

How the proposed immigration policy on women is deeply flawed

The Department of Immigration's recent policy proposal has not only garnered wide criticism but has also revealed policy makers' orthodox and parochial mindset and their deliberate intention to reinforce patriarchy and subjugate women.

The apparent intent seems to be to curb human trafficking by restricting travel of women below 40 unless they show consent from their family members—mostly male relatives, and from the concerned ward office. The government, under public pressure, has reportedly withdrawn the policy. However, this withdrawal does not solve the problem as it is only a representative case of public choices, which do not only restrict women's agency, movement, and autonomy but also subvert the constitutional principle that every person has the right to live with dignity.

It also undermines the national movement for gender equality and social justice. Therefore, the public's attention should turn towards the mindset that led policy makers to propose such policies, their understanding about what constitutes a safe environment for women, and how to address violence against women. Here I discuss how such policy choices reinforce patriarchal values and how policymakers continue to use incorrect premises and approaches.

First, the policy was based on a wrong assumption that trafficking victims are exclusively women and for sexual exploitation. The data shows otherwise. The human trafficking phenomenon in Nepal and elsewhere has changed in many respects. Nowadays, male trafficking for labor exploitation is more common in Nepal. Further, male trafficking for sexual purpose is increasingly common. For example, the US State Department's Trafficking in Persons Report (2020) has shown how labor recruiters have trafficked mostly men. A number of other studies highlight the emergence of male trafficking for sexual exploitation. The Nepal government policy, however, has ignored these facts and views human trafficking as exclusively a women-related phenomenon, and has framed women as powerless, weak and victims—the orthodox stereotyping.

Second, the policy is based on an outdated approach—the Pathology Approach—to addressing social problems. This approach sees problems in people and attempts to regulate their social conduct as a solution. The policies following this approach, for example, impose dress code on women, restrict their mobility, and prescribe women's mobility with

male escort. The immigration policy that was proposed is a typical case of the pathological approach and mindset that views women as *social pathogens* that need to be regulated.

Regulating people's behavior as a solution to complex social problems is an obsolete and conceptually ignorant idea as such problems are invariably associated with the social institutions and structures—political, economic, social structures and governance—rather than individual behavior. Hence, correction in governance is a key to addressing these sorts of problems. In case of human trafficking, many studies including a few Trafficking in Persons Reports (eg 2019, 2020) point to governance problems—such as government officials accepting bribes to falsify identity documents with some even complicit in trafficking crimes. Instead of patronizing and regulating the behavior of women, elimination of such corrupt practices by the government officials is a must to seriously address human trafficking.

Third, the proposed policy has taken a protectionist approach that disempowers women. Protectionist policies curtail women's fundamental human rights such as right to education, employment, and mobility using the pretext of their protection. Such policies are detrimental to women's overall empowerment in many ways.

Limiting women's education, employment and movement hinders their economic empowerment and freedom thereby perpetuating their dependency on men. Note that women's economic dependency has been established as a root cause of their violence in Nepal and beyond. Second, limiting women's travel actually increases their vulnerability to being trafficked.

For example, a number of studies have shown an increase in women's trafficking (to Gulf countries) due to government ban on women to work as domestic workers in such countries. Since they cannot obtain a valid work permit, they are likely to resort to illegal means, resulting in vulnerability and exploitation.

Fourth, restricting women's mobility increases their likelihood to be confined within households as economically dependent persons. In many instances, there is no guaranty that all households are safe for women, and many women are reported to have suffered violence from family members. In such cases, impunity is rarely detected and redressal almost impossible.

In Nepal, combating women's trafficking and other gender-based violence requires a human rights-based approach to policy formulation and implementation. This implies giving equal importance to women's all rights including right to autonomy, agency, education, employment, and political participation. This is because rights are indivisible, in the sense that the realization of one right is instrumental for the realization of other rights as well. In the same way, violation of one right leads to the violation of other rights. For example, data on women's trafficking in Nepal shows that most of the trafficked people in Nepal are either un/or low educated, less skilled, economically dependent and with less exposure. Denial of their right to education, skill, and autonomy is, therefore, a fundamental contributor to their vulnerability and suffering from trafficking.

To sum up, women's rights and freedom to unrestricted travel are most important for their equality and agency, which also reduces their vulnerability to trafficking and other forms of exploitation. Flagrant attacks by the state on women's agency, equality, and dignity must end once and for all.

¹ See: < <https://myrepublica.nagariknetwork.com/news/how-proposed-immigration-policy-on-women-is-deeply-flawed/>>.

This article was first published by MyRepublica on 18 February 2021.¹

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