

## **Do Bilateral Relations Affect the Treatment of Migrant Workers? A Study of Nepal**

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### **Abstract**

Unfair treatment of migrant workers is a major problem in the migrant governance system. Migrants often endure harsh working conditions, poor wages, and in some cases, untimely deaths. This brings the question, "What can countries do about the poor treatment of their people in destination countries?" This research analyzes the role of bilateral relationships between countries and concludes whether stronger bilateral relations affect the condition of migrant workers in destination countries. The hypothesis is that bilateral relations do not matter but the destination country's domestic human rights condition is a bigger determinant of migrant treatment. The case studies of Malaysia and Japan in relation to Nepal through a series of quantitative and qualitative analysis however disproves the hypothesis and shows that bilateral relations do matter in determining the treatment of migrant workers.

**Keywords:** migrant workers, bilateral relations, human rights, diplomacy.

### **Background**

Between 2008-2017, 3.5 million Nepali workers immigrated to 153 countries in search of foreign employment (Nepal et al., 2021). In 2021 itself, 22.7 % of the Nepali GDP was obtained through remittance from migrants. This is drastic compared to 20 years ago in 1999 when only 1.7% of the GDP was made up from remittances (Personal Remittances, Received (% of GDP)- Nepal, n.d.). This reflects how important migrant workers and their remittances have become to the Nepali economy. Nepal as a migrant-sender nation could potentially have the potency to influence destination nations to treat Nepali workers better. However, poor treatment of migrants, and discrimination which sometimes leads to death has been a global issue. Migrant labourers were partially highlighted in Nepali after over 6500 Nepali workers died preparing stadiums in Qatar for the 2022 FIFA World Cup, prompting immediate government intervention (Pattinson & McIntyre, 2021). This research seeks to examine whether bilateral relations with destination countries might influence and improve the human rights condition of migrants. The hypothesis is that the bilateral

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relations of two countries are irrelevant but rather the domestic human rights conditions influence the treatment of migrant workers.

This paper aims to analyse whether bilateral relations between migrant-sending and receiving countries influence the treatment of migrant workers in the recipient country. The hypothesis will be tested through a comparative analysis between Malaysia and Japan in relation to Nepal

## Literature Review and Theoretical background

The literature review explores and sets the scope of three aspects pertaining to this research: human rights, bilateral relations and the migrant governance system.

### Human Rights

Human rights comprise human decency and integrity in aspects such as education, healthcare, and equal opportunity amongst many other fields. While it can be interpreted in different ways depending on individuals, communities or states, the International Bill of Human Rights is considered to be a universally accepted comprehensive manifesto of human rights law. It consists of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Both of these cover civil, political, economic, social and cultural rights and also extend protection to migrant workers. The UDHR was accepted by all UN states in 1948 with only 8 countries abstaining to vote and the ICCPR has 173 ratified states and 6 signatories (OHCHR, n.d.). The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW) is another convention affiliated with the UN that is exclusively for migrants but it is lesser known than the International Bill of Human Rights. It has 58 ratified countries and 11 signatories (OHCHR, n.d.). For the purpose of this study, the UDHR, ICCPR and CRMW will be the framework covering migrant human rights on the basis of universality and all-inclusivity.

The table below shows these declarations and covenants pertaining to migrant worker protection. Many overlaps regarding the prohibition against slavery, unjust punishments and unfair detention as well as freedom of religion and movement can be observed in all three documents. Meanwhile, the CRMW is more holistic and also includes protection for families of migrant workers. There are clauses for deportation (Article 22), greater protection against discrimination from nationals and equal rights (Articles 14, 15, 18, 25, 43).

Universal Declaration of Human Rights (UDHR)	International Covenant on Civil and Political Rights (ICCPR)	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW)
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Article 4: Prohibits anyone from being held in slavery or servitude.	Article 8: Prohibits anyone from being held in slavery or servitude.	Article 8: Provides the right to leave any country including the state of origin and allows re-entry to the state of origin at any time for migrants and their families.
Article 5: Prohibits inhumane and cruel punishments.	Article 9: Prohibits arrest and detention without evidence.	Article 9: Provides the right to life for migrants and their families.
Article 13: Provides the right to leave any country and allows the freedom of movement in the place of residence.	Article 10: Prohibits inhumane treatment of detained individuals.	Article 10: Prohibits inhumane and cruel punishments.
Article 19: Provides freedom of religion and religious practices.	Article 12: Provides freedom of movement within or outside the state.	Article 11: Prohibits anyone from being held in slavery or servitude.
Article 22: Provides the right to social security.	Article 18: Provides the right to religion and practices.	Article 12: Provides freedom of religion and religious practices. Prohibits coercion to adopt another belief.
Article 23: Provides the right to work and provides protection against unemployment, favourable working conditions, and reasonable pay.	Article 27: Provides the right to one's own culture, community, and language.	Article 13: Provides the freedom of expression and to voice one's opinions.
Article 24: Provides right to leisure time from work and		Article 14: Prohibits unlawful attacks or interferences in the lives of migrants and

