Research Paper VIII

LABOURING UNDER FIRE

Nepali Security Contractors in Afghanistan

Noah Coburn

Centre for the Study of Labour and Mobility

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PREFACE

Following the American invasion of Afghanistan in 2001, Nepali labourers have played a crucial role in many aspects of the international intervention in the country, particularly, though not exclusively, as private security contractors. This temporary labour migration has deep historical roots, tied to the tradition of 'Gurkha' recruitment into the British and Indian Armies, but is also reflective of the current neo-liberal economic world these workers find themselves a part of.

This paper begins by describing some of the historical context for this migratory flow and makes the following arguments.

- Working in areas of conflict these contracting practices commodify violence while raising questions about sovereignty and legality, and creating circumstances where workers must deal with regular violence, a lack of information, and questions of what their rights are. Despite this, the continued flow of migrants demonstrates that good pay and the opportunity for advancement often trump these concerns.
- Once in Afghanistan, working in a neo-liberal, outsourced war, the role of companies takes on an increasing importance and actually does more to shape the worker's experience than more traditional factors, such as nation of citizenship.
- But, since companies provide very little support to their employees who get into trouble, citizenship does still matter for those Nepalis. The Nepali government's lack of a diplomatic presence in Afghanistan presents a serious challenge for those who are kidnapped, arrested or embroiled in other serious issues.

The author gratefully acknowledges the support of CESLAM and the Social Science Baha, particularly Bandita Sijapati and Deepak Thapa, for providing both material and intellectual support for this project. Dawa Sherpa was an invaluable assistant during this research and the conclusions here emerged from conversations and reflections on the material with him. Funding for the work comes from a Fulbright Regional Scholar grant and a grant from the Gerda Henkel Foundation. Names and some identifying details of those interviewed for this project have been changed.

- Instead of addressing these dangers, the Nepali government has attempted to regulate migration to conflict areas by putting the onus primarily on the worker to secure permission to work in Afghanistan (as opposed to on the company) which has resulted in a lack of protection for the worker as much as it has created a complex, confusing system that inexperienced workers have difficulty navigating.
- Practices such as 'banning' the migration of labourers to conflict zones is unlikely to lessen the number of Nepalis who actually go there, and, if anything, is going to make it more difficult to assist those that do decide to work around the ban.

The complexity of the immigration process has primarily benefitted a series of Nepali, Afghan and Indian brokers, who arrange jobs, visas and travel for the workers, exploiting their lack of knowledge about the system. Simultaneously, this process continues to assist the US government's war efforts while providing opportunities for corrupt officials and international businesses.

The paper concludes by recommending further study and monitoring of Nepalis going into conflict zones. It also recommends that the Nepali government regulate the companies that hire these labourers, rather than the currently ineffective system that attempts to regulate the workers themselves. As the wars of the future continue to be increasingly contract-based, there is a need to assess the roles of these companies in both exploiting and creating opportunities for Nepali workers.

I. INTRODUCTION

> While Nepalis have for the past 200 years served in a variety of armies, militias and police forces, with the American invasion of Afghanistan in 2001 and of Iraq in 2003 the practice of international migration by Nepalis for jobs in the security sector entered a new phase. Much of this is due to the increasing reliance by the American military on contracting out essential services to a variety of American and international companies, who then hire contractors[1] to work for either set lengths of time or on specific projects. The number of such contractors from Nepal and numerous other countries has increased enormously, and when American troops in Afghanistan reached just under 100,000 in 2011, there were 117,000 contractors working on American Department of Defense contracts.[2] This number does not include the thousands of others on contracts for other agencies, such as the Department of State and other smaller organisations. While Nepal did not provide any soldiers to the US-led coalition in Afghanistan, tens of thousands of workers were Nepalis, in jobs ranging from security guards to hydro-engineers and construction workers.

