands, diminishing aid, the rapidly changing nature of trafficking dynamics and child migration, government corruption, regional political and ethnic discord, unemployment and poverty, and gender inequality, make the response to child sex trafficking complex and multidimensional. In

Davy's study, factors causing dissent among anti-trafficking organizations include the usefulness of awareness-raising campaigns, disagreement over definitions of the "child" and children's agency to work, discussion over prostitution as a form of slavery, debate over child sex trafficking as an issue of law and policy, and various frustrations relating to issues of information dissemination to the public and lack of evaluation of organization activities.

However, approaching the transnational problem of human trafficking solely through national governments and NGOs has restrictions. In many cases, NGOs have taken charge where governments have failed to take initiative as the primary actors in addressing the problem. There are two overarching types of activities carried out by anti-trafficking NGOs. First, programs are aimed at aiding victims by providing support and needed services. Second, advocacy networks work with governments to encourage strong laws against trafficking and to monitor how laws and policies are actually carried out (Corbett, 2012; Perkins, 2005).

It is crucial that transnational advocacy networks are also formed in order to bring about change both within the boundaries of nation-states and beyond, particularly because of the rapidly expanding cross-border human trafficking industry. Furthermore, it is crucial to focus on the activities of NGOs in anti-trafficking research (Limoncelli, 2009a). The Asia Foundation (n.d.) is one of only a few NGOs with both national and international advocacy networks whose activities have been promoted in a constructive framework (Corbett, 2012). Their recommendations encourage NGOs to work together both within and across borders to fight trafficking and have found an overall lack of adequate activity due to the following reasons:

- a. NGOs addressing trafficking are widely dispersed,
- b. Most NGOs, particularly in source countries, are located in inaccessible areas,
- c. Technology gaps exist, and

- d. There is a general unwillingness to share sensitive information over insecure data networks (The Asia Foundation, n.d.)

It is crucial for Nepali anti-trafficking stakeholders from all sectors to form stronger networks and collaborations. An important objective of this project was to determine the range of organizations currently active in Nepal to fight trafficking and then to explore with them in interviews what they perceive the barriers to collaboration to be. This local contextual data is vital for developing and implementing strategies that work to foster interagency cooperation.

## CHAPTER 3: RESEARCH METHODOLOGY

### 3.1: OBJECTIVES

This project presents the results of a study of the complex, inter-connected factors contributing to the worsening of the problem of human trafficking in Nepal. The first step in this research included an in-depth review of the literature available on the problem of modern slavery in Nepal, factors that contribute to human trafficking, and the existence and enforcement of laws, policies and frameworks regarding human trafficking.

Following this literature review, a qualitative study with anti-human trafficking workers and government officials was undertaken to determine the dynamics of collaboration among anti-trafficking stakeholders. In Phase I, during July and August of 2017, in-depth, semi-structured interviews were conducted with well-established, recognized anti-trafficking organizations and government officials in the capital city of Kathmandu. Two government personnel from the Ministry of Women, Children and Social Welfare (one retired and one serving as director at the time of the interview) were interviewed. Interviews with key personnel at Maiti Nepal, perhaps the most influential NGO working in trafficking prevention in Nepal, and ABC Nepal, one of the oldest anti-trafficking NGOs in the country, were also conducted. One of the objectives of this initial research was to identify a district of Nepal characterized by a high rate of human trafficking in which numerous anti-trafficking organizations were operating. Rasuwa District was selected and in-depth, semi-structured interviews were conducted with anti-trafficking workers and employees of civil society organizations in the district in order to provide a more detailed exploration of barriers to interagency cooperation and to guide further research and the development of policy recommendations.

Initially, the research focused on barriers to interagency cooperation. However, data collected in Phase I suggested that other factors were of greater importance in hindering efforts within Nepal to stop trafficking. The investigator conducted a further review of the literature and decided that a second field research trip was necessary. She attended the International Conference on Anti Human Trafficking Initiatives in Kolkata, India, in November 2017 and from there returned to Nepal to conduct additional interviews. The conference brought together many leading experts on trafficking in South Asia and representatives of governments and anti-trafficking agencies. The investigator attended seminars on topics including unsafe migration, displacement, the implications of disasters, and issues related to cross-border trafficking, as well as on legal dimensions on the responses to combating human trafficking and the role of NGOs and CSOs in the development of best practice models in anti-human trafficking initiatives. In Nepal in December of 2017, the investigator conducted additional participant observation and completed semi-structured interviews with the two-persons staff team responsible for preparing the United States Department of State *Trafficking in Persons Report* for Nepal, the three Winrock International employees responsible for implementing the USAID Haamro Samman project, and a representative each from the Foreign Employment Promotion Board, the Alliance Against Trafficking of Women in Nepal (AATWIN), the International Organization for Migration, the International Labor Organization, and non-profit organization Love Justice International. These interviews were largely focused on the impacts of the earthquakes, disaster management policies and frameworks, cross-border migration and forced labor migration, social and gender-based issues and stereotypes, and collaboration among anti-trafficking stakeholders. Following Phase II of fieldwork, the researcher returned to the United States and continued to

gather resources through contacts made during fieldwork, most notably through World Vision India concerning disaster relief frameworks.

### 3.2: INTERVIEW INSTRUMENTS

The study design for this research included four semi-structured interview instruments. Three instruments were developed for Phase I research: Interview Instrument A for use with Nepali government officials, Instrument B for use with Maiti Nepal and ABC Nepal, and Instrument C for use with district organizations. Additionally, Interview Instrument D was developed for Phase II research, which was adapted to fit the context of each interview. Each of these instruments was developed to meet the main objectives of the research project and thus features questions designed to inform the research. Interview Instruments A-D can be found in Appendix B.

Interview Instruments A and B were developed in order to determine the importance of trafficking as an issue to the Nepali government and the efforts being made by the Nepali government and NGOs Maiti Nepal and ABC Nepal to combat trafficking (Instrument A, questions 1-6; Instrument B questions 1-3, 10-12), as well as government perceptions of anti-trafficking organizations in Nepal and perceived barriers to collaboration among organizations (Instrument A, questions 7-14; Instrument B questions 4-9, 13-14). These instruments also aimed to identify a local district of Nepal experiencing a problem with human trafficking despite having several anti-trafficking initiatives underway (Instrument A, questions 15-17; Instrument B, Questions 15-16). Finally, Instruments A and B aimed toward achieving a general working knowledge of the relative efficacy or inefficacy of anti-trafficking work in Nepal. In these instruments, informants were asked to provide information on anti-trafficking organizations that were working effectively to describe the roles that such organizations are performing well.

Informants were then asked to provide information on organizations that were perceivably not working effectively and the specific features of their work that could be improved.

Interview Instrument C was developed for use with district organizations to solicit perceptions of the effectiveness of other entities at work in the district. The instrument asked informants to provide information about their own organization regarding personnel and operation (questions 1-3) and initiatives and organizational efforts (questions 4-13). Informants were asked to provide information on collaborations with other organizations in the district regarding the nature of collaboration and the effective and ineffective features of the collaboration (question 14). This instrument sought to elicit perceptions of agency personnel on best practices for the lessening of human trafficking, particularly the identification of barriers and obstacles to collaboration among different types of agencies and whether or not these organizations perceive collaboration as beneficial (questions 15-18).

After key issues emerged during Phase I interviews, which the researcher perceived as even more urgent than that of the initial research focus, Interview Instrument D was developed in response to the researcher's decision to restructure the research target. Topics were broadened to also include, in addition to concepts of agency collaboration (questions 15-16), a focus on determining barriers to a systematic approach to the problem of trafficking (questions 17-18), issues of definition and stronger education on what constitutes trafficking (questions 1-6), concepts of the often-unclear line between economic migration and forced labor (questions 1-2), issues related to lack of consistent enforcement of laws, policies, and reporting systems (questions 3, 7-9), corruption in several areas of the government and the frequent misattribution of cross-border trafficking cases as migrant labor violations (questions 1-3, 10-11), and the impacts of the 2015 earthquakes on human trafficking (questions 12-14).

### 3.3: INTERVIEW PROCEDURES AND DATA ANALYSIS

In Stage I, though the researcher made effort to establish contacts, informants were recruited by the researcher's Nepali assistant. The Nepali assistant is an anti-trafficking worker and has connections in numerous facets of anti-trafficking efforts in Nepal. In Stage II, informants were recruited by the researcher through both convenience and snowball sampling. The researcher utilized a combination of emails and phone calls to the entities and agencies with whom she desired to interview. This method was quite successful and yielded a 100% return rate on requested interviews.

In both phases of the research process, interviews were conducted in informants' workplaces when possible, or alternatively at a location of the informant's choosing. A Nepali-English translator assisted the researcher in interviews with native Nepali speakers when requested by the informant, which was only necessary during Phase I research. Translations were requested to be made as close to verbatim from the informant as linguistic nuances allow, versus being merely summarized. In Phase I research, interviews with government personnel and with ABC Nepal typically lasted approximately one hour. The interview with Maiti Nepal was quite short due to the arrival of an unexpected visitor from the United States Embassy. In this case, the informant requested the researcher to send the remainder of the research questions via email, which were answered and returned via email. Interviews in Rasuwa District, utilizing Instrument C, were all approximately one hour but were less formal. Two were held at a local restaurant of the informant's choosing due to lack of office or more desirable location for the interview. In Phase II research, interviews typically lasted between 60 and 75 minutes. The interview with the staff of the United States Department of State who are responsible for preparing the Nepal *Trafficking in Persons Report* was held in a café due to the researcher's need to access her laptop

during the interview, which was prohibited within the US Embassy. Additionally, the interview with a representative of Love Justice International was held in a quiet coffee shop for the convenience of the informant. All other Phase II interviews were held in the informants' offices.

Prior to the commencement of field research, the research protocol and interview guides were approved by the East Carolina University Institutional Review Board. All informants received the consent documents (translated copies were offered in Nepali to Nepali-speaking informants) and asked to sign before each interview began (see Appendix A for the Informed Consent document in English). All questions were read aloud to informants and responses were audio recorded in order to allow the researcher to gain fully from informants' responses post-interview. Once the data were collected, notes from participant observation and conference sessions along with interview transcripts were read in detail to develop a list of common barriers to trafficking efforts in Nepal. Once a complete list was developed, interviews were cross tabulated to examine correspondence and differences in the reasons respondents gave for these barriers as well as any solutions proposed to alleviating them. These data will be used to generate feedback and recommendations for improved practices and collaborations among government officials and anti-trafficking stakeholders and for the implementation of a disaster relief framework to increase safety for vulnerable populations during future crises.

## CHAPTER 4: FACTORS INCREASING VULNERABILITY TO PATTERNS OF TRAFFICKING

The first major objective of this research is to shed light on the role that key demographic variables and social prejudices play in perpetuating the problem of human trafficking in Nepal. Data from in-country sources and personal interviews conducted with anti-trafficking experts and policy officials are analyzed to complement what has already been gleaned from the literature to ascertain which demographic variables are most influential within Nepal in perpetuating trafficking.

### 4.1: GENDER-BASED VIOLENCE, VULNERABILITY AND DISADVANTAGE

Gender inequalities and the low societal value of women and girls place females at increased vulnerability to gender-based abuses, mistreatments, and human trafficking. Information gained during a personal interview with ABC Nepal staff indicates that some of the most influential factors contributing to women's and girls' vulnerability are extreme poverty, hardship, lack of awareness, low literacy rates, low social status, degrading social values, lack of employment opportunities, administrative indifference and lacking law enforcement and political commitment to the issue (ABC Nepal, n.d.). Despite changing dimensions, Nepal remains a largely patriarchal society in which there is significant social pressure to conform to gender standards (Boyce & Cole, 2013).

An interim parliament and government were established in 2007, marking a turning point for gender representation in Nepali politics. Constitutional provision was revised to require 33% participation by women on all state bodies: a substantial victory in comparison to the previous five percent quota of the 1990s (Richardson et al., 2016). During participant observation conducted in summer 2017 in a village in Gorkha District, I noticed that women are now being

elected to village development committees and local government positions even in rural areas. One such woman's presence and wise participation in village leadership has improved the experiences of other females in the village and has positively influenced men's perceptions of the value of women.

The interim government also called for a repeal of citizenship laws discriminating against women. In the new Constitution, citizenship rights were redefined and gender bias in accessing citizenship was intended to be removed. However, after several years of extensions amidst political protest and elections, no immediate hints of effective positive social transformation are apparent (Richardson et al., 2016). In Nepal, citizenship has historically been based on patrilineal kinship (Joshi, 2001). Citizenship cards ensure that the citizenship rights of Nepalis are protected. However, the Citizenship Act of 1963 stipulates that applications must be supported by a male relative such as an uncle or brother, but most commonly the father. Although previous attempts were made to transition Nepal to a more gender-inclusive nation, as in the Constitution of 1990, gender discriminatory laws regarding citizenship remain unchanged until recently. Women were unable to access citizenship through the recommendation of male relatives within the natal family, or through the recommendation of the women's spouse if married. Although women could access citizenship through their husband, they were unable to recommend their husband for citizenship in the same way (Laczo, 2003). In the Citizenship Act of 2006 and in the 2007 Interim Constitution, provision was made for children of Nepali citizens to achieve citizenship through birth, marking a shift between citizenship being an achieved status, acquired through male family members, to being acquirable by descent (Richardson et al., 2016). Richardson et al.'s 2016 study suggests that legislation is not implemented in practice, and that the government of Nepal still has much work to do regarding gender rights. Without citizenship

cards, women cannot vote, legally obtain a valid passport, confer citizenship on their children (Joshi, 2001), transfer or own property, receive an inheritance, or travel freely. These factors functionally significantly contribute to women's oppression and vulnerability.

In addition to citizenship issues, gender-based mistreatment within families contributes to young females' vulnerability to sex trafficking (Simkhada, 2008). An informational brochure provided during a personal interview with a representative from ABC Nepal explains that many adolescent girls from poor, isolated communities are particularly vulnerable. Uruguchi explains, "Gender discrimination and unequal power relations favoring males...create the idea of less importance of a female child among families and this attitude attribute(s) to the sending-sometimes selling- of female children...with the knowledge that children (are sent) into sex slavery" (2010:28).

Another factor in gender vulnerability, parental preferential gender selection, is rooted in child marriage practices. It is estimated that 41 percent of Nepali girls are married before their 18th birthday. Research regarding forced and child marriage indicates that there is generally low awareness of the legal age to marry (Global Slavery Index, 2016). Fake marriages, frequently attributed to economic vulnerability, have played a significant role. Poor families are often greatly in debt, and female children were traditionally considered to be, as described by Uruguchi (2010), "more of a burden than male children due to the traditional practice of expensive 'dowries' for girls" (p. 34). Such dowries have been practiced more frequently in the 1990s and beyond. Parents struggling with finances are frequently tempted to give their daughters into fake marriages with "grooms from India" who promised not to take dowries, but to instead send remittances to the bride's family upon her arrival in India. Such girls were likely to end up in brothels (Uruguchi, 2010:34).

Gender division remains a significant problem in Nepal. In a personal interview, a representative from the ILO emphasizes the importance of women's participation in community programs to increase the value of what is considered "women's work" and recognizing the significance of domestic responsibilities. At the community level, it is crucial to look at gender empowerment. She says, "Women are also unable to recognize their own status as equal to men. Empowerment should start with who we are. From [these kinds of] programs, [women] begin to understand their voting rights and how they can demand [rights] at the local level" (Personal interview 2.7, 2017). Women then have the opportunity to enter into employment outside the home if they desire. She further advocates for allowing women to make informed decisions, asserting that controlling women's mobility in migration or within local contexts is not a viable or fair solution.

Children are particularly vulnerable to exploitation. Children from ethnic minorities and lower castes, children from dysfunctional families and previous victims of domestic violence and sexual abuse, children affected by migration, children with a disability, children of sex workers, and children in institutions and working children are particularly at risk. In a personal interview, a representative from AATWIN explained that although sexual exploitation among children also affects boys and girls, girls are often at higher risk. Evidence has emerged that boys' involvement in sexual exploitation continues to be largely undetected and unaddressed (Hawke & Raphael, 2016). Furthermore, in a personal communication, a Nepali anti-trafficking worker based in Kathmandu noted that harmful religious and cultural practices also increasing vulnerability, such as practices in which young girls are offered to gods and goddesses in temples. She explained that when these girls were finally released, they were typically

marginalized and highly stigmatized by society. It is important for society-wide education on gender equality to occur, focusing on overcoming cultural biases that devalue girls and women.

#### 4.2: RELIGION, CASTE AND ETHNICITY

Nepal has a rich cultural heritage spanning its borders characterized by vast social diversity. The many religious festivals boast elaborate clothing, ceremonies, and unique food, drawing attention to the deeply religious nature of Nepal. The 2011 population census ranks Hinduism as the majority religion of Nepal, involving over 80% of Nepal's population (Statistical Yearbook of Nepal, 2013). While it is difficult to draw strict conclusions about the logic of the caste system within Hinduism, numerous debates have focused on the relationship between the rulers and other power groups and the status of priests (Rao, 2010). In a personal communication, a Nepali anti-trafficking worker explained that there is a strong link between poverty, the discriminatory nature of the caste system and gender treatment in the country. Gender and caste are considered a ranking system which places lower castes and women at significant disadvantage socially, economically and otherwise. Although officially abolished in Nepal in 1963, the caste system remains a key factor in continued discrimination, which frequently results in poverty and, as a byproduct, has increased vulnerability to trafficking among lower castes (Global Slavery Index, 2016).

In the Nepali caste system, which broadly borrows the classic Chaturvarnashram model, the names of castes are typically derived from occupations and are carried on through family lines. The Untouchables, commonly Dalits, were historically ostracized by society and excluded from the caste system altogether (Rao, 2010). Members of the Dalit caste experience the highest economic disadvantage based on caste distinction. Dalits are assigned low-income jobs, including blacksmith, goldsmith, tailor, shoemaker, and street cleaner. A large portion of the

Dalit caste is working off the debts of their ancestors and are taught to expect nothing in life except to labor in hopes that someone will purchase their labor or product, which is in reality unlikely because those of higher castes often refuse to touch anything that an “untouchable” Dalit has touched. In a personal interview, a representative from the ILO reported that Dalit “untouchability” further perpetuates vulnerability to trafficking, particularly to the Gulf countries for labor trafficking and domestic servitude, especially because Dalits are often desperate for employment despite potential risks.