periodic holidays from work.		their families.
Article 25: Provides the right to enjoy cultural practices.		Article 16: Provides state protection against violence and prohibits arbitrary detention against migrants and their families.
		Article 17: Prohibits detention of migrants without evidence. If detained, workers must be treated with dignity.
		Article 18: Provides equality for migrants and their families on par with the nationals of the destination country before the courts.
		Article 22: Prohibits collective expulsion of migrants and their families. Only competent authorities have the right to expel individuals.
		Article 25: Provides right to equal treatment at work for migrants and their families on par as nationals of the destination country in terms of remuneration, working conditions, overtime, and holidays.
		Article 43: Provides right to equal treatment at work for migrants and their families on par as nationals of the destination country in terms of access to education, vocational training, housing, and health services.

Sources: (United Nations, 1948, art. 21.3; United Nations, General Assembly, 1966, art. 25(b); United Nations, General Assembly, 1990).

## **Strong Bilateral Relations**

Beyond human rights, another primary component is the bilateral ties between any two countries. Bilateral relations can be further categorized into economic relations and diplomatic relations. Economic relations include the flow of aid, trade and investment and diplomatic relations mean ambassador visits, the number of embassies and bilateral agreements. These two components determine the strength of bilateral relations.

Diplomatic relations are referred to as the ability or competence to connect with other states. The Vienna Convention is one of the first modern and widely accepted documents that codifies diplomatic relationships. Article 27 states, "The receiving State shall permit and protect free communication on the part of the mission for all official purposes." This means that diplomats and ambassadors must be protected and their mission to communicate with the state should be respected. It is also insinuated that diplomatic missions are pursued through ambassadors. Similarly, Article 22 states, "The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission." This emphasizes the significance and sovereignty of embassies in maintaining diplomatic ties. The embassy or ambassador's property cannot be interfered with in the host country and it should be seen as a representative of the country that the ambassador represents (United Nations, 1961). Hence, it is evident that the availability and ubiquity of an embassy, consulates and ambassador visits play a significant role in strengthening bilateral connections and consolidating bilateral treaties and agreements.

Secondly, economic diplomacy is characterized by the contact of countries which would lead to enhanced economic security for both parties involved (Lee & Hocking, 2010). In the modern day, providing and receiving investments and foreign aid, exports and imports, recruiting migrants to fill the labour gap, and obtaining remittance through migrants abroad can be considered to be economic diplomacy. Hocking (2004) further adds that diplomatic and economic relations are integrated since there is a multitude of actors such as the government ministry, foreign ministry, civil sectors, private sectors and civilians will be impacted by bilateral relations. Hence, diplomatic and economic relationship leads to form bilateral ties between states.

## **Migrant Governance System**

Global migration comprises a broad category of labour migrants, refugees, migrants who go abroad for education, state-nominated migrants or irregular migration. Hollifield (2004) argued that in the contemporary world, migration is key to a state's functions. Similar to war and trade, migration has become another component in bilateral and multilateral state relations (Adamson & Tsurapas, 2019). The framework to organize migration, in other words, the 'migrant governance system' is characterized by migration policies, laws and regulations regarding global migration on a national, sub-national or global level. For instance, in Nepal, the Ministry of Labour, Employment and Social Security (MoLESS) looks after labour migration, the Ministry of Foreign Affairs (MoFA) deals with labour diplomacy and Nepal Rastra Bank (NRB) handles remittance (Bashyal & Subedi, 2021). All

of these can be considered to be migrant governance on a national level. On the contrary, some argue that the migrant governance system is not a new phenomenon as migration has been regulated since the existence of states and boundaries. Jewish citizens from the Soviet Union being barred from emigration during the early years of the cold war is an example (Peretz, 2017).