This paper explores some of the repercussions of this labour migration in times of conflict, arguing that security contracting shares much with other forms of migratory labour but also that the commodification of violence this process entails raises certain opportunities and risks for the contractor that neither the Nepali government nor the international community (and the US in particular) are addressing properly. The unique nature of neo-liberal contracting and subcontracting during war times makes the state less relevant than the company managing the contracting in terms of defining the Nepali experience. At the same time, the lack of a transparent process around contracting jobs and how proper documentation, such as visas, is secured, put

1 Both companies and individuals hired by the companies are customarily referred to as contractors.

2 Heidi Peters, Moshe Schwartz and Lawrence Kapp, 'Department of Defense Contractor and Troop Levels in Iraq and Afghanistan: 2007-2015' (Congressional Research Service, Washington DC: 2015).

workers at a disadvantage and open to exploitation. Yet, it is also clear that some of these risky practices have become an essential aspect of the Nepali economy.

In the fiscal year 2013-2014, approximately 30 per cent of Nepal's GDP came from remittances sent home by over 500,000 Nepalis working abroad, a figure that does not include the tens of thousands of Nepalis working in India where no labour permits are needed and because of which even an estimate of a figure is difficult to come by. This has significant social implications as well as economic ones, with a significant proportion of households having at least one absent member working abroad.[3] While the challenges are serious for Nepali workers in countries where their rights are not protected and where they are liable to be exploited, those in conflict zones face even greater challenges due, in part, to the ongoing violence, but also the lack of information available to workers and those working to support them.

Because travel to Afghanistan by Nepalis was restricted during this period and also because so much migration to conflict zones is done illegally, no reliable statistics are available about the number of Nepalis in Afghanistan. Through polling of individuals working at over 20 companies, however, it has become apparent that since 2001, probably not less than 50,000 Nepalis have worked in Afghanistan. The majority of these workers were in the security sector, but numerous others were engaged, generally for much less money, as labourers or as low-level administrators. The ethnographic evidence gathered during this research provides a valuable insight into the ways that international migration, contracting and labour in conflict zones shape both the individual experience and suggests wider social, political and economic impacts.

This paper is based on over 160 semi-structured interviews conducted in Nepal between August 2015 and February 2016 by Noah Coburn and Dawa Sherpa from the Centre for the Study of Labour and Mobility (CESLAM). In addition, another 50 interviews were conducted by the author in Turkey, India, the United Kingdom and the Republic of Georgia to provide a comparative context. Interviews were primarily with Nepalis who had worked on contracts in Afghanistan though additional interviews were conducted with government

3 Bandita Sijapati, Ashim Bhattarai and Dinesh Pathak, *Analysis of Labour Market and Migration Trends in Nepal*, pp. 1 and 13 (Kathmandu: GIZ and ILO, 2015).

officials, recruitment agencies that arranged employment, and a range of other actors who are important to the process of arranging work for Nepalis in conflict zones. The experience of the interviewees varied, with many expressing gratitude towards their companies and the American intervention more generally, and others lamenting their exploitation, and, in some cases, years of detention. Despite this, several clear trends did emerge from these various experiences.

While the number of Nepalis working in Afghanistan has dropped in recent years (though notably, the number of contractors in Afghanistan has not dropped as quickly as the number of soldiers – suggesting that contractors may serve an even more influential role in years to come),[4] the lessons learned from the experience of Nepalis in this conflict could serve as an important guide for thinking about how the government of Nepal, NGOs and the international community may be able to better assist these workers in securing safe and fair employment, while avoiding exploitation and unnecessary harm.

4 In June 2015, there were 9,060 American soldiers in Afghanistan and 29,000 contractors, making contractors 76 per cent of the US Department of Defense presence.

II. BACKGROUND AND CONTEXT

> Dipesh joined the British Army 35 years ago. Upon retiring, his pension was sufficient, but still in his mid-40s, he was restless and concerned about the cost of his children's education. So, when he heard about a firm hiring retired Gurkhas in Afghanistan, he did not hesitate long before taking it. The pay, he said, was great. They started him at USD 2500 a month and once he became a supervisor, this increased to USD 4000. As the years went by, however, the experience of the men he was leading seemed to decrease as the company hired more and more civilians. Now, on patrols, he might have two retired soldiers along with four others with almost no training. This was simply too dangerous, and in ambushes the civilians were just running around panicked. After this happened a few times, he knew it was time to retire again.

For Nepalis like Dipesh, working as security contractors came with significant risk but also provided immense financial opportunities.[5] This tension, however, is not a new one in Nepali history.