Caste- and ethnicity-based discrimination is further perpetuated within the education system. If students of low castes even have the opportunity to attend school, they are frequently ignored by their teachers based on ethnicity and caste distinction. In some remote areas of Nepal, Dalit students are not permitted to sit next to higher caste students in class. Educational disadvantages contribute to difficulty in obtaining quality employment and further exacerbate difficulty in earning adequate income (Rao, 2010). Silva and Hettihewage (2001) conclude, “Even though the caste system primarily encompasses a value system applicable to ritual domain and social relations, it also determines the relative worth and level of dignity of human beings, affecting their overall position including their livelihood, security, freedom, and adaptation to a modern market economy” (p. 69). The differences in lifestyle between castes and ethnic groups reflect a wide range of Nepal’s diversity. However, contemporary studies on trafficking and data from personal interviews reveal that Dalit and Janjati are overly represented among trafficking victims. As cited in Subedi (2009), the highest proportion of trafficking survivors are comprised of hill Janajati (45% to 61%), Brahman/Chhetri (15% to 24%) and hill Dalit (15% to 23%). Additionally, significant numbers of survivors are from Madheshi communities, including Muslim minorities. During participant observation in a safe house for rescued trafficking victims

and at-risk youth in Kathmandu, I learned that residents of the safe house were almost exclusively from the lowest castes. In a personal communication, the director of the safe house noted that across Nepal, it is typical to find safe houses filled with members of the lowest castes.

#### 4.3: ECONOMIC NEED

Poverty also plays a pervasive role in increasing an individual's vulnerability to human trafficking. South Asia is one of the most poverty-stricken regions of the world. As the poorest country in South Asia, Nepal has an overall poverty rate totaling 31% (Rao, 2010). In a study featuring 200 female workers in 100 cabin restaurants in Kathmandu, data reveal that workers' primary reasons for involvement in cabin restaurants were unemployment and poverty (Karki, 2013). About 80% of Nepali citizens live in rural areas and are reliant upon small-scale farming for their existence (Rao, 2010). Consequently, Nepali farmers are especially vulnerable to climate change and the effects of natural disasters. After the 2015 earthquakes, loss of citizenship cards (which are vital to pursuing cross-border migrant work through legal channels), disruption of farming capabilities, loss of household, a disruption in the normal social structure, loss of primary breadwinners' income, disruption in ability to collect family members' foreign remittances, and general loss of property all contributed to desperation for immediate solutions to economic hardship. Furthermore, there was a drastic increase in kidney trafficking following the earthquakes (further discussed in Chapter 7) as desperate Nepali citizens waited to receive foreign remittances from migrant workers (International Conference on Anti-Human Trafficking Initiatives, 2017).

In 2011, PPR Nepal first identified the rapidly growing kidney trafficking industry in Kavrepalanchok District. PPR's study discovered that nearly 300 men and women in 10 different villages were victims of kidney trafficking. Reports indicate that in some areas, at least one

individual in every house was missing a kidney. Kidney traffickers typically produce fraudulent documents and take victims to India for organ harvesting. Poverty, illiteracy and misinformation are shown to be the biggest causes of kidney trafficking, which makes citizens of Kavrepalanchok ideal targets (RT Documentary, 2016). Cases of organ trafficking have even been reported in Kathmandu. In a personal interview, a representative from Winrock International revealed that ignorance due to lack of education caused victims to believe traffickers' lies that harvested kidneys would grow back 'like a fruit'. Further consequences of kidney selling include victims' inability to work in the fields, social discrimination from members of their communities, and the development of an alcohol addiction to relieve pain (National Human Rights Commission, 2017; RT Documentary, 2016).

In a personal interview, a representative from the ILO reported that economic growth is one of the most significant needs to eliminate the growing problem of trafficking among Nepali citizens. She reports, "There are changing social dimensions; Nepal is a collectivistic society. For change to happen, [there] needs to be a link with income generation activities" (Personal Interview 2.7, 2017). In a personal interview, a representative from the IOM stated that in recent years, "a huge amount of youth [are migrating] to Malaysia and the Gulf Countries for foreign employment. The trend is increasing. [Despite its problems, foreign employment creates] opportunity for economic development. Studies show that [a significant amount] of Nepal's GDP is currently contributed by foreign remittances" (Personal Interview 2.5, 2017). Labor migration is one of the greatest opportunities for Nepali citizens, particularly for individuals from rural areas. However, there are many risks related to labor migration, which will be discussed in Chapter 6.

#### 4.4: LACK OF EDUCATION

Although previously addressed in various dimensions, lack of education also plays a fundamental role in vulnerability and susceptibility to trafficking. Data is lacking regarding pre-primary, primary and secondary school enrollment rates, but according to UNICEF (2013), the literacy rate among Nepalis ages 15-24 is 89.2% among males and 77.5% among females. The National Census 2011 reports Nepal's overall literacy rate at 65.9%. In a 2013 study featuring informants currently involved in exploitative cabin restaurant work in Kathmandu, 39% of 200 participants indicated that one of their primary reasons for involvement was due to lack of education (Karki, 2013). Inadequate education also plays a role in the illegal removal and sale of kidneys in Kavrepalanchok district, as previously discussed. Brokers prey on uneducated, illiterate laborers, either teaching them that they can function normally with only one kidney or that kidneys will regenerate. Victims were also led to believe that they would be able to resume normal activities, including rigorous farming work, once the recovery period was complete (RT Documentary, 2016).

In a personal communication, a Nepali anti-trafficking worker reveals that in large part, children who are out of school and suffering from lack of education are particularly at risk to trafficking. Furthermore, parental lack of education in the form of misinformation plays an important role in a child's likelihood of being exploited through work or through child marriage. In such cases, Nepali parents relinquish their children to brokers under false promises of education and attractive work opportunities. Instead, the children are taken to unregistered children's homes in urban locations, where they are forced to beg or pretend to be orphans to elicit donations from tourists and volunteers (US State Department, 2017). Following the 2015 earthquakes, AATWIN conducted a study in earthquake-affected districts. A representative from

AATWIN recalls that results of the study indicated that in some instances, “monasteries were taking children to different locations and were ‘giving education’, but it was really another form of human trafficking. [They were] saying that they were taking [children] to cities for better education, but [in reality, they] were being used as servants” (Personal Interview 2.3, 2017).

Programs offering parental education and coping strategies for families facing difficulties are crucial (Hawke & Raphael, 2016). Lack of information about the varied pathways leading to sexual exploitation has largely contributed to the trafficking of both minors and adults, particularly in disconnected rural communities where cultural traditions exacerbate vulnerability. However, the 2017 *Trafficking in Persons Report* (US State Department, 2017) indicates that the government is making efforts to increase education programs in areas where knowledge on risk factors is lacking. During the 2016-2017 reporting period, the government conducted and participated in public awareness campaigns throughout the country. These campaigns included a week-long series of street plays, media programs, and workshops held in September 2016. During the week, the Ministry of Women, Children and Social Welfare also issued awards to four journalists applauding their coverage of human trafficking.

Numerous NGOs are also at work in providing education programs against the dangers and warning signs of human trafficking. Many of these NGO’s are focusing their work on rural areas most highly affected by trafficking. However, these programs are not available in all districts and much work is needed to extend education programs to all village development committees in each of Nepal’s 75 districts. In a personal interview, a representative from AATWIN recommends that top priority be given to creating and offering such programs for youth. She elaborates, “AATWIN conducted an intensive, a human and resources intensive. The

government and NGOs need to work on how to get the government and committees together [to offer these programs in all districts]” (Personal Interview 2.3, 2017).

#### 4.5: THE RELATION OF HEALTH AND DISABILITY TO HUMAN TRAFFICKING

Health and disability play both an influential role in an individual’s vulnerability to trafficking and a consequential role in the aftermath of a victim’s trauma. Although any vulnerable individual is at risk for being trafficked into forced prostitution and forced labor, individuals with disabilities are frequently targeted as a result of additional frailties. However, persons with disabilities might be considered less believable and are often unable to report their victimization (National Disability Rights Network, n.d.). Through a series of qualitative interviews, Dhungana (2006) examined a broad range of problems faced by physically disabled women, seeking to explore the causes of disability. Such causes include gender discrimination, poverty, an inactive state security system, inadequate family support, negative attitudes and a lack of government involvement, which greatly increase vulnerability to trafficking. Parental lack of education on the nature of mental and physical disability, coping strategies, and available resources plays an important role in children’s vulnerability. Danesco (1997) examines the nature and causes of childhood disability and ideas regarding treatment among various culture groups. Parental beliefs about childhood disability shape the development and life projection of a disabled child and likewise provide the context for treatment, if there is to be any (Danesco, 1997). These examinations reveal a link between the implication of parents’ education, ideas, and interventions, and their likelihood of selling their child and relinquishing responsibility.

In a personal communication, a worker at an NGO serving disabled populations in Kathmandu stated that throughout Nepal, particularly in rural areas, there is a distinct lack of care available for disabled persons. Even in areas with existing programs, available services from

NGOs are often unsatisfactory and gender-biased. In her NGO, children and young adults with disabilities are provided the opportunity to attend a school-like environment each weekday.

Providing disabled youth a place to go during the day allows parents to conduct necessary daily tasks such as household work and normal employment. The center also provides parental education on the nature of disabilities, as well as information on best practices on caring for individuals for disabilities. Common health conditions among trafficking victims include the following:

- “Sexually transmitted diseases, HIV/AIDS, pelvic pain, rectal trauma and urinary difficulties from working in the sex industry;
- Pregnancy, resulting from rape or prostitution;
- Infertility from chronic untreated sexually transmitted infections or botched or unsafe abortions;
- Infections or mutilations caused by unsanitary and dangerous medical procedures performed by the trafficker’s so-called “doctor”;
- Chronic back, hearing, cardiovascular or respiratory problems from endless days toiling in dangerous agriculture, sweatshop or construction conditions;
- Weak eyes and other eye problems from working in dimly lit sweatshops;
- Malnourishment and serious dental problems. These are especially acute with child trafficking victims who often suffer from retarded growth and poorly formed or rotted teeth;
- Infectious diseases like tuberculosis;
- Undetected or untreated diseases, such as diabetes or cancer;

- Bruises, scars and other signs of physical abuse and torture. Sex-industry victims are often beaten in areas that won't damage their outward appearance, like their lower back;
- Substance abuse problems or addictions either from being coerced into drug use by their traffickers or by turning to substance abuse to help cope with or mentally escape their desperate situations” (Department of Health and Human Services, n.d.).

In a 2008 study seeking to understand the problem of sex-trafficking, violence, negotiating skills, and HIV infection among brothel-based sex workers of West Bengal, India, research was conducted through a pretested questionnaire and blood sampling of brothel workers to determine HIV status. The study included migrant workers from Eastern India, Nepal, Bhutan, and Bangladesh. The seroprevalence of HIV was an astounding 43 percent among Nepalis compared to only 7 percent among Bangladeshis and 9 percent among Indians. Only one study participant originating from Bhutan was found to be HIV positive (Sarcar et al., 2008). This higher rate of HIV infection among Nepali sex workers indicates heightened vulnerability linked to having joined the profession through forced sex trafficking at a young, developmentally vulnerable age. Twenty percent, or 40,000 Nepali sex trafficking victims, are girls below 16 years of age (CIWN Nepal, 2016). The median age of trafficking victims of Nepali girls participating in the study was 17 years, despite the fact that the current legal age for working in West Bengal brothels is 18 years of age (Sarcar et al., 2008). Younger sex workers were more vulnerable to HIV infection compared to older age groups because sex workers age 20 and below had entertained a higher number of clients daily in comparison to older age brackets. Higher

levels of sexual activity in developing girls leads to repeated trauma to the immature genital tract, thus facilitating the transmission of HIV (Sarcar et al., 2008).

Underlying demographic variables and social prejudices such as gender-based violence and discrimination and religion and caste distinction increase susceptibility to trafficking. Economic need, lack of education and state of health further perpetuate vulnerability. Due to these factors, girls and women often find themselves in such hopeless situations that they have no other economic choice but to accept any available job offer. This often causes them to obviously enter dangerous situations. O'Connor (2017) posits that frequently, "a constellation of personal events may coalesce at a certain point in the lives of individual girls or women, which leads them to make choices from within a severely limited realm, leading them to consent or acquiesce to actions which will ultimately result in profound harm" (10). The following chapters will discuss the variables and prejudices presented above in the context of the key barriers to fighting human trafficking in Nepal that emerged in this research project, particularly in the setting of cross-border trafficking as discussed in Chapter 6.

## CHAPTER 5: ISSUES OF DEFINITIONS, LAWS, POLICIES AND REPORTING SYSTEMS

This chapter will address sections two and three of the research objectives. In order to approach the development of a systematic approach to solving the problem, it is first crucial to determine how best to define human trafficking. In Nepal, there is not a clear line drawn between the treatment of voluntary labor migration and external human trafficking. Additionally, Nepal faces unique challenges in combating the problem of human trafficking both within and beyond its borders due to the existing gaps in law and policy and the lack of consistent enforcement of what laws do exist.

### 5.1: ISSUES OF DEFINITION AND RATIFICATION

Although the international community recognizes the immense violation of human rights inherent in trafficking in persons, and despite the global scale on which it occurs, the lack of an internationally accepted definition of human trafficking until the Palermo Protocol was signed in December 2000 perpetuated significant confusion on the global stage. As of 2017, 170 countries have ratified the Protocol (United Nations, 2005). Sanghera and Kapur (2000) maintain that until the ratification by the majority of the global community, “the issue of trafficking of women and girls [was] considered [synonymous with] their sale and forced consignment to brothels in the sex industry” (Section 3.1). In a personal interview, a retired Nepali government worker indicated that the characterization of trafficking and migration issues as congruent with prostitution and sex work perpetuates confusion. Nepal, too, has passed interventions and strategies which equate trafficking with migration and prostitution. Sanghera and Kapur (2000) state that “even when...awareness of the confusion and [the] need to make appropriate

distinctions are expressed on paper, this awareness is often not translated into practice at the operational level” (Section 3.1).

Despite the existence of significant anti-trafficking legislation in the Nepali government, the former director of the MWCSW indicated that anti-trafficking law remains lacking in several key areas. According to the *2017 Trafficking in Persons Report* (US State Department, 2017), the Nepali government still does not prohibit all forms of trafficking and lacks standard operating procedures on victim identification. Although Nepal’s Human Trafficking and Transportation Control Act (2007) prohibits most forms of trafficking, it does not criminalize “the recruitment, transportation, harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor” (US State Department, 2017, p. 2). Legal frameworks regarding the prosecution of traffickers and the protection of the rights of trafficking survivors are found in the *Human Trafficking and Transportation (Control) Act 2064* (2007) and *Regulation 2008*. Although the Act defines trafficking of human beings and transportation, it does not cover forms of sexual exploitation or the act of receiving someone with the purpose of buying and selling and does not consider prostitution to be a form of trafficking unless force, fraud, or coercion are involved (National Human Rights Commission, 2017).

Although the government has not ratified the Palermo Protocol, the former director of the MWCSW promises that the National Committee for Controlling Human Trafficking continues to work on revisions to the Human Trafficking and Transportation Control Act to bring the definition in line with international laws. The Nepali government has ratified several International Conventions regarding human trafficking and human rights, including the Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Right of Child, and the South Asian Association for Regional Cooperation (SAARC)

Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, as seen below in Table 5.1.

<b>Laws/treaties</b>	<b>Year of international adoption</b>	<b>Year of accession/ratification in Nepal</b>
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	1956	1963
Convention for the Suppression of the traffic in Persons and of the Exploitation of the Prostitution of Others, 1949	1949	1995
The UNs Convention on Child Rights (CRC), 1989	1989	1990
Optional Protocol to the Convention on the CRC on the Sale of Children, Child Prostitution and Child Pornography, 2000	2000	2006
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution	2002	2005
Convention on the Elimination of All Forms of Violence Against Women	1979	2006
The Optional Protocol to the CEDAW, 2006	2006	2006
ILO Convention 1999 (No. 182), Elimination of Worst Forms of Child Labor	1999	2002
ILO Convention 1930 (No. 29), Forced Labor	1930	2002
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999	1999	2007
UN Convention on Rights of the Migrant Workers and Their Families, 1990	1990	Not yet ratified
Protocol to Prevent, Suppress, and Punish Trafficking in Persons supplementing the UN Convention on Transnational Organized Crime (Palermo Protocol), 2000	2000	Not yet ratified

**Table 5.1: International laws and treaties ratified by the Nepali government (National Human Rights Commission, 2017).**

Nepal continues to have weak or non-existent mechanisms for the implementation of anti-trafficking laws and court rulings, particularly those relating to gender-based violence, rape and trafficking cases (National Human Rights Commission, 2017). This is in part due to insufficient knowledge of trafficking crimes among government officials. In a personal interview, a retired Nepali government worker describes the problem:

Still, the lack...[is] in the technical knowledge. That is the problem. The attitude is good, but the problem is the skill and the technical knowledge...such as the victim friendly behavior, as well as they do not know about the new trends and these new tools, how to deal with the survivors of the trafficking. That's the problem. They [do not have enough] knowledge of the Palermo Protocol, that's the thing that they need to enhance their knowledge on the subject (Personal Interview 1.1.4, 2017).

Furthermore, the Nepali Police generally lack adequate training to identify victims (National Human Rights Commission, 2017). The *2017 Trafficking in Persons Report* states that poor investigative techniques by Nepali Police resulted in a significant decrease in trafficking prosecutions due to lack of evidence, from 341 cases in the previous Nepali fiscal year to 218 in the 2016-2017 reporting period (US State Department, 2017). In order to enhance knowledge, on-the-job and practical training is necessary from the government, from development partners such as NGOs, INGOs, and from organizations such as USAID. Officials in all levels of the government, from the central government to the local governments, must enhance their knowledge of trafficking (Personal Interview 1.1.4, 2017).

Despite the overall lack of adequate and effective implementation of anti-trafficking laws, policies and court rulings, the former director of the Ministry of Women, Children and Social Welfare, who was interviewed in Kathmandu in 2017, remains optimistic. He reports that a national committee for combating human trafficking has been established, and each of Nepal's 75 districts has a committee dedicated to the task. Furthermore, there are strong networks at the

local level, referred to as Ward Committees. However, he continued, “Even though the government network is very strong, from [the] national level to [the] local level, still smuggling and human trafficking [are] happening” (Personal Interview 1.1.2, 2017). He reports that the main problem is a result of loopholes in the law and inadequate definitions. According to Nepali legislation, traffickers are supposed to be prosecuted with a lifetime sentence. On the other hand, under Nepali law, smugglers are subject to less stringent punishment and are instead charged with fraud.