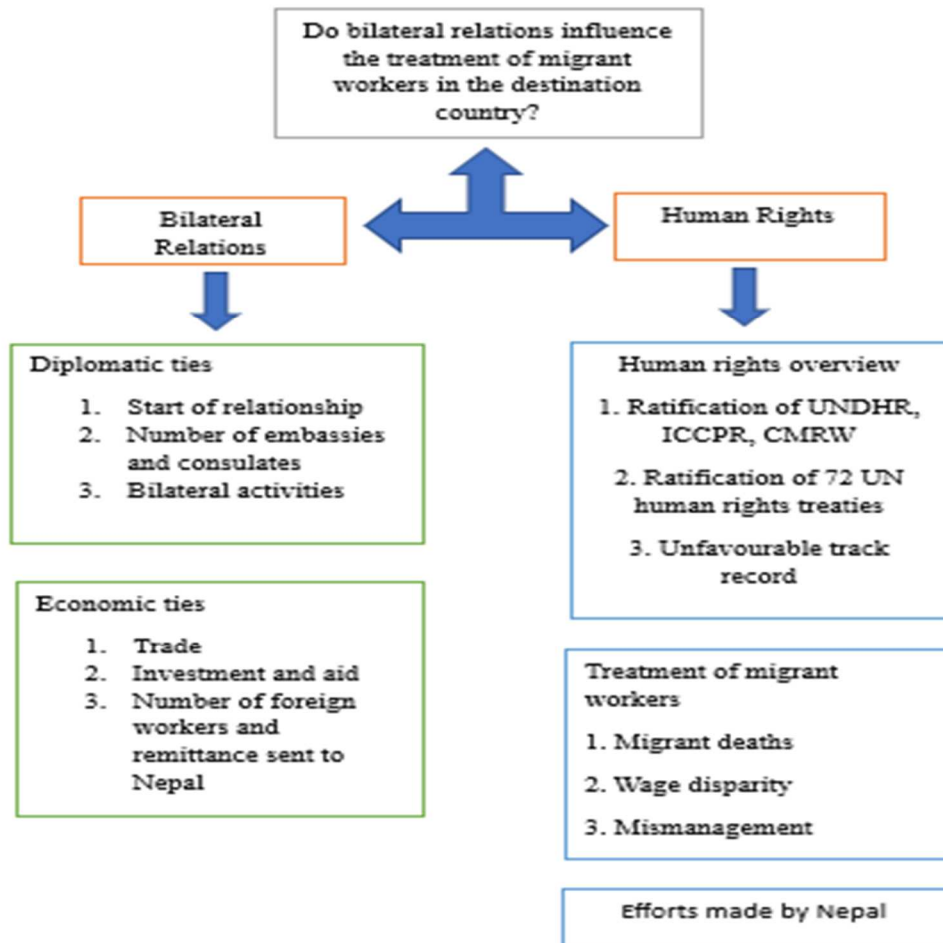
Furthermore, Adamson and Tsourapas (2019) adds that the migrant governance system is dictated by power relations between the receiving states of migrants and states that provide migrants. Recipient states have the power to dictate laws that affect migrants from foreign nations. States that send migrants enjoy remittance but bear the burden of a dwindling workforce. Immanuel Wallerstein's World-systems theory is key in exploring the power dynamics and hegemony of the migrant governance system. According to Dos Santos (1971), the world's hierarchy can be categorized into three groups: core, periphery and semi-periphery. In brief, core countries can exert power over or exploit semi-periphery and periphery countries of resources, capital and labor for their own economic benefit.

Core or dominant states are rich industrialized countries such as the OECD states. They are economically and technologically advanced, with flourishing manufacturing industries and big infrastructures. In contrast, peripheral or satellite states are countries with poorer infrastructures and economic development. The global south is usually considered to be the peripheries. Despite the peripheries' lower hierarchy in the world, core nations need them to supply resources and cheap labor to uphold the current systems in core countries (Chirot & Hall, 1982). On the other hand, periphery nations remain impoverished due to their exploitation (Pankaj, 2005). Semi-periphery states on the other hand are a mix between core and periphery. While these countries still act as peripheries for core nations, they exploit other peripheries for their development. Several South East Asian countries (semi-periphery) underpay South Asian (periphery) labourers while their own lower end against the West is an example (Huang, 2011).

