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Labour Diplomacy of Nepal: A Study of Qatar, Saudi Arabia and
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LETTER OF RECOMMENDATION

I certify that this dissertation entitled **Labour Diplomacy of Nepal: A Study of Qatar, Saudi Arabia and United Arab Emirates** was prepared by **Pawan Kumar Mainali**, student of MIRD Second year, Tribhuvan University, Kathmandu under my supervision. The researcher has fulfilled all the requirements as prescribed by the Department of IRD, Faculty of Humanities and Social Science, Tribhuvan University.

The research work accomplished by the researcher is a novel one. I therefore, hereby recommend this dissertation for final examination for the Research Committee Master's in International Relations and Diplomacy, Tribhuvan University, in fulfillment of the requirements for the Degree of **Master's in International Relations and Diplomacy**.

I wish him grand success in his future endeavor.

Thank you.

.....

Prem Raj Khanal.

Assistant Professor, MIRD

(Dissertation Supervisor)

Date:-

DECLARATION

I hereby declare that this dissertation is my own work and that it contains no materials previously published. I have not used its materials for the award of any kind and any other degree. Where other authors' sources of information have been used, they have been acknowledged.

Pawan Kumar Mainali

Date: April 9, 2020

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ABSTRACT

Diplomacy is the means by which States throughout the world conduct their affairs in ways to ensure peaceful relations. The main task of individual diplomatic services is to safeguard the interests of their respective countries abroad. Labour diplomacy refers to "the endorsement of migrant labour issue in a state's foreign policy". Labor diplomacy has a particularly important role to play in providing the information, insights and analyses required to maximize the advantages and minimize the weaknesses in job markets. It is an important means to promote national interest and economic diplomacy. Labor diplomacy helps to provide an assessment of the economic conditions faced by migrant labour and to identify factors that can contribute to resolve the problem. Labor diplomacy also provides a framework for developing tools to combat these problems.

Nepal has a long history of foreign labour migration. Migration flows from Nepal to rest of the world has become an important and debatable issue in the economic, political and social affairs of the country. Nepal's economy today depends largely on migrant workers.

In this context, a migrant labour are facing numerous problems while they migrate for foreign employment in the country of destination. Most of the migrant in the gulf states are working in vulnerable situations without any effective legal protection by the Nepalese government and the receiving countries government.

There is a big necessity of addressing the issues of international labour migration from the policy level. Therefore, this study is focused on the evaluation of the existing government policies and programs for the regulation of international labour migration in the three major (UAE, Saudi Arabia and Qatar) foreign employment destination of

the Nepali migrant workers of the gulf states. This study is focused on the analysis of policy and initiatives adopted by Nepalese government to enhance labour diplomacy.

This study has approached to identify the major problems of international labour migrants in the major their Gulf States and government initiatives to systematize labour migrants via labour diplomacy as well. International provisions are found very sound and applicable to protect the rights of migrant workers but governments in both sending and receiving countries does not seem sincere to the domestication of the spirit of international instruments, conference recommendations and plan of action.

So, the current need is for more effective migration management to reduce the vulnerabilities of migrant workers and safeguard the rights of migrant workers. The issue and problem of international labour migration needs to be addressed at the policy level, which could assist in promoting safe migration and management of labour migration in an effective way. Thus, this study also aims to highlight the national and international promotional policy and instruments regarding foreign employment and rights of the migrant workers.

Labor diplomacy continues to have a very important role to play in governing international labour migration. Effective labor diplomacy contributes significantly to fulfil goals of Nepal's foreign policy. Although there are thousands of migrant workers currently residing in gulf and working in a very vulnerable situations. This study has covered the status of labour diplomacy of Nepal on top three major destination of the Gulf States excluding others.

Key Words: International Migration, Labour Migration, Diplomacy, Labour Diplomacy, Foreign Employment , Foreign Policy

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LIST OF ABBREVIATIONS

AIIB	-	Asian Infrastructure Investment Bank
BLA	-	Bilateral Labor Agreement
DOFE	-	Department of Foreign Employment Development
EU	-	European Union
FEA	-	Foreign Employment Act
FET	-	Foreign Employment Tribunal
FY	-	Fiscal Year
GCC	-	Gulf Corporation Council
GDP	-	Gross Domestic Product
IDT	-	Innovative Diplomatic Theory
ILO	-	International Labor Organization
IR	-	International Relation
MOFA	-	Ministry of Foreign Affair
MOU	-	Memorandum of Understanding
NGO	-	Non Governmental Organization
NTD	-	Nascent Diplomatic Theory
SAARC	-	South Asian Association for Regional Co-operation
TDT	-	Traditional Diplomatic Theory
UAE	-	United Arab Emrites
UK	-	United Kingdom
UN	-	United Nation
USA	-	United State of America

CHAPTER I

INTRODUCTION

1. Background

1.1 Overview of Diplomacy

Sovereign states are still the main actor of international system. Acquisition, maintenance and extension of power in the light of national interest remain the principal objectives of every state. Such intention may create the condition of chaos in the relation among the states. It is the diplomacy which tries to maintain adjustment in the conflicting nature of the state. So diplomacy is taken as the means of adjusting conflicting national interests. It is also take as the art of conducting negotiation. It is because diplomacy is taken as the vital aspect of international relations.

Diplomacy is the means by which States throughout the world conduct their affairs in ways to ensure peaceful relations. The main task of individual diplomatic services is to safeguard the interests of their respective countries abroad. This concerns as much the promotion of political, economic, cultural or scientific relations as it does international commitment to defend human rights or the peaceful settlement of disputes. Diplomacy takes place in both bilateral and multilateral contexts (ABC of Diplomacy,2008).

The term Diplomacy is used in a variety of ways. Sometimes it is described as “the art of telling lies on behalf of the nation”, or “as instrument for employing deceit and duplicity in international relations.” Padelford and Lincoln define Diplomacy as " the process of representation and negotiation by which states customarily deal with one another in times of peace.” Likewise, Sir Ernest Satow defined “Diplomacy is the

application of intelligence and tact to the conduct of official relations between governments of independent states.”

Diplomacy is the profession, activity or skills in international relations, typically by a country’s representatives abroad. In the recent time, it has developed its productive forces to draw attention to social consciousness and legal norms. It is a real art that serves the purposes of individuals and their countries (Ikande ,2018).

Bilateral diplomacy is the term used for communication between two states, while multilateral diplomacy involves contacts between several States often within the institutionalized setting of an international organization. Negotiation is the one of most important means of conducting diplomacy, and in many cases results in the conclusion of treaties between states and the codification of international law. The aim of such international treaties is primarily to strike a balance between state interest (ABC of Diplomacy,2008).

1.1.1 Nature and Purpose of Diplomacy

Diplomacy is often confused with foreign policy, but the terms are not synonymous. Diplomacy is the chief, but not the only, instrument of foreign policy, which is set by political leaders, though diplomats (in addition to military and intelligence officers) may advise them. Foreign policy establishes goals, prescribes strategies, and sets the broad tactics to be used in their accomplishment. It may employ secret agents, subversion, war, or other forms of violence as well as diplomacy to achieve its objectives. Diplomacy is the principal substitute for the use of force or underhanded means in statecraft; it is how comprehensive national power is applied to the peaceful adjustment of differences between states. It may be coercive (i.e., backed by the threat

to apply punitive measures or to use force) but is overtly nonviolent. Its primary tools are international dialogue and negotiation, primarily conducted by accredited envoys (a term derived from the French *envoyé*, meaning “one who is sent”) and other political leaders. Unlike foreign policy, which generally is enunciated publicly, most diplomacy is conducted in confidence, though both the fact that it is in progress and its results are almost always made public in contemporary international relations(Sally and Freeman,2019).

The purpose of foreign policy is to further a state’s interests, which is derived from geography, history, economics, and the distribution of international power. Safeguarding national independence, security, and integrity territorial, political, economic, and moral is viewed as a country’s primary obligation, followed by preserving a wide freedom of action for the state. The political leaders, traditionally of sovereign states, who devise foreign policy pursue what they perceive to be the national interest, adjusting national policies to changes in external conditions and technology. Primary responsibility for supervising the execution of policy may lie with the head of state or government, a cabinet or a nominally nongovernmental collective leadership, the staff of the country’s leader, or a minister who presides over the foreign ministry, directs policy execution, supervises the ministry’s officials, and instructs the country’s diplomats abroad(Sally and Freeman,2019).

1.1.2 Economic Diplomacy

Generally, the use of economic devices in course of diplomatic dealing is called economic diplomacy. This diplomacy has its own importance in the diplomatic intercourse. When the development of trade and commerce occurred in the world, this

diplomacy got its popularity. The main purpose of economic diplomacy is to advance their economic interest on the one hand influence the other actor through the use of economic devices on the other (MoFA,2014).

Economic diplomacy is the use of foreign aid or other types of economic policy as a means to achieve a diplomatic agenda. Economic diplomacy is a specific area of modern diplomatic activity connected with the use of economic problems as an object, means of struggle, cooperation in international relations. It presupposes diplomatic service activities focused on increasing exports, attracting foreign investment and participation in work of international economic organizations, that is, actions focused on reaffirming a country's economic interest at international level (Ikande ,2018). Economic diplomacy, like diplomacy in general, is an integral organic part of foreign policy and international activities of a state. Foreign policy determines the goals and objectives of economic diplomacy. According to (Ikande ,2018) the basic Objectives of Economic Diplomacy is to protect economic security through diplomatic methods. Like wise to increase country's international competitiveness and promoting national economic interest on world arena secondary objectives of economic diplomacy.

Economic Diplomacy is targeted at expansion of mutually beneficial economic cooperation. It will use the national resources either for foreign policy purposes or for gaining advantages through trade partners and strengthening a country's international competitiveness.

Along with that, gaining benefits and competitive advantages in the world market, ensuring national interests in a rapidly globalizing world are further targets of

economic diplomacy. It also promotes international economic cooperation, which ultimately contribute to raising the level and quality of life of its population.

1.1.2.1 Labour Diplomacy

Labour diplomacy refers to "the endorsement of migrant labour issue in a state's foreign policy". Labour diplomacy may involve the use of labor migrants for the states' pursuit of international diplomatic goals.

Labour diplomacy is conducted through the work performed principally by labour officers (also called labor attaché's) at mission embassies around the world and more specially the advocacy and promotion of core labour standards within the context of human rights and international trade policy. Labour diplomacy is necessary to empower, safeguard and expand the migrant labour market.

Many Nepalese migrant workers are compelling to work in poor conditions in the gulf states. They get lower wages with the high cost of living in their destinations who are victim of fraud recruitment and lack of social protections. They undergo traumatic experiences after entering the destination nation though illegal channels and losing the legal status. Foreign labour migration is subject to considerable risks and uncertainties. In this context, there is a necessity of objective labour diplomacy initiatives in the Persian Gulf states.

1.3 International Labour Migration and Labour Diplomacy in the Nepalese Context

Nepal has a long history of foreign labour migration. Nepalese started working abroad and sending remittance back home since over 200 years back. In the early 19th

century, for instance Nepalese men migrated to Lahore to join the army of Sikh Ruler, Ranjit Singh. That is how they earned the nick name “Lahure” which is still in use for Nepalese employed in foreign armies, mainly Indian and British. In 1815/16, Nepalese were recruited in the British Army of India for the first time and are since then called “Gurkhas” (Simkahda,2015).

Anglo-Nepal Treaty of Peace and Friendship signed in 1890 was one of the examples which justifies how government policies are vital to solve the problems of foreign employment. This treaty paved the way for more than 3000 Nepalese soldier recruit in British Gorkha Regiment. Likewise, the Friendship Treaty signed between Nepal and India in July 1950 was a turning point in the movement of Nepalese in India (Kayastha, 2002). Public policies can play vital role both to safeguard the labour right and to lower the transaction cost of the government. Although safeguarding the labours' right is more depends upon the policies taken by destination countries, there are still some areas on which government of source country can play vital role in it.

Nepal is one of the major suppliers of labors for the countries suffering from labor shortage and remittance from migrants became one of the important sources of household income. Migration flows from Nepal to rest of the world has become an important and debatable issue in the economic, political and social affairs of the country. Nepal's economy today depends largely on migrant workers. The fact that Nepal ranks as the fifth largest remittance receiving country in the world proves just how indispensable migrant workers and their contribution really are. remittance they send back has not only helped in sustaining livelihood but is also raising the prospect of transforming lives by alleviating poverty and improving access to education and health care services (NIDS, 2004).