Although Campana and Varese (2016) assert the continued relevance of the distinction between trafficking and smuggling as outlined in the 2000 UN Protocols, offering examples of how instances of voluntary migrant smuggling can easily turn into trafficking, a surprising problem in Nepal lies in the relationship between foreign employment and cross-border human trafficking. Frequently, instances of human trafficking occurring while a Nepali citizen is traveling for migrant work abroad are incorrectly identified and prosecuted as migrant labor-related issues. In these circumstances, the perpetrators are being falsely identified as smugglers instead of as traffickers. Thus, proper definition of the crime is a key issue. When smugglers (as referred to by the Nepali government) are caught, cases are filed through the Ministry of Labor and Employment as fraud instead of as human trafficking. In order for the prosecution to shift so that human trafficking cases are coded as trafficking instead of as smuggling, it is necessary to revise the existing law. The former director of the MWCSW reflects that if someone smuggles a human being abroad against their will, that should be considered trafficking. He says that it is quite difficult to advocate effectively and convince stakeholders: “The Labor Ministry is trying to [prosecute] smuggling [exclusively] under the labor act [“Foreign Employment Act”], [but] the MWCSW and the Ministry of Labor are working together to put [human trafficking and

smuggling] together in one box. Then it will be easy to deal [with] and [human trafficking will] decrease” (Personal Interview 1.1.2, 2017).

It is crucial, therefore to raise awareness of the need for forced smuggling to be considered trafficking. The MWCSW desires to make this change in formal law and policy, but the Foreign Employment Act classifies smuggling as fraud. If this aspect of Nepali law were to be revised, a solution would be attainable. The MWCSW has been advocating to revise the Foreign Employment Act, and if the law containing loopholes is successfully revised, Nepal will reportedly be moved up to Tier 1 ranking on the *Trafficking in Persons Report*. He continues,

If we bring foreign smuggling into [the discussion and investigation of] human trafficking, it will help to decrease human trafficking. The women and the men who go abroad for foreign employment don't have good reputations, especially for the women, and they don't have good jobs there and they don't get good pay. But if we bring into the human trafficking, then they will have reputations, they will not be vulnerable, because clear, accountable papers will be shown, they will get good pay, and there will be no suffering (Personal Interview 1.1.2, 2017).

If the cases of smuggling are addressed properly as human trafficking, he believes that occurrences of human trafficking will be decreased by 50 percent as a result of existence and consistent enforcement of proper anti-trafficking legislation.

The Ministry of Women, Children and Social Welfare is the center point for anti-trafficking efforts in the Nepali government. The government-level anti-trafficking committee, called the National Committee for Controlling Human Trafficking, includes the Nepali Police Deputy Inspector General (DIG) and representatives from the Ministry of Labor and Employment, the Ministry of Home Affairs, the Ministry of Foreign Affairs, non-government anti-human trafficking organizations, and survivors of human trafficking. Although this joint committee exists, there is still a large issue. There is also a growing trend of young students

being smuggled from Nepal to other countries in the name of education, but the former director of the MWCSW says that nobody wants to address this issue, and there are currently no laws existing to curb the growing movement.

Despite these significant gaps in existing law and policy, the former director of the Ministry of Women, Children and Social Welfare (MWCSW) reports that the government of Nepal is addressing human trafficking as one of the key issues in the country and is working to eliminate trafficking among Nepali citizens. Additionally, he reports that the government is trying to improve their relationship with the governments of other nations to combat the growing issue of cross-border trafficking (an issue which will be further discussed in Chapter 6). Despite the government's failure to ratify the Palermo Protocol to date, the government is working toward its implementation and has established laws and acts to combat human trafficking intending to come in line with the Protocol. Although it is a lengthy process, the government intends to ratify as soon as possible.

An additional complicating factor lies in the connection between the office of the Labor Ministry and the private sector. Although the government has reportedly already forwarded the paperwork necessary to move forward with implementing frameworks intended to further protect migrant workers, the foreign employment agencies have not yet agreed. Furthermore, the former director of the MWCSW reports that a significant problem relating to the proper enforcement of anti-trafficking laws and policies in Nepal is the corruption that exists in numerous areas of the government. Of Nepal's 601-member Parliament, 15 or 16 members have direct ties to the foreign labor market because they are running foreign employment agencies. This significant conflict of interest is the main problem with passing and implementing laws regarding foreign employment protection mechanisms in accordance with the Nepali government's wishes.

The former director states that a significant problem of trafficking is thus deeply rooted in the foreign employment mechanisms in Nepal. Political-level commitment is lacking and is reported as being only “lip service” instead of being a true commitment to curbing the problem. He continues, “They have this link with these [foreign employment agencies] who are sending these migrant workers to the Gulf Countries” (Personal Interview 1.1.4, 2017). There is political corruption everywhere in the Nepali government; he explains, “The owners have the link with the political bosses and with the administrative [leaders]...even police chiefs. Clients of the sex market are among the police, the army, the business people. So trafficking cases are linked with this governance problem. The passport office, the visa office...” (Personal Interview 1.1.4, 2017). Leading up to the elections held in 2017, the government was supposed to amend election law banning candidates who have been involved in corruption and human trafficking cases. Not surprisingly, some of the Parliament members were against this amendment.

According to the former minister, corruption also exists in anti-trafficking workers’ motivations. Government agents and NGO staff are working for salary. Therefore, the compensation package of government agents and NGO personnel who are successful in victim rescue is not affected by the amount of successful interceptions. Conversely, agents are working for profit from individual cases, which increases motivation to sell as many girls as possible. The problem is governed by the market, and thus the problem of trafficking increases daily. He explains, “Many, many people are making profit out of [trafficking]. The house owner, the brothel owner, the apartment owner, the restaurant owner, as well as the police, who have this link, the political bosses who have this link, they are all gaining out of this” (Personal Interview 1.1.4, 2017).

## 5.2: ISSUES OF MIGRANT LABOR AND HUMAN TRAFFICKING

Individuals migrate for a variety of reasons, including the reconfiguration of economies and states due to globalization, displacement of marginalized populations, the search for a sustainable livelihood, armed conflict, the redefinition of political boundaries and the search for fulfillment, among others. However, the direct equation of trafficking with migration often leads to unrealistic and confining solutions. Many times, policies intending to provide safety mechanisms to prevent situations in which trafficking could occur also prevent migration. In migrant situations, women in particular may be exposed to further violations beyond trafficking. Migrant women also frequently experience harassment and discrimination as a result of gender-inequality and socio-economic disadvantage (Sanghera & Kapur, 2000).

The modern foreign employment and migrant work movement in Nepal began in the 1990s as globalization continued to perpetuate international travel, trade and investment, when significant numbers of youth began to migrate for work in Malaysia and the Gulf Countries. Cross-border movement for the purpose of foreign employment is the now most common form of migration among Nepali citizens (Sanghera & Kapur, 2000). Remittances to Nepal play a substantial role in the national economy and in the lives of a significant number of individuals, particularly those living in rural areas. The remittance influx began when Nepali youth began joining the British Indian Army during World War I. This trend continued in the 1950s and 1960s with increased remittances from Nepali youth joining the Indian Army. Additionally, increasing numbers of migrant workers to India created further remittances (Nepal Remitters Association, n.d.).

The Nepali Government currently permits foreign employment in 109 countries. Remittances have thus become a significant source of livelihood for the national economy and

for individual household survival. Fifty-six percent of Nepali households now rely on foreign remittances. Nepal is ranked third among countries receiving the highest proportion of foreign remittances in comparison with gross domestic profit (GDP). A 2012 report by the World Bank finds that 25 percent of Nepal's GDP consists of foreign remittances, a figure that has surpassed the revenues generated by tourism and national exports for several years (Nepal Remitters Association, n.d.). Additionally, remittances have been found to account for the heavy foreign reserve and management of monetary resource for small and medium scale industries, have boosted the nation's economy during a period of global recession, and have made a significant positive impact on national poverty levels (Nepal Remitters Association, n.d.). In 2008-2009, 219,965 labor permits were granted for foreign employment. In 2013-2014, the number of labor permits reached 519,638, nearly double that of only five years prior. The Department of Foreign Employment reports that an average salary of a migrant worker ranges from \$190 to \$900 (International Labor Organization, 2017).

As Johnson and Khan (1998) state, "global capitalism has warped the lives of third world women from marginalized communities by feminizing poverty and migration and by criminalizing migrants" (as cited in Usman, 2014). Migration has become necessary for survival, which places women in vulnerable positions. Preventing migration, however, will not solve the problem of trafficking. Requiring travel documents along the Nepal-India border would only further drive migration underground and introduce further danger of trafficking, as has been evidenced globally (Johnson & Khan, 1998). The border between India and Nepal is 1,088 miles (1,751Km) in length and is only lightly monitored. A unique feature of the Nepal-India border is that citizens of both countries may cross freely without need for visa or passport. Although there are 22 official checkpoints for carrying out bilateral trade, the majority of the border remains

mostly unmanned by police, paramilitary or military forces of India and Nepal. These features exacerbate the illegal movement of goods and people across the border (Vats & Jha, 2015).

These issues are intricately tied to the growing cross-border labor migration movement, which will be further discussed in Chapter 6.

Interventions at country borders intending to protect potential victims have also prevented women and girls from crossing the border of Nepal, despite instances of protest that individuals are traveling of their own decision. Sanghera and Kapur (2000) state the following:

Trafficking in women must be understood within the continuum of women's migrations. All persons, including women, have a fundamental right to freedom of movement and mobility, and this right must not be compromised. Trafficking in women, however, is a coercive form of movement that must be prohibited since it involves the use of force, abuse, violence, deception, and exploitation. These abuses are not inherent to the migration process. Trafficking is a crime because of the elements of abuse and the violations that are committed against women not because of the movement or mobility per se (Section 3.2).

Although the government revised policies preventing female migration in several ways in recent years, human rights workers report that the revised policies encouraged women to utilize illegal methods to migrate, which increases vulnerability to trafficking (US State Department, 2017). The former minister of the MWCSW recalls a conversation with a female consular member from Sri Lanka, who believes that if immigration laws are further tightened, women will turn to other means to access foreign labor migration routes, such as through harbors in India, which places them at heightened risk. A retired government worker shares,

The law, and the government procedure, is banning domestic work for women. They are not allowed for this domestic work in the Gulf Countries. This kind of ban has created another problem that the women are going through India, using this illegal channel, like smuggling. Again, the manpower companies, the agents, are playing the role to supply the girls through India. This is another trafficking problem. Nepal has no data for how

many Nepali women are working in the Gulf countries or elsewhere (Personal Interview 1.1.4, 2017).

The Foreign Employment Act of 1985 addresses female migrants and foreign employment, attempting to control the abuse of women and the problem of trafficking in migrant contexts. The Act requires that foreign employment agencies recruiting workers for work abroad obtain licenses from the Nepali government and stipulates which countries may recruit Nepali laborers. In 1998, Section 12 of the Act (Department of Foreign Employment, 1985) was amended to include the prohibition of foreign employment of women and minors without permission from the government and, in the case of minors, his or her guardians. A less-binding Foreign Employment Order issued by the Ministry of Labor places further restriction on the overseas travel of single women, women under age 35, and minors, unless they are accompanied by a relative or can provide sufficient proof of permission from their guardian. Furthermore, despite the Open Border Agreement of 1950 which enabled citizens of India and Nepal to cross the border without displaying passports or visas, the Passport Order restricts the passage of women without permission of their fathers or husbands. Although this order is not a legally-binding condition, it is widely observed by immigration authorities (Sanghera & Kapur, 2000).

On September 5, 2007, the Government of Nepal posted a notice in the Nepal Rajpatra (Nepal Gazette) that a new Foreign Employment Act would replace the 1985 version. The primary purposes of this revision are to “develop foreign labor employment as a safe occupation, manage it to make it a decent job and to protect the rights and welfare of the migrant workers as well as foreign employment entrepreneurs” (Kelegama, 2011, Chapter 6: Policy Framework for Foreign Labor Migration). This revision has reportedly lessened gender discrimination against Nepali women. In 2006, women were allowed to pursue overseas employment with few gender-specific restrictions. However, this allowance was short-lived; the government has once again

banned women's unrestricted migration. Tight regulations and bans on female migration still exist (US Department of State, 2017).

A further significant issue is that the latest The Foreign Employment Act was reportedly created largely for the interest of the foreign employment agencies. The former director of the MWCSW says, “[Foreign employment agencies] have the link with minister [of Foreign Employment], the political bosses, these top-level bureaucrats. They only seed their interest on how they can benefit from the law. The contact with their counterpart in the foreign land and the bilateral agreement, all are governed by the law as per the interest of these manpower companies instead of the interest of the citizens” (Personal Interview 1.1.4, 2017). Conversely, the Human Trafficking and Transportation Control Act was passed as a result of advocacy through pressure placed on the government from NGOs and the private sector. Therefore, it is concerned with the well-being of citizens (Personal Interview 1.1.4, 2017).

In a personal interview in July 2017, a retired Nepali government worker reported that the platform for external trafficking is based on girls who are picked up from rural villages and taken to Kathmandu. They are promised quality employment, but they find themselves working in cabins, dance bars and massage parlors and are soon exposed to the sex market. Afterward, foreign employment agencies pick up such girls and move them abroad. Thus, girls are frequently starting in internal trafficking and later moved abroad. In past decades, trafficking was mostly associated with sex work in the brothels first in India (such as in Mumbai, Delhi, Kolkata, and other big cities). However, he reports that the trend is changing. Now, trafficking is associated with foreign labor migration and India has become not only a destination country but also a key root of the problem.

It is possible to obtain information on how many migrant workers are seeking foreign employment through legal channels, obtaining permission from the Department of Foreign Employment and following the requirement to depart through the Tribhuvan International Airport in Kathmandu, but it is simply impossible to get reliable data on individuals who are going through India without legal work permits. The same retired government worker points out that a significant issue is that the investigation of cases of misconduct relating to foreign employment are investigated by the Department of Foreign Employment instead of by the Nepali Police. Victims of trafficking who have returned to Nepal are primarily located in rural areas. The location for filing cases is in Kathmandu, and no satellite locations exist outside Kathmandu. This causes hardship for victims residing in rural areas. Victims must spend a lot of money to travel to Kathmandu to file a case. The Police cannot investigate such matters because it is not within their jurisdiction.

Recently, the New Labor Act of 2017 has received the assent of the Nepali president and has officially come into effect, replacing the previous labor act regarding entities undertaking industry or business or providing services. Expected to create new dimensions in the labor market by balancing the interests of employers with those of employees, the New Labor Act has been passed “for provisions for the rights, interests, facilities and safety of workers and employees working in enterprises of various sectors” (NSBM & Associates, 2017:3). In its preamble, the document recognizes that the purpose for its enactment was to ensure laborers’ rights, benefits and facilities. It also indicates intention to find a balance between workers and employers by securing rights and duties for promoting positive relations, as well as the elimination of all forms of exploitation (Ghimire, 2017). Additional differences between the previous Labor Act of 1992 and the New Labor Act of 2017 are found below in Table 5.2.

<b>Labor Act, 1992</b>	<b>Labor Act, 2017</b>
Applicable only to entities employing 10 or more workers/employees	Applicable to all entities regardless of number of workers/employees
48-hour work week; overtime pay required; maximum overtime 20 hours/week	48-hour work week; overtime wage one and half time of ordinary rate of wages; maximum overtime 24 hours/week
52-day fully paid maternity leave; no paternity leave	98-day maternity leave, fully paid up to 60 days; 15-day fully paid paternity leave
No medical insurance	At least NPR 100,000 per year for each worker; premium to be paid equally by the employer and the employee
No accident insurance	At least NPR 700,000 per year for each worker; premium to be paid fully by the employer
No provisions related to sexual harassment	As per section 132 of the Act, the service may be terminated based on seriousness of offence

**Table 5.2: Highlights of Changes Brought by New Labor Law (NBSM & Associates, 2017).**

Additional key changes include mandatory employment contracts in which agreements are concluded before individuals begin work, and the requirement for employers to deposit provident fund and gratuity beginning with the first day of employment. Employers with over 10 employees are also required to form a Labor Relation Committee, and enterprises employing more than 20 people are required to form Health and Safety Committees (Neupane Law Associates, 2017). Though foreign missions are exempt from local laws and jurisdiction including the New Labor Act, positive change in local labor laws is to be applauded as a step in the right direction.

Despite encouraging change in domestic labor laws, difficulties in district court proceedings while dealing with cases of human trafficking remain a significant issue. Civil society organizations are seldom called in, and victims and offenders often remain in the same room during Police investigations and court room proceedings, which further victimizes survivors and fails to maintain the rights and the privacy of survivors (National Human Rights

Commission, 2017). Although Police investigate and adjudicate trafficking cases through public prosecutors in regular district courts, foreign employment cases are handled in a separate tribunal in Kathmandu. Notably, foreign employment cases are regarded as deceiving and cheating, or fraud, instead of human trafficking. A retired Nepali government worker elaborated, “But the nature is very likely to be trafficking and smuggling. Under this trafficking law, the punishment is very severe. But there is no such long punishment under this Foreign Employment Act. And [victims]...they want quick money. Rather than going to the court and getting the criminal, the perpetrator, punished and jailed, they prefer the money” (Personal Interview 1.1.4, 2017). As a result, even lawyers prefer to file cases under foreign employment legislation instead of under anti-trafficking legislation because it takes significantly less time. As a result, traffickers are content to pay money instead of going to jail and are soon free to proceed with their illegal activities. Although the anti-trafficking legislation is fairly strong, its implementation is severely lacking. Three layers of court exist through which trafficking victims must pass to obtain a conviction. If victims were to gain compensation in a time-efficient manner, they would be more willing to file cases as trafficking instead of as migrant labor fraud.

### 5.3: CONCLUSIONS AND POSITIVE MOVEMENTS FORWARD

Due to insufficient knowledge of anti-trafficking laws among government officials and law-enforcement personnel, the Women and Children Services Directorate recently led a course for 190 police officers on trafficking investigations (US State Department, 2017). Additionally, the Nepali government continued to improve anti-trafficking law enforcement efforts, increased its energies toward the number of trafficking victims identified, and doubled the budget for providing victim care services to female victims of violence, including victims of trafficking (US State Department, 2017).

Additionally, the former chair of the MWCSW reports that the government is planning to establish a rehabilitation center in every federal state, which will be run by the private sector (primarily social welfare organizations) and the Ministry of Women, Children and Social Welfare. There are currently 10 rehabilitation centers existing in Nepal, but there are not currently centers in each of the seven states. The initiative to establish more rehabilitation centers is a result of the movement toward the decentralization of power in the structure of Nepali governance. Decentralization is a key component to effective local self-governance. Although various acts and regulations which serve as the foundation for the decentralization of power from the central government to local governments have been passed in the past few decades, decentralization efforts have been slow to take effect (Bhattarai, 2018). Regardless, illustrations of progress are visible throughout Nepal.

In conclusion, the lack of clear distinction on what constitutes human trafficking according to Nepali law, coupled with significant pockets of corruption and lack of consistent enforcement of existing laws, makes approaching a holistic solution to the problem difficult. However, there is reason to remain optimistic. During the 2016-2017 TIP Report reporting period, the government initiated human trafficking awareness programs throughout the country and revoked the licenses of over 400 foreign employment agents located outside the capital in efforts to reduce migrant labor exploitation (US State Department, 2017). The government has also established shelters in Gulf Countries to support repatriation of vulnerable migrant workers. These and other issues will be further discussed in Chapter 6.