The principle of the world system carries over to the migrant governance system. In the current socio-economic climate, globalization as a consequence of capitalism is the driver of migration. Cross-boundary interactions are not more ubiquitous than before (Wallerstein, 1974). Wallerstein says that receiving nations exploit benefits through migrants from peripheries as they can underpay them and retain higher profits. There are several core nations such as Japan with labour shortages due to low birth rates or a large number of senior citizens or are undergoing industrialization, hence requiring more labourers, like in Malaysia. In such cases, migrants are in fact holding the social security system of the destination country (Jones & Mielants, 2015). Meanwhile, migrants from the peripheries have the shorter end of the stick. The impaired economies in periphery nations compel people to find work abroad where they are likely underpaid (Pankaj, 2005). There is also the case of cultural oppression. Edward Said, the author of *Orientalism* (1978), said that migrant workers from poorer Asian or African nations are seen as the 'other' by the West. The 'othering' of migrants leads to scrutiny from people in the core nations.

## Methodology

This paper is particularly based on the methodology give in the following chart.



The hypothesis is that bilateral relations do not matter but rather the human rights policies in the destination determine the condition of migrant workers. In order to test this hypothesis, a comparative analysis of two migrant-receiving countries, Malaysia and Japan has been done in relation to Nepal. These countries are chosen as subjects given the generally high number of Nepali emigrants in these countries and remittances exchanged with them. The two oppose economically as Malaysia is a middle-income country and Japan is a developed one and also has varying socio-cultures. The case study has two parts: bilateral relations and human rights (pictured above). The first section analyzes the bilateral strength of the subject country and Nepal through the study of

diplomatic and economic relationships. The second section investigates the human rights condition in the subject country, the treatment of Nepali migrants in said country and the efforts made by the Nepali government to improve the situation. Finally, after ranking both Japan and Malaysia, it will be examined whether the bilateral relationship with the destination country does in fact impact improvements in migrant treatment or not. The same data sources have been as much as possible for both countries to ensure consistency. Quantitative and qualitative methods have been used. Variables such as 'unfavorable human rights' can be arbitrary and require a qualitative approach. At the same time, variables such as trade and investment can be quantified, hence both methods have been utilized in combination. All the data and information were accessed through World bank and other statistics data banks as well as journal articles, newspapers and reports. Lastly, since the primary focus is Nepal, Malaysia and Japan, the scope of this research is limited to these countries.

## **Data Presentation and Analysis**

### **Case Study 1: Malaysia**

Bilateral relations between Malaysia and Nepal

Diplomatic relations

Bilateral relations between Nepal and Malaysia were established on January 1, 1960. There is a Nepali Embassy in Kuala Lumpur and a Consulate in Selangor (Honorary Consulate General of Nepal in Selangor, Malaysia - Embassy WorldWide, 2014). There is one Malaysian Embassy in Kathmandu and no Consulates. The Embassy in Nepal frequently holds events promoting bilateral trade and tourism and A Memorandum of Understanding (MoU) on employment, worker rights and recruitment exists between the two. They also signed an Air Service Agreement in 2007, consolidating air connectivity through direct flights. High-profile visits include Former Prime Minister of Malaysia Dr Mahathir Mohamad who visited Nepal in 2014 (Embassy of Malaysia in Kathmandu, Nepal, 2014; Nepal Malaysia Relations, n.d.).

### **Economic relations: Trade, Investment, Aid and Foreign Workers**

In terms of trade and investment, Nepal exported 1656 (US\$ Thousand) worth of goods and imported 99,154 (US\$ Thousand) worth of goods to Malaysia in 2016. Nepal primarily exports vegetable products, apparel and handicrafts and imports machinery and intermediate goods like oil and plastic. Additionally, Malaysia has also invested over \$466 million in 27 industries in Nepal. (World Integrated Trade Solution, 2017). Finally, given Malaysia's status as a middle-income nation, they have provided aid in the form of scholarships to Nepali citizens under their Malaysian Technical Cooperation Program. However, perhaps the most significant point of contact between Malaysia and Nepal is the migration of labourers from Nepal. The Ministry of Foreign Affairs estimates that there are 700,000 Nepali workers in Malaysia (*Nepal- Malaysia Relations*, n.d.). By 2018, 22% of the migrant worker population in Malaysia included Nepalis (Yi et al., 2020). It is estimated that 9.7% of the total remittance arrives from Nepali migrants in Malaysia as of 2019/20 (Ministry of Labour, Employment and Social Security, 2022).



Therefore, Malaysia and Nepal have a functioning diplomatic relationship with regular contacts and even more intimate trading and economic partnership.