Nepalis have a long history of service in foreign militaries, first in the East India Company, and later in the British Indian Army, and more recently in the British Army, the Indian Army, the Singapore Police and various forces protecting the Sultan of Oman, the Sultan of Brunei and others. Nepalis in the British army played key roles in the Anglo-Afghan wars, the first War of Indian Independence in 1857, when they remained loyal to the British, and in the first and second World Wars, when Britain recruited 200,000 and 160,000 Gurkhas respectively.[6] Since World War II, the British downsized the number

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5 Since the British Army began paying retired Nepalis at the same rate they pay retired British soldiers, the incentive for British Gurkhas to become contractors has decreased. Indian Gorkhas (with a starting salary of around INR 11,000 [c. USD 165]) and those from the Nepali army (with a starting pay of NPR 13,000 NPR [c. USD 120 USD]) were more likely to seek work as contractors. In all these cases, however, the appeal of receiving both a pension and a salary simultaneously meant that security companies did not have difficulty finding Nepalis to serve.

6 Kamal Raj Rathaur, 'British Gurkha Recruitment: A Historical Perspective,' *Voice of History*, 16:2, 21-22, December 2001. See also Mary Katherine Des Chene, 'Relics of Empire: A Cultural History of the Gurkhas: 1815-1987', Phd dissertation, Stanford University, 1991.

of Nepalis in their military in a series of steps, notably after the end of the Malay Emergency in 1960 and the 1997 handover of Hong Kong. Despite this, recruitment continues to draw a great number of young hopefuls, with 6000 applicants at the regional selection level for just 216 positions in the British Army in 2015 – a number that does not include the numerous others who withdrew prior to this stage.[7] Nepali soldiers, however, who continue to serve in the Indian and British militaries, and those that are retired from service, continue to play an important economic and social role in Nepal.

While the term 'Gurkha,' comes originally from the town of Gorkha in central Nepal the original principality of Prithvi Narayan Shah, who united the various valleys of central Nepal, its use and application has been strenuously debated. During interviews, many retired British army soldiers insisted one had to be in the British army to be a 'real Gurkha.' Others reserved the term for those in either the British or Indian armies, and some used it as a gloss for all those of Nepali ethnicity (including those living in India) involved in the security sector.[8] While several authors have provided valuable commentaries on the orientalist image of the 'brave Gurkha warrior' in the Western mind,[9] during recent years security firms and the Nepali contractors working for them have exploited some of these assumptions about the 'nature' of Nepali soldiers.

The demand for private security contractors increased significantly with the US-led invasion of Afghanistan in 2001 and the subsequent invasion of Iraq in 2003. The initial numbers of Nepalis recruited to these zones came primarily from the ranks of retired British and Indian soldiers. The Taliban, who the US had initially chased out of power in 2001, however, regrouped in Pakistan and by 2006, taking advantage of the Afghan government's inability to deliver meaningful services or security to much of the country, had started an insurgency in the south of the country that was spreading quickly. Following the election of Barack Obama, a military and development 'surge' was declared, raising the

7 Briefing given to the author at the British Camp in Pokhara, December 2015.

8 Following the independence of India in 1947, when the Nepali regiments were split between the British and Indian armies, the spelling 'Gorkha' was adopted to designate Nepalis serving in the India Army. The term may also be used to refer to Indian citizens who are of Nepali descent, but are not Nepali citizens, serving in either the British or Indian armies, complicating the issue further.

9 See, in particular, Lionel Caplan, *Warrior Gentlemen: 'Gurkhas' in the Western Imagination (Providence*, RI: Berghahn Books, 1995).

number of international troops in the country to 150,000, while simultaneously increasing the demand for contractors of all types.[10] Firms offering Nepali security contractors, in particular, prospered.

There are now multiple private recruiting and security companies with names such as 'Gurkha Force', 'Gurkha Protection Services', and 'Integrated Gurkha Security Services Limited'. Certain firms advertise that they only supply 'Genuine Gurkhas', including rather orientalist histories of Gurkha forces on their websites. These practices have enabled Nepali security contractors to essentially corner a large portion of the market for non-American and non-European international security contractors. In Afghanistan, it is rare to find a non-European or American security contractor who is not Nepali, despite the fact that when it came to construction or other menial jobs, Nepalis made up a much smaller percentage of workers in those sectors where it was also common to find Indians, Sri Lankans, Filipinos and Bangladeshis.