## CHAPTER 6: CROSS-BORDER HUMAN TRAFFICKING AND MIGRANT LABOR

The fourth objective of this thesis is to address the influence of globalization on the increase in cross-border human trafficking and to determine the reason for the misattribution of certain cross-border human trafficking cases as migrant labor violations in Nepal. Data from in-country sources and personal interviews with government officials and human rights INGOs are analyzed to augment the extant literature to determine why cross-border human trafficking cases in Nepal are often mislabeled as migrant labor violations. Reform of the government mechanism responsible for dealing with trouble in the migrant labor industry is crucial to Nepal's future as a key participant in the global migrant labor market.

### 6.1: TRENDS OF CROSS-BORDER TRAFFICKING GLOBALLY AND IN NEPAL

The Academy for Educational Development describes cross-border human trafficking as that which occurs within the context of migration. Therefore, cross-border trafficking relates to the forced movement of human beings across country borders for the intent of exploitation. Data from the United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons (2014) shows that globally, 34% of human trafficking occurs within country borders. Across country borders, 37% of human trafficking occurs between countries within the same sub-region, 26% occurs transregionally, and the remaining 3% occurs within nearby sub-regions. Furthermore, the same study reports that globally, the majority of trafficking victims are foreigners in the country in which they are identified, indicating a high degree of cross-border movement in human trafficking. At least 6 in 10 victims have been trafficked across one or more country borders, creating a web of illicit activity existing outside the protection of the government of victims' home countries. Additionally, trafficking occurs at a significantly higher

rate in regions where migration flows are largest, not in regions with little or no migration (Omar Mahmoud & Trebesch, 2010).

The 2012 US Department of State *Trafficking in Persons Report* estimates that between 600,000 and 800,000 men, women, and children are trafficked across international borders annually (US State Department, 2012). However, the UN Children's Fund (UNICEF) estimates that the number may be much higher at approximately 2 million individuals (Boonpala & Kane, 2002). Cross-border human trafficking victims are typically sourced from low income countries and moved to wealthier destination countries. Cho (2015) finds that this is, in large part, because high-income nations possess the financial capital necessary to pay traffickers and typically have greater need for low- or un-skilled labor. However, the demand for cheap manual workers and prostitutes exists in both developed and developing countries (Omar Mahmoud & Trebesch, 2010).

The UNODC Global Report on *Trafficking in Persons* (2014) shows that globally, the majority (67%) of traffickers facing convictions are citizens of the country of conviction and were guilty of both domestic and transnational trafficking in persons, but only 22% were foreigners from countries in the same region and 14% were foreigners from other regions. An analysis of origin and destination countries shows that countries of origin convict almost exclusively their own citizens. Conversely, destination countries convict both citizens and non-citizens. Furthermore, the UNODC finds that 58% of offenders were foreigners and 42% were nationals in the country of destination. In countries of origin, only 5% of offenders were foreigners and 95% were nationals (United Nations Office on Drugs and Crime, 2014).

DiRienzo & Das (2017) believe that border-crossing should be impeded by stringent border security so that traffickers are not able to easily obtain information for the expansion of

trafficking networks into cross-border circuits. Opponents of DiRienzo & Das' assertions argue that tighter border controls will only push trafficking further underground (Johnson & Khan, 1998). In the case of Nepal, complications arise due to the open border with India and the partially open border with certain regions of China, through which citizens can move without a passport or visa by simply presenting citizenship cards to border-checkpoint personnel. Unrestricted travel without the enforcement of adequate safety mechanisms plays a significant role in the perpetuation of cross-border trafficking in and beyond the region. In a personal interview, one of the US Department of State staff members responsible for preparing the TIP Report explained that females traveling alone is a potential warning sign for human trafficking. Particularly at border-crossing points with India, border-monitoring agencies remain alert for solo female travelers. He continues, "But there are other components...just because someone meets that criteria, does not mean that they are a trafficking victim. People should always be able to move freely" (Personal Interview 2.1, 2017). Despite periodic variations in the level of security at its borders, Nepal's cross-border network continues to increase.

Migrant work necessitated by an absence of local employment opportunities has drastically fueled the rapidly growing trend of cross-border migration in Nepal. In a personal interview, a representative from the ILO reported that although there are job opportunities in Nepal, they are typically in industries requiring a particular skill set. She continues, "There are [many] workers in Nepal, [but] they are not skilled. Unskilled [workers] are going to other countries. The challenge is to match skills with the market" (Personal Interview 2.7, 2017). This imbalance of employment opportunity in Nepal is increasingly pushing Nepali citizens into the foreign labor market, which in turn places them at increased vulnerability.

According to a 2011 World Bank report, 57% of Nepali households have at least one member currently working abroad or a family member who was formerly engaged in migrant work. It is estimated that an additional 5 million individuals will enter the Nepali labor market by 2025 (ILO, 2016; World Bank, 2011). Nepali youth account for a large portion of this figure, with an estimated 1,500-1,800 youth migrating abroad for work on a daily basis (ILO, 2016). Additionally, some children are finding ways to alter their passports to reflect a more mature age in order to take migrant labor work. A representative from the International Organization for Migration expands, “Especially during [disruptions], there is [increased] migration, particularly from rural areas because people [from rural areas] have limited access to employment opportunities and other socioeconomic opportunities, so they migrate to Kathmandu or major cities for a job. [In such circumstances], there is a chance of being trafficked” (Personal Interview 2.5, 2017). The IOM representative elaborates,

Labor migration is one of the biggest challenges as well as one of the biggest opportunities for Nepali citizens. A huge amount of youths migrate to Malaysia and especially to the Gulf Countries for foreign employment. The trend is increasing. They have the opportunity in the sense that they earn more money. They are sending remittances, which is very helpful to the life of their families for economic development (Personal Interview 2.5, 2017).

There are two ways in which the government permits citizens to access foreign employment opportunities. First, if a foreign employer has a connection with Nepali citizens intending to pursue migrant work, the employer can hire workers directly without the support of a recruitment agency. More commonly, however, a recruitment agency provides information about demand for work in destination countries to interested individuals. These job opportunities are publicly announced and recruitment agencies are allowed to conduct interviews to select workers. In both circumstances, legal labor permits are required.

In a personal interview, a representative from the Department of Foreign Employment described the application process for Nepali citizens seeking employment opportunities abroad. He said that in order to receive a legal work permit, an applicant must obtain a passport and visa and collecting documents from the intended employer. These documents include a training certificate and a contract detailing the salary, the intended duration of work and details about the facilities in the destination country. In order to obtain the training certificate, employees must participate in pre-departure training before leaving Nepal, which teaches basic information including what kinds of activities are permitted in the country of destination and how to face immigration. Additionally, workers must purchase life insurance, pass a health inspection to obtain a health certificate, and prepare documents so that a portion of their paychecks are deposited into a foreign employment welfare fund while they are abroad. After an individual has prepared these documents and fulfilled all requirements, they must submit the paperwork to the DoFE who checks the documents and, if approved, issues the labor permit.

The situation with the open border with India (and in some regions, with China) further perpetuates illegal migrant work. there is no proper recording system to account for the large number of Nepalis working in India, nor for the considerable number of workers going to a third country via India. Many illegal recruiters are encouraging workers to bypass legal channels, influencing and misguiding workers by saying that it takes too much time and is too difficult to obtain the legal labor permit. However, not all individuals seeking foreign employment are able to obtain legal work permits for various reasons, including inability to pass health inspections, inability or unwillingness to travel to Kathmandu to pursue the process to obtain a work permit, inability to pay recruitment fees, restrictions of female migration, and loss of citizenship cards, among others.

When individuals are unable to pursue foreign employment through legal channels, workers often have no alternative but to seek illegal migration opportunities. In such situations, traffickers know that illegal migrants are more vulnerable because the government will not protect workers who have accessed foreign employment without going through the Department of Foreign Employment. There is virtually no reliable way to monitor number of workers obtaining migrant work illegally or monitor the experiences of such individuals. Unregulated, informal migration flows are perpetuated by the open border between India and Nepal (Global Slavery Index, 2016).

Between India and Nepal, we have a long history of seasonal migration every year. It is historical because it is cross-border, and we don't need any visa [to cross the] open border. So even now, they still go to India to work. But the trend of foreign employment to these Gulf Countries...[this] is a dramatic shift in...labor migration (Personal Interview 2.5, 2017).

In a personal interview, a representative from the International Organization for Migration expressed concern for migrant worker safety. In many cases, he said, migrant workers are promised a certain wage and living condition, but “the majority of labor migrants do not get what they are told” (Personal Interview 2.5, 2017). Many illiterate labor migrants face significant problems with safety. As many as 5-10% of migrant workers are suffering from the effects of fraud within the foreign employment arena. Some experience legal issues and are detained in the destination country, and some are exploited by their employer in terms of the amount of time they are expected to work and the nature of their job. One significant aspect of the problem is that in many cases, the foreign employment agency holds the passport for the duration of a worker's contract, typically lasting 2-3-years, rendering the employee a virtual hostage in the destination country.

Another concern for cross-border migrant workers is the safety of the working environment. In many cases, workers are required to live with 3-5 other workers in one dimly lit room. Female migrant workers face a problem of restricted mobility due to gender-inequality, language and communication barriers, and lack of access to passports. Women in such situations frequently suffer from various mental health and social problems. Many have experienced violence and have been sexually exploited and harassed. Furthermore, although alarmingly high death rates occur among migrant workers, particularly among those working in the Gulf countries, the Nepali government shows little interest in investigating what caused the deaths (US State Department, 2017).

There are currently 930 foreign employment agencies registered with the Nepal Association of Foreign Employment Agencies (Nepal Association of Foreign Employment Agencies, 2018). Among these agencies, recruitment mechanisms often lack transparency and labor migrants are frequently deceived. In an interview, an IOM representative reported that “there are some cases of forced trafficking, obviously, because some say ‘oh, let’s go to India for some job’ and then these brokers force them to go to some other countries, even [if] they do not know where they are going” (Personal Interview 2.5, 2017). He further noted that some recruitment agencies even provide false contracts to the government and force workers to sign a different contract when the individual reaches the country of destination. In other cases, illiterate citizens seeking migrant work travel from their rural villages to the Kathmandu airport, only to be sent back from lacking proper documents. In addition, this representative stated that although some recruitment agencies operate according to legal standards, some need stricter monitoring and must be made accountable for migrants’ rights, including providing workers the ability to discuss and clarify contracts and providing access to full and correct information. There is a

tendency of some recruitment agencies to send illiterate youths overseas without the legally-mandated pre-departure orientation. He elaborated:

The majority of the youths...that come from the remote areas...don't have access to all the information. They are sent to the [Kathmandu] airport, but when they are in the [destination country] airport, they are not fully sure who will come to bring them [from the airport to the job site]. What is the language, and what the full contact details where they are going...I find sometimes, when I am in Malaysia, in the airport, I find youths, 5 or 7 youths, wandering around [not knowing] where they will have to go out, who will come (Personal Interview 2.5, 2017).

Although pre-departure orientation is mandatory in principle, some recruitment agencies do not provide any such orientation and instead falsely report to the government that the orientation program has been completed. Another IOM representative visited Malaysia and discovered that 30-40 migrant workers from 3 companies reported that no such pre-departure orientation occurred. Sometimes, pre-departure orientation does occur but it is insufficient (Personal Interview 2.5, 2017).

## 6.2: MISATTRIBUTION OF INFRACTIONS

Although not all Nepali labor trafficking victims seek justice, individuals can file complaints to the village or district police, or in cross-border situations, within the Department of Foreign Employment. However, another significant problem relating to human trafficking among Nepali citizens is the frequent misattribution of cross-border trafficking cases as migrant labor violations. As discussed in Chapter 5, trafficking cases are frequently filed under foreign employment legislation instead of under anti-trafficking legislation for a variety of reasons. One of the US Department of State staff members responsible for creating the Nepal TIP Report states that one such reason is because it is much easier to receive compensation from the government if the case is filed under the labor department instead of filing the case as an instance

of human trafficking. He elaborates on the reasoning: “You’re pretty much guaranteed to get a little bit of money if you file it that way. And for [many] people in that situation, what’s most important? Is it justice for the perpetrator or is it recouping the costs of what you put into this?” (Personal Interview 2.1, 2017).

When citizens seek legal foreign employment, recruitment agencies are required to have full identification documentation of workers. Clarity is required on what company is sending and receiving the worker. When problems are encountered, they are reported to the appropriate departments in Nepal and action is taken. In a personal interview, a representative from the Foreign Employment Promotion Board reports that recruitment agencies operating under illegal practices often charge recruitment fees significantly higher than the fixed rate that the government allows agencies to charge. Workers are often afraid to disclose this information to the government because the worker will likely lose their foreign employment opportunity if the agency’s license is revoked. He further reports that victims of trafficking often decline to seek justice because they are afraid of disclosing the names of individuals who encouraged them to go abroad illegally. Furthermore, numerous influential entities within the government and local society even *encourage* citizens to file cases as labor violations instead of as cases of labor trafficking. He continues,

I think in some ways the infrastructure, the foreign employment government entities and the police...probably have a role in pushing people...overtaking action under the Trafficking Act, separately or as well, though I think part of that is the fact that if you talk to a lot of people, they think that you can’t file under both, or again they [carry the stigma, saying] ‘What is the definition of trafficking? Trafficking isn’t for labor, right?’ Even among the government officers, if you go to the police office on labor trafficking cases on the human trafficking act, they will refer you to go to the Department of Foreign Employment. Police will not take that case as a criminal case and they will refer to the Department of Foreign Employment” (Personal Interview 2.1, 2017).

A representative from the International Labor Organization supports the claim of a significant social stigma regarding labor trafficking. In general, victims of labor trafficking, particularly men, often experience social pressure to disregard their experiences as nothing more than unfavorable working conditions. She says, “Trafficking is considered to be a women’s problem because [the stigma says that] trafficking is [only related to] sex” (Personal Interview 2.7, 2017). Even if the same indicators of trafficking appear for men, “it will not be seen as trafficking, it will go under labor. [It is] taboo to file a case; [men] will be seen as broken or gross. They prefer to file under the [Foreign] Employment Act” (Personal Interview 2.7, 2017). Changing this cultural stigma will take years because Nepal is a very closed society which does not wish to talk about such issues, she reports.

Further perpetuating this social stigma, under Nepali law, any problems experienced by people who went abroad on a legal labor permit are not considered problems of human trafficking. Those who went abroad without a labor permit, on the other hand, are considered to have been trafficked according to Nepali law. A representative from the Foreign Employment Promotion Board explains,

Our law mentions trafficking like that. In international practice, the anti-trafficking act in Nepal, if you say that a person went abroad and experienced difficulty, they were trafficked. Labor-related problems [are] the problems faced by workers who went by taking [a] labor permit. [In my individual view], if someone is tortured or mishandled, that is human trafficking. The question is how they are treated there. [But on a] legal basis, there [are] some differences (Personal Interview 2.2, 2017).

Furthermore, in order to reduce sex trafficking between Nepal and India, extradition agreements between the two countries are fundamental. Historically, traffickers have succeeded in evading prosecution because society tends to judge the woman as being guilty of prostitution, thus minimizing the trafficker’s criminal act (Deane, 2010). While some women may choose to

migrate for the purpose of working in the sex industry (O'Connor, 2017), Kelly (2003) argues that it is highly unlikely that the magnitude of women and girls from the poorest regions “can find their way into sex markets thousands of miles away without facilitation or direct recruitment” (p. 140).

### 6.3: MOVEMENTS TOWARD INTERVENTION

In response to the increasing unsafe conditions for migrant workers in destination countries around the world, the International Labor Organization is currently working on an intervention called The Bridge Project. Funded by the US Department of Labor, the project is geared toward providing specific guidance on effective measures to eliminate all forms of forced labor in terms of access to justice and prevention and protection of victims through the following actions:

- Strengthening the capacity of line ministries to develop, implement and monitor policies and national action plans on forced labor,
- Increasing public awareness and knowledge on forced labor, particularly bonded labor,
- Enhancing capacity to effectively enforce legislation and to better identify and document all cases of forced labor,
- Increasing efforts to collect reliable data on forced labor,
- Establishing partnerships with the government and local organizations to improve livelihood programs/services to victims of bonded labor

(International Labor Organization, n.d.).

The Bridge Project is reviewing the National Plan of Action on Controlling Human Trafficking and the Human Trafficking and Transportation Control Act in collaboration with the MWCSW.

In a personal interview conducted in Kathmandu in December 2017, a representative of the ILO revealed that she believes this model, once fully developed and implemented, could potentially serve as a base model and an entry point for other countries to follow.

Numerous Nepali embassies have established several safe houses in countries with high levels of labor migration as another intervention strategy. One of the preparers of the US Department of State TIP Report states that these safe houses are short-term centers with basic facilities, often equipped exclusively for females. In a personal interview, a representative from the International Organization for Migration recalls that one such safe house in Kuwait offers only a single room with 8-10 beds. Stranded labor migrants, particularly women, are provided the opportunity to seek asylum in the facility for 1-2 nights while paperwork is prepared in order to return to Nepal. Several of these women have been in forced labor situations for so long that they have forgotten Nepali and are no longer able to communicate in their own language.

Recently, in April 2018, the Ministry of Labor, Employment and Social Security announced several positive changes in migrant labor policies. First, the Ministry announced that it will offer free legal services to citizens who have been jailed while overseas for foreign employment. The benefit will apply to the estimated 528 Nepali migrant workers who are in jails in migrant work destination countries. Such individuals are experiencing difficulties such as having been released by their employers and being stranded without valid residence permits. Others have been jailed simply because they cannot access legal assistance. The director of the ministry believes that the proposed plan will assist migrant workers deal with workplace exploitation and all issues that cause hardships while working in foreign countries. Additionally, the government is implementing taskforces and creating strategic plans for each of the following issues:

- To address issues of large numbers of migrant workers in the Gulf Countries, to create recommendations on new destination countries for migrant workers, to create recommendations on the probability of government-to-government agreements with new countries,
- To analyze all existing policies, Memorandum of Understanding (MoUs) and labor agreements between Nepal and other countries, to ensure maximum benefits to Nepali workers, and to recommend suggestions to solve existing problems,
- To suggest the possibility of setting up a Remittance Investment Fund, allowing Nepali migrant workers to remit money through banking channels into productive sectors
- To create an information desk and allocate space at the Tribhuvan International Airport to assist families in claiming the bodies of migrant workers deceased in foreign countries
- In countries where Nepali workers exist in large numbers, to widely disseminate information compiled by Nepali embassies on local culture, rules and regulations, and other important information in the Nepali language through a variety of channels (Mandal, 2018).