### **Human Rights in Malaysia**

Malaysia's Constitution adheres to some fundamental international human rights laws. As per the UNHCR and ICCPR, the constitution also allows for the right to personal liberty against unlawful detention (Article 5), prohibits slavery (Article 6), the right to freedom of speech (Article 10) and the right to religion (Article 11). Article 8 states that the constitution covers citizens and non-citizens including migrant workers regardless of their documentation status. Hence, migrant workers are liable to receive the same human rights treatment as the residents of Malaysia (Malaysia Constitution, 1957). It can be interpreted that Malaysia follows the baseline standard of human rights on paper. It is to be noted however that Malaysia has not signed the ICCPR and CRMW. They have either signed or ratified 18 out of 72 United Nations treaties<sup>††</sup> related to human rights (Ratification of International Human Rights Treaties - Malaysia, n.d.). Human Rights Watch reports an unfavourable track record of human rights in Malaysia. The lack of sufficient freedom of media, police brutality, treatment of asylum seekers, LGBTQI rights and women's rights are in particular criticized (Malaysia: Events of 2021, 2022).

### **Treatment of migrant workers**

Nepali migrants suffers from untimely deaths, wage disparity and a corrupt recruitment process that risks their labour rights. The Nepal Labour Migration Report (2022) reports that 175 Nepali migrant workers died in 2019/20. 80 deaths were attributed to suicide, 20 to workplace accidents, 14 to heart attacks, and 22 to cardiac arrest amongst other reasons such as covid and natural death. Wage disparity and the mismanaged recruitment process contribute to the abusive system that migrants endure. Migrant workers have lower pay than their native counterparts. As per data from 2016, migrant labourers in 'low-skill' jobs earned RM970 (USD 210) - RM1200 (USD 259) per month (Yi et al., 2020). In comparison, the 2016 median income for Malay nationals with no education and primary level education was RM1153 (USD 249) and RM1327 RM (USD 287) every month

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<sup>††</sup> International human rights compiled by the University of Minnesota Human Rights Library 72 bills under the: International Bill of human rights, Prevention of Discrimination on the Basis of Race, Religion, or Belief; and Protection of Minorities, Women's Human Rights, Slavery and Slavery-Like Practices, Protection from Torture, Ill-Treatment and Disappearance, Rights of the Child, Freedom of Association, Employment and Forced Labour, Education, Refugee and Asylum, Nationality, Statelessness, and the Rights of Aliens, War Crimes and Crimes Against Humanity, Genocide, and Terrorism, Law of Armed Conflict, Terrorism and Human Rights, U.N. Activities and Employees, Regional Conventions and African Regional Conventions

respectively (*Salaries & Wages Survey Report, Malaysia, 2016, 2017*). There have been some improvements since Malaysia had to increase migrant wages as one of the conditionalities to join the Trans-Pacific Partnership (TPP) in 2017 (Pattison, 2022).

Moreover, the recruitment process requires improvement. Typically, agencies mediate labour supply to Malaysia. They are granted the “Visit Pass (Temporary Employment)” (VP(TE)) status on their visa which differs from the “Employment Pass” reserved for highly skilled ex-pats. The employers are required to compensate VP(TE) workers for their housing, insurance and medical bills. However, many employers and agencies skip the legal procedures, preferring the short-hiring time and avoiding the costs. This would render the workers to be irregular or undocumented workers (Yi et al., 2020). Irregular workers are not covered by domestic laws such as the Employees Provident Fund Act, Workmen's Compensation Act, Employment Act and the Employee Social Security Act that protect legal migrants (Raj-Hashim, 1994). They are also subject to violence and removal. For instance, 323 undocumented Nepali migrants were arrested in 2020 and faced further discrimination during Covid (Ramli, 2020; (BBC News, 2020) The MOHR has however announced plans to phase out recruitment agencies from 2019 onwards (Zainul, 2018).

### **Efforts by Nepal**

During Malaysian Home Minister Saifuddin Nasution Ismail's visit to Nepal on February 2023, the Nepali delegation urged for the proper implementation of the “zero-cost” migration policy. The “zero-cost” policy, originally agreed upon in the 2018 memorandum, enforces employers in Malaysia to handle the costs of airfare, visa, insurance, security screenings and recruitment fees. In practice, however, the migrants bear these costs instead of the employers (Pandey, 2023). If the policy is executed diligently, employers will have to be more accommodating towards migrant workers, who can have a smooth transition to Malaysia. Few -fruitless- efforts have been made by the Nepali delegation.