In fact, almost all Nepalis interviewed who had been in security jobs in Afghanistan referred to themselves as 'Gurkhas', even those who had been civilians before going to Afghanistan. The British and Americans interviewed continued to praise the 'innate' values of the Gurkhas, particularly their loyalty and courage, while simultaneously justifying the fact that the vast majority of officers in the British military and managers for private security firms continue to be white Westerners. These historically racial and orientalist stereotypes have evolved in a distinctly capitalist age where the image of the 'brave Gurkha' has been branded, allowing Nepalis to continue to dominate the lower levels of the private security industry.

10 An assessment of the failure of the international community to consolidate their initial gains in Afghanistan is provided in Chris Johnson and Jolyon Leslie, *Afghanistan: The Mirage of Peace* (London: Zed Books, 2005). For a more thorough review of the surge and its failings, see Noah Coburn, *Losing Afghanistan: An Obituary for the Intervention* (Stanford: Stanford University Press, 2016).

III. NEPALIS AND CONTRACTING IN AFGHANISTAN

> Yogendra's first posting in Afghanistan was not in a base as much as it was in an open field. He and five other Nepalis, and three Americans were dropped off by helicopter and told to set up a perimeter. During the weeks that followed, every night they crouched in ditches as small arms fire landed all around them. The NATO base just down the road from them was the real target for the insurgents, but often the insurgents seemed just as happy shooting at any international compound. With only some hand-dug trenches and barbed wire for protection, the first few weeks were perilous. At night, they had to crawl from one position to another as the shooters changed position. Later, after a few of the walls went up, they were finally able to get some rest.

While Nepali migration for military positions has clear colonial roots, this has been reshaped particularly during America's War on Terror to fit a more neo-liberal approach to warfare and the global economy. While the American government has a long history of reliance on the private sector, since the end of the Cold War, the blurring between the military and private companies has increased.[11] The US government, weary of the political costs of American casualties, has outsourced various aspects of their war efforts in Afghanistan and Iraq to private companies. In fact, in the 2013 US defence budget, which totalled USD 614 billion, more than 50 per cent of these funds were directly allocated to contractors, instead of being spent by the department itself.[12]

Companies working in Afghanistan almost all immediately subcontract to other, smaller companies. For example, in several cases we looked at, an international company based in the United States would be the primary

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11 For a good history of the changing role of security contractors see Sean McFate, *The Modern Mercenary: Private Armies and What They Mean for World Order*, p. 19 (New York: Oxford University Press, 2015).

12 Pat Towell and Daniel Else, 'Defense: FY2013 Authorization and Appropriations' (Washington DC: Congressional Research Service, September 2012).

Department of Defense contractor, but would then contract out to a Turkish construction firm to do most of their building while another multinational company provided security. That multinational would then subcontract to another firm based in India to actually hire the security contractors. This neoliberal model makes the Nepali contractor much further removed from the Americans whose funds are paying for them than in previous British cases where the Nepalis actually served in the British military. In most cases, the closer the company was to the initial contract (i.e., the large international firms) the more concerned they were about US governmental scrutiny and the less likely they were to exploit their workers. The US Congress put out a report on the connection between contractors and trafficking in 2015, but, in reality, for the majority of Nepalis lower down the contracting chain, companies had little concern about oversight.[13]

In Afghanistan, some of this contracting was for the employment of cooks and cleaners, but most Nepalis involved in security, particularly the guarding of supply convoys, played roles that were little changed from the duties of American soldiers. This was clearly not the first time that mercenaries have been used to replace conventional troops, but the scale in Afghanistan and Iraq has been truly unprecedented and for much of the war contractors have outnumbered troops; in 2010, the US had 175,000 soldiers deployed in Iraq and Afghanistan, fighting alongside 207,000 civilian contractors on Department of Defense contracts in these same theatres.[14]

The prevalence of contracting had increased markedly during the Vietnam War and has continued to grow rapidly in recent decades. In the first Gulf War, one out of every 100 deployed was a contractor, but by the time America invaded Iraq again in 2003, roughly half of those deployed were contractors.[15] Notably the Bill Clinton administration relied on contractors in conflicts in the 1990s in Rwanda and elsewhere without committing American troops.