In a new project funded by USAID called Hamro Samman, support will be provided in policy implementation and monitoring and, if needed, in policy refinement in Nepal. In this project, civil society organizations will be able to engage in campaigns to influence policy makers and decision makers on new policies, effective implementation strategies, and necessary changes, including the need for the attribution of cases of human trafficking through the proper

channels. Doing so will provide the ability to serve in an influential capacity, providing support to the government. In a personal interview, a representative from Winrock International expounded on the need for the project, stating,

The MWCSW only deals primarily with women and children, but human trafficking [involves] men too. The Ministry of Labor is in charge of labor. [But] they need to work together. The human trafficking act is being amended, the Foreign Employment Act is being amended...What is human trafficking? Clarity is needed. Until we bring these issues together, we will have [a] problem. This is [a] safe migration project, this is [an] anti-trafficking project...they should be together conceptually (Personal Interview 2.4, 2017).

Similar to many countries with heavy migrant-worker populations, Nepal must work to further protect its citizens while they are engaging in migrant work abroad. Migrant laborers, particularly those in unskilled trades and low-wage industries, are vulnerable to exploitation and frequently lack the resources to escape from exploitative circumstances and prosecute offenders through the proper channels. A holistic, collaborative approach is needed in order to solve issues of cross-border trafficking and the misattribution of certain cases as migrant labor violations.

## CHAPTER 7: DISASTER, RISK REDUCTION AND PREPAREDNESS

Natural disasters cause nearly insurmountable chaos, disruption, and widespread panic. Child human trafficking rates increased following the 2004 tsunami in southern Asia, the 2010 earthquake in Haiti, the 2011 drought in the Horn of Africa, and the 2013 typhoon in the Philippines, among others (Childs, 2016). This research seeks to determine how the social and economic disruptions resulting from the 2015 earthquakes in Nepal created an environment in which trafficking increased and which types of disruptions were the most significant contributors to these increases. Such information is vital for the development of a framework to increase safety for vulnerable populations in future disaster situations.

### 7.1: EARTHQUAKE SEVERITY AND STATISTICS

On April 25<sup>th</sup>, 2015, a 7.8 magnitude earthquake shook Nepal, recorded as the largest seismic event in the Nepal Himalaya since the deadly 1934 Bihar-Nepal earthquake of approximately 8.2 to 8.4 magnitude. Regions affected by this earthquake sit above the Main Himalayan Thrust fault, which stretches across half of the India-Eurasia convergence where the majority of the shortening between the India plate and the Tibetan plateau occurs (Adhikari et al., 2015). The location of the epicenter, 77 kilometers northwest of Kathmandu, also categorizes it as the first modern-day large-magnitude earthquake to have affected the densely populated capital city (Parameswaran et al., 2015). Data from the National Seismological Centre located in Kathmandu and the Regional Seismological Centre located in Surkhet-Birendranagar recorded 533 seismic events greater than magnitude 4 within the first 45 days following the initial shock. The largest of these subsequent earthquakes happened on May 12<sup>th</sup>, 2015 at magnitude 7.3, taking additional casualties and causing further structural damage (Adhikari et al., 2015). Widespread

destruction of modern, rural, and historical structures occurred, with an estimated 250,000 buildings partially damaged and an estimated 605,000 or more homes completely destroyed. The estimated death toll is nearly 9,000, with an estimated over 22,000 injured (Childs, 2016; USAID, 2015). The International Organization for Migration Displacement Tracking Matrix survey reported approximately 59,400 persons in 120 displacement sites in 13 earthquake-affected districts before numbers began to decrease (USAID, 2015).

## 7.2: CAUSES OF VULNERABILITY IN DISASTER SITUATIONS

As Blaikie et al state, “There is a danger in treating disasters as something peculiar, as events that deserve their own special focus. It is to risk separating ‘natural’ disasters from the social frameworks that influence how hazards affect people, thereby putting too much emphasis on the natural hazards themselves, and not nearly enough on the surrounding social environment” (Blaikie et al., 1994, 4-5). Immediate disruptions of state and civil society institutions in the wake of natural disasters means typical protection systems are not in place. Additionally, regulatory controls and border monitoring stations are in a state of extreme confusion (Childs, 2016). The Access Model developed by Blaikie et al. theorizes that the relative vulnerability of populations is contingent upon the degree of access they have toward capabilities, assets, and opportunities. Having a higher access profile allows a population to reduce relative risk to vulnerability in disaster situations. Additional factors affecting vulnerable populations include gender sensitivity of government programs and the level of female participation in implemented disaster management frameworks (Blaikie et al., 1994).

Consequently, it is crucial that community capacity frameworks be developed for the Nepali government to utilize in case of natural disasters aimed at risk reduction and preparedness. Disaster management committees at local, regional, and national levels are crucial.

Numerous disaster management frameworks have been developed by organizations such as World Vision India. An informed response to disaster preparedness focuses on lessening the negative effects of disasters preventatively, instead of reactively after a disaster has already taken place (World Vision India, n.d.).

### 7.3: IMPACTS ON HUMAN TRAFFICKING

Many sources, including an abundance of media responses, report a drastic increase in human trafficking following the 2015 earthquakes. One of the US Department of State employees responsible for preparing the *Trafficking in Persons Report* states that although it is a completely logical assumption that human trafficking would increase, evidence generated through reliable sources and strong research methods is unavailable. There is, however, data to justify reports of increased risk to vulnerable populations. Although the earthquakes affected all sectors of the population, individuals who are already disadvantaged, marginalized, and disempowered are affected with greater propensity. Many Nepalis, particularly women, children, elderly, disabled, Dalit and ethnic minorities, and individuals experiencing homelessness or joblessness as a result of the earthquakes are disproportionately and increasingly vulnerable to trafficking (National Human Rights Commission, 2015; US State Department, 2017).

Despite an overall deficit of comprehensive, statistical data to show that human trafficking significantly increased, the former director of the MWCSW reports that "after the earthquakes, most every district [near the epicenter was] affected by human trafficking" (Personal Interview 1.1.2, 2017). Lacking concrete evidence to support logical assumptions of increases in trafficking, the National Human Rights Commission's Office of the Special Rapporteur on Trafficking in Persons averaged a three-year data set and compared the reported cases in the 12-months following the earthquakes on the issues of 1) domestic violence cases, 2)

cases of rape, attempted rape and human trafficking, and 3) the phenomena of missing persons registered in the Nepal District Police (National Human Rights Commission, 2016). Data from each of these categories shows increase. The domestic violence cases reported increased by nearly 15 percent, from 1,569 to 1,793. Attempted rape against women and children also increased in the 12-month reporting period compared to the 3-year average before the earthquakes. Rape cases registered with the Police increased from 175 to 217, and the number of attempted rape cases increased from 80 to 90. However, according to the National Human Rights Commission 2015-2016 Report, the number of human trafficking cases registered in district Police offices before and after the mid-2015 earthquake declined overall from 42 to 32 cases reported in Kathmandu, Nuwakot, Kavrepalanchok, and Sindhupalchok (National Human Rights Commission 2016). Conversely, the combined data from Dhading, Makwanpur, Ramechhap, and Okhaldhunga shows an increase from 4 trafficking cases reported to 11 cases reported. This, of course, assumes the accurate reporting of trafficking occurrences and omits the margin for a potential increase in the percentage of cases *reported*, but is not necessarily representative of the number of cases truly occurring.

Furthermore, the Nepali Police have famously poor investigative techniques and lack sufficient training and qualification for the proper handling and reporting of human trafficking cases. However, excluding Kathmandu, all Police offices in affected districts reported an increase in missing persons following the earthquake, in comparison with the previous year. In Kathmandu, the reported number of missing children declined from 1464 to 1229, likely due to individuals leaving the Kathmandu Valley immediately following the earthquakes to seek safety from the predicted aftershocks. Excluding Kathmandu, the total number of missing persons in affected districts increased by more than 40 percent. Although this figure includes both males

and females, 75 percent of missing persons were females and 60 percent of missing persons were children. While the NHRC requested data from all 14 most earthquake-affected districts, data was only received from 12 district Police stations. Gorkha and Lalitpur districts, although among the most affected by the earthquakes, were not represented in these data. It is also important to note that many cases may not have been reported to the Police and therefore the true impacts of the earthquake may not be fully represented by this study (National Human Rights Commission, 2016).

In a 2-year project by the Alliance Against Trafficking in Women and Children in Nepal studying perceptions of migration and human trafficking among populations in earthquake-affected districts, 29 percent of surveyed individuals indicated their main reason for migration was to ensure family survival. When asked questions to determine participants' knowledge on human trafficking, only one half of the 494 surveyed individuals were able to tell one of the constituents of human trafficking. Moreover, nearly half of surveyed individuals believed that trafficking could only take place outside the country, and almost a quarter did not have any perceivable knowledge of human trafficking whatsoever. Although data clearly exists for increased risk of falling victim to trafficking during unsafe cross-border migration, nearly six in ten reported that they did not believe they were at risk for trafficking during labor migration. Additionally, one in three recognized a potential risk and 15 percent indicated that they would not be aware of potential danger, if they were at risk (AATWIN, 2018). In the wake of natural disasters, children separated from their families are often assumed to be either missing or dead. Whether or not this assumption is accurate, true orphans and children assumed to be orphans are at increased vulnerability. Some desperate families even send their children to orphanages, where they are at risk for being trafficked or subjected to illegal transnational adoptions (Childs, 2016).

Some financially desperate families even lied to the Police to facilitate what they believed to be sending their children to a Buddhist monastery, as in one such story in Dolhaka. None of these seven children have been heard of since the earthquakes.

Additionally, and notably, the earthquakes dramatically increased both internal and external migration. Migration can frequently lead to unsafe situations in which an individual's vulnerability to trafficking is drastically heightened, particularly when migration is undertaken illegally and thus without the protection mechanisms afforded by taking employment permission from the Ministry of Foreign Employment (National Human Rights Commission, 2016). In a personal interview, a staff member of Love Justice International reported a high month of intercepts at the NGO's border-monitoring stations immediately following the earthquake. In areas with significant damage, youth frequently turn toward seeking employment outside the village in order to maintain economic survival. In many cases, vulnerable girls seeking employment are lured to dance bars and other adult establishments in Kathmandu, or to fraudulent labor contracts promising high salaries overseas. Furthermore, in the first two months following the earthquakes, UNICEF reported that at least 245 children were intercepted from being trafficked and unnecessarily or illegally being placed in children's care homes (Vats & Jha, 2015).

A representative from the International Organization for Migration Nepal states that although concrete studies and evidences are still forthcoming, there is no doubt that both internal and external migration increased in the wake of the earthquakes. Citizenship cards are a fundamental requirement for workers seeking legal employment through the Department of Foreign Employment. In the chaos surrounding the earthquakes, countless Nepalis lost their citizenships cards, leaving many desperate workers no choice but to turn toward unsafe, illegal

economic migration. Because there is no system for tracking workers entering the foreign labor market without legal documents, there is truly no mechanism to track the numbers of migrant workers going abroad without the approval of the Department of Foreign Employment. There are also, thus, no existing legally binding safeguards to protect illegal migrant workers, such as the repatriation fund that is available to legal migrant workers.

#### 7.4: THE CASE OF RASUWA DISTRICT

The role of disaster is significant in the further destabilization of local economies and the infrastructure needed to both track and arrest traffickers and to prevent illegal labor migration. Although numerous non-profit organizations received funding to establish programs designed to reduce vulnerability to violence and trafficking in affected villages in the months following the earthquakes, many such programs were prematurely discontinued due to lack of funding, despite a continued need for the services provided.

The author's field research indicates that in earthquake-affected Rasuwa District, one non-government organization employed 18 staff members to run such programs following the disasters. Two years later and long after the funding was depleted, only one original staff member remained at work as an unpaid volunteer. Solely responsible for overseeing 18 village development committees and running a safe-house in her home, she shares, "During the time of the earthquakes, many young women, particularly pregnant women and children were affected by the earthquakes. To support them, our organization created job opportunities for the local women. A small intensive program was provided as a salary during the most vulnerable period following the earthquake, which dramatically lessened the women's vulnerability [to unsafe migrant labor work]. At that time, a large number of INGOs and NGOs were interested in supporting our projects" (Personal Interview, 2017).

As time passed, however, fewer organizations remained involved in supporting the project and, soon, all staff were cut. As reported by this local informant working in Rasuwa, programming is still vitally needed, despite this lack of funding. As a result of programs instituted by this local organization and in collaboration with the Chief District Officer of Rasuwa, the Ministry of Women, Children and Social Welfare, and the District Police, women are provided with training on the importance of developing skills in order to obtain a secure job while engaging in migrant labor abroad. The impacts of the premature termination of such programs has devastating impacts on the local populations. Regrettably, data from Rasuwa was not reported to the National Human Rights Commission to indicate the fruits of the work of these organizations.

Dangers remain for vulnerable populations in Rasuwa, however, as Nepal features an open border with China at seven official border-crossing points, which facilitate traffickers moving victims into Tibet, China. Before the earthquakes, the primary Nepal-China border-crossing point was in Zhangmu in Nyalam County, Chigatse Prefecture. After this location experienced significant damage in the earthquakes, the Chinese government has appointed the Rasuwagadhi-Kyirong border-crossing location as the main port between China and Nepal. Before the earthquake, only Chinese materials were transported through this checkpoint. In order for a migrant worker to travel through legal channels, they must, with few exceptions, either cross the border into India or leave through the Tribhuvan International Airport in Kathmandu. After the earthquake, Nepalis were increasingly found crossing the border intending to seek employment illegally, without legal permission from the Ministry of Foreign Employment. The relative ease of crossing into China through Rasuwagadhi-Kyirong or at any number of

unofficial and illegal locations along the border only exacerbates the vulnerability of citizens of Rasuwa.

## 7.5: FRAMEWORKS FOR DISASTER PREPAREDNESS

Building community capacities and frameworks for disaster, risk reduction, and preparedness is crucial for all governments, particularly those in locations prone to frequent natural disasters, such as Nepal. The creation of village disaster management committees and the subsequent development of a community disaster management plan, including community-based mechanisms for coping with natural disasters, is crucial to an informed response to disaster preparedness. Many non-governmental organizations offer apparatuses for vulnerability mapping, such as tools for tracking the number of children in a region, establishing Child Protection Communities (CPCs), and creating plans for women's resilience building. As presented at the International Conference on Anti-Human Trafficking Initiatives in Kolkata, Moitrayee Mondal, a Communication Consultant with Oxfam India, recommends building community-based institutions and emphasizing convergence of departments and committees. It is crucial for departments within the government to communicate with one another. It is equally vital for local organizations working in disaster-affected zones to communicate well amongst themselves.

In the days and months immediately following the earthquakes, the Nepali Police and numerous non-government organizations tightened vigilance against human trafficking at border crossings locations, as well as in displaced persons camps and transportation hubs (US State Department, 2016). However, the government has not provided sufficient job opportunities to provide Nepali citizens to remain in the country to maintain their livelihoods. It is also crucial for the Nepali government to work toward the elimination of all recruitment fees associated with

migrant work. Additionally, the government has revised policies preventing female migration. NGO reports indicate that these revisions often result in compelling women to turn to illegal methods for labor migration, which greatly increases susceptibility to trafficking. Lifting current bans on female migration to encourage migration through legal, documented channels is recommended (US State Department, 2017).

Far too frequently, proposed frameworks and solutions to lessening the negative effects of disasters are focused on the *aftermath* of the disaster. Furthermore, frameworks focusing on the *preventative* side are frequently not available for immediate deployment when a disaster situation arises, or such frameworks are not developed properly in order to be effective. It is crucial to have stronger management and governance prior to disaster situations, but Nepal does not have proper disaster forecasting models. In one such model, World Vision India divides disasters into three categories: slow onset, such as drought or famine; rapid onset, such as flood, earthquakes, cyclone, or cloudburst; and complex humanitarian emergency, in which a breakdown of the social, political, and economic system occurs. The World Vision Disaster Management Continuum (as seen below in Figure 7.1) exists first at the Policy Level, engaging with governments, the United Nations, NGOs, and partners to position World Vision as a credible voice to influence the institution of frameworks to create change. Second, World Vision's model encompasses six dimensions at the Programming Level: early warning, preparedness, mitigation, response, recovery, and transition. Category Declarations are broken down according to how many individuals are affected, ranging from less than 100,000 affected at Category I, 100,000 to 1 Million affected at Category II, over 1 Million at Category III, and a Global Magnitude at Category IV. Response Models from which to choose, according to the situation, include i) no response/monitor context, ii) national office response, iii) partnering

response, and iv) global response. A response strategy and plan, response budgets, staff deployments, technical specialists, and compliance to Core Humanitarian Standards are crucial (World Vision India, n.d.a).



**Figure 7.1: World Vision Global Disaster Management Continuum (World Vision, n.d.a).**

In a study detailing increased risks of human trafficking in disaster contexts, Psota (2014) developed the Framework for Human Trafficking in Natural Disasters, which differentiates three factors that determine the relative impacts on human trafficking in disaster situations: disaster focus, vulnerability focus, and human trafficking focus, described below and seen in Figure 7.2.

- 1) **Disaster Focus:** i.e. the level of destruction, which could include the loss of assets, income possibilities, or the death or loss of earning power of the breadwinner,
- 2) **Vulnerability Focus:** In non-disaster contexts, conditions that increase vulnerability (such as poverty, lack of opportunity, lack of adaption strategies) typically develop in a long-term process before resulting in a decision that increases the risk for trafficking (such as a decision for unsafe migration). In disaster contexts, the process of vulnerability-increasing conditions may be accelerated and can easily be exacerbated (for

example, the loss of house and assets may increase likelihood of trusting offers for migrant work abroad with less hesitation and without seeking adequate information, as is more typical in non-disaster contexts).

- 3) **Human Trafficking Focus:** i.e. the level of traffickers' access to victims is substantially influenced by security measures in place, such as police, the judicial system or the execution of anti-corruption policies and safety nets. As the police and government are preoccupied with the effects of disasters, traffickers have more freedom and access to potential victims. This is further exacerbated by relocation, separation from family, and unattended children (Psota, 2014).



**Figure 7.2: Framework for Human Trafficking in Natural Disasters (Psota, 2014).**

A second study (Albuero-Cañete et al., 2014) addresses the connection between natural disasters and human trafficking, seeking to provide empirical evidence for the link (or lack thereof) between disasters and trafficking in the Philippines. A series of 88 qualitative interviews

with respondents who were either survivors of human trafficking or who could provide information about the trafficking experience of a close friend or relative were supplemented by household surveys and institutional capacity assessments. Albuero-Cañete's team concluded that although the severity of disaster does not automatically cause a rise in human trafficking, it does have a direct impact on livelihoods. Disruptions of livelihood activities, particularly for individuals already in impoverished conditions, can further perpetuate the vulnerability of certain sectors to human trafficking and other forms of exploitation. The breakdown of social support systems additionally increases the risk of exploitation in post-disaster contexts.