### **Case Study 2: Japan**

Bilateral relations between Japan and Nepal

#### **Diplomatic relations**

A formal diplomatic relationship between Japan and Nepal was established on September 1, 1956. Prior to this, there are historical records of Nepali students being sent to Japan for educational purposes during the Rana regime. There is a Nepali Embassy in Tokyo and two Consulates in Osaka and Fukuoka prefectures. There is one Japanese Embassy in Nepal. Bilateral contact between the two countries is frequent, especially with the commencement of the 'Bilateral Consultative Mechanism' in 2015 regarding development and trade. Bilateral Agreements have also been made on the 'Agreement on Technical Cooperation', 'Air Service Agreement' and 'MoU on Training Nepali Industrial Workers in Japan'. Moreover, recent high-profile visits include Former Ministry of Foreign Affairs, Pradeep Kumar Gyawali's visit to Japan in 2018 and Former Ministry of Foreign Affairs, Taro Kono's visit to Nepal in 2019 (Nepal-Japan Relations, n.d.)

### **Economic Relations: Trade, Investment, Aid and Foreign Workers**

In 2016, Nepal exported 9343 (US\$ Thousand) worth of goods to Japan including pashmina products, handicrafts, silverware and paper products. They imported 64,806 (US\$ Thousand) worth of goods such as vehicles. Electronics, machinery and medical products. Japan has invested USD 30 million in foreign direct investment up to 2017/18 (World Integrated Trade Solution, 2017). Japanese foreign aid dates back to the 1950s when they supplied bilateral grants to support technical development in Nepal. Japan has been involved with historically important technical development projects such as the Tanahun Hydropower Project (Nepal-Japan Relations, n.d.). As of 2018, Japan has provided 121.30 billion yen in grants and 78.64 billion in technical cooperation, amounting to 199.94 billion yen (USD 1.8 billion<sup>\*\*</sup>) (Japan-Nepal Relations (Basic Data), n.d.). Finally, Japan hosts Nepali 118,196 workers with diverse job, skill and pay portfolios; 20.3% per cent of the migrant population in Japan comprises Nepalis as of 2022 (Record 1.8 Million Foreign Workers in Japan as of 2022, 2023). It is estimated that 7.5% of the total remittance arrives from Nepali migrants in Japan as of 2019/20 (Ministry of Labour, Employment and Social Security, 2022). Therefore, Japan has invested heavily in Nepal and has an engaging diplomatic relationship.

### **Human Rights in Japan**

As per the UNDHR and ICCPR, Japan incorporates fundamental human rights laws in their constitution. Article 18 prohibits slavery and working in bondage, Article 20 allows freedom of religion and 33 prohibits the arrest of civilians without a warrant (Prime Minister of Japan and His Cabinet, 1947). Furthermore, the Supreme Court ruling of the 1978 'McLean Visa Renewal' case ensured that human rights laws would be extended to foreign nationals too (Kondo, 2008). Japan has ratified the ICCPR but not the CRMW. They have either signed or ratified 34 out of 72 United Nations treaties related to human rights (Ratification of International Human Rights Treaties - Japan, n.d.). However, inadequacies in their human rights credentials include discrimination against migrants, women, refugees, ethnic Koreans and the LGBTQI community. Hate crimes and speech against ethnic Koreans residing in Japan, unlawful detention of foreigners and prohibition of same-sex marriage are some major problems (Amnesty International, 2022).

### **Treatment of Migrant Workers**

A few migrant deaths, wage disparity and an exploitative training program are some key problems relating to the treatment of Nepali migrants in Japan. The previous year, there were 9 recorded deaths of Nepali migrants in Japan due to traffic accidents or Covid (Nepal Labour Migration Report 2022, 2022). As of 2020, foreign workers in Japan earned 73% of what their Japanese counterparts did. This disparity was higher among blue-collar jobs and migrants working part-time or through a traineeship (Juntaro, 2020).

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<sup>\*\*</sup> Average closing exchange rate of 2018 1 USD= 110.34 Japanese Yen was applied.