13 Verité, 'Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains,' Amherst, MA, January 2015.

14 In 2010, the US had 175,000 soldiers deployed to war zones, while simultaneously they had 207,000 contractors in these areas. Sean McFate, *The Modern Mercenary: Private Armies and What They Mean for World Order*, p. 19 (New York: Oxford University Press, 2015).

15 David Vine, *Base Nation: How U.S. Military Bases Abroad Harm America and the World*, p. 218 (New York: Metropolitan Books, 2015).

This allowed the administration to be involved militarily without the political costs of sending American soldiers and risking American causalities. Similarly, the administrations of both George W. Bush and Barack Obama avoided implementing a national draft, which would have been political damaging, in part by relying on the contracting presence.[16] Contractor deaths generally receive little notice in the international press and have far lower political costs than the deaths of American soldiers, making the practice a popular political strategy.

One of the major hurdles of studying the effects of contracting is that there are few official statistics on these practices from the Nepali, Afghan or American governments, and contracting companies, wary of giving information to competing firms, refuse to release much information. Based on our survey of various companies, it seems likely that the number of Nepalis in Afghanistan during the early years of the war, around 2004 and 2005, was between 4000 and 6000, climbing to between 14,000 and 16,000 during the surge years between 2009 and 2013, when US troop levels moved from around 20,000 to almost 100,000. At the height of American troop levels in Afghanistan, several companies in Afghanistan each had over 1000 Nepali employees working for them.

Notably, however, while American soldiers tended to serve one-year tours and many European countries had six-month rotations, it was common for interviewees to have spent six to eight years in Afghanistan and in several cases more than 10. Considering the growing awareness of soldiers returning with post-traumatic stress disorders, it seems likely that this will become an issue with contractors who spent even longer 'in theatre'. Furthermore, many contractors, particularly those guarding compounds told us that their supervisors gave them minimal information about their positions and they had little information about who they were protecting or who might attack them. This was particularly challenging for Nepalis who often manned checkpoints at compounds where

16 In World War I, II and Vietnam, the US military relied on conscription of eligible men. This practice, particularly during the Vietnam War, helped galvanise the American public in opposition to the war. To avoid such potential opposition, the Obama and Bush Jr. administrations also relied on international coalition soldiers for similar reasons. The case of the Republic of Georgia, which sent 2000 soldiers to Afghanistan after having a similar number in Iraq, provides an interesting example of how the government of Nepal could have been more active in formulating a strategy for sending security workers to Afghanistan, which could have had significant economic benefits.

they were directly interacting with the Afghan public.[17] At the same time, interviewees had numerous stories of contractors involved in attacks or near misses when the vehicle near them was blown up or a grenade was thrown into a compound. Contractors had little choice but adapt themselves to these unstable conditions.

In one case, a contractor told us of being woken up by a suicide attack on his compound at 4:30 am. During the attack, he managed to drag a wounded American into a nearby bunker, before returning to make sure his other colleagues were safe. It was only after all the attackers were killed and the wounded on their way to receive treatment, did he release that since he had not been wearing shoes at the time of the attack he had glass embedded in them. He got his feet bandaged by a medic and still worked later that afternoon, not missing a single shift due to injury.

17 In multiple cases, contractors described defending compounds during riots without knowing what the cause of the riot was.

IV. SECURITY CONTRACTING AND ISSUES WITH COMMODIFYING VIOLENCE

> Kusang worked as a cook on one of the American's central airbases, far removed from much of the daily fighting. Surrounded by miles of perimeter walls, there was little threat of direct attacks. Despite this, there were still air sirens regularly and they would have to put on helmets and sit in their bunkers waiting for the incoming rockets. Yes, he said, these concerned him, but actually, it was the Afghan police who probably made him the most nervous. Kusang, like most of his colleagues, did not have a work visa since his company was embroiled in an ongoing tax dispute with the Afghan government. Usually, the American and European employees had no problems getting through checkpoints, but workers from Asian countries often faced major challenges. He had heard of several other Nepalis who had been sent to jail because they did not have their papers in order. On several occasions, when he was being transported to different bases, the police stopped their vehicles and once the driver had even had to pay a USD 500 bribe to pass. Still, he said, at the end of the day he was glad he had gone to work there, though he was not looking to go back to a place where there were so many questions about security and his legal status again.