Economic survey of Nepal 2014/2015 explains that approximately 500,000 labor forces are entering to labor market and unavailability of employment opportunity in Nepal has led to more and more people to migrate abroad for employment. As a result, inward remittance to Nepal is also rising with increasing labor emigration and influencing the country in micro and macro level both. Same survey suggests that major portion of remittance is being used in consumption in Nepal and which are generally met through import, which led import volume to rise and there is need of policy measure to boost the remittance in productive sectors (MOF,2015).

Labor diplomacy continues to have a very important role to play in governing international labour migration. Effective labor diplomacy contributes significantly to fulfil goals of Nepal's foreign policy. Labor diplomacy helps to provide an assessment of the economic conditions faced by migrant labour and to identify factors that can contribute to resolve the problem. Labor diplomacy also provides a framework for developing tools to combat these problems. In this context, labor diplomacy includes not only Ministry of Foreign Affairs(MOFA) diplomacy program, but also the overseas migrant labor assistance programs of the Government of Nepal, public diplomacy programs, and diplomatic initiatives on labor issues in a number of multilateral fora.

1.4 Major Destination of Nepal's Labour Migrant Workers

According to Ministry of Foreign Affairs annual report (MOFA,2018), Nepali labour migrants have obtained permits to work in 153 countries over the last one decade (2008/09-2016/17). Malaysia and the Gulf Cooperation Council (GCC) countries have been the most attractive destinations, receiving 86.42 percent of all male and female labour migrants in the past nine fiscal year. The major foreign employment

destinations of Nepali migrant workers are Malaysia, Qatar, Saudi Arabia, UAE, Kuwait, Bahrain, Oman, South Korea, Israel The Contribution of remittances to Nepal GDP is 26% (MOFA,2018).

Table 1: Top destination for Foreign Employment, 2018/19

S.N	Countries	Percentage
1.	Qatar	31.8%
2.	United Arab Emirates	26.5 %
3.	Saudi Arabia	19.5 %
4.	Kuwait	6.8 %
5.	Malaysia	4.3 %
6.	Bahrain	2.0%
7.	Oman	1.2 %
8	Maldives	0.8%
9	Afghanistan	0.8%
10	Cyprus	0.7 %
11.	Others	5.7%

Source: (GON, MOLESS, 2019)

1.5 Nepali Labor Migration to the Gulf States

After the political change of 1990, following the liberalization and globalization of world economy, Nepal adopted the policy of permitting foreign employment. Foreign employment acts and regulations were introduced. The flow of Nepalese migrant workers began with the government's opening up due to absence of employment opportunities at home. After the liberalization of economy, the foreign employment opportunities for Nepalese started to emerge up. As a result, the unemployment youth began to immigrate to countries with emerging economics like Malaysia and some gulf countries to seek employment.

Over the past decade, most of the Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) experienced robust economic growth. The main force behind this growth is a strong labor force, composed mainly of expatriates. Largely due to its geographical proximity, the Gulf has been a preferred destination for workers from South Asia for years. More recently, however, the GCC has attracted foreign labor from all over the world. Though extraordinarily diverse, expatriate workers share one common goal: to send as much money home as possible (Termos, 2010).

As more than 50 percent of Nepal's labour force is located in that region, obviously Nepal has a great financial stake in the remittances sent by migrant laborers working in the gulf. Interestingly, even amidst political and social upheaval, the Middle East and the Gulf countries continue attracting millions of migrant workers from South Asia, including Nepal. The proportion of Nepali migrant workers acquiring permits to GCC countries in the past nine years, FY 2008/09-2016/17, stands at 56.54 percent (GON, MOLESS,2018).

Table 2: Flow of Nepalese Migrant Workers in the Gulf

S.N	Countries	Percentage
1.	Qatar	19%
2.	Saudi Arabia	18.93
3.	Kuwait	13.22
4.	UAE	9.82%
5.	Other	5.69%

Source: (GON, MOLESS,2018)

1.6 Statement of the Problem

Foreign labour employment has been developed as a major occupation in Nepal in the latest two decades. But the occupation has not remained as a dignified profession at all. The problems faced by potential labour migrants before and after their departure for foreign employment are not properly addressed from the policy level. A migrant worker has to face numerous problems while he/she makes decision to migrate for foreign employment.

Most of the migrant workers in aboard are working in a vulnerable situation without any effective legal protection by the Nepalese government as well as the receiving government. The exploitation made by the foreign companies in the work places is reported several times but no specific labour diplomacy has been adopted by the Nepal government except some cases.

There are many other cases where illegal Nepalese workers are kept in prison for a long time in charge of both fake and genuine cases. But our government is not adopting proper diplomatic dealings to rescue them and assure their safe return to the homeland.

While observing the government policies and programs, it is found several lacking to protect the rights of the migrant workers and assure their safe migration in the country of destination. Government has made promotional policy regarding foreign employment but at the same time less attention has been paid to provide services and facilities in the home ground.

There is a big necessity of addressing the issues of international labour migration from the policy level, which could assist to promote safe migration and the management of labour migration in an effective way.

So, this study under the title "Labour Diplomacy of Nepal :A study of (Saudi Arabia, Qatar and UAE)" has been focused on the evaluation of the existing government policies and programs for the regulation of international labour migration in the major foreign employment destination of the Nepali migrant workers of the gulf states. This study also has approached to identify the major problems of international labour migrants in the major their Gulf States and government initiatives to systematize labour migrants via labour diplomacy as well.

1.7 Research Question

1. How is the effectiveness of labour diplomacy under Nepalese Foreign Policy?
2. What are the national and international instruments and institutions to govern international labour migration in the gulf states?
3. How can Nepal achieve its national interests through effective labour diplomacy in the gulf states?

1.8 Objective of the Study

The main objectives of this study are:

1. To find out effectiveness of labour diplomacy in Nepalese foreign policy.
2. To analyze the national and international instruments and institutions to govern international labor migration in the gulf states.

3. To study about the initiatives and challenges faced by Nepal while governing foreign employment in the Gulf States.

1.9 Limitations of the Study

Finding relevant documents, data and published articles on this particular topic was too difficult. Very few literatures were found in the websites. Although there are thousands of migrant workers currently residing in gulf and working in a very vulnerable situation. This study has covered the issues of migrant workers going in top three major destination of the Gulf States excluding others.

1.10 Significance of the Study

This study is significant for academic purpose because there are minimal research and initiatives in the sector of labour diplomacy and migration governance in Nepal. In this context this research intends to fulfil the literature gap also. Similarly, this research would be beneficial to the government authorities and organizations because they need to legislate and systematize the flow of international labour migration from Nepal. This study would provide the necessary information on the different national and international governing instruments and mechanism to govern international labour migration. To the further researchers, this study can provide baseline information on the recent status of labour diplomacy in Nepalese context.

So, this study will generalize the issues of international labour migrants and provides up dated information regarding the status of international labour migration.

The study provides a glimpse of the situation of international labour migration. It is like a mirror to observe the issues and challenges, cause and consequences and the Nepalese government's policies and programme labour migration.

1.11 Definition of the key terms

The following key terms used in the study are clarified below.

1.11.1 Migration

Migration is the movement of a group of people from one region to another. In the context of this study it is the movement of workers from one country to another country for the explicit purpose of seeking employment (Roberts, 2009).

1.11.2 Migrant

The term migrant can be understood as *"any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country."*

1.11.3 Migrant Worker

The term migrant worker has different official meanings and connotations in different parts of the world. The United Nations' definition is broad, including any people working outside of their home country for the purpose of employment. International Labour Organization (ILO) defined migrant workers as a person who migrates from one country to another (or who has migrated from one country to another) with a view to being employed other than on his own account, and includes any person regularly admitted as a migrant for employment.

The UN Convention on the Rights of Migrants defines a migrant worker as a "*person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.*" From this a broader definition of migrants follows: "*The term 'migrant' in article 1.1 (a) should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor.*"

1.11.4 Foreign Employment

Foreign Employment can be defining as the form of the dependent relationship of an employee on an employer outside the territory of the country where the employee pursues activity according to employer's instructions at the time and in the place determined for that purpose by the employer for the remuneration agreed upon in advance.

1.12 Organizations of the Study

Chapter one is an introductory chapter which introduces the diplomacy, background and trend of labour migration and statement. The research questions, aims and objectives of the study. likewise, chapter two is all about the review of the existing literature on labour migration and labour diplomacy

In chapter three I have outlined the research methodology, research approach and design. Justifications for the use of the selected design are provided. This is flowed by chapter four entitled Nepal's Foreign policy and State of Labour Diplomacy in the Gulf States.

The analysis part is included on chapter five where I have reviewed and analyzed existing national mechanism and frame work to govern labour migration in the gulf. Finally, chapter six offers a summary of the study, conclusions are drawn and recommendations made.

CHAPTER II

LITRATURE REVIEW

2.1 Theoretical Review

Diplomacy has been theorized long before the development of the subfield of diplomatic theory that I currently associate with the academic discipline of International Relations (IR). Within modern academia, theorizing is commonly perceived as a systematization of thinking, an extensive elaboration of ideas and principles governing or seeking to explain a particular phenomenon (Constantinou and Sharp, 2016).

Early theorizing, however, is often fragmentary and unsystematic, as are certain strands of contemporary theorizing, specifically strands that follow what Paul Feyerabend (1975) called an ‘anarchistic theory of knowledge’. All approaches can provide valuable perspectives, insights and modes of inquiry. That is why, in this chapter, I looked at various disciplinarian attempts that seek to offer more or less complete explanatory narratives of diplomacy, but also others that go beyond the so-called ‘grand theory’ approaches (Skinner 1990) and under-score the contributions of fragmentary and unsystematic thought. To that extent, I do not limit my account to established ‘traditions of speculation’ about diplomacy whose historical absence might lead one to conclude that there is ‘a kind of recalcitrance’ of diplomacy to be theorized about, or indeed that there is no international and, hence in Wight’s framing, no diplomatic theory at all (Wight 1966). By contrast, I suggest that there is a lot of diplomatic theory around, including when writers do not name what they do as ‘diplomatic theory’. Our theoretical perspectives in diplomacy are thus grounded in the key conceptual explorations, epistemological exchanges and normative and

critical propositions concerning different aspects of diplomatic practice (Constantinou and Sharp,2016).

Early diplomatic thought Bearing the above in mind, the diplomatic researcher might be initially struck by the archaic link between the practice of theory and the practice of diplomacy. Ancient Greek theories, as retrieved from the writings of Herodotus and Plato, was the sacred embassy sent to consult the oracle as well as the ecumenical embassy sent to see the world and reflect on the doings, ideas and values of foreigners (Constantinou and Sharp,2016). That the name of these special missions of problematization and sustained reflection began to be employed by Socrates and his followers to designate the arduous activity of philosophical contemplation, of knowing thyself and seeking to discover the true essence of beings, offers an interesting point of departure for diplomatic theory(ibd).

It suggests a complex entanglement between early theorizing and dolomitizing, the linking of the incompleteness of human knowledge with the ceaseless search and negotiation of the foreign, the unknown and the unexplained. From quite early on, diplomacy has been as much about the negotiation of meaning, value and knowledge as of the negotiation of interests and positions (Constantinou and Sharp,2016).

2.1.1 Classification of Diplomatic Theories

The categorization of different types of theorists within the diplomatic studies field has not been attempted so far. Innovation in diplomatic theory is particularly important. In order to understand the complex twenty-first century diplomatic environment, it may be beneficial to distance, but not abandon, theory from the traditional, statist perspective on diplomacy.

2.1.1.1 Traditional Diplomatic Theory(TDT)

Traditional Diplomatic Theory (TDT), which affirms the centrality of the state. It believes that a state is central maker of diplomacy. The central purpose of diplomacy is to overcome the anarchical nature of international system. diplomacy is the management of international relations by negotiation; the method by which these relations are adjusted by ambassadors and envoys.

A literature review of the traditional canon of diplomacy studies illustrates the centrality of TDT to diplomacy studies. The longevity and modern prominence of Traditionalism remains important for diplomacy studies, for ‘at the heart any worthwhile theory of international relations must lie a theory of traditional diplomacy’ (Paul ,2003)

Hedley Bull defines diplomacy as *‘the conduct of relations between sovereign states with standing in world politics by official agents and by peaceful means’*. Bull’s definition endorses a state-centric view of diplomacy, which has the advantage of being a concise, simple and manageable interpretation (Bull, 1977).

G.R. Berridge also packages diplomacy simply and in statist terms. He writes that ‘diplomacy is the term given to the official channels of communication employed by the members of a system of states’(Berridge,2001). He adds that ‘the chief purpose of diplomacy is to enable states to secure the objectives of their foreign policies without resort to force, propaganda, or law’

According to Harold Nicolson, ‘diplomacy is the management of international relations by negotiation; the method by which these relations are adjusted by ambassadors and envoys; the business or art of the diplomatist’ (Nicolson,1961).

2.1.1.2 Nascent (alternative) Diplomatic Theory (NDT)

Nascent(alternative) Diplomatic Theory (NDT) which focuses on “emergent” non-state diplomatic actors; Traditional diplomacy as increasingly distanced from the real world problems so non-state actors are practicing faster, cheaper, and more effective unofficial diplomacy

The state as an obstacle to the peaceful development of the world order diplomacy is to foster the equitable, networked, and stable relationships amongst non-state actors. These actors pursue the unconventional goals such as human rights or aid development issues.

This theory, Nascent Diplomatic Theory (NDT), is less prominent than TDT within the canon of diplomacy studies. The first step in building the Nascent theorist's profile is to establish the type of diplomacy these theorists postulate on. This type of diplomacy is non-state diplomacy, and has several synonyms: new, unofficial, unconventional or alternate diplomacy, for example. Nascent theorists acknowledge state-qua-state diplomacy, but it is largely uncomplimentary on the traditional conduit for diplomacy.

This form of diplomacy came into its own in the early twentieth century. Although non-state diplomatic actors and environments existed in previous centuries, it was not until the twentieth century that had an impact on the IR system significant enough to constitute a form of diplomacy different from the traditional, state-qua-state form.

However, four significant developments relating to nascent diplomacy can be identified. Firstly, I have witnessed a ‘tremendous increase in diplomacy as a direct result of the increasing number of international actors’, not only states but MNCs,

NGOs and IGOs(MELISSEN,1999). Secondly, there has been an increase in bilateral and multilateral settings for diplomacy. Thirdly, the ‘growing volume and expanding agenda of diplomatic business’ has ‘transformed the face of diplomacy’; a prominent example central to this new agenda is environmental issues, which are of a transnational and global nature(ibid).And finally, the notion of diplomacy being the sole conduit for intra-state relations no longer exists, since government departments other than the foreign ministry increasingly have contacts with their counterparts in other countries, which ‘circumvents the foreign ministry and the embassy’(ibid).

Each of the three periods described above had a profound affect on the IR system, but the principles to emerge after each war were not to the benefit of states. The principles espoused in the first instance by a statesman – Wilson - for a system of states were ultimately embraced by non-state actors.

Nascent diplomacy can be distinguished from traditional diplomacy in simple fashion: if traditional diplomacy promotes the state as the unitary actor in IR, is therefore Realist and state-centric, then nascent diplomacy can be classified as an ideal, moral approach that promotes an international society, which does not endorse the state as the only significant actor engaged in international diplomacy (Louise and MacDonald,1996).

One central tenet of NDT, therefore, is the premise that the ‘the diplomatic expertise for dealing successfully with conflict and peacemaking does not reside solely within government personnel or procedures’ (ibd). Another central tenet of NDT is that it emerged to challenge the dominant Traditionalist theory on diplomacy. Traditionalist statism, parochialism and dominance played a role in the emergence of this faction of theorists.

2.1.1.3 Innovative Diplomatic Theory(IDT)

Unlike the other two types of diplomatic theory, the origins of IDT cannot be primarily correlated to a change in the diplomatic environment itself. Instead, IDT emerged (largely) as a result of different theoretical perceptions within the diplomatic studies field. Innovative Diplomatic Theory (IDT) which theorizes a symbiosis of both state and non-state actors. Innovative Diplomatic theory is the combination of two views of traditionalism and nascent schools. It believes diplomacy is activity made by state and non-state actors.

Melissen first introduced the label ‘Innovators’ in the 1999 book *Innovation in Diplomatic Practice*. In the introduction, he writes that the Innovator’s work is ‘intended to supplement the analysis of more familiar topics’ in the diplomatic studies literature; these familiar topics are traditional diplomacy (primarily) and unconventional diplomacy (Melissen, 1999).

However, the value of the Innovators is anything but supplementary, their contribution is valuable when theorizing on modern diplomacy. When building the initial profile of the Innovators it is impossible to ignore the relationship between the state and the non-state. The acknowledgement and ultimate realignment of this relationship is central to the strength of IDT. The Innovators are the only group of diplomatic theorists who suggest that a theoretical division exists within the diplomatic studies field. They believe that diplomatic theory is polarized into statist and non-statist theories on diplomacy. This polarization can be consistently evidenced within the diplomatic studies field, according to the Innovators. On the one hand, there exist traditionalists who champion the continuity and familiarity of the state system, greased by official diplomacy. On the other, supporters of unofficial or

nascent diplomacy, 'pursuing a moral doctrine', believe that their vision of a better world must not be subsumed under the state system, and that it 'must displace the politically pragmatic and morally compromised arrangement' of conventional, traditional and statist diplomacy (Jackson,2002).

2.2 Nepalese Labour Migration and Labour Diplomacy

A review of extant literature indicates that most studies on Nepalese labour migration focus on explaining the phenomenon. Nepalese migrate for employment, as many migrants view employment abroad as a means to escape low wages and dismal job opportunities that currently plague Nepal (Ephraim, Junginger, & Müller-Böker, 2011; Gartaula, 2009). In addition to financial concerns, researchers have discussed four other reasons for encouraging individual Nepali to seek employment abroad: (1) to obtain social status within Nepalese society (Sharma 2008), (2) to serve in foreign militaries (Graner & Gurung, 2003; Seddon, Adhikari, & Gurung, 2002), (3) to gain stability and perceived safety in a foreign country (Mishra, 2011), and (4) to obtain higher education (Valentin, 2012).

Nepalese began migrating to foreign countries for employment opportunities as early as the 1700s, and it was a well-established activity by the nineteenth century (Seddon et al., 2002). Nepalese men migrated to India to serve under the Sikh ruler, Ranjit Singh, a practice that was later adopted by both the British and Indian armies and which continues today (Sharma, 2008). Nepalese men who served in the British armies have become part of the cultural lore as Gurkhas, who not only realise wages through military employment but also obtain a foreign education and increased social value on returning home to Nepal after service (Gurung, 2011).

The Gurkha example suggests that though Nepalese may migrate abroad to earn wages, multiple reasons, beyond merely financial concerns, help explain working-age Nepalese's motivation to seek employment abroad. The existing literature suggests that five drivers influence Nepalese to work abroad: financial, social status, military, stability and safety, and education.

The literature on Nepalese migration identifies financial needs as the primary motivation that fuels Nepal's migration and thus supports a microeconomic model of individual choice (Massey et al. 1993) in explaining Nepali labor migration.

Undoubtedly, this reasoning is valid, as slow economic growth, especially in rural parts of Nepal, encourages young adults to seek work abroad (Shrestha & Bhandari, 2007). Research reveals that Nepal's rural poor, who lack land ownership, are prime candidates for migration (Bhandari, 2004). Therefore, among Nepal's rural poor, remittance sent by family members working abroad often serves as the primary source of income for these families and constitutes one of the prime means for Nepal's rural poor to escape the poverty that dominates the country (Seddon et al., 2002).

Thus, despite the known hardships of working abroad, Nepalese men, especially those who are poor and reside in the country's rural areas, may ignore the potential health risks associated with migration and actively seek out construction jobs in Gulf countries (Gardner, 2012), agricultural jobs in India (Subedi, 1991), or low-skilled positions in foreign service sectors, including security guards, housekeepers, and geriatric workers, in locales such as Malaysia, South Korea, Japan, and Israel (Yamanaka, 2000).

Thieme and Wyss (2005) discover that Nepalese men are willing to work *in 'dirty, dangerous and degrading'* jobs abroad because doing so is 'a sort of rite of passage'

and a means to earn enhanced social capital through prestige and community belongingness.

Similarly, in his ethnographic field work at multiple sites in Nepal, Sharma (2008) concludes that Nepalese migrants want to work abroad to send remittance home and to increase the socio-economic mobility of their families through the attainment of tangible assets, such as homes, electronics, appliances, or motorbikes. Furthermore, Sharma notes that by serving in foreign militaries, Nepalese men immediately promote their family's social status, albeit within their local communities.

Following the Anglo–Gurkha war (1814–1816) and the signing of the Treaty of Sugauli, the British enlisted nearly 5000 Nepalese men, referred to as Gurkhas, for military service in the British Indian army (Rathaur, 2001). By 1892, nearly 8000 Gurkhas were enlisted in the British army; this number rose to 26,000 during World War I and to 65,000 during World War II (Rathaur, 2001). Large-scale recruitment continued in the 1950s, as the British employed Gurkhas to quell communist insurrection in Malaysia, while the Indian Army used Gurkhas to assist in the Indo-Pakistani wars in 1965 and 1971 (Kansakar, 1974). Today, approximately 3500 Gurkhas remain employed in the British army and 50,000 in the Indian army (Sapkota, van Teijlingen, & Simkhada, 2014; Seddon et al., 2002), and thousands are employed by the United Nations as essential peacekeeping forces around the globe, including in some of the most dangerous and hostile foreign locales (Nepalese Army, 2015).

Research shows that though many Nepalese men, especially those originating from disadvantaged ethnic groups residing rural regions, are motivated to join foreign armies; such motivation is linked to the outcomes of wealth and enhanced social

status (Chene, 1992; Kumar, 2004). Indeed, Chene (1992) suggests that most Nepalese men enter foreign military services in the attempt to better their personal situation and family life circumstances.

Beyond the emigration of Nepalese men as Gurkhas to Britain and India in significant numbers, large-scale migration did not commence until political issues and consequent concerns about general security arose in an aftermath of the People's War led by the Maoists in 1996 (Seddon, et al., 2002; Singh, Sharma, Mills, Poudel, & Jimba, 2007). As Nepal entered the New Millennium, concerns about governmental stability and personal safety, along with tapering job opportunities in Nepal, especially among youth residing in villages in the regions controlled by the Maoists, motivated many Nepalese to migrate abroad (Gardner, 2012).

In addition, internal armed conflict between the Communist Party of Nepal (Maoists) and the government, which lasted for a decade until 2006, was followed by turmoil associated with Nepal's writing of a new constitution, which has continued to result in societal uncertainty and political instability (Williams et al., 2010). Not only do the negative macro-environmental conditions encourage civil unrest, but they also stifle foreign investment and, thus, the expansion of Nepal's industrial sector and job market. The political instability and safety concerns propel Nepalese youth to seek employment abroad (International Labor Organization, 2014).

Nepalese young adults, primarily those from higher-income families that reside in Kathmandu, are likely to engage in foreign migration to pursue higher education opportunities in North America, Europe, Australia, and New Zealand (Valentin, 2012) because of the lack of quality educational outlets in Nepal (Valentin, 2012).

Furthermore, some Nepalese seek educational opportunities especially in Australia

and New Zealand to more easily obtain permanent residency or extended-stay work permits (Mishra, 2011).

2.4 Nepalese Labour Migration to the Gulf

Nepalese migrate to the Gulf is a challenging task, as popular media is replete with articles on the inferior state of Nepalese migrants in the Gulf and the dangers they confront in these countries (Himalayan Times, 2015). However, research reveals that rural villagers overlook the reality of dangers associated with labor migration to the Gulf and continue to seek employment there. That is, despite the warnings, the general perception among Nepalese people from the country's rural regions is that foreign countries are normally safe for work and that these countries' working conditions are better than those in either Nepal or India (Kern & Müller-Böker, 2015).

Furthermore, given the low literacy rate among rural Nepalese, people likely form these positive perceptions of stability and comfort from family members and friends who are also working abroad, as well as from employment agents. Research reveals that Nepalese migrants to the Gulf often falsely portray their work as decent and safe, rather than divulge the truth about working conditions in desert climates and risk the humiliation associated with making an error in judgement (Gardner, 2012). As Gardner (2012) emphasises, Nepalese who work abroad want to protect their personal reputations, to assuage their worried families, and to shape their social identities in the villages to which they hope to eventually return; thus, they often do not divulge the actual details about employment conditions to others. Consequently, Gardner notes that information provided by Nepalese working abroad is largely falsified, as migrants tend to glorify the image of foreign countries; as a result, many potential migrants

believe that working conditions in foreign countries are safer and more secure than those in Nepal(ibd).

In addition to the grandiose bravado of Nepalese working abroad, the local employment agents, who are responsible for Nepalese recruitment and labor supply to foreign countries, are incentivised to under-estimate the potential risks associated with working in Gulf countries. Thus, many Nepalese labor migrants receive incorrect information about working conditions in the Gulf .

Nguyen et al., (2008) argue that migrants who seek labor opportunities abroad consider a trade-off between stability and financial gratification. Labor migrants are often willing to relocate abroad to obtain higher wages than those available in their home countries, despite a focal country being less stable than their home country.

Many study have stressed that labour migrants often relocate because of a sense of professionalism associated with working abroad; that is, migrants believe that they serve as role models to others and that they improve conditions in their home countries by sending remittance (Graner & Gurung, 2003; Nguyen et al., 2008).

Many migrants view foreign employment with enthusiasm and believe that their hard work will help their families.

In line with a sense of professionalism, Nepalese labour migrants often view sending remittance home as part of their personal responsibility to their families (Graner & Gurung, 2003). Given the lack of economic opportunities in Nepal's rural regions, foreign remittance is often the primary means by which Nepal's poor and lower-income citizens survive poverty.

Working-age Nepalese may also seek employment in the Gulf because local employment conditions are extremely dire; the unemployment rate hovers around the 50% mark (Central Intelligence Agency, 2015). Thus, many Nepalese who seek employment opportunities in the Gulf may simply consider local employment conditions an insurmountable challenge, especially following the April, 2015 earthquake.

Finally, younger-aged Nepalese may migrate to the Gulf because of its allure. Dubai, Abu Dhabi, and Qatar are ultra-modern, rich, glamorous cities and thus are in stark contrast to the state of Nepalese villages and even the decaying capital city of Kathmandu. Many migration scholars have discussed the global success of the 'brand Dubai' (Govers, 2012), a factor that likely encourages many Nepalese to seek employment specifically in the Gulf.

2.5 Foreign Employment, Remittance and Labour Diplomacy

Gurung and Adhikari,(2004), concluded that, in their article "The New Lahures", After democratic movement in 1990, it has become easier to obtain travel documents and passport. The increasing flow of information and the liberalization in travel led to a surge in the migration of Nepali citizens for employment. Again, because of the political conflict since 1995, the trend of foreign employment has dramatically increased. This situation has compelled Nepalese youths to look for overseas employment. This conflict has also resulted in increased flow of migrants from the mid-west to India.

As per the information from Department of Foreign Employment, a total of 58710 Nepali workers are found to have gone to different countries for foreign employment

by second trimester of Fiscal Year 2011/12. Large number of people is estimated to have gone to third countries via India through unauthorized means taking advantage of open boarder with India. A separate Foreign Employment Department was established on 31 December 2008 which has been carrying out foreign employment related activities. An Employment Permit System (EPS), Korea Section is established in the Department while a separate Japan International Trading Corporation Organization (JITCO) unit has been formed in fiscal year 2009/10, for sending workers to Japan. A total of 250829 are male while this number stood at 354716 until the end of previous fiscal year of which 344310 are male and 10416 are female.

Economic Survey (2011/12) states that the Nepali youth groups are attracted to foreign employment due to dearth of adequate employment opportunity in the country. The number of Nepali workers going for foreign employment is growing every year. According to various reports, large numbers of Nepali workers have gone for foreign employment without securing government permission as well. Based on the official and unofficial records as of now, more than 3 million people have gone for foreign employment. The foreign employment has supported in bringing economic prosperity in rural Nepal and reducing poverty. The contribution of foreign employment to reducing unemployment situation and poverty and enhancing Nepalese economy should be considered significant. The foreign Employment Act, 2008 has already been issued and enacted for promoting the business of foreign employment while safeguarding the rights and interests of workers and foreign employment entrepreneurs by making it a safe, well managed, and dignified profession. Bista (2008), presents in his book entitle "*Nepalese Economy and Development*", In recent years, the growth of our flowing for overseas employment opportunities is estimated. Therefore, state and structure of foreign employment is

found encouraging and diversifying. By country wise Nepalese labor legally go to overseas employment for more countries like (Saudi Arabia, Qatar, UAE, Baharain, Kuwait, Hong Kong, Malaysia, Korea act). Traditionally and leally India is another dominating country absorbing large size of labor. In addition, Nepalese are working in developed countries like USA, UK, EU, Japan etc. after higher education.

JONBS, (2006) states that, Initially, remittance in Nepal was introduced with "*Gurkha*" remittance "*the Gurkhas*" were renowned for good qualities of soldiers. That is why British India formally recruited Nepalese youth as a regular army, which later divided into British and Indian army. Nowadays, Nepalese going abroad are not only for armies but also spread all over the world for work and mostly they are concentrated in gulf areas in civilian front (Kshetry, 2003). Any Nepali to go for work legally, he/she needs to get permission from the department of labor under the ministry of labor and transport of the government of Nepal. According to official report of the Department of Labour, it is known that 107 countries are at the government list where Nepalese are allowed to go for work. But still some people are found going abroad without permission and working in the government restricted areas too. Because of this trend, data on foreign employed workers are not available in exact form. Majority of those who have left home for overseas job are eager to earn foreign currency by hardworking to support their families.

Sapkota (2009), in his researches presented their analysis on the remittance market in Nepal. The presentations and a policy note are very informative. This biog post draws in information from their analysis. Around two to five millions Nepalese workers are working abroad. Officially recorded new migration increased dramatically during the last decade, from 36,000 in 1999/2000 to 229,000 in 2007/08.

On official estimates of stock of Nepali migrants range from 400,000 in Malaysia, 300,000 in Qatar, 60,000-70,000 in South Korea, and two to five million in India.

125,000-275,000 Nepali migrants are estimated to be working in United Arab Emirates (UAE), of which half are in construction, hospitality, tourism and security.

An estimated one-third of male population is working abroad. It constituted 17% of GDP in 2008(\$2.3 billion). Remittance has also had large multiplier effects on sectors such as construction, cement and furniture. Migration plays a crucial role in reducing poverty between 1994 and 2004. The WB estimates it to contribute between one-fifth to one-half of the decline in poverty. Within South Asia, remittance as a share of GDP is highest in Nepal. Sapkota (2009), in his researches presented their analysis on the remittance market in Nepal. The presentations and a policy note are very informative.

Improvement in living standard includes housing improvement; higher expenditure on food, on personal items, domestic, equipment and other consumer durable. Shrestha (2005) in his report titled "Foreign Remittance: A Panacea for Nepalese Economy" has states that remittances can generate a beneficial impact on

the economy through various channels, such as saving, investment, growth, consumption and income distribution. Remittances have relaxed the foreign exchange constraints of the country and strengthened its balance of payment (BOP) position.

Pant (2005) in his report titled "Remittances and Development in Developing Countries" has states that remittance is important financial resources to the receiving countries at the micro and macro level. They increase both the income of the recipient and the foreign exchange reserve the recipient's countries. Mostly remittance is used for basic subsistence needs and for daily needs such as food, clothing and housing.

These three components make up a significant portion of the income of the recipient's household. At an individual level remittance increases the income and reduces the poverty of the recipient's. Generally, in the developing countries only a small percentage of remittances are used for saving and used as productive investment such as income and employment generating activities as buying land or tools.

CHAPTER III

RESEARCH METHODOLOGY AND CONCEPTUAL FRAMEWORK

In this chapter an outline of the methodology of the research that was used in the study is provided. The chapter discusses the qualitative research approach which was adopted for this study. The data collection, analysis and presentation methods that were used are outlined and justified briefly.

Along with that a conceptual framework represents the researcher's synthesis of literature on how to explain a phenomenon. In other words, the conceptual framework is the researchers understanding of how the particular variables in the study connect with each other. In this context, conceptual framework through which entire study was guided is discussed in this chapter.

3.1 Research Design

The qualitative research approach is distinguished by a number of research designs. A research design is an argument for the logical steps which need to be taken to link research questions and issues to data collection, analysis and interpretation in a coherent way (Hartley, 1994). For Birks and Mills (2011) a research design is a blueprint for the study and it must identify the philosophical and methodological positions that are to be employed in the research in order to reach the set objectives.

3.2 Nature and Sources of Data

The nature of the data is both qualitative and quantitate. The primary data was collected from key informant interviews and secondary data were collected from books, periodicals, scholarly journals, report of government of Nepal (population

survey, economic survey etc.) annual report of ministry of foreign affairs, ministry of labour, employment and social security, foreign employment board, Department of foreign employment etc. Similarly, materials available on websites of Nepali missions in the gulf countries and international labour related organizations.

3.3 Tools and Techniques of Data Collection

3.3.1 Content Analysis

Content analysis of news, newspaper articles and other documents was conducted to accomplish this research. Along with that relevant scholarly articles, published books, Government Reports, Bilateral Agreement, Memorandum of Understanding (MOU) among others were taken into consideration and analyzed to quantify content in terms of pre-determined categories and in a systematic and replicable manner.

3.4 Data Analysis Techniques

This method of the study is historical analytical method and qualitative method is the base of the research. And the numerical data received from government authority and organizations were analyzed qualitatively. No statistical tools or data analytical computer software has been used. Description of numerical tables and figures are made in descriptive form.

3.5 Conceptual Framework

Figure is constructed around the logical steps of the migration process: there are underlying causes of migration which somehow initiate the departure of the migrants, and their departure somehow affects the country of origin. This paper illuminates the second step. The different theoretical approaches to migration relate to the entire

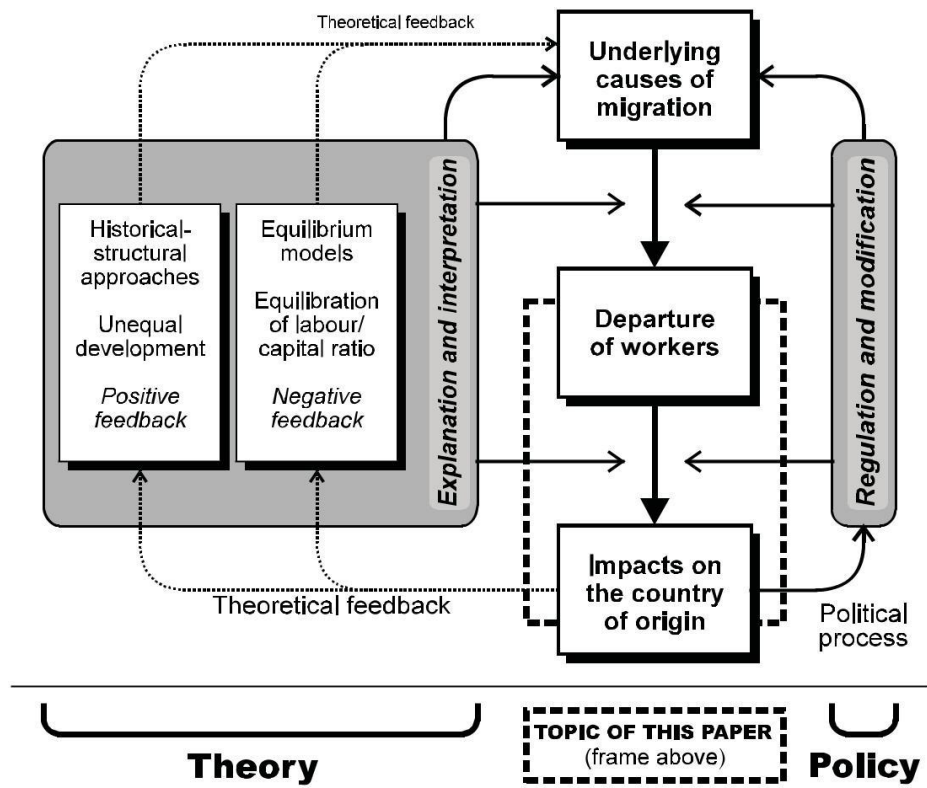
process. They have different explanations and interpretations of the underlying causes of migration, the initiation of the movement, and the way in which labour emigration affects the country of origin.

It is worth noting that feedback mechanisms are implied in both major theoretical approaches. The logic of the equilibrium model states that migration will alleviate the pressures which caused it in the first place, and there will consequently be an element of *negative feedback*. The historical-structural approaches, on the other hand, generally argue that “unequal development” is both the cause and the consequence of international labour migration. The same can be said about “dependency.” This constitutes a *positive feedback mechanism*, where the consequence reinforces the cause.

The perceived effects of labour emigration will usually elicit policy responses from the authorities in the country of origin. The nature of these policies is determined through a political process. They may attack the causes of emigration directly, affect the link between potential and actual movement, or seek to modify the impact of labour emigration on the home country. It is the latter effort which constitutes a natural part of the paper topic. Of course, policy formulation may be informed by theory. However, for the sake of simplicity, such indications are omitted from the model.

To put it another way, regardless of whether one considers migration a process of convergence or polarization at the overall level, the effect comes about through more tangible mechanisms. They include the flow of labour power, remittances and human capital between countries of origin and countries of employment. The purpose of the

next chapter is to show how these and other mechanisms can affect the country of origin in both beneficial and adverse ways.



Source: (Jorgen Carling, 1996)

CHAPTER IV
NEPAL'S FOREIGN POLICY AND STATE OF LABOUR DIPLOMACY IN
THE GULF STATES

4.1 Nepal's Foreign Policy

The fundamental objective of Nepal's foreign policy according to the Constitutions of Nepal is to enhance the dignity of the nation by safeguarding sovereignty, territorial integrity, independence, and promoting economic wellbeing and prosperity of Nepal. It is also aimed at contributing to global peace, harmony and security.

According to (MOFA,2019), Nepal's foreign policy is guided by the following basic principles:

1. Mutual respect for each other's territorial integrity and sovereignty.
2. Non-interference in each other's internal affairs.
3. Respect for mutual equality.
4. Non-aggression and the peaceful settlement of disputes.
5. Cooperation for mutual benefit.
6. Abiding faith in the Charter of the United Nations.
7. Value of world peace.

As stated in MOFA (2019) official website Fundamental Objectives of Nepal's Foreign Policy are:

1. Maintaining sovereignty, territorial integrity and independence.
2. Ideals of Panchasheel, non-alignment, UN Charter. International law and norms of world peace.

3. Amity with all and enmity with none.
4. Development goals and objectives at home-the guideposts.
5. Values of Nepali culture, civilization and identity.
6. Ensuring safety, security and dignity of our people living abroad.

4.1.1 Economic Diplomacy

Guided by the national motto of socio-economic transformation through the strengthened economic diplomacy, the Ministry of Foreign Affairs remained engaged in promoting Nepal's economic interests through Nepali Missions abroad. With a view to making the economic diplomacy programs more effective and result-oriented, MOFA prioritized the task of formulating country-specific strategies on economic diplomacy (MOFA,2019).

Nepal's economic diplomacy efforts have focused on facilitating access of national products to foreign markets; attracting foreign direct investment (FDI) to the country; attracting tourists for national destinations; safeguarding interests of Nepali migrant workers abroad; and coordinating for international cooperation and technology transfer for the economic development of Nepal.

With an objective of contributing to achieve economic prosperity and promote national economic interests through effective and efficient conduct of economic diplomacy, the level and intensity of economic engagements with the neighbors and other friendly countries was increased(MOFA,2018).

Bilateral, regional and multilateral engagements laid emphasis on foreign trade, investment, technology transfer, tourism, development cooperation, foreign employment, climate change as key dimensions of the country's economic diplomacy.

4.1.2 Labour Diplomacy under Economic Diplomacy

To conduct economic diplomacy total of 195 program under four major thematic areas were organized through Nepali Missions abroad. According to annual report of MOFA 2017/2018 there were all total 18 programs conducted and the percentage of allocated for foreign employment management program was 8.2 (MOFA, Annual Report 2017-2018).

As stated in MOFA Annual Report (2018) Malaysia was the top employment destination for Nepali migrant workers. Other top-ranking foreign employment destinations remained Qatar, Saudi Arabia, UAE, Kuwait, Bahrain, Oman, South Korea, Lebanon, Israel, and Japan, among others.

The Ministry of Foreign Affairs remained focused on ensuring safe, secure, dignified and productive foreign employment of Nepali nationals abroad. Nepali diplomatic missions in destination countries are engaged with concerned authorities and through various program which aims to facilitate safeguard and systematize the employment opportunities for Nepali migrant workers.

Nepali Missions in the labor destination countries organizes foreign employment related program. The program included safety and security of labour, identification of new avenues for employment, claiming of compensation for the death of migrant workers and promoting productive use of remittances (MOFA, Annual report 2017-2018).

4.2 State of Nepal bilateral relations and agreements with three major Gulf Countries

4.2.1 Nepal UAE Bilateral Relations

Nepal and the United Arab Emirates have established their diplomatic relations on 22 January 1977. Nepal has established its residential embassy in Abu Dhabi at the Charge d' Affairs level on 11 April 2004 and upgraded at the Ambassadorial level on 21 December 2007. The UAE has established its residential mission to Nepal on 10 May 2016 at the Ambassadorial level (Embassy of Nepal ,UAE 2019).

The UAE is a home for the expatriates from around the world which roughly constitutes 85% of its total residents in the country. It is one of a five major destination countries for the Nepalese migrates to work. As of today, about 12% of the total migrants from Nepal live in the UAE. Likewise, Nepal is one of the most important sources of labor destination for the UAE as well, constituting the fifth largest group of expatriates in this country. Nepalese work in the field of Security, Driving, Sales, Hospitality, Construction, Cleaning etc. Provided that Nepal trains and sends the semi-skilled and skilled labor-force in this country, there is lots of demand for the Nepalese workers for their hard work, sincerity and performance at par excellence in their fields (Embassy of Nepal, UAE 2019).

Nepal is a remittance based economy as it constitutes more one fourth of its total GDP. The contribution of the remitters from the Gulf Countries like the UAE for sustaining the economy of the country is praiseworthy. The UAE is the fourth largest source of remittance income for Nepal. As it's illegal to send transaction money through Hundi/Hawala to Nepal, most of the remittance from the UAE to Nepal flows

through banking channels like commercial banks, remittance companies and money transfer agencies. In the F/Y 2013/14, \$535.502 million has been sent as remittance money from the UAE to Nepal through banking channels only(ibd).

4.2.1.1 Bilateral Agreements between Nepal and Government of UAE

An MOU between the Government of Nepal (GON) and the Government of the United Arab Emirates in the field of manpower was signed on 3rd July, 2007. The MOU does not specifically address women workers, but rather discusses issues pertaining to both genders or just to male migrant workers. However, it clearly states that the employer will be responsible for placement and recruitment of migrant workers from Nepal through a mutual selection process. It mentions that the expatriate workers should get placement of service, accommodation, social and health services as well as other facilities according to the rules and regulations of the UAE. And, they are to be monitored through periodic reports sent to the embassy of Nepal in Abu Dhabi by the employers (CESLAM,2019).

The MOU also mentions that the required specifications and qualifications for jobs must be clearly stated in the application, which should also include conditions of employment such as salary, accommodation, transportation and other relevant terms. It also explicitly states that the terms and conditions of employment of workers must be defined by a contract between the worker and the employer. This contract must clearly state the rights and the obligations of the two sides in line with the provisions of the labour law and regulations and it must be authenticated by the Ministry of Labor of UAE. This provision seems to have the potential to protect the workers from being abused. It also states that Nepalese workers will have the right to remit their earnings and savings to their country according to the rules and regulations of

the states concerned and the UAE will take appropriate measures to facilitate such transfers. And, in case of any dispute between the employer and employee, a complaint can be presented to the competent department of the Ministry of Labour in UAE for an amicable settlement. If a settlement is not reached, the complaint can be referred to the competent judicial authorities in the UAE. This provision has the potential to protect those workers who have valid documents and are courageous enough to pursue a complaint against their employers (ibid).

4.2.2 Nepal-Saudi Arabia Bilateral Relations

As mentioned in the website of Embassy of Nepal, Saudi Arabia, Nepal and the Kingdom of Saudi Arabia established their diplomatic relations on March 15, 1977. Immediately, Nepal opened its Embassy in Saudi Arabia in 1978 at the level of Charge d' Affaires. Ever, since the establishment of diplomatic relations, Nepal and Saudi Arabia have been enjoying best of relations with each other. Bilateral relations have continued to be strengthened on the basis of the five principles of peaceful co-existence, friendship and cooperation. Both the nations have expressed avowed commitments and loyalty to the principles of the United Nations Charter and work together in the United Nations as well as other international fora for the common benefit of the humankind (Embassy of Nepal, Saudi Arabia 2019).

Nepal has made a request to the Saudi government to open its Embassy in Nepal at the earliest with a view to expanding the bilateral relations to boost cooperation in trade, investment, and other development fronts as well as to facilitate the flow of Nepalese workers willing to take up employment in Saudi Arabia. The establishment of the Embassy will also greatly facilitate the proper management of Hajj pilgrimage by Nepalese Muslims.

People to people relations have grown steadily after the arrival of Nepalese laborers in the Kingdom of Saudi Arabia just a decade ago. It is estimated that the number of Nepalese currently working in Saudi Arabia is well above 500,000 (Embassy of Nepal, Saudi Arabia 2019).

Despite coming from a very starkly different social, geographical and religious as well as cultural environment, Nepalese have been welcomed by the Saudi people very much due to their dedication to work, loyalty, sincerity and integrity. The prospect of employment in Saudi Arabia is ever growing due to ongoing development works being undertaken by the Saudi Government. However, there are also complex issues related to the proper management of the various problems faced by the Nepalese expatriates— ranging from malpractices in recruitment at home to exploitation at the destination country for lack of appropriate and swift legal protection to foreign workers. The plight of female workers, particularly, Housemaids is of utmost concern requiring effective monitoring and coordination among all stakeholders, both within the country and abroad (ibid).

4.2.3 Nepal-Qatar Bilateral Relations

Nepal and the State of Qatar established their diplomatic relations on 21 January 1977. Since that time onwards, bilateral relations between the two countries are cordial and friendly that are based on mutual trust, respect, understanding and cooperation. Nepal opened its Embassy in Doha on 11 July 2000 whereas Qatar set up its Embassy in Kathmandu in August 2011. Before that, Qatari Ambassador resident in New Delhi was concurrently accredited to Nepal (MOFA, 2019).

As Nepal and Qatar share similar views on many international agenda and issues, both countries at the United Nations, Non-Aligned Movement, and other international forums have been working in tandem and playing active role for the cause of peace, security and development in the world.

As part of the economic diplomacy, Government of Nepal has taken the policy of sending its nationals abroad for employment with honor and dignity. Pursuant to it, Nepalese people are going abroad for the quest of jobs. Qatar has become one of the most preferred destinations for employment opportunities. After the signing of bilateral Agreement between Nepal and Qatar concerning Nepalese manpower employment in the State of Qatar on 21 March 2005 and its Additional Protocol (signed on 20 January 2008), the flow of the people has been increasing annually. According to a conservative estimate around 370,000 to 400,000 Nepalese people are working in Qatar but most of them are in menial jobs. Dedication to work, loyalty, sincerity and integrity are some of the attributes of the Nepalese workers that have earned trust and goodwill of the people and Government of Qatar (MOFA,2019)..

The prospect of employment in Qatar is ever growing due to the massive construction of infrastructures by the Qatari Government in the context of hosting the World Cup-2022 and realizing the goals set in the Qatar National Vision 2030 of the Government of the State of Qatar.

4.2.3.1 Bilateral agreements between Nepal and Government of the State of Qatar

The MOU between Government of Nepal and the Government of the State of Qatar concerning Nepalese migrant worker employment was signed on 21st March, 2005.

This is the only MOU that contains a standard employment contract. Similar to the other MOUs between Nepal and Gulf countries, this MOU does not specifically address female workers. However, it seeks to guarantee some benefits that are relevant to both genders. The recruitment agency, apart from including the required qualifications, experiences and specializations for jobs, also must include information on the duration of the contract, conditions of employment, salary, end of service gratuity, probationary period, and the facilities such as transport and accommodation, as well as all other information to enable workers to make informed decisions about signing employment contracts. According to the MOU, it is the duty of the Ministry of Labour and Employment of the GON to facilitate procedures for medical testing and acquiring passports or travel permits required for Nepalese citizens to work in the State of Qatar(MOFA,2019).

It is also the GON's duty to provide adequate information on conditions of employment and costs and standard of living in Qatar. It is clearly stated in Article (6) that the employer should bear all the travel expenses of the worker from Nepal to the place of work in the State of Qatar upon entering service for the first time as well as the expenses of the return passage(ibid). The employer should also bear the round-trip travel costs of the worker on leave periods as provided for in the employment contract. However, if the employee resigns before the expiration of the contract or commits a breach resulting in his dismissal from work, the employer will be exempted from paying the return passage of the worker and the end of service gratuity.

As mentioned on the agreement the terms and conditions of employment of workers must be defined by a contract between the worker and the employer. This contract

must clearly state the basic employment conditions, and the rights and obligations of the two sides in line with the laws and regulations, such as the Qatari Labour Law. Article (8) clearly states that the contract should include the details of the employer's obligations regarding the worker's accommodation, the kind of accommodation, and medical treatment. The employer can change the text of the contract only if the change results in a benefit to the worker and is subject to approval by the Ministry of Civil Service Affairs and Housing of the State of Qatar. Nepalese workers will have the right to transfer their earnings and savings to their country according to the rules and regulations applicable in the State of Qatar. The competent body within the Ministry of Civil Service Affairs and Housing of the State of Qatar will monitor the implementation of the agreement. In case of any dispute between the sides, an amicable settlement will be sought by submitting a complaint to the concerned body within Ministry of Civil Service Affairs and Housing of the State of Qatar. If a settlement is not reached in this manner, the complaint can be referred to the competent judicial authorities in the State of Qatar. If the employer wants to extend the term of contract, the worker should be informed at least thirty days prior to the expiry date of the contract(MOFA,2019).

4.3 Vulnerability and Problems of Nepali Migrant Workers in the Gulf

Nepal represents a major labor supplier to Persian Gulf countries (Gulf), which include Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (Williams, 2014). Indeed, four of the top five labor destinations for Nepalese migrants are Gulf countries. Yet there is a dark side to Nepalese migration to the Gulf. Both academic research (Joshi, Simkhada, & Prescott, 2011) and the popular press (Gattoni,2015) have detailed the horrific working conditions that Nepalese migrants,

primarily young men aged 20–35 years, confront in Gulf countries, most notably, Saudi Arabia, Qatar, and the UAE. The bitter reality is that migration to the Gulf often leads to countless deaths, sexual violence, and chronic illness among young Nepalese migrants (Modarres, 2010; Stephenson, 2015).

Nepalese men, primarily working in construction jobs in the Gulf, confront elevated risks of death by heat exhaustion and dehydration, as well as chronic problems associated with kidney failure, from working outside in adverse environmental conditions, especially in Qatar (Joshi et al., 2011). For instance, 185 Nepali construction workers died while building the World Cup infrastructure; at this rate, an estimated 4,000 migrant workers will die before the launch of Qatar's World Cup in 1922 (Erfani, 2015). Although the Nepali government frequently raises concerns with Qatar over the number of Nepali migrants killed in construction, Nepal's embassy in Qatar promotes the cost-savings benefit associated with Nepali workers (Bruslé, 2009/2010).

Although death rates among Nepalese women in the Gulf countries are lower than those of their male counterparts, those taking housekeeping jobs in Saudi Arabia and Kuwait are frequently victims of physical violence, including rape (Schliebs, 2009). While other research confirms that female Nepalese domestic workers in Qatar, UAE, and Kuwait often end up as victims of sex trafficking (Kaufman & Crawford, 2011).

Indeed, under the Kafala (sponsorship) system, which functions as the legal mechanism for hosting foreign workers in Gulf countries, domestic workers' visa and legal status is tied to the host sponsor. The sponsor has complete control over the mobility of a domestic worker, for a minimum of two years, as well as full economic and legal responsibility of his or her domestic worker (Bajracharya & Sijapati, 2012).

Thus, the Kafala system often supports a dire situation for Nepali female domestic workers of low salaries, long working hours, physical, verbal, sexual, and psychological abuse, and no means for seeking governmental assistance. Given the abuses that transpire overseas, the prevalence of suicide among migrant females upon their returning to Nepal is not surprising, as the country lacks a mental health infrastructure to provide adequate medical and emotional support to victimized women (Puvar, 2015).

Given the life-threatening dangers associated with labor migration to the Gulf, an understanding as to why young adults in Nepal choose to migrate to the Gulf for employment, and to essentially put their lives at risk by doing so, is well-warranted. Given the risks associated with working in the Gulf, including death, bodily injury, and physical violence, researchers have suggested that Nepalese may be receiving a false reality of working conditions in the Gulf from both friends and family whom are currently employed in the Gulf. (Gardner, 2012) and from brokerage and recruitment agencies that represent Gulf employers in Nepal (Kern & Müller-Böker, 2015). Consequently, some pundits question the ability of Nepalese to be rational in their decision to migrate to the Gulf without their understanding all of the bodily costs involved.

The major problems that Migrant workers still experience are as follows(MOLESS,2018):

- Exploitation and human rights abuses
- Confiscated passports and other legal documents
- Low or withheld wages
- Poor living conditions

- Discrimination in the workplace
- Lack of access to justice
- Physical/sexual/psychological abuse
- Withholding pay (often for long periods), non-payment, lower than agreed pay
- Providing sub-standard housing and lodging for employees
- Overtime work without compensation
- Language Barrier
- Lack of information regarding workers' rights
- Additional plight of domestic workers (e.g. isolation from other workers, often locked in the house, prohibited from contacting family/friends, etc.)

4.4 Nepali Mission and their Efforts Regarding Labour Diplomacy

Ministry of Foreign Affairs (MoFA) provides various services to migrants labour through Nepali embassies located in destination countries. Diplomatic missions are true guardian of migrant workers. There are Nepali diplomatic missions in all major Gulf States. As if Nepali diplomatic missions are working actively in destination countries but they do not have sufficient human resource and logistic support to perform their duty. To support Nepalese migrant worker Nepali diplomatic mission needs legal, health, counseling experts. The manpower in the Embassies needs to be more efficient and active, and their morale should be very high in order to work for the protection of rights and welfare of Nepalese nationals in the destination countries.

Nepalese missions are ultimate agencies of Nepalese workers to depend upon and have faith in Mission reflects the whole strength of a nation. Nepali missions have no sufficient human and financial resources. This curtails their efficiency. Therefore,

labors are not getting even the required support on time. Nepal needs to restructure embassy and make them affluent to make foreign posts effective.

Bilateral Labor Agreement (BLA) is a major tool to protect the right of migrant worker. Provision of BLA gives migrant worker a ground to protect their right legally. Nepal has Bilateral Labor Agreement only with Qatar and MoU with other few countries till this date, though we are trying to have BLA with other destination countries.

High-level visit is also supportive to protect the right of migrant worker. This will help to open the door of new opportunity, to forge bilateral labor agreement, and to provide amnesty to the worker. Nepal should increase such types of mutual visits in these days

Partnership with international community: To protect the right of migrant worker Nepal need to work together with international community. Being a responsible member of international community, Nepal is working actively with international community, to protect the rights of migrant worker. Colombo Process, Geneva Conference and Abudhabi Dialogue are some key international forums discussing about migrant worker's right. In this concern, the good news is that 18th SAARC summit hosted by Nepal endorsed the agenda of migrant's worker. This initiation obviously increases the strength of South Asian countries to work collectively to protect fundamental rights of migrant worker.

4.5 Labour Attaché to Facilitate Labour Diplomacy

Labour diplomacy refers to the work performed principally by labour officers (also called labor attaché's) at mission and more specially the advocacy and promotion of

core labour standards within the context of human rights and international trade policy. Labour diplomacy is necessary to empower, safeguard and expand the migrant labour market. The Foreign Employment Act (FEA) (section 68) requires the appointment of a labour attaché in destination countries where 5,000 or more Nepali migrant workers are based. The Government of Nepal has appointed labour attachés in eight major foreign employment destinations countries of Nepali Migrant Workers Bahrain, Kuwait, Malaysia, Oman, the Republic of Korea, Saudi Arabia, and the UAE. The main job of these attaches would be to look after the interests and welfare of Nepalese citizens.

As described on FEA section (68) of Foreign Employment Act the functions and duties of the labour attaché are as follows:

- Provide information to the Government of Nepal on the conditions of labour, employment and immigration where Nepali migrants are working and the steps taken by the host country for the protection of their rights.
- Assist in resolving any dispute between workers and businesses involved in sending foreign labour migrants abroad.
- Make the necessary arrangements for rescuing any Nepali workers who have been deemed helpless in the course of foreign employment.
- Furnish information on the availability of employment that matches with the skills of Nepali workers.
- Manage the repatriation arrangements of the body of any deceased migrant worker.
- Maintain bilateral agreements at the government level for the supply of workers from Nepal.

- Provide welfare-protecting information to migrant workers and discourage them to do any other work that set forth in their work contract.
- Supervise any activity that may affect migrant workers, and
- Perform functions as prescribed by the Government when necessary.

CHAPTER V

**EXISTING NATIONAL AND INTERNATIONAL INSTRUMENTS,
INSTITUTIONS AND POLICY TO GOVERN LABOUR MIGRATION**

5.1 International Human Rights Instruments and Labor Migration

As the international community has grown increasingly aware of the special vulnerabilities of migrant workers, it has both developed new instruments for protecting and promoting migrant worker rights, and emphasized that existing instruments also apply to migrant workers. For example, in 1990 states adopted the United Nations (UN) Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), which in turn builds on the rights contained in existing UN and International Labour Organization (ILO) treaties. It “reaffirm[s] and establish[es]” the basic human rights norms that it considers necessary for migrant workers to have free and equal enjoyment of rights and dignity throughout all stages of labor migration(IC-CMW,1990).

The mechanisms charged with overseeing UN human rights treaties have also elaborated on and given guidance regarding how specific treaty provisions apply to migrant workers. For example, the UN Committee overseeing the Convention on the Elimination of All Forms of Discrimination Against Women (the CEDAW Committee) has addressed the human rights concerns of women migrants through General Recommendation on Women Migrant Workers. This recommendation recognizes both that women experience human rights violations during all stages of migration and that CEDAW can address some of those violations.

The UN Human Rights Committee and the ILO have also addressed obligations of origin countries under the core human rights and labor rights conventions to protect migrants from illegal practices of discrimination, forced labor, exploitation, and abuse. Regional organizations have created their own normative frameworks relevant to migrant workers. For example, in 2002 the South Asian Association for Regional Cooperation (SAARC) adopted and signed the SAARC Convention on Preventing and Combating Trafficking in Women and Children, and created a regional taskforce to monitor and assess the convention's implementation. The Dhaka Declaration of Colombo Process Member Countries was drafted in 2011 within the Colombo Process, a regional ministerial consultation process on labor migration for countries of origins in Asia (Dhaka Declaration 2011) . It includes recommendations to promote the rights, welfare, and dignity of migrant workers.

5.2 Other International Conventions and Conferences

ILO Migration for Employment Convention of 1949 (No. 97): The convention provides the foundation for equal treatment between national and regular migrants in recruitment procedures, living and working, access to justice, tax and social security regulations. It sets out details for contract conditions, participants of migrant in job training or promotion and deals with provisions for family reunification and appeals against unjustified termination of employment or expulsion and other measure to regulate the entire migration process.

ILO Migrant Workers (supplementary Provisions) Convention of 1975 (No. 143): The convention was elaborated at a time when concern about irregular migration was growing. It sets out the requirements for respect of the rights of the migrants with an

irregular status, whilst providing for measures to end clandestine trafficking and to penalize employers of irregular migration.

The world conference on human rights held at Vienna in June 1993 in its Declaration and Programme of Action urged all States to guarantee the protection of human rights of all migrant workers and their families. The conference also stated that the creation of conditions to foster greater harmony and tolerance between migrant workers and the society of host States was of particular importance.

The International Conference on Population and Development (ICPD), held at Cairo in September 1994, dealt with migration issues and, in particular, with the question of global migration. In chapter X of the Programme of Action which it adopted, the conference called for a comprehensive international approach to dealing with international migration. Among the areas requiring action, the conference identified mainly the root causes of migration and called for measures to deal with documented, as well as undocumented migrants.

World Summit for Social Development, held at Copenhagen in March 1995, states committed themselves, at the international level, to ensure that migrant workers benefit from the protection provided by relevant national and international instruments, to take concrete and effective measures against the exploitation of migrant workers and to encourage all states to consider ratifying and fully implementing international instruments relating to migrant workers.

The fourth World Conference on Women, held at Beijing in September 1995, paid considerable attention to the situation of migrant women. In the platform of action, which it adopted, the conference called on states to recognize the vulnerability to

violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host states depends on employers who may exploit their situation. It also urged governments to establish linguistically and culturally accessible services for migrant women and girls, including migrant workers who are the victims of gender based violence.

Similarly, International Labour conference 2004 adopted a plan of action to ensure that migrant workers are covered by the provision of international labour standard. Framework accepted in the conference will comprise international guidelines between sending and receiving countries that address different aspects of migration; promoting decent work of migrant workers; licensing and supervising agencies for migrant workers; preventing abusive practices migrant smuggling and trafficking in persons; protecting their human rights and preventing and combating irregular labour migration.

The plan also covers specific risks for all migrant workers-women and men-in certain occupations and sectors with particular emphasis on dirty, demeaning and dangerous jobs and on women in domestic service and the informal economy. It also seeks to labour inspection, create channels for migrant workers to lodge complaints and deals with policies to encourage return migration, re-integration into the country of origin and transfer of capital and technology by migrants.

5.3 Nepal's Migration Governance

Neither any precise coverage nor act or regulation was there to address the issue of labour migration seeing that long previous time. The existing labour and employment policies and respective laws and bylaws have been considering to regulate the issues

of foreign employment. In the beginning of sixties decade, the issue of foreign employment got due importance and respective policies were felt urgent to regulate the existing situation of labour migration. Promulgation of Foreign Employment Act, 2007 and Foreign Employment Regulation, 2007 were the result of the initiation from the government side.

Labour migration governance is a priority issue for the Government of Nepal, and it remains steadfast to manage and protect the rights of the growing number of Nepali migrant workers. The Governments of Nepal effort at governing foreign employment began in 1985 with the enactment of the Foreign Employment Act (FEA). It aimed at regulating the volume of migrant workers leaving for employment to countries other than in India, which was relatively low at that time. A significant rise in the outflow of migrant workers came about with the democratic revolution in 1990 that resulted in government adopting a liberal economic approach to issues of labour management. It opened doors for all Nepali citizens to seek employment globally and allowed the private sector to engage intensively in the migration process.

As the outflow of migrant workers increased, the Government has made necessary changes to its approach by expanding the scope of foreign employment governance and reforming its role in the migration process. Two decades after the adoption of the first FEA, the Government's role was inclined towards promoting safe and decent foreign employment, protecting the rights of migrant workers, and regulating private sectors and individuals providing services for foreign employment. A major turning point in governing labour migration was 2007 when the Government enacted a new law considering the meteoric rise in foreign employment trend, which led to new legal and administrative challenges, and thus increasing demand for the protection of

migrant workers. At the same time, the Government had to take account of the socio-economic impacts of labour migration in Nepal.

As stated in Employment Labour Migration for Employment A Status Report for Nepal: 2013/2014 the FEA, 2007 paved the way for establishment of a separate and dedicated department concerning foreign employment, namely the Department of Foreign Employment that regulates the migration process and also the creation of Foreign Employment Promotion Board that sought to ensure the social protection of migrant workers (MOLE, DOFE,2014). Subsequently, the Foreign Employment Policy 2012, the first national policy on foreign employment was devised with an aim to integrate socio-economic dimensions of increasing trends in foreign employment along with providing overall guidance for regulating the migration cycle.

The Government of Nepal is cognizant of international practices on governing labour migration for employment and ensures coherency of its efforts in line with the international standards on labour and migration. The Government is a member country of ILO, and Nepal has ratified 11 Conventions that ensure rights to fair and decent labour practices. The Government of Nepal was elected as a Deputy

Member of the Governing Body of the ILO in June 2017. The Government of Nepal is also a regional actor on the issues of labour migration. It has been a member of the Colombo Process since 2003 and the Chair of the regional process since 2017. The Colombo Process is a regional consultative process in the management of overseas employment and contractual labour for countries of origins in Asia, and it consists of twelve Member States and eight Observer Countries(MOLE,DOFE,2014).

Likewise, Nepal is a participating country in the Abu Dhabi Dialogue, initiated since 2008, that takes a collaborative approach to address development in temporary labour mobility in Asia by building action-oriented partnerships between countries of origin and destination. In addition, Nepal played a leading role together with the SAARC Secretariat to hold the first ever SAARC level discussion on regional cooperation on labour migration, which resulted in the endorsement of the Plan of Action for Cooperation on Labour Migration. The Plan of Action identified common strategies and acts as the region's blueprint for collective action on labour migration.

Government of Nepal has attempted to regulate, facilitate and monitor the migration processes for foreign labour employment, protect the rights of labour migrants, and build an enabling environment for investment by the returnee migrants as well as the transfer of their newly acquired skills and knowledge. The achievements of the Government are reflected in the policies, laws and institutional mechanisms.

As mentioned in Employment Labour Migration for Employment, A Status Report for Nepal (2014) the major time-line of key events in foreign employment governance in Nepal is as follows (MOLE,DOFE,2014):

- 1985 Enactment of first law on foreign employment: Foreign Employment Act 1985
- 1992 First amendment of the Foreign Employment Act
- 1998 Second amendment of the Foreign Employment Act
- 1999 Enactment of Foreign Employment Rules, 1999
- 2003 The Government becomes member of the Colombo Process – a regional consultative forum on management of foreign employment and contractual labour

- 2007 Enactment of new law: Foreign Employment Act, 2007
- 2008 Establishment of the Foreign Employment Promotion Board

Establishment of the Department of Foreign Employment; the responsibility of which was until then overseen by the Department of Labour and Employment Promotion in the then Ministry of Labour and Transport Management.

- Enactment of Foreign Employment Rules, 2008
- 2010 Establishment of Foreign Employment Tribunal
- 2011 First amendment of Foreign Employment Rules, 2011
- 2012 Announcement of the first, Foreign Employment Policy, 2012
- 2015 Development of five-year National Strategic Action Plan on Foreign Employment
- First Amendment of Foreign Employment Act, 2007
- 2016 First SAARC-level regional consultation on labour migration held by the Government of
- Nepal together with the SAARC Secretariat
- 2017 Nepal becomes the Chair of the Colombo Process

5.4 Prevailing Laws

5.4.1 Foreign Employment Act, 2007

The FEA, 2007 and the accompanying Rules (2008) govern all matters relating to migration for foreign employment from Nepal. The law and its rules promote the security and welfare of foreign labour migrants with the provisions regarding the protection to their rights and for the regularization and monitoring of the businesses

that facilitate the migration process. The provisions include the establishment of necessary institutional mechanisms to govern foreign employment, the creation of a welfare fund for migrant workers, insurance coverage, pre-departure orientation and training, compensation to migrant workers and their families, rescue and repatriation of migrant workers and their income. In addition, they specify the provision of monitoring mechanisms, such as a facility at the international airport, a mechanism to receive, investigate and adjudicate complaints as well as setting up a tribunal to settle cases and penalize perpetrators. Keeping pace with the expanding challenges and dynamics of foreign labour migration, necessary amendments were made to the Foreign Employment Rules 2008 in 2011 and FEA, 2007 in 2015, in order to strengthen the prevailing laws and rules to make foreign employment safe, decent and dignified.

5.4.2 Foreign Employment Policy, 2012

A Foreign Employment Policy was announced in 2012. It is the first policy of the Government to address the socio-economic dimension of the increasing trends in foreign labour employment. The policy recognizes irregularities in the managing of the migration process for employment and lack of good governance as major problems. It also recognizes that poorly informed and weakly prepared migrant workers are at greater risk of exploitation and vulnerable situations. It acknowledges the increasing trend among female labour migrants going abroad for employment and recognizes the problems that they experience during the migration process. Moreover, it heeds to the issues of families left behind and points out the need to strategize a re-integration process for returning migrants. The policy set a goal to “ensure safe, organized, respectable and reliable foreign employment to contribute to poverty

reduction along with sustainable economic and social development through economic and non-economic benefits of foreign employment” and specified the following seven policy pillars(MOLE,2014):

- Identify and promote employment opportunities in the international market.
- Develop skilled human resources to a competitive capacity to maximize the benefits from foreign employment.
- Make each step of the foreign employment process simple, transparent, organized and safe.
- Address the concerns of female migrant workers and ensure their rights in the overall migration cycle.
- Ensure good governance in the management of foreign employment.
- Marshal local, national and international resources for managing foreign employment and promote collaborative efforts by increasing sectoral partnerships.
- Help foreign labour migrants utilize their remittances for their own development as much as possible.

CHAPTER VI
NATIONAL INSTITUTION AND MECHANISM TO GOVERN LABOUR
MIGRATION

6 Institutional Mechanism

6.1 Ministry of Labour and Employment and Social Security

The Ministry of Labour and Employment was established as an independent entity in 2012 after it separated from the Ministry of Labour and Transport Management. As per the Government's Allocation of Business Rules, 2012, the Ministry of Labour and Employment takes the lead in the formulation, implementation, coordination, monitoring and evaluation of policies, plans, and programs related to labour and employment. The objectives of the Ministry have two folds:

- to create dignified employment opportunities in line with the right to labour granted by the Constitution of Nepal such that unemployment and under-employment are reduced; and
- to make foreign employment safe, dignified and well-managed.

The Foreign Employment and International Labour Relations Division, within the Ministry, administers all matters relating to foreign employment. As of FY 2016/17, the work priorities related to foreign employment in line with the objectives of the Ministry were(MOLE,2014):

- strengthening and expanding of the institutional mechanisms that facilitate foreign employment;
- appointing labour attaché in major destination countries;

- expanding and promoting labour market in collaboration with Non-residential Nepali Association along with protecting of the rights of the migrant workers;
- collaborating with SAARC member countries and other destination countries to develop and endorse Plan of Action for Cooperation on Labour Migration to include protection and support mechanisms for migrant workers;
- developing a standard format for bilateral agreements, entering into new bilateral labour agreements with key destination countries and reforming existing bilateral agreements;
- encouraging migrant workers to remit their income through formal banking channels and increasing employment domestically by facilitating productive use of remittance;
- making foreign employment inclusive to marginalized groups by increasing their access to employment generating training;
- collaborating with financial institutions to increase access to credit for those entering the domestic and international labour market; strengthening the information management system regarding foreign employment;
- Effectively managing pre-departure orientation and preliminary training for migrant workers that includes cultural knowledge of destination countries, protection mechanisms, and health requirements; and
- Gradually developing provisions to ensure that only skill tested and certified individuals are sent for foreign employment.

In an effort to expand its extraterritorial jurisdiction and accord more protection to its citizens abroad, the Government of Nepal has signed bilateral agreements or Memorandum of Understanding with key destination countries.

6.2 Foreign Employment Board

The FEB was established in 2008 according to Section 38 of the FEA, 2007 and is chaired by the Minister of Labour and Employment. It consists of 23 members, including representatives from different ministries, Nepal Rastra Bank, civil societies, and private sector. Its major responsibilities are the promotional activities for foreign employment and ensuring the social protection and welfare of migrant workers. The Board conducts its responsibilities through the FEB Secretariat and carries out following functions(MOLE,2014):

- conduct studies relating to international labour markets and explore new destinations;
- collect, process and publish information that promotes specific jobs;
- manage the Foreign Employment Welfare Fund;
- conduct pre-departure orientation, skills training, and arrange emergency contact detail for each worker that leads to their improved protection while working abroad;
- formulate, implement, monitor and evaluate programs to use the skills, capital and technology of returnee migrants and mobilize them for national interests; prescribe the qualifications for the registration of businesses that provide pre-departure orientation training;
- formulate and approve the curricula of pre-departure orientation training;
- formulate short- and long- term policies as required to make foreign employment safe, systematic
- and decent; carry out a comprehensive study on the implementation of the FEA and suggest amendments to the Government; and

- advise the Government on fixing of service charges and promotional costs.
- The Board manages the Foreign Employment Welfare Fund that was established under the FEA, 2007. The Act has a provision for welfare fund to ensure social security and protection of migrant workers, returnee migrant workers and their families. The fund is pooled from following sources:
- amount deposited by the departing migrant worker (NRs. 1,500 for three-year labour permit and NRs. 2,500 for labour permit extending more than 3 years; paid one-time);
 - interests from the deposit made by foreign employment businesses when obtaining a license of operation and license renewal cost;
 - amount received in the form of fees and renewal fees from Government of Nepal licensed private recruitment agencies;
 - registration fees deposited by the orientation training institutions to obtain a license of operation and their renewal;
 - amounts received from institutions operating foreign employment services; and
 - grants and assistance received from any native or foreign persons or institutions.

The Welfare Fund is utilized in following ways(MOLE,2014):

- providing skill-oriented training to workers going for foreign employment;
- providing monetary support and compensation to migrant workers or their families in case the

- migrant worker was injured and/or disabled during foreign employment or had to be returned due to adverse conditions (as stated in Section 75 of the FEA, 2007) from destination countries;
- repatriating workers to Nepal due to injuries or if the workers become helpless contravening the terms and conditions stipulated in the contract;
- repatriating dead bodies of migrant workers from destination countries when needed and provide monetary support to the family of the deceased migrant worker;
- carrying out awareness raising and promotional activities on foreign employment and safer migration; and
- conducting employment generating programs for returnee migrants.

6.3 Department of Foreign Employment

The restructuring of the previous Department of Labour and Employment Promotion resulted in a division that led to creation of the present DOFE and the Department of Labour. The DOFE is the key institution in facilitating and regulating foreign employment. Its objectives revolve around promoting safe and dignified foreign-based work opportunities, including regulating the operations of recruitment agencies and other business offering related services to ensure they conduct fair and decent practices(MOLE,DOFE,2014). The Department has the following scope of work:

Policy work

- carry out policy work related to the FEA, Regulation, Directives and Working Procedures;

- •carry out labour agreements with destination countries for foreign employment in collaboration with relevant national and international organizations;
- coordinate and collaborate in matters related to foreign employment and international migration;

Regulatory work

- •regulate foreign employment business, including the issuance, renewal and revocation of a license needed to operate;
- •authorize a permit to institutions that provide foreign employment orientation training and their monitoring;
- register complaints related to foreign employment;
- investigate and prosecute cases registered in the Department;
- coordinate in providing compensation to migrant workers; and
- support in rescue of migrant workers from destination countries.

Notification of job opportunities in foreign countries, typically coursed through the recruitment agencies, are provided to the Department in the form of a demand letter.

The Department reviews the terms and conditions of a contract to ensure its legal compliance and gives an “approval notice” for that job listing. Once a migrant is recruited for a particular job and has signed the contract, the handling agency registers the migrant with the Department through the application for a labour permit to travel abroad. At that point, the recruiting agency provides the department with the ‘appointment letter’ from the employer in the destination country, specifying the terms and conditions of the job offer (often the terms and conditions do not comply

with the contract). The labour permit is a sticker placed in the worker's passport(MOLE,DOFE,2014).

The complaints and grievances of migrant workers are registered in the Complaint Registration and Investigation Section. Cases of foreign employment filed under the FEA are considered cases against the State. When a complaint is filed, the Complaints Registration and Investigation Section must investigate the case. The Department has jurisdiction to decide if an offence has occurred, as per Sections 43-59 of the FEA. The cases beyond its jurisdiction are forwarded to the Foreign Employment Tribunal. For example, the Department does not handle cases filed by workers who received an "individual "type permit but automatically forwards them to the Tribunal. The Department of Foreign Employment maintains Foreign Employment Information Management System that maintains a database of details from the labour permit applications and permits granted as well as complaints made, and cases resolved regarding foreign employment. Majority of the data collated for this report were retrieved from the database at DOFE. It also provides online services to migrant workers, such as tracking progress in obtaining labour permits.

The DOFE restructured itself in 2013 with a view to better manage the changing context of labour migration. The Ministry of Labour and Employment established a 'Labour Village' in Kathmandu to provide smooth, quality, timely and transparent services to job seekers from a single stop location. The Kathmandu Office, Malaysia Section, Qatar Section, and Saudi Arabia Section of the Department of Foreign Employment are now located in the 'Labour Village'. It hosts a Migrant Resource Centre that provides reliable information and legal counselling to migrant workers to

improve their protection during the period of their employment. Online services for banking and insurance are also in place within the 'Labour Village' (MOLE,2014).

6.4 Foreign Employment Tribunal

The FET was established in 2007 pursuant to the FEA, 2007 and its Regulations, 2008. It is a semi judicial body consisting of three members, chaired by a Judge of the Appellate Court, a case-trying officer of the Labour Court and the gazette first class officer of the judicial service. The organization operates with 16 employees.

The jurisdictions of FET as enunciated in the FEA and FER are as follows(MOLE,2014):

- a. Prohibition on operating foreign employment business without permission: No agency can conduct affairs of foreign employment without obtaining a license as per the FEA. If found doing so, and in the process, false hope of (regular) foreign employment was provided or monetary benefit was extracted from the would-be migrant worker, then the perpetrator is penalized to reimburse the cost incurred to the migrant workers, fined (from NPR 300,000 to NPR 500,000) and can be sent to jail for three to seven years. If the would-be migrant worker has not departed for the destination country, then the penalty is cut in half.
- b. If a licensed recruiting agency sends a migrant worker without obtaining the labour permit: In cases where a licensed recruiting agency provides false hope for (regular) foreign employment and extracts money for doing so, then a total sum of the principal amount and 50 per cent more of that amount is fined to

the recruitment agency, with jail time of three to seven years and revocation of their license to operate the business.

- c. Prohibition on sending minor for foreign employment: If any licensed recruiting agency is found sending a ‘minor’ for foreign employment, such agency is fined NPR 300,000 to NPR 500,000 and is sentenced between three and seven years of jail.
- d. Prohibition on sending workers to countries not specified by the Government: If any licensed recruiting agency is found sending workers to countries not permitted by the Government of Nepal or channeling workers to such countries by obtaining a permit for other countries that are permitted, such agency is fined NPR 300,000 to NPR 700,000 and jailed for three to seven years. If the would-be migrant worker has not already departed, then, the penalty is cut in half.
- e. Action against embezzlement of necessary documents or reports: In cases in where a licensed recruitment agency embezzles necessary documents or records related to its business, that agency is fined NPR 100,000 to NPR 300,000 and jailed for six months to a year. In case of repetitive offence, the penalty is doubled.

FET operates as per the provision in the Summary Procedures Act, 1972. The cases that are filed are tried and dealt in accordance with this Act. The Tribunal also receives cases forwarded by the DOFE.

6.5 Labour Attaché

The Government of Nepal has appointed labour attachés in eight countries: Bahrain, Kuwait, Malaysia, Oman, the Republic of Korea, Saudi Arabia, and the UAE.

The FEA (section 68) requires the appointment of a labour attaché in destination countries where 5,000 or more Nepali migrant workers are based. As described on Act the functions and duties of the labour attaché

The Labour Attaché will have to inform the government about the situation of labour and employment, about factual information related to immigration in the countries where there are Nepali workers and about the steps taken by the country of destination for protecting the workers, the international human rights and the workers' rights and interests.

They need to provide information to the Government of Nepal on the conditions of labour, employment and immigration where Nepali migrants are working and the steps taken by the host country for the protection of their rights and assisting in resolving any dispute between workers and businesses involved in sending foreign labour migrants abroad.

This is possible only if a labor attaché has proper knowledge of the concerned country's labor law and of local and English languages. The tenure of labor attaché should be at least three years to ensure his level of experience benefits the workers. Furthermore, there should be at least one Public Relation Officer for every hundred thousand workers to properly address the workers' grievances.

CHAPTER VII

SUMMARY AND CONCLUSION

Globalization and migration are relatively new global experiences which are growing rapidly for past few decades and changing the world. Migration and globalization are gradually breaking down the age-old boundaries between the countries. It has been rapidly changing the traditional spheres of human activity.

Remittance income in the developing countries like Nepal has become a life line for economic development. Unexpectedly, foreign labour migration has developed in such a way that it has shifted the agricultural based economy towards remittance based economy. Nepal is one of the major suppliers of labors for the countries suffering from labor shortage and remittance from migrants became one of the important sources of house-hold income. Migration flows from Nepal to rest of the world has become an important debatable issue in the economic, political and social affairs of the country.

In this context, a migrant labour are numerous problems while they migrate for foreign employment in the country of destination. Most of the migrant abroad are working in vulnerable situations without any effective legal protection by the Nepalese government and the receiving countries government. Workplace exploitation by foreign companies is well known but the Nepalese government has not adopted any specific labour diplomacy policies to resolve the problems. Nepalese workers are kept in prison for long time on fake charges. Nevertheless, the Nepalese government has not adopted proper labour diplomacy to rescue them and assure their safe return to the homeland.

The issue and problem of international labour migration needs to be addressed at the policy level, which could assist in promoting safe migration and management of labour migration in an effective way. The Nepalese government now intends to actively promote international labour migration and to safeguard the interests and welfare of migrants however only a few initiatives have been taken so far. So, the basic things that are found to foster improvements include amending existing laws, promoting labour markets through labour diplomacy, and administrating manpower agencies and welfare activities to the best benefit of labour migrants.

There are various problems faced by the migrant workers both in home country and the country of destination. Unless addressing the problems of migrant workers from the policy level, solution is far behind. Nepalese Government on the one hand is not capable enough to the proper implementation of existed policy and the other there are several things to do to the regulation and management of foreign labour migration.

International provisions are found very sound and applicable to protect the rights of migrant workers but governments in both sending and receiving countries does not seem sincere to the domestication of the spirit of international instruments, conference recommendations and plan of action. So , the current need is for more effective migration management to reduce the vulnerabilities of migrant workers and safeguard the rights of migrant workers .

Nepalese migrants workers imprisoned in the Gulf countries as illegal migrant is because of the lack of information regarding the laws and policies of the destination countries. There is also increase in the number of stranded Nepalese migrant workers in the destination countries and their airports. The Government of Nepal has given attention on the process of rescuing such stranded migrant workers, but the magnitude

of the problem is very high; thus, the government should be proactive before the migrant workers leave their homeland for foreign employment in various destination countries

Economic diplomacy, which has different facets like employment, trade, tourism and foreign direct investment, is a matter of utmost importance to a diplomatic mission.

As more than three million Nepali workers are employed abroad, and their remittance contributes 21 percent to the GDP, foreign employment is essentially one of the most important aspects of economic diplomacy.

Thousands of Nepali migrant workers face serious problems due to the lack of legal awareness, and hundreds die every year due to poor health, safety and traffic awareness. They need proper pre departure orientation training, and it is highly expected from a diplomatic mission to launch awareness campaigns in co-ordination with the Foreign Employment Promotion Board, the Nepalese communities abroad and the Government of recipient countries.

As there is no specific act and law protecting the interests of domestic workers in the Gulf Region, the diplomatic mission should develop safe measures after a careful study of the measures adopted by other countries and recommending them to the Government of Nepal.

The sec-23 of Foreign Employment Act 2064 empowers the Govt. to specify the minimum remuneration of workers. However, a diplomatic mission should reasonably determine minimum salaries of different categories of workers on the basis of the cost of obtaining a job, cost of living, cost of supplier, salaries of other migrant workers, economic condition of sending and receiving countries and quality of workers; this

should then be recommended to the Government for specification and implementation.

While lack of educated workers is one of the serious problems, Nepal is erroneously known as an unskilled labour supplying country in the international job market. A diplomatic mission is required to launch an awareness campaign to remove such a misconception and explore better and safer job opportunities. It should arrange high level visits for enhancing bilateral relations and take initiative ensuring workers' rights are established. Unfortunately, most of our diplomatic missions are unable to discharge their assigned responsibilities. If workers' rights are to be guarded, they need to be better equipped with physical, financial and human resources.

Labor diplomacy continues to have a very important role to play in governing international labour migration. Effective labor diplomacy contributes significantly to fulfil goals of Nepal's foreign policy.

Labor diplomacy helps to provide an assessment of the economic conditions faced by migrant labour and to identify factors that can contribute to resolve the problem.

Labor diplomacy also provides a framework for developing tools to combat these problems. In this context, we note that labor diplomacy includes not only Ministry of Foreign Affairs(MOFA) diplomacy program, but also the overseas migrant labor assistance programs of the Government of Nepal, public diplomacy programs, and diplomatic initiatives on labor issues in a number of multilateral fora.

Multilateral labor organizations also contribute to the development of democracy and economic inclusion. The International Labor Organization (ILO) is an important multilateral institution for the promotion of worker rights, trade unions and

constructive workplace relations between employers and workers. Nepal's migrant labor-related programs, negotiations within the ILO and other international institutions, and public diplomacy initiative, provide the means to actively and concretely address labor diplomacy.

Nepal must adopt proactive labour diplomacy principles for job destinations Gulf countries as 2.5 million Nepali migrant labors working are in this region. Expansion of diplomatic presence in the region is crucial for safeguarding migrant workers. Bureaucratic hurdles are obstructing the effective functioning of labour diplomacy in the Nepali mission in the gulf region. Nepal needs to deepen and strengthen international cooperation on labor issues through regular communication with counterparts in foreign labor ministries and by establishing Memorandums of Understanding and instituting bilateral Labor Dialogues with selected countries. The bilateral engagement helps to facilitate the sharing of information between specialized host and destination countries. This engagement serves as a forum for sharing best practices on a wide array of labor topics, with the aim of furthering larger mission of protecting workers' rights, promoting livelihoods for all workers and increasing social protections for the most vulnerable.

Labor diplomacy has a particularly important role to play in helping provide the information, insights and analyses required to maximize the advantages and minimize the weaknesses in job markets. It is important as a means of promoting national interest and promoting economic diplomacy.

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