The Sendai Framework for Disaster Risk Reduction created by the United Nations Office for Disaster Risk Reduction 2015-2030 delineates seven targets and four priorities for action toward the prevention and reduction of disaster risk situations. These include (i) Understanding disaster risk; (ii) Strengthening disaster risk governance to manage disaster risk; (iii) Investing in disaster reduction for resilience; and (iv) Enhancing disaster preparedness for effective response, and to "Build Back Better" during the recovery, rehabilitation, and reconstruction phases (Aitsi-Selmi et al., 2015).

World Vision India (n.d.) has developed guidelines for the protection of children in emergencies, recommending safe places within a disaster-affected community be set aside where children's unique needs can be met. Helping children return to a normal routine through structured activities, games and informal education, offering recreational activities such as games, sports, singing, drama, and the arts, and providing opportunities for children to express their feelings regarding the surrounding disaster and loss through creative play, stories, and group interaction are recommended. One of the vital components to ensuring the safety of children in the aftermath of disasters is ensuring their right to education in a safe environment

(Childs, 2016). In emergency response situations, World Vision India remains present in support of parents, community leaders, and school teachers in affected communities. These groups are given orientation on child rights and protection in disaster situations, and school safety programs are implemented.

In disaster response contexts, World Vision India collects gender desegregated data among program participants. This practice aids in proper planning and implementation of future programs. Additionally, all staff and volunteers attend a mandatory orientation before working with children and are required to sign a policy document (World Vision India, n.d.). Allowing parents to resume normal activities as quickly as possible, identifying and locating missing or separated children, and identifying children with vulnerabilities are important child protection mechanisms. Such programs and activities provide psycho-social support that aid the restoration of a sense of normality to children's lives. Child-friendly space standards include equal participation of girls and boys, age-appropriate equipment and activities, health education, presentation of materials in culturally- and contextually-appropriate ways, strong record-keeping, availability of accommodations for children with disabilities, appropriate hygiene facilities, an inclusive and non-discriminatory environment, appropriate screening of visitors including those from the media, and consent before using pictures or taking interviews with affected children (World Vision India, n.d.). In the aftermath of the earthquakes, UNICEF worked with the Nepali government and numerous NGOs and INGOs on responsive and preventative measures to prioritize and expedite children's return to school, establishing over 200 child safe-spaces spaces and serving over 16,000 children in the first five months following the earthquakes (USAID, 2015).

The Convention on the Rights of the Child requires governments to provide free and compulsory education at the primary level, access at the second level, and access to tertiary education on the basis of capacity according to all appropriate means. Although it may be more difficult to meet these stipulations in disaster situations, they still remain vital. Education in disaster situations can aid in the following aspects of recovery and rehabilitation:

- Providing a sense of normalcy,
- Restoring hope through access to the ‘ladder’ of education,
- Supporting psychological healing through structured social activities in a safe space,
- Conveying life skills and values for health and prevention of disease, gender equality and prevention of gender-based violence, conflict resolution, peace-building, responsible citizenship and environmental awareness,
- Protecting the investment of children’s education that families and nations have made, and
- Providing protection for marginalized and vulnerable groups at risk for exploitation and unsafe work including prostitution and recruitment by militias, such as minorities, girls, children with disability, and out-of-school adolescents (Sinclair, 2001).

It is vital for the Nepali government engage with the media in disaster response contexts, particularly for the purpose of disseminating important information and mobilizing resources. Early recovery and rehabilitation frameworks with proper assessment, and the creation of long-term, sustainable programs are critical. Building networks and coalitions to generate influence and advocacy, investing in community capacity building, creating frameworks for the workforce

and voluntary workers in disaster response, and strengthening technical and logistical capacities are vital. After the earthquakes, the Ministry of Women, Children and Social Welfare and the Central Child Welfare Board make key policy decisions, developed directives and guidelines, and announced multiple press releases aimed at the protection of children from potential abuse, exploitation and violence. Additionally, the Central Child Welfare Board developed the *Immediate Response for Child Protection Guidelines, 2015* and developed guidelines for interim protection of children in emergencies (Ministry of Women, Children and Social Welfare & Central Child Welfare Board, 2017).

#### 7.6: WAYS FORWARD

After the earthquake of April 2015, many children became orphans and have become the vulnerable to trafficking. In an action research project conducted in earthquake-affected Sindhupalchok District, Dharel, Rai, & Thapa (2016) further confirm that pre-disaster protection action contributes positively to reduced vulnerability following a disaster. Areas in which protection mechanisms were in place prior to the earthquakes were safer after the earthquakes than areas which had not previously implemented protection mechanisms. Areas with established antitrafficking interventions and activities on violence against children through Village Committees to Combat Human Trafficking and Child Protection Committees had fewer incidences of violence and exploitation and fewer cases of human trafficking following the earthquakes. An official in Sindhupalchok reports, “In the project area where we have been [investigating], we found no parents were sending their children into child labor despite the difficulties faced; but in other locations, children were found at high risk” (Dharel, Rai, & Thapa, 2016:21).

In the wake of the earthquakes, the Nepali government came under fire for allegedly blocking private initiatives intending to provide vital supplies to remote earthquake-affected regions, obstructing the flow of foreign financial aid, and massively delaying rebuilding projects. Data gathered throughout this research project indicate that although pockets of government corruption are partially to blame, a large portion of these disaster-response breakdowns are directly related to a lack of sufficient infrastructure of appropriate disaster frameworks prior to the earthquakes. At a certain point in the management of disaster and displacements and their relation to fundamental human rights, it is important and appropriate to consider the issue of human trafficking. The immediate response is understandably meeting basic needs such as food and shelter for victims. However, considering the secondary disasters, particularly human trafficking, that often accompany these primary disasters, is key to a holistic response to disaster management.

## CHAPTER 8: BARRIERS TO INTERAGENCY COLLABORATION

The sixth major objective of this research is to determine the extent to which a lack of cooperation among anti-trafficking agencies in Nepal poses a barrier to effectively dealing with the problem and to highlight characteristics of effective collaborative relationships. Data from personal interviews with Nepali government officials, NGO and INGO personnel and UN agencies are analyzed to determine which factors create barriers to more effective collaboration among anti-trafficking stakeholders and what can be done to work toward a more systematic approach.

### 8.1: BARRIERS TO EFFECTIVE PARTNERSHIP

In addition to the intricacies of addressing the problem of supply and demand of human trafficking, organizations face both internal and external collaborative complexities which complicate the achievement of positive results. Although the Ministry of Women, Children and Social Welfare has produced a lengthy list of government-recognized NGOs working to combat trafficking in Nepal, effective collaboration among them is uncommon. A representative from ABC Nepal summarizes the problem: “We need more collaboration [in anti-trafficking work]. Traffickers are very clever. They are using different tricks, so it is very difficult to control. We [all must] collaborate with [many] stakeholders: government, non-government, civil society organizations” (Personal Interview 1.1.1, 2017). Throughout the course of the research project, representatives from anti-trafficking agencies indicated seeing significant benefits of collaboration. However, during these interviews, informants also revealed an overall dissatisfaction with the manner and effectiveness of collaborative efforts. Their descriptions of perceived barriers to more effective collaborations are outlined and discussed below.

## Duplication versus Replication & Specialization

A common reflection among anti-trafficking workers is that many agencies are duplicating the same programming as other organizations in the same location, which is a counterproductive practice. In a personal interview, a Maiti Nepal representative asserts the importance of working together with other anti-trafficking entities on these and other activities:

Without the collaboration, we cannot end human trafficking [by] ourselves. If we were to work alone, we would not put an end to human trafficking. Even if so many NGOs would come and work together, we will not be able to put an end to human trafficking because this is a such a vicious cycle and it is ongoing. With the increase of foreign labor migration right now, it is getting worse. But [what] we are concerned [about] is [that] the other NGOs that are working on human trafficking [are] duplicating the work. Maiti Nepal has always been [encouraging] them to replicate the work elsewhere, in other parts of district or in other border areas (Personal Interview 1.1.2, 2017).

Now, she reflects, it is easy to find as many as four or five NGOs working at the same border-crossing point, providing the same services. Maiti Nepal is currently working in only 12 of the 26 official border-crossing points with India. A positive alternative to duplication is replication. She encourages NGOs to begin work in new locations instead of duplicating services in areas where other organizations are already active. Doing so would provide further protection among individuals pursuing migration, particularly in districts currently lacking in adequate border-crossing safety mechanisms.

A representative from ABC Nepal reinforces assertions that replication is an excellent way to manage anti-trafficking efforts. If an organization has quality, effective programming, expanding such programming into multiple geographical areas is helpful. However, when multiple organizations are working in the same area doing the same things with the same target group, valuable resources are wasted and positive results are impeded. Alternatively, if multiple organizations are working in a given area, it would be a wise use of efforts and resources if each

organization specialized in one aspect of the necessary anti-trafficking work in the area. She states, “We are collaborating with other organizations in community intervention programs. We have our own expertise [and] if we work together in a collaborative way, it’s more effective” (Personal Interview 1.1.1, 2017). A representative from Maiti Nepal indicates that unclear vision hinders effective collaborations in local areas. She elaborates, “Organizations that are established with a different vision and mission and then later mold their programs accordingly to the [grant] proposal without knowing the issue in depth [and lacking capacity for effective specialization] will not operate effectively or produce positive results” (Personal Interview 1.1.2, 2017).

#### Funding Cuts Terminating Collaboration

Another barrier to collaboration is exemplified in non-government organization Shakti Samuha’s experience when inadequate funding and limited access to resources discontinued a previously positive collaborative relationship. Shakti Samuha was registered in the Kathmandu District Office in 2000 by a group of survivors of human trafficking in the brothels of India. Today, 168 survivors share membership and leadership in the organization, which provides education programs in poor communities for the prevention of trafficking and runs programs providing shelter, legal aid, vocational training and counseling to victims. The organization’s goal is to establish a progressive society devoid of trafficking and other kinds of violence against women. After the earthquakes, there were numerous anti-trafficking agencies active in Rasuwa District. One of these organizations recognized Shakti Samuha’s work and offered funding if a staff member agreed to run a safe house in her home for trafficking victims and at-risk youth. She agreed, and the safe house was run successfully for a period of time. However, as the months after the earthquakes passed, funding slowly diminished until the safe house was no longer sustainable. Because of the significant loss of funding, the organization lost all of its staff

members working in the district except for one unpaid volunteer. Before funding was cut, there were 15-17 organization members working together in Rasuwa. Numerous other anti-trafficking agencies previously working in the district also lost funding and had to discontinue their collaborations. Limited funding and resources can also create a lack of trust between organizations, which can result in unhealthy competition. A representative from faith-based NGO Love Justice International states that among organizations, “[there can also be] a bit of fear of competing for different donor dollars” (Personal Interview 2.6, 2017).

### Inadequate Data Sharing

The representative from Love Justice International also reveals that although the organization’s collaborative efforts are positive overall, it is often difficult for organizations to find mutually beneficial collaborations and as a result, collaborating is often not pursued. Love Justice International shares materials openly, but not all organizations follow the same practice. He shares, “Our founder sought out help in the beginning from other organizations but he didn’t get the sense that they wanted another organization working to fight human trafficking” (Personal Interview 2.6, 2017). He feels that there would be significant benefit from sharing data among organizations, particularly to gain information on how victims were trafficked. In part, every organization is thinking of their own strategy and priority. He recommends data sharing as the top priority for collaboration among anti-trafficking organizations, especially among those working in border monitoring. In this type of collaboration, it would be important to sanitize data by taking out all information that identifies victims. In a personal interview, a representative from Winrock International furthers that although many research projects have been carried out by various organizations, they are not used after the project is over. She says, “There are many materials under the stairs of the policy makers after the project is over. Nobody uses it again”

because interagency coordination and utilization of the materials from other agencies requires coordinating with each other (Personal Interview 2.4, 2017).

### Government Complications

At the national level, the National Committee for Controlling Human Trafficking (NCCHT) is intended to be the body that coordinates anti-trafficking efforts among the ministries of the government. However, despite progress in certain areas government efforts, as the USDOS TIP preparer reports, “Collaboration between the [NCCHT and the ministries] probably doesn’t exist. [The] NCCHT has members from across the board. I hear different things about the effectiveness of that committee. Periodic meetings, discuss issues...they could be more effective. [Although] I’ve heard in the last year that the coordination efforts are getting better between...ministries” (Personal Interview 2.1, 2017). A representative from Love Justice International reports further obstacles in working with the government, including spending more time responding to government “red tape” than in actually fighting trafficking. A member of Shakti Samuha summarizes the barriers to collaboration:

There is an unhealthy competition among organizations. To make a change within society, we have to have a healthy competition [and not be scared] of writing proposals. Also, sometimes what happens from within the organizations, everybody wants to demonstrate their work. There is competition to provide the allowance to the participant to show good work and attract the people, which is not good [practice] to make a change (Personal Interview 1.2.1, 2017).

## 8.2: FACILITATORS OF EFFECTIVE COLLABORATIONS

Considering the positive outcomes of collaboration among anti-trafficking entities, it is important and appropriate to direct attention toward the establishment and development of further networking efforts. Many laudable efforts are made by countless individual stakeholders

toward the elimination of the problem. However, considering limitations of NGOs, INGOs, government entities and other agencies working independently, forming and strengthening networks among anti-trafficking stakeholders is worthwhile. Below, several case studies of collaborative efforts are presented in order to illustrate ways that non-governmental anti-trafficking agencies are facilitating better collaborative relationships. These include a holistic approach, networking, finding the strengths of each organization, and the sharing of resources and data between organizations.

### Pursuing a Holistic Approach

Heavily involved in anti-trafficking work in Nepal, influential and well-known NGO Maiti Nepal was formed in 1993 for the purpose of protecting girls and women from domestic violence, trafficking, child prostitution, child labor and various forms of abuse, exploitation and torture. Funded by primarily by private donations and the Nepali government, Maiti Nepal's activities aim toward a holistic approach to combatting trafficking through advocacy and awareness-raising activities, prevention programs and border monitoring. By coordinating with the authorities in India, including the Police, the ministries of the government, and several India-based NGOs, Maiti Nepal rescues trafficking victims from brothels, repatriating victims back to Nepal and providing rehabilitation, skills training, job opportunities and counseling before reintegrating victims back into their communities. Additionally, Maiti Nepal is active in repatriating Nepali sex workers reportedly engaging in willful prostitution in Indian brothels, providing them with alternative employment opportunities outside the sex industry.

Shakti Samuha also uses and advocates for a holistic approach, addressing three of the main causes of human trafficking. The first, gender inequality, is addressed through girl empowerment programs. Second, poverty is addressed by implementing income generation

programs. Finally, lack of education in at-risk communities is addressed by providing educational funding and agency to at-risk populations because, as a Shakti Samuha representative states, “Educational scholarships are like putting water into the root [of the problem]” (Personal Interview 1.2.1, 2017). The former director of the MWCSW reflects that “The most important characteristic is that organizations working on anti-trafficking initiatives need to have a holistic program right from the prevention of trafficking in the community to the reintegration of trafficked survivors” (Personal Interview 1.1.2, 2017).

### Networking for Gain

Shakti Samuha strongly advocates for networking in anti-trafficking work. At the local level in Rasuwa District, Shakti Samuha has been collaborating with various organizations including civil society organizations, the district police office, and the chief district office to counsel, encourage and support victims to prosecuting their traffickers. Shakti Samuha advocates for strong collaborative efforts and is also part of a government-initiative task force working against human trafficking, along with many other anti-trafficking NGOs in the district. A Shakti Samuha representative working independently in Rasuwa District reports, “Without collaborating and making networking, it is almost impossible to stop human trafficking. That is why they have strong networking and collaborating mechanism here is Rasuwa. [Collaborating] is a benefit to each other and also the victim. If they are working together with the police, they [have help] to file the case. They don’t need to hire [a] lawyer and so on” (Personal Interview 1.2.1, 2017). Because this worker is the only member of Shakti Samuha currently working in the district (as discussed above), collaboration is particularly vital. A representative of AATWIN adds that as in AATWIN, networks of organizations should have complimentary focuses but in different districts. She believes if there were one central individual coordinating the efforts of a

network, there would be more positive results. Furthermore, having the same value system within networks and having a healthy balance among organizations within networks is crucial (Personal Interview 2.3, 2017).

The Shakti Samuha representative also asserts that making a strong plan based on the strengths of each individual organization and abiding by the developed plan is vital. She provides the following encouragements for other districts across Nepal that need to improve their collaboration efforts: “It is almost impossible to work alone. We need collaboration to collect our efforts and support those who are high risk and who are already [victims]. There are already so many positive things to collaborating with others. [I] suggest the other districts and also the national level to collaborate with each other to make a change.” She adds,

Every organization has a strength. For example, [some local NGOs] have income generation [programs], child support [programs] for education, and [victim] counseling. At the same time, district police have protections to help the victim and to bring [traffickers] under prosecution of the law. So if we collaborate, a small, small thing can make a big difference. It’s also very fruitful when they work together with the Police station (Personal Interview 1.2.1, 2017).

Such interactions also facilitate the police and local residents getting to know one another, which has a positive effect on community relations and anti-trafficking efforts.

### Resource and Data Sharing

The representative from Shakti Samuha also advocates for the sharing of resources between organizations. She says that there are also financial benefits of working together with other NGOs and government organizations. If one organization does not have the funds to support children who are at high risk for trafficking, another organization may be able to provide educational or humanitarian support. Over the course of the research process and through a review of the extant literature, numerous anti-trafficking workers have revealed that they believe

collaborative efforts within the donor community would be impactful and, if approached wisely, effective. She reflects, “Our organization doesn’t have much funding, so we collect the resources from different organizations to provide the benefit [to] the women and the children. In remote areas, districts, people don’t send their children to school. We bridge the gap and provide the support to the children to get into the school, providing [funding in collaboration] with the other organizations” (Personal Interview 1.2.3, 2017).

Even more important than sharing of funds is the sharing of data between organizations. The representative from Love Justice states that data sharing between organizations is the top priority, as mentioned in the previous section, and they practice it completely. If more data sharing occurred, organizations would not have to conduct research alone or from scratch. He recommends round table discussions in which conversations about “lessons learned” can occur (Personal Interview 2.6, 2017). Likewise, according to a Winrock representative, if organizations shared data, that would mean organizations would not be duplicating research that had been previously conducted by other organizations.

### 8.3: PROGRESS IN COLLABORATION AMONG ORGANIZATIONS

There are currently two existing NGO network organizations at work in Nepal: The National Network Against Girls’ Trafficking (NNAGT) and the Alliance Against Trafficking of Women in Nepal (AATWIN). NNAGT’s objectives include the following:

- To unite NGOs from grassroots to national levels for campaigning against trafficking in women and children,
- To develop a common strategy and agenda for coordination by building institutional capacity of its member organizations,

- To enhance accountability of government agencies as per its commitment to combat trafficking in girls and women,
- To bring together a full range of public and private sector partners in the fight against trafficking (NNAGT, n.d.).

Among its 140 NGO members, NNAGT's activities include networking, engaging in prevention strategies to combat trafficking and violence in women and children, engaging in institutional capacities for sustaining anti-trafficking interventions at the grassroots level, hosting workshops and income generation programs for women's empowerment, supporting the review and reform of discriminatory laws, engaging stakeholders, doing research, and monitoring and reporting of the implementation of national and international commitments (NNAGT, n.d.).

The larger and more influential Alliance Against Trafficking of Women in Nepal (AATWIN) is a national network of NGOs using a rights-based approach to fight against human trafficking. Since its establishment in 1997, AATWIN has been working on policy changes to combat trafficking at the local, national and international levels. Among its central goals is to bring conceptual clarity on trafficking issues among its member organizations, civil society organizations, government agencies, and the public. They believe that national laws, rules and regulations, policies and campaigns should reflect international practice and aim to assemble and mobilize campaigns by unifying organizations to work on the most urgent problems (AATWIN, n.d.). AATWIN's objectives are as follows:

- To work towards the formulation, improvement and implementation of policies, laws and regulations against human trafficking,

- To conduct research to study the situation of human trafficking and disseminate such research to the necessary individuals and entities,
- To organize workshops for capacity building of organizations working in women's rights, human rights, child rights and against trafficking in persons,
- To establish AATWIN as an effective resource center,
- To be equipped with human and physical resources and capacity building of human resources (AATWIN, n.d.).

The former director of the MWCSW reports that AATWIN are successful because they are united and can work together effectively to raise a united voice. In a personal interview in December 2017, an AATWIN representative described one of the primary benefits of membership in networks:

When a network is involved, people get heard. When a singular NGO does a program, they are less likely to get heard. When a network is involved, the government listens better...there is "better clout" than when working alone. You have experts in the issue and therefore the government is more open to what they have to say (Personal Interview 2.4, 2017).

A representative from Winrock International, a nonprofit organization that works to empower the disadvantaged, increase economic opportunity, and sustain natural resources, reports that NGO networks are facing resource scarcity and are unable to mobilize local resources. For example, she says, "AATWIN [is] doing pretty good work, but still they are of the opinion that they lack resources: financial, technical, human capacity, exposure to perform better. [If] capacity development issues [become] linked to the government, they can do good work in times to come. The strength we have seen within networks is that they have wider coverage, wider outreach [and] advocacy power to influence policy at the national level"

(Personal Interview 2.4, 2017). Media and civil society organizations, they report, can also play an influential role in the fight against trafficking when linked to anti-trafficking agencies.

Kathmandu-based organization ABC Nepal has been working since 1987 to ensure human dignity and envisions a society free from exploitation. Their mission is to raise the status of marginalized communities, particularly among women, youth, and members of the Dalit castes, to prevent trafficking for sexual exploitation. Funded largely by Norwegian rights development organization Stromme Foundation and England- and Wales-based KINOE (Kids in Need of Education) charity, ABC Nepal has been working in collaboration with six other local anti-trafficking organizations since the 1996 brothel raids in Bombay, India. At the time, the Nepali government demonstrated no urgency in bringing the rescued women and girls home, reportedly due to the fear of HIV/AIDS-infected individuals spreading the disease throughout Nepal (Limbu, 1996). ABC Nepal and other volunteer organizations became involved and formed one of the first collaborative efforts to provide a center for women and girls' rehabilitation. An ABC Nepal representative recalls, "That was a big issue. Even in our Parliament, some representatives were against this process [of rehabilitating and repatriating rescued sex trafficking victims], but now the context is different. But now the government is supporting us. The Police is also very cooperative now" (Personal Interview 1.1.1, 2017).

A representative from the International Organization for Migration reports working with the International Labor Organization, the Foreign Employment Promotion Board, the Ministry of Women, Children and Social Welfare and civil society organizations to improve recruitment policy to make recruitment fair and transparent so that migrants have adequate information for pursuing safe employment overseas. They also assist the private sector in following government guidelines for safe migration. He reports that the IOM has a positive working relationship with

the Nepali government and that “collaboration [with civil society organizations] is good and easy. [We] have been implementing projects in some of the districts as well, focused on migrant workers and survivors of human trafficking. [Although, working with the] private sector is a little tricky” (Personal Interview 2.5).

In summary, despite positive partnerships between select organizations, significant barriers to collaboration among anti-trafficking entities remain. Numerous factors such as duplication of services in areas where effective programming already exists, competition for donor funding, and lack of effective communication between organizations complicate potential for greater partnership. Facilitators to improve collaboration include pursuing a holistic approach, networking, utilizing organizational strengths, and sharing resources and data among network organizations. Although the National Committee for Controlling Human Trafficking is making progress in unifying the efforts of the Nepali government, significant disconnect between ministries still exists. Recommendation and discussion on these and other topics will be provided in Chapter 9.

## CHAPTER 9: DISCUSSION AND RECOMMENDATIONS

The final objective of this thesis is to synthesize and summarize the data on key factors inhibiting efforts to combat human trafficking in Nepal. Additionally, recommendations will be provided for how stakeholders might best prioritize their efforts to address these barriers. Section 9.1 will cover the most pressing problems, which include issues of definition, legal misattributions, government corruption, and the growing cross-border network. Section 9.2 will cover issues of secondary influence, which include underlying demographic variables perpetuating vulnerability, lack of interagency collaboration, and inadequate disaster relief frameworks.

### 9.1: BARRIERS OF PRIMARY SIGNIFICANCE AND RECOMMENDATIONS FOR CHANGE

Despite the existence of many anti-trafficking agencies in Nepal, a significant problem remains. Although one approach to solving the issue is to consider each factor separately, the contributing factors to human trafficking are heavily intertwined and thus impossible to systematically separate. The anthropological approach emphasizes adopting a holistic perspective on the problem. With this perspective, we can look at the many facets of human trafficking as being interconnected, rather than falsely viewing them as separate, isolated issues. Coming from the field of International Studies and approaching the project through the lens of cultural anthropology, there is an emphasis placed on the importance of language and culture in shaping perspectives. Simply importing a “Western approach” to solving the problems will not produce positive results. Nonetheless, it is possible to assign priorities for action to some aspects over others. Of the topics considered and presented in this project, the most important are issues

of definition, legal misattributions, government corruption, and the growing cross-border network.

A substantial challenge lies in the conundrum of how to best define human trafficking, particularly along the often-indistinct line between the treatment of external human trafficking and exploitation during voluntary labor migration. Despite significant anti-trafficking legislation in Nepal, the government does not prohibit all forms of trafficking and has insufficient mechanisms for the implementation of the law and of court rulings. A significant portion of the problem lies in the deficit of political-level commitment toward improvement both locally and in the context of foreign employment. Instances of corruption within the Nepali government further complicate these issues. Additionally, barriers exist to filing cases under the proper channels during migrant labor. Cases are frequently investigated by the Department of Foreign Employment instead of by the police or the MWCSW, which is the primary ministry responsible for addressing human trafficking. The influence of globalization on the increase in cross-border human trafficking, particularly in recent decades, is also relevant. Due to the significant amount of individuals migrating for foreign employment, safe labor migration is a key issue. Factors including inadequate border monitoring, restrictions on female migration and alluring false promises from foreign employment agencies push migration further underground for a significant portion of Nepali citizens. This increases vulnerability to trafficking.

Among the issues discussed above, one of the largest barriers to improving the situation in Nepal is inadequate deterrents from exploitation. This is largely due to the difficulty of obtaining convictions for cases of human trafficking. First, practically speaking, if a victim returns to their village, they are unable to file a trafficking complaint locally. Filing a case thus requires spending time and money to travel to Kathmandu, which is often financially impossible.

Second, it is far easier to obtain convictions for labor-related issues than for human trafficking because lawyers prefer the quick court proceedings offered by labor-related cases. Additionally, exploited migrant workers are often most interested in recouping money lost during the period of exploitation, and successful labor cases are more lucrative than successful trafficking cases.

Third, there is often a social stigma associated with trafficking victims. Exploited individuals often pursue labor-related convictions to avoid negative stigmatization. This lack of proper implementation of anti-trafficking law is also in part due to insufficient knowledge of trafficking crimes among government officials and inadequate training among the Nepali Police on victim identification and evidence collection. Though legislative reform is still needed, such improvements and revisions are unlikely to make significant difference without proper implementation and adherence to the existing laws and policies. Furthermore, corruption within various levels of the government is a significant problem, particularly among members of Parliament who have direct ties to foreign employment agencies. Until this direct conflict of interest is addressed and rectified, foreign employment agencies will continue to carry the power instead of the Nepali government, which causes further difficulty in protecting migrant workers.

To address the issues of definition and legal misattributions, most importantly, the government should ratify the Palermo Protocol. In the 18 years since its creation, it has cultivated many positive changes on the global stage. Adopting the definition of human trafficking found in the Protocol would make significant progress in addressing the holes in Nepali law. For example, in many cases, the government is using the term smuggling to refer to instances of human trafficking, which results in the application of incorrect response frameworks. In legal terms, migrant smuggling and human trafficking are separate offenses. However, they are interrelated and in reality, smuggling frequently descends into human

trafficking. Despite the positive aspects of the Palermo Protocol, there is a problem with its criminal law orientation toward the suppression and criminalization of the supply side of trafficking, rather than the human rights orientation toward protecting victims. The Nepali government should pay particular attention to the delicate continuum between conviction and protection and should pursue a more victim-centered approach to the problem. Additionally, significant practical training should be provided to all government officials to enhance knowledge of the Protocol and the importance of its ratification by Nepal.

It is also necessary to expose and rectify corruption at all levels of the government. One way to address issues of corruption could be to bring in an independent agency for the purpose of auditing. These series of audits would determine instances in which cases of misconduct are being misattributed and subsequently dealt with under the wrong mechanisms. Perhaps, for a period of time, all instances of misconduct would be brought to the auditing agency, who would investigate and determine whether the cases are instances of human trafficking, smuggling, or labor fraud. Additionally, the activities of government officials at all levels would be reviewed and assessed to expose any potential wrongdoings or conflicts of interest. It would be particularly important to address the connection between members of Parliament and the foreign employment agencies.

To address the problem of the growing cross-border network, change must first come from within the government. Labor migration is an integral component to the Nepali economy at both macro and micro levels and should be accessible to all law-abiding citizens with the full rights, protections, and backings of the government. Because Nepalis rely so heavily on foreign remittances supplied by migrant work, the immediate priority should be to address the need for safe migrant labor. It is worthwhile to consider involving the private sector in addressing this

need, largely because the private sector generally has the motivation, resources and finances available to invest in safe migration projects. Although the most *urgent* matter is to improve mechanisms for safe migrant labor, the most *important* matter is to foster economic growth within Nepal by creating viable local employment opportunities. If Nepalis had stronger employment opportunities within Nepal, pursuing migrant labor would be largely unnecessary. Further efforts should be made toward ensuring the safety and rightful operations of foreign employment agencies and, as previously discussed, any and all ties between members of the Nepali Parliament and foreign employment agencies should be immediately severed. Investing in research to determine which foreign employment agencies are operating legally, according to Nepali legislation and the legislation of destination countries, should be undertaken by the Department of Foreign Employment. Research should also focus on determining whether treaties currently in place have been properly implemented. The results of this research should inform further action steps.

Another issue is that restrictions placed on women for pursuing migrant labor often unintentionally perpetuate illegal migration. Numerous times in recent decades, the Nepali government has sanctioned (and subsequently lifted) restrictions which have caused female migrant workers difficulty in obtaining legal migrant work permits. Although these restrictions are placed with the intention of creating channels for safe migration, in many instances the channels are extremely difficult to pass through to obtain a permit. One such restriction is based on requiring a female's male relative (most commonly either a father or brother) to give permission for the female worker's overseas employment. Another difficulty is caused when certain age groups of women are restricted altogether from pursuing migrant labor, particularly if they have young children. The result is that in many cases, if unable to fulfill the requirements to

migrate legally, women desperate for income who must seek foreign employment to ensure economic survival are forced to turn to underground channels which place women at extreme risk for exploitation. To rectify the pattern, the government should lift current restrictions on female migration and instead focus on improving mechanisms for safe migration. NGOs and civil society organizations can help by providing education on how to pursue safe migration and can assist vulnerable and disadvantaged individuals in pursuing safe migration. As mentioned in Chapter 4, O'Connor (2017) describes how women often unintentionally find themselves on a "pathway to vulnerability" into prostitution and trafficking. She further contends that it is important to give women and girls the capacity to consider a range of choices and facilitate the means and opportunity to select among available choices by providing agency.

## 9.2: ADDITIONAL BARRIERS AND CORRELATED RECOMMENDATIONS

Some additional factors that remain influential on human trafficking in the Nepali context include demographic variables and social prejudices, lack of adequate disaster relief frameworks, and lack of collaboration among organizations. Poverty and social stigmas are highly influential causes of trafficking and are vital to address, but these factors will not change in a matter of years. Although these issues can be partially addressed by foreign intervention, the deeper prejudices, particularly those related to gender inequality, can only be significantly impacted from within the culture. Of greater urgency, the creation of disaster relief frameworks and the improvement of collaboration among anti-trafficking organizations have a higher likelihood of influencing positive results.

Natural disasters play a significant role in disrupting the normal systems, patterns, and processes of everyday life. This research discussed the social and economic disruptions caused by the 2015 earthquakes in Nepal. Focusing too intently on the immediate effects of natural

disasters and not enough on the surrounding social environment allows for increases in violence, rape, missing persons and human trafficking. Internal and external unsafe migration increased dramatically in the wake of the earthquakes as citizens sought employment to maintain economic survival. Lack of sufficient knowledge of human trafficking and contributing risk factors increased trafficking rates, particularly in districts bordering India and China. Building community capacity frameworks and the necessary infrastructure for disaster, risk reduction and preparedness is crucial for the Nepali government to adequately protect citizens.

Additionally, a lack of collaboration among anti-trafficking agencies in Nepal poses a barrier to approaching solutions adequately and holistically. Addressing both internal and external collaborative complexities remains challenging for various anti-trafficking stakeholders, including the Nepali government, UN agencies, NGOs, INGOs and local organizations. When asked to identify barriers to effectively dealing with human trafficking, representatives emphasized a need for organizations to replicate services in areas without current interventions instead of duplicating similar strategies in the same locations. Also, organizations cited inadequate data sharing and competition for funding as a hindrance to working with other organizations. If organizations pooled strengths and research, efforts could stretch further and enhance benefits to victims.

To address the problems related to demographic variables and social prejudices, extensive educational programs and training on gender-based violence are needed to gradually shift the societal and cultural devalued status placed on women. Change will not occur overnight, but programs targeting men are highly needed. Awareness-raising programs are also vital. Omar Mahmoud & Trebesch (2010) believe that “awareness campaigns could play a successful role in reducing trafficking risks. The incidence of trafficking is considerably lower in regions where the

awareness of the phenomenon of human trafficking is high” (175). Ideally, village development committees, civil society organizations and NGOs would form a partnership at the local level to institute such programming. Furthermore, until adequate education and opportunity are accessible, Nepal’s unreasonably high number of unskilled migrant laborers will not begin to decrease. Lack of educational opportunity in childhood is directly correlated to lack of agency in adulthood for accessing strong employment opportunities. Educational sponsorship programs are crucial for children whose parents or guardians are unwilling or unable to pay school fees and necessary expenses such as books and uniforms. Such scholarships are best provided through INGOs connecting foreign donors with students in need. Because lack of education and poverty are so intricately intertwined, improving educational opportunities will also indirectly but significantly address poverty.

In reflecting on the social disruptions and issues caused by the 2015 earthquakes, a need for improved disaster management in the future is apparent. To approach such improvements, creating a national disaster management team which develops community capacity frameworks, disaster relief frameworks, and individualized community readiness plans should be prioritized. Similar materials have been developed by numerous agencies which could be adapted to fit local contexts without significant difficulty. These are particularly crucial in districts prone to natural disasters. Ideally, the Nepali government would utilize disaster forecasting models to determine which areas of the country are most vulnerable and create national-level disaster management plans for those areas. Within these disaster-prone regions, each village development committee would create community readiness plans. Finally, each district would create taskforces which monitor the district before, during and after disasters take place, providing support to local villages and serving as a link to the national government’s disaster management team.

To address the problem of lack of collaboration between anti-trafficking organizations, it is vital for entities to recognize the strengths of individual organizations. Doing so allows organizations to coordinate efforts, form partnerships and subsequently achieve stronger results than an organization working in isolation. If an organization has effective programming, expanding and replicating that work into multiple geographical regions based on the framework created by the other organization would be helpful. Many organizations have developed effective programming in areas of specialization, such as in border-monitoring. Utilizing expertise and forming collaborative networks magnifies effectiveness. Furthermore, it is also crucial for collaborative relationships between and among local workers and government personnel at all levels to be strengthened. Although the National Committee for Controlling Human Trafficking is responsible for coordinating anti-trafficking efforts among the ministries of the government, there have been mixed reports on its effectiveness. Stronger mechanisms for communication among the ministries of the government, as well as between NGOs and local workers must be created.

Over the course of this research project, I have learned that there is no straightforward plan or approach to solving a problem as complex as human trafficking. Indeed, the disciplines of anthropology and international studies contend that holistic approaches are needed to adequately conceptualize all the factors that underlie complex human problems and to propose solutions that adequately address such complexities. Nevertheless, in the real world of policy formation and implementation, priorities have to be set and governmental agencies must cooperate with NGOs and faith-based organizations. More importantly, coordinated efforts must be ongoing, requiring sustained investments of time and resources. The beginning of the title of this thesis, *Sangla Bhachhnu*, means “breaking the chains” in the Nepali language. It is my wish

that the data presented and the recommendations provided will facilitate breaking the chains of human trafficking in Nepal.

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# APPENDIX A: IRB APPROVAL LETTER AND INFORMED CONSENT DOCUMENT



EAST CAROLINA UNIVERSITY  
University & Medical Center Institutional Review Board Office  
4N-70 Brody Medical Sciences Building · Mail Stop 682  
600 Moye Boulevard · Greenville, NC 27834  
Office 252-744-2914 · Fax 252-744-2284 · [www.ecu.edu/ORIC/irb](http://www.ecu.edu/ORIC/irb)

## Notification of Initial Approval: Expedited

From: Social/Behavioral IRB  
To: [Krista Nixon](#)  
CC: [Holly Mathews](#)  
Date: 6/28/2017  
Re: [UMCIRB 17-001044](#)  
Fighting Human Trafficking in Nepal

I am pleased to inform you that your Expedited Application was approved. Approval of the study and any consent form(s) is for the period of 6/28/2017 to 6/27/2018. The research study is eligible for review under expedited category #6, 7. The Chairperson (or designee) deemed this study no more than minimal risk.

Changes to this approved research may not be initiated without UMCIRB review except when necessary to eliminate an apparent immediate hazard to the participant. All unanticipated problems involving risks to participants and others must be promptly reported to the UMCIRB. The investigator must submit a continuing review/closure application to the UMCIRB prior to the date of study expiration. The Investigator must adhere to all reporting requirements for this study.

Approved consent documents with the IRB approval date stamped on the document should be used to consent participants (consent documents with the IRB approval date stamp are found under the Documents tab in the study workspace).

The approval includes the following items:

Name	Description
Nixon Informed Consent.docx	Consent Forms
Nixon Interview Instrument A.docx	Interview/Focus Group Scripts/Questions
Nixon Interview Instrument B.docx	Interview/Focus Group Scripts/Questions
Nixon Interview Instrument C.docx	Interview/Focus Group Scripts/Questions
Nixon Thesis Proposal.docx	Study Protocol or Grant Application

The Chairperson (or designee) does not have a potential for conflict of interest on this study.



## **Informed Consent to Participate in Research**

Information to consider before taking part in research that has no more than minimal risk.

Title of Research Study: Fighting Human Trafficking in Nepal: Towards Greater Agency Collaboration

Principal Investigator: Krista Nixon (Person in Charge of this Study)

Institution, Department or Division: Department of Anthropology

Address: 231 Flanagan Building, East Carolina University

East Fifth Street, Greenville, NC 27858

Telephone #: 252-328-9430

Study Coordinator: Holly Mathews, PhD

Telephone #: 252-328-9452

---

Researchers at East Carolina University (ECU) study issues related to society, health problems, environmental problems, behavior problems and the human condition. To do this, we need the help of volunteers who are willing to take part in research.

### **Why am I being invited to take part in this research?**

The purpose of this research is to investigate the problem of human trafficking in Nepal and seeks to learn about barriers to greater interagency collaboration. You are being invited to take part in this research because you are a leader of an organization that seeks to fight the problem of human trafficking in Nepal. The decision to take part in this research is yours to make. By doing this research, we hope to learn what barriers agencies encounter regarding working with other anti-trafficking agencies. If you volunteer to take part in this research, you will be one of about 20 people to do so.

**Are there reasons I should not take part in this research?**

You should not volunteer if you are under 18 years of age or if you are not a leader of an anti-trafficking organization.

**What other choices do I have if I do not take part in this research?**

You can choose not to participate. You also have the option of recommending a leader of another agency who may choose to participate in this research.

**Where is the research going to take place and how long will it last?**

The research will be conducted at the place of your choosing, perhaps your agency's office or another location according to your preference. You will need to let the researcher know where you would feel most comfortable completing the interviews and meet the researcher there at the agreed upon date and time. The total amount of time you will be asked to volunteer for this study is not more than 2 hours.

**What will I be asked to do?**

You will be asked to do the following: complete the interview at the agreed upon time, on the agreed upon date. The interview will include several open-ended questions regarding your perceptions of human trafficking work in Nepal, your agency's involvement in these efforts, involvement of other anti-trafficking agencies, and your perceived barriers to working with other agencies. The interview will be recorded so that the researcher can write up an accurate report of what was said, but not who said what. Once the audio recordings have been transcribed and all names removed, the audio files will be destroyed.

**What might I experience if I take part in the research?**

We do not know of any risks associated with this research. Any risks that may occur with this research are no more than what you would experience in daily life. We do not know of any benefits associated with taking part in this study, apart from potential benefits as a result of reflecting on anti-trafficking work focused on interagency collaboration. There may not be any personal benefit to you but the information gained by doing this research is aimed towards helping others in the future.

**Will I be paid for taking part in this research?**

We will not be able to pay you for the time you volunteer while being in this study.

**Will it cost me to take part in this research?**

It will not cost you any money to be part of the research.

**Who will know that I took part in this research and learn personal information about me?**

East Carolina University and the people and organizations listed below may know that you took part in this research and may see information about you that is normally kept private. With your permission, these people may use your private information to do this research:

- Researcher and the research supervisor.
- Any agency of the federal, state, or local government that regulates human research. This includes the Department of Health and Human Services (DHHS) and the Office for Human Research Protections.
- The University & Medical Center Institutional Review Board (UMCIRB) and its staff have responsibility for overseeing your welfare during this research any may need to see research records that identify you.

**How will you keep the information you collect about me secure? How long will you keep it?**

Physical notes and copies of this form will be help in a locked file cabinet in the researcher’s office. Digital files including transcripts, audio recordings that have not yet been transcribed and/or translated, notes, and survey responses will be kept on a password protected computer that only the researcher has access to. Audio recordings of all interviews will be transcribed and afterwards destroyed. Research records will be kept for three years after the study has ended. Should you choose to participate, you will be given a study ID that will be used to identify your information. Any personal identifying information or real names will be removed from transcripts and survey responses.

**What if I decide I do not want to continue in this research?**

You can stop at any time, even after the research has begun. There will be no consequences if you withdraw and you will not be criticized. You will not lose any benefits that you normally receive.

**Who should I contact if I have questions?**

The individuals conducting this study will be able to answer any questions concerning this research, now or in the future. You may contact the Principal Investigator at Nepal: +977-98-23456268 (Note: This telephone is functional only between May 9 and August 9, 2017) or United States: +1 260-479-9282 (Note: This telephone is fully functional only before May 8 and after August 10, 2017.).

If you have questions about your rights as someone taking part in research, you may call the Office of Research Integrity & Compliance (ORIC) at phone number +1 252-744-2914 (USA EDT 8am-5pm). If you would like to report a complaint or concern about this research study, you may call the Director of the ORIC at +1 252-744-1971.

**I have decided I want to take part in this research. What should I do now?**

The person obtaining informed consent will ask you to read the following and if you agree, you should sign this form:

- I have read (or had read to me) all of the above information.
- I have had an opportunity to ask questions about things in this research that I did not understand and have received satisfactory answers.
- I know that I can stop taking part in this study at any time.

- By signing this informed consent form, I am not giving up any of my rights.
- I have been given a copy of this consent document, and it is mine to keep.

---

**Participant's Name (PRINT)**

**Signature**

**Date**

**Person obtaining Informed Consent:** I have conducted the initial informed consent process. I have orally reviewed the contents of the consent document with the person who has signed above and have answered all of the participant's questions regarding the research.

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**Person Obtaining Consent (PRINT)**

**Signature**

**Date**

## APPENDIX B: INTERVIEW INSTRUMENTS

### INSTRUMENT A: FOR USE WITH NEPALI GOVERNMENT OFFICIALS.

1. Is human trafficking an issue of importance to the Nepal government? Where does human trafficking rank on the list of the issues you must address?
2. Where, in what areas, does the problem seem to be most severe?
3. What efforts is the government making to try to stop trafficking in the country?
4. Is there any sense of how effective each of these efforts are? Why are they effective or why not?
5. How involved is your department or ministry with these initiatives?
6. How are anti-trafficking initiatives funded? Does the government commit funds to these, are or are the funds coming from outside the country?
7. Is there an existing list of organizations within Nepal or from outside the country who work on anti-trafficking initiatives or programs?
8. Do these organizations have to register with the government?
9. Does the government or your ministry have any way of keeping track of what these groups are doing and how effective their efforts are?
10. Do you have an opinion on which anti-trafficking initiatives or programs that you may know about are the most effective? Can you tell me which ones? Why do you think these are effective?
11. Do you know of any program or initiatives that you think are not effective? Can you tell me why?
12. Are there any organizations offering education programs to men about preventing the problem of human trafficking?

13. Do you perceive that there is a need for greater collaborations among organizations fighting human trafficking in Nepal?
14. What kinds of barriers do you encounter when you work with other anti-trafficking organizations? If you do not collaborate, what are the reasons you do not collaborate?
15. Can you tell me which districts of Nepal are characterized by high levels of trafficking?
16. Do these districts have a lot of organizations or programs working on anti-trafficking?
17. Do you think it might be possible for me to visit one of these districts and talk with local officials working on anti-trafficking? Is there anyone you might suggest that I contact?

**INSTRUMENT B: FOR USE WITH MAITI NEPAL AND ABC NEPAL.**

1. How is your organization trying to stop trafficking in Nepal?
2. Is there any sense of how effective these efforts are? Why are they effective or why not?
3. How are your anti-trafficking initiatives funded?
4. Do you collaborate with any other organizations in anti-trafficking work? Are these collaborations beneficial?
5. Do you perceive that there is a need for greater collaborations among organizations fighting human trafficking in Nepal?
6. What forms of collaboration among anti-trafficking organizations might be useful?
7. What are some barriers that get in the way of better collaboration?
8. Have you experienced barriers have you experienced in working with the government? If so, what barriers?
9. Have you experienced barriers to working with other non-government organizations?
10. Is human trafficking an issue of importance to the Nepal government?
11. What efforts is the government making to try and stop trafficking in the country?

12. Is there any sense of how effective these efforts are? Why are they effective or why not?
13. What are some characteristics of anti-trafficking organizations who you feel are operating effectively and producing positive results?
14. What are some characteristics of anti-trafficking organizations who you feel are NOT operating effectively and who are NOT producing positive results?
15. Which districts of Nepal are characterized by high levels of trafficking AND have multiple anti-trafficking efforts underway?
16. Do you think it might be possible for me to visit one of these districts and talk with local officials working on anti-trafficking? Is there anyone you might suggest that I contact?

**INSTRUMENT C: FOR USE WITH DISTRICT ORGANIZATIONS.**

1. How many individuals comprise your staff?
2. What is the makeup of your staff (Nepali citizens, expatriates, government officials, former trafficking victims, et cetera)?
3. How are your anti-trafficking initiatives funded?
4. Do you operate programs intended to prevent trafficking? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
5. Do you operate programs to address gender and caste-based violence or discrimination?  
If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?

6. Do you operate programs to address lack of education leading to trafficking? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
7. Do you operate programs to address economic need leading to trafficking? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
8. Do you operate programs to address prosecution of traffickers? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
  - d. Which organization(s)?
9. Do you operate programs to identify victims of trafficking? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
10. Do you operate programs providing protection services to victims of trafficking, including safe homes? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
11. Do you operate programs providing rehabilitation services to victims of trafficking? If so:
  - a. Do you find that these efforts are effective?

- b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
- 12. Do you operate programs encouraging trafficking victims to prosecute their traffickers? If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
- 13. Do you operate programs intended to address cross-border trafficking If so:
  - a. Do you find that these efforts are effective?
  - b. Do you collaborate with any other entities in this program?
  - c. Which organization(s)?
- 14. For each of the above questions where you have indicated that you have collaborated with other anti-trafficking organizations, please tell me specifically about your collaboration.
  - a. What are you doing with these organizations?
  - b. What is working well? Why is it working well?
  - c. What is not working well? Why isn't it working well?
- 15. Do you feel that there is a need for greater collaboration among anti-trafficking organizations? Why or why not?
- 16. What obstacles do you encounter in collaborating with other anti-trafficking organizations?
- 17. What benefits do you encounter in collaborating with other anti-trafficking organizations?

18. When you do work with another organization, what strategies do you utilize that enable that collaboration to be effective?

INSTRUMENT D: ADDITIONAL QUESTIONS FOR USE WITH US ACADEMICS, US DEPARTMENT OF STATE EMPLOYEES AND THE NATIONAL HUMAN RIGHTS COUNCIL.\*\*

1. To what extent are human trafficking cases being labeled as voluntary migration, fraudulent migration, etc.?
2. How does the Nepali government monitor if a person is doing legitimate migrant work or if they have been trafficked?
3. Are some human trafficking cases being defined as labor issues because it is easier to obtain convictions or because it is choice of the government?
4. In which countries has the Nepali government set up safe houses for Nepali migrant workers and/or trafficking victims?
5. Why are these safe houses being established abroad?
6. What happens to individuals who enter safe houses abroad (eventually return to the foreign employment, a process rehabilitation, repatriation to Nepal, etc.)?
7. How is someone caught for trafficking or labor violations? What is the process and what factors make an arrest and prosecution likely?
8. Can you point towards some major court cases where someone was tried and/or found guilty of trafficking?
9. Why are traffickers, in many cases, not being prosecuted?
10. Is there any evidence on whether foreign employment/manpower companies dominate any of the new regionally-elected government positions? Does decentralization of power increase or decrease corruption?

11. I have learned that several Nepali Parliament members have ties to manpower companies, particularly in the Gulf Countries. What is the government's response to this direct conflict of interest?
12. What impact did the 2015 earthquakes have on human trafficking?
13. Has the rise in trafficking following the earthquakes returned to pre-earthquake levels?
14. How does the open border with India and the partially open border with China impact human trafficking?
15. How well are different agencies/entities working to combat trafficking collaborating?  
Please describe the relationship between the Ministry of Women, Children, and Social Welfare (MWCSW) and the Ministry of Labor and Employment (MoLE).
16. How do the Department of Labor (DoL), the International Labour Organization (ILO), and the National Human Rights Council (NHRC) cooperate on projects aimed at prevention and proper prosecution of trafficking cases?
17. Are the barriers to combating human trafficking in Nepal unique or similar to surrounding countries in South Asia?
18. What do you think *should* be done that is not currently being done to stop human trafficking among Nepali citizens?

**APPENDIX C: CODES FOR IDENTIFYING INTERVIEW SOURCES IN THE TEXT**

<b>Interview</b>	<b>Code</b>
Kathmandu/Lalitpur (Phase 1.1): ABC Nepal	1.1.1
Kathmandu/Lalitpur (Phase 1.1): Former chair, MWCSW	1.1.2
Kathmandu/Lalitpur (Phase 1.1): Maiti Nepal	1.1.3
Kathmandu/Lalitpur (Phase 1.1): Retired Nepali government worker (MWCSW)	1.1.4
Rasuwa District (Phase 1.2): Shakti Samuha	1.2.1
Rasuwa District (Phase 1.2): Local empowerment organization	1.2.2
Rasuwa District (Phase 1.2): Independent worker	1.2.3
Kathmandu/Lalitpur (Phase 2): two US DoS TIP Report Staff Members	2.1
Kathmandu/Lalitpur (Phase 2): Foreign Employment Promotion Board	2.2
Kathmandu/Lalitpur (Phase 2): AATWIN	2.3
Kathmandu/Lalitpur (Phase 2): three Winrock International employees	2.4
Kathmandu/Lalitpur (Phase 2): International Organization for Migration (IOM Nepal)	2.5
Kathmandu/Lalitpur (Phase 2): Love Justice International	2.6
Kathmandu/Lalitpur (Phase 2): International Labor Organization (ILO Nepal)	2.7

## APPENDIX D: A FAITH-BASED RESPONSE TO HUMAN TRAFFICKING

In Genesis 1:27, we read that God created mankind in His own image and likeness. All humans, therefore, deserve dignity and should not be dehumanized, exploited, or marginalized. I believe that a biblical response to the problem of trafficking is rooted in Luke 4:18-19: “The Spirit of the Lord is on me, because He has anointed me to proclaim good news to the poor. He has sent me to proclaim freedom for the prisoners and recovery of sight for the blind, to set the oppressed free, to proclaim the year of the Lord’s favor.” Jesus gives this “mission statement” based on Isaiah 61:1-2. It is the mandate of Christ’s followers to preach the gospel to the poor, to heal the brokenhearted, and to proclaim freedom to the captives.

In practicality, what does this look like? The U.S. Department of State and many other organizations dedicated to fighting trafficking identify the “3 P’s” and the “3 R’s” that are essential components of a response to human trafficking. We can become involved in fighting this evil by (1) *protecting* those who have been trafficked to avoid any further exploitation, by (2) *preventing* trafficking from happening, by (3) *prosecuting* traffickers, by (4) *rescuing* trafficking victims, by (5) *rehabilitating* victims through counseling, job skill training and literacy courses if needed, and (6) by *reintegrating* victims back into community (Blanton, 2011). An average citizen can help accomplish many of these purposes by volunteering with anti-trafficking organizations and in rehabilitation safe houses, by developing meaningful relationships with victims, by investing in the lives of individuals who are at increased vulnerability to trafficking, and by being active in advocacy and awareness-raising activities to further disseminate information about the problem of human trafficking. The human trafficking industry is run by one central being: Satan. He is the epitome of evil: an invisible spirit who tempts, deceives, and intimidates people, drawing them perpetually further away from God. In

partnership with the legions of demons who follow him, he deceives individuals who, in turn, gain power over other people and form networks of organized evil. One such example of organized evil is the human trafficking industry. Ephesians 6:12 says “For our struggle is not against flesh and blood, but against the rulers, against the authorities, against the powers of this dark world and against the spiritual forces of evil in the heavenly realms.” God has given His children the power and the tools to fight and conquer evil, through Christ.

When people decide to place their trust in Christ, they release the corruption in their own hearts (corruption which all human beings possess) and they are enabled to help others. Proverbs 31:8 says “Speak up for those who cannot speak for themselves, for the rights of all who are destitute.” He wants us to speak against injustice and to speak on behalf of those who *cannot* speak. Isaiah 58:6-7 teaches us that our task is to fight to loosen the bonds of wickedness, undo their burdens, and let the oppressed go free. Finally, Isaiah 40 promises that “He gives strength to the weary and increases the power of the weak,” and that “Those who hope in the Lord will renew their strength.” God gives comfort to the weak, the weary, and the oppressed, and it is the responsibility of Christ’s followers to fight against injustice and to be deliverers of this comfort that can only be found in Him.

Some historical examples of Christ-followers who have followed the mandate in Luke 4 to speak out for the oppressed include William Wilberforce (an English politician, philanthropist and nonconformist prominent in the struggle to abolish the slave trade and to abolish slavery in British-held territories), John Woolman (a British-American Quaker leader and abolitionist successful in persuading many Quaker communities to free their slaves and renounce slavery), and Martin Luther King, Jr. (an African-American Baptist preacher who led a nonviolent campaign to achieve civil rights victories for African-Americans).

In summary, the mission statement in Luke 4 can be a driving force for advocacy and awareness raising. Furthermore, Christ's message of hope in Isaiah 40 can bring comfort and healing for victims, thus aiding in their rehabilitation. Finally, and most significantly, Christ loosens the bonds of wickedness, thus defeating the corruption in people's hearts and is therefore the ultimate solution to the demand of human trafficking.