For Nepalis working on contracts in Afghanistan, their experiences were primarily marked by the violence both created by them and directed at them, a lack of transparent information, and questions about their legal status and the protections offered by their companies in such an unstable setting. All of this was then counterbalanced by the large salaries they were promised.

It is difficult to measure exactly how violent the experience of contractors were, though almost every contractor we spoke to was involved in some sort of attack or major security incident, or had narrowly missed such an attack. About 10 per cent of those interviewed had been injured and almost everyone knew someone who had been injured or killed. Studying the effect of these attacks, however, is difficult.

For example, the casualty rate for Nepalis in Afghanistan is extremely difficult to establish in part because governments are not collecting the same

data on contractors as they do for soldiers. In congressional testimony, John Hutton of the US Government Accountability Office admitted 'contractors are generally not updating the status of their personnel to indicate whether any of their employees were killed, wound or missing'.[18] United States Department of Labor statistics have recorded over 1600 contractor deaths in Afghanistan by the end of 2015, though these numbers probably under-report actual deaths significantly, partly because they include only those working on Defense Department contracts.[19] The actual number is probably close to the total number of American troops killed through 2016, approximately 2300.[20] Concerned about both bad press and perhaps demands for further compensation, most companies are quick to try and quiet these incidents, making gathering information even more difficult.

From media reports and interviews, we gathered information about dozens of incidents in which Nepalis were killed or seriously injured. In one case, we were able to collect interviews from eight individuals, all of whom had been in a compound attacked by insurgents. The international media, however, had only published a few short articles on the attack, while the contractor issued a statement acknowledging that four of its employees had been killed. Those Nepalis who had been seriously injured during the attack were quickly flown out of the country and given sizeable cash payments. In one case, one of those injured showed paperwork that revealed that the company had discharged him for medical reasons before he had even received surgery to treat his injuries.[21]

Of the Nepalis interviewed, a large number perform 'static security' jobs, essentially guarding compounds and manning security towers. Others worked on personnel security details, protecting officials and other Western contractors, and escorting them in armoured convoys. Several engaged insurgents in regular attacks, particularly those responsible for setting up security on bases that were still

18 David Isenberg, 'The Unknown Contractor', *The Huffington Post*, 25 May 2011.

19 United States Department of Labor, 'Defense Base Act Case Summary by Employer (09/01/2001 – 12/31/2015)', Office of Workers' Compensation Programs, Division of Longshore and Harbor Workers Compensation, n.d.. Accessed 17 February, 2016.

20 See icasualities.org.

21 Another questionable practice is that several of those interviewed who had been injured were actually transported back to Nepal for their surgery instead of being treated on a military base in Afghanistan or in countries with better reputations for medical service, such as the UAE or India.

under construction in the south of the country. Weapons owned by the company were issued and, in the cases of some of the larger companies, training provided.[22]

Contractors, however, did not receive the same support that soldiers do. For example, in the June 2016 attack that killed 13 Nepalis working at the Canadian embassy, weapons were issued only when they were on duty and the vehicle they travelled in was not armoured. The lack of a support infrastructure could also mean that when a contractor base came under fire, the international military would come and assist if help was available and if the contractor had a direct relationship with the international forces close by. In many cases, however, there were long delays or help would not come at all. This was especially true for contractors working on supply convoys that would drive through some of the most dangerous parts of the country, often times with little support.

Similarly, Nepali contractors were offered little legal protection in the country, particularly when it came to their involvement in the war. So, for example, one Nepali contractor interviewed who was accused of spying for the Pakistanis (he had access to plans of Afghan military bases, but also worked for a company that was supposed to be building these bases). After his arrest, he had no diplomatic or legal assistance or even a translator for his court case before being sentenced to 15 years in an Afghan prison.

In cases of Nepalis shooting Afghans during combat situations, certain large contractors, primarily serving the US military have arrangements with the Afghan Ministry of the Interior, came under the Bilateral Security Agreement between the US and the Afghan government. Others, however, did not. In the latter cases, de jure, the weapons that they carried were illegal, and yet these individuals were only challenged under certain extreme circumstances. For example, one manager described how he was required to count the number of shell cases and bullet holes after an attack during which his men had fired to show that they had not acted inappropriately. If these issues were isolated, they would be confusing enough, but, at the same time, with many of the Nepalis already illegally trafficked to Afghanistan, no Nepali diplomatic presence in Afghanistan, and a weak Afghan government, there were constant questions about the legal status of Nepalis in the country.

22 Notably, in only a few cases were these weapons registered with the Afghan government, raising other concerns about legality.

Few of the Nepalis we interviewed were aware of what exactly their legal status in the country was or what protections they had. For example, few understood the process of securing work permits and left this responsibility entirely to the companies they worked for. In general, larger companies had a vested interest in following Afghan law, but the smaller ones tried to skirt these costly Afghan regulations when possible. This meant that the worker themselves often had little recourse when the company attempted to exploit them.

In Kusang's case, for example, before leaving Nepal, he was told he would be making USD 500 a month, but upon arriving at the US base where he was working, he found out that this was actually USD 350 a month. He was told that if he did not like the offer, he was free to go. This, of course, was not an option since he had no place to go and simply leaving a military base in the middle of a war did not seem like a reasonable option. Beyond this, however, as we heard from other recruits, returning home without having made some money was considered shameful. In the case of Kusang, it was made worse by the fact that his family had had to borrow money to pay a broker NPR 200,000 to arrange the job for him. If he did not earn money, his family would remain in debt. While in cases like this, the broker who had secured Kusang the job was largely to blame, Kusang had no legal recourse or support other than acquiescing to the company's demand. It also became clear that certain companies were less rigorous in screening the manpower firms they worked with, which left those applying for jobs with them particularly open to exploitation, whereas a couple of companies were more rigorous in their hiring policies and it was difficult for brokers to take advantage of recruits to these companies.

We found several similar cases amongst workers injured in attacks. Many of these workers received a significant amount of financial compensation when they received debilitating injuries (in some cases, as high as USD 100,000). Oftentimes, however, it seemed that the companies would make these payments and send the Nepalis home quickly in order to avoid any public relations issues. Once back in Nepal, several of those interviewed had recurring health problem related to their injuries, but it was impossible for them to get in touch with the companies since the latter would not respond to their emails. In one case, we interviewed a man whose pelvis had to be removed. He was still receiving payments from an insurance company, but in the years since the accident his insurance company had actually been sold to a different company and he was

not sure how long the payments would last or who would decide how much he was to be given. Going through the English paperwork with him, did not help clarify this at all. In these and other such cases, while Nepali security contractors were asked to perform duties very similar to those of American and other international soldiers in the country, they did not receive the same military or legal support while there or in the years that followed.

V. THE EXPERIENCE OF AN OUTSOURCED WAR

> Bhim showed us the place where the metal rod had been inserted into his leg, which had been crushed by rubble during a Taliban attack. Picked up by helicopter he had been flown to a US base, but the doctors decided to send him to Kathmandu to be operated on. The company provided injury compensation of USD 100,000, but between his medical bills and the damage his house had sustained during the earthquake most of that was now gone. He now jogged every morning, with only a slight limp that was hardly noticeable. He had enough money for now, he said, and was hoping that the company would rehire him if he continued to improve.

There are several ways in which analysing the perspectives of contractors in a highly contracted neo-liberal war differs from conventional accounts derived primarily from soldiers. First of all, almost all of the contractors interviewed were very clear that their primary motivation was salary. (In a few other cases, contractors, particularly in more professional positions such as those Nepalis who worked in development, also suggested that by going to Afghanistan, they could get promoted faster once returning home.) This contrasts with soldiers who are at least to be said to be traditionally motivated by patriotism or a sense of duty. Even the case of Nepalis in the British and Indian Armies, there is a carefully cultivated sense of Gurkha pride that the armies work to instil early in training, which is a fundamental aspect of the Gurkha tradition, something that is lacking from the experience of working for a contractor. Thus, those contractors who felt they were well compensated were generally positive about their experiences in Afghanistan and expressed some regret that the war seemed to be winding down.