As for the recruitment system, private companies in Nepal are not allowed to recruit and send workers to Japan. A G2G model has been codified in the memorandum of cooperation in 2019 and is monitored strictly (Mandel, 2019). Only 206 accredited organizations are authorized to send individuals for the TITP visa program (ネパール 送出機関一覧 (JITCOとのR/Dに基づく), n.d.). This makes for a seamless and there is a controlled flow of management for both Japanese employers and Nepali workers. Nepali workers primarily enter Japan through two systems: The Specified Skilled Worker (SSW) Visa and the Technical Intern Training Program (TITP) Visa. The former is for industry specialists and the latter is a training program for technological and skill transfer purposes. However, the premise of TITP has been questioned in recent years. Despite being a training module, workers are treated as cheap labour under the TITP. They are also unable to change jobs and usually uninformed about their labour rights, creating grounds for abuse from employers (Zuo, 2019). The government has been in favour of ending the TITP and opting for a different module for migrant labourers (Tauchi, 2023). In addition, in 2023, the Japan System for Special Highly Skilled Professionals (J-Skip) program was launched for researchers, engineers, and high-level managers who wish to work in Japan. The workers under J-Skip would receive a lucrative income of 20 million yen (USD 150,000) and preferential treatment in their point system (Exum, 2023). Given that J-Skip is for high-skilled professionals, it would exclude working-class migrants.

### Efforts by Nepal

In 2019, Nepal signed a memorandum of cooperation with Japan, agreeing upon a G2G model of labour recruitment. This would ensure that companies would not be able to send Nepali workers to Japan without authorization (Mandel, 2019). Similarly, the Japanese Ambassador to Nepal, Masamichi Saigo signed the memorandum of agreement which would require an increment of the monthly salary of migrant labourers to Rs. 200,000 (USD 1512). The agreement also provides work benefits to migrant workers on par with their Japanese counterparts (Nepal, Japan Sign Labor Agreement, 2019). Clear improvements can be observed in the situation of Nepali migrants in Japan through intervention.

### Result and Discussion

Analysis of bilateral relations

	Parameters in relation to Nepal	Malaysia	Japan	Who has a stronger relationship with Nepal?
Diplomatic Relations	Start of bilateral	January 1960	September 1956 (Informal relation during	Japan

	relationship		Rana regime)	
	Embassy/ Consulates in the destination country	<b>2</b> Kuala Lumpur and Selangor	<b>3</b> Tokyo, Osaka and Fukuoka	Japan
	Bilateral agreements	<b>2</b> 1. MoU on recruitment, worker rights and employment 2. Air Service Agreement	<b>4</b> 1. Bilateral Consultative Mechanism 2. Agreement on Technical Cooperation 3. Air Service Agreement 4. MoU on Training Nepali Industrial Workers	Japan
Economic Relations	Trade	2016 Nepal imported: <b>99,154</b> Nepal exported: <b>1656</b>  (In US\$ Thousand)	2016 Nepal imported: <b>64,806</b> Nepal exported: <b>9343</b>  (In US\$ Thousand)	Malaysia
	Investment and aid	Total of <b>\$466 million</b> up until 2017. Aid is limited to <b>scholarships</b>	<b>\$30 million</b> in FDI. Grants and technical assistance of <b>\$ 1.8 billion</b> up until 2018	Japan
	Migrant workers	<b>700,000</b> in 2022 22% of the migrant population in Malaysia	<b>118,196</b> in 2022 20.3% of the migrant population in Japan	Malaysia
	Remittance received (% of GDP in Nepal)	<b>9.7%</b> of total remittance	<b>7.5%</b> of total remittance	Malaysia

As per the findings, Japan has stronger diplomatic ties with Nepal than Malaysia does. Japan has had a long-shared history, more points of contact (consulates and bilateral agreements) and most importantly, a bilateral consultative mechanism that allows for a consistent channel of communication with Nepal. In contrast, Malaysia enjoys a slightly stronger economic relationship with Nepal as per the bigger volume of trade and greater number of Nepali migrants and remittances. That being said, Japan has invested and provided aid in billions and has a substantial trade volume and Nepali migrant population. Hence, it can be concluded that while Malaysia has a stable and well-functioning bilateral relationship with Nepal; in tally, Japan edges them out in terms of a more compelling diplomatic connection and economic investment.

### Analysis of Human Rights

		Malaysia	Japan	Notes
Human rights Overview	Ratification (or agreement) of ICCPR, CRMW and UNDHR	UNDHR- <b>Yes</b> ICCPR- <b>No</b> CRMW- <b>No</b>	UNDHR- <b>Yes</b> ICCPR- <b>Yes</b> CRMW- <b>No</b>	<b>None</b> have ratified CRMW
	UN Human Rights (72 treaties)	<b>18/ 72</b> (Signed or Ratified)	<b>34/ 72</b> (Signed or Ratified)	<b>None</b> have signed or ratified 50% of the treaties
	Unfavourable track record	Discrimination against the <b>LGBTQI</b> community, <b>misogyny</b> , and treatment of <b>asylum seekers</b> .	Discrimination against the <b>LGBTQI</b> community, <b>ethnic Koreans</b> , <b>misogyny</b> , and detention of <b>foreign nationals</b> .	Discrimination against migrant workers is a big problem
Treatment of migrant workers	Deaths of Nepali workers (in 2022)	<b>175 deaths</b> (Through suicide, workplace accidents, cardiac arrests, and others)	<b>9 deaths</b> (Through traffic accidents or Covid)	<b>Japan</b> has significantly fewer deaths though it is to be noted that Japan has fewer Nepali immigrants than

				Malaysia.
	Wage Disparity	<p><b>84%-90%</b> of what Malay nationals earned in 2016.</p> <p>Migrants USD 210- 259</p> <p>Malaysian nationals USD 249- 287</p>	<p><b>73%</b> of what Japanese nationals earned in 2020.</p>	<p><b>Malaysia</b> has a lower range of wage disparity than with national counterparts.</p>
	Mismanagement	<p>Exploitative <b>recruitment agencies</b> and <b>irregular workers</b>.</p>	<p><b>TITP system</b> is exploitative towards working-class migrants.</p>	
Efforts for improvement by Nepal		<p>Requested Malaysia to implement the "<b>zero-cost</b>" <b>migration policy</b>.</p>	<p>Agreed on a <b>G2G model</b> to ensure proper flow of labour recruitment. Requested for <b>increased salary</b> for migrant workers.</p>	

Overall, Japan appears to have a better track record of human rights given its compliance with the ICCPR and a greater number of UN human rights treaties. However, both Malaysia and Japan have not signed or ratified the CRMW, a key international treaty protecting migrant workers. Despite signing more UN treaties in comparison to Malaysia, Japan has not signed more than half the treaties. Both countries also have issues of discrimination against marginalized groups including foreign workers. Hence, the overall human rights trend in both countries is concerning for migrant workers.

As a result, mistreatment of Nepali migrant workers is observed in both countries. However, an improvement can be observed in Japan. In Malaysia, recruitment agencies and inflexible visas lead to the creation of irregular workers who are exempt from legal protection. There is a high number of Nepali deaths, many due to suicide and workplace accidents. This means that working as a migrant in Malaysia might not be ideal. Similarly, there is a higher rate of wage disparity in Japan than in Malaysia for migrants. However, in contrast, there has been an increased salary for Nepali workers recently after agreements were made on a state level. Nepal and Japan's bilateral agreements had also outlawed mediators like recruitment agencies, which is an ongoing problem in Malaysia. The Japanese TITP system is exploitative but efforts are being made to remove the system. Moreover, there are a significantly lower number of Nepali deaths in Japan. (However, it is to be noted that Malaysia hosts a larger number of Nepali immigrants.) This progress was possible through the G2G model and the bilateral consultative mechanism that Japan and Nepal have adopted.

Revisiting the hypothesis, while there are concerns about the treatment of Nepali migrant workers in Japan, it is observed that having a clear channel of communication and consistent diplomatic contact can improve the situation of migrant treatment. This situation parallels Malaysia where a poorer bilateral relationship has led to a stagnant treatment of Nepali migrant workers. Nepali officials have had to reiterate the terms of agreements such as the “zero-cost” migration policy to Malaysian officials. Therefore, bilateral relations affect the treatment of migrant workers; disproving the hypothesis.

### **Conclusion: Policy Recommendations**

In conclusion, since bilateral relations do impact the human rights of migrant workers, here are some policy recommendations for Nepal:

1. Establish G2G contact or bilateral consultative mechanisms with migrant-receiving countries so as to open a channel of consistent communication.
2. Be proactive and insistent when requesting for fair pay, reparations for deaths, and transparency for migrants on rights and work conditions during meetings with the destination country.
3. Create a contact point between the embassy or consulates and migrant workers. Provide access to legal support and means to return to Nepal.
4. Create domestic laws illegalizing recruitment agencies. Allowing authorized organizations who are transparent about the procedure to deal with potential emigrants.

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