In recent years, the largest contractors have seen massive drops in revenue as US soldiers began withdrawing and, in 2014, the Delta Tucker Holdings, the parent company of DynCorp reported a decrease of USD 1.03 billion dollars, or 31.5 per cent, from the year before.[23] This also meant that the company

23 Delta Tucker Holdings, March 31, 2015, Form 10-K.

which had over 1000 Nepalis working for it in 2011-2013, now had only a handful working on their remaining projects. While there is little to suggest from interviews that contractors made a concerted effort to prolong the war in Afghanistan, it is worth asking whether it is strictly a coincidence that the longest war the America has ever participated in was also the one that had the highest number of private companies profiting from the ongoing conflict.

Beyond motivation, however, the experience of contractors clearly differs from typical soldiers. One of the most interesting findings to have emerged from the comparative interviews conducted in India and elsewhere is that in a contracted war, questions of nationality have in many ways been replaced by questions of what company employs you. Thus, the experiences of the war in Afghanistan of a Nepali working for Company X tended to have much more in common with the experiences of an Indian who also worked for Company X than another Nepali who happened to work for Company Y.

For most interviewees, the key concerns revolved around pay, with certain companies having a reputation for being more generous than others. Companies that treated Nepalis as 'third country nationals', which enabled them to essentially reserve certain jobs for Westerners that Nepalis were ineligible for, were less favourable than those companies that essentially treated all employees similarly based upon their experience.[24] In those companies that label Nepalis third country nationals, there were also generally more racial tensions, with resentment against those contractors, particularly from Eastern Europe, who were seen as less professional and well-trained, but were still paid significantly more.

In the factors shaping experience, salary was followed by the accommodation provided (ranging from nice single rooms with air conditioning to desert tents shared by a dozen contractors) and leave policies (some companies provided no vacations and demanded contractors work seven days a week, while others paid to have contractors fly home every three months).

More questioning, however, revealed that differences between the relationships

24 This was particularly true of security companies that had teams or 'Personal Security Details' that were integrated, composed of members from several different countries, which the Nepalis had an overwhelming preference for.

between certain companies and the US military and the Afghan government shaped the experience of individual workers. For example, for those on who were direct Department of Defense subcontractors, securing a work visa was generally simple. Smaller companies that did not have as much infrastructure for supporting workers, companies that were new to Afghanistan, or companies that had bad relations with the Afghan government had more difficulty getting permits. In the case of one of the largest contractors that was receiving funds from several sources, an ongoing tax dispute with the Afghan government led the Ministry of Foreign Affairs to cease issuing visas to workers of that company. Since most of these workers came to the country on military flights to US bases, this did not create an issue with getting into the country. It did, however, mean that if the worker was stopped by the Afghan police they could be threatened with imprisonment or, more typically, were required to pay a bribe since they did not have a proper visa. Unsurprisingly, workers for this company were hesitant to leave their company's compound and were in constant fear of arrest.

Somewhat surprisingly perhaps, far from being a concern, this situation seemed to be an advantage for the company in some ways since most of the contractors in conflict areas benefitted greatly from restricting the mobility of their workers. A little more than half of the workers we spoke with had worked for only one company in Afghanistan. Others, however, had moved between multiple companies, looking for a higher salary or seeking new employment when a contract had ended. Workers without valid long-term visas were confined to a certain compound or camp in a kind of de facto imprisonment. This made them unable to look elsewhere for employment and, hence, were more likely to accept substandard wages or conditions. Those with visas had a much easier time visiting other Nepali friends at other companies, learning about open positions and interviewing.

While the most common means of restricting the mobility of workers was by not giving them Afghan visas, in other instances, companies seemed to go out of their way to exaggerate the danger outside of compounds and restrict employee movement, even in relatively safe areas like certain neighbourhoods in Kabul. Some companies also restricted access to cell phones or the internet in order to cut off workers from communicating with those outside their compounds. Despite the fact that the reasoning for the current economic model used by the US military to justify contracting often relies on an economic rationale

that claims to support free markets and transnational trade, these companies greatly benefit by making the limited information available to workers even more murky. Between this lack of information and the regular threat of violence, work in such conflict zones was not only dangerous, but restricted the ability of workers to move or leave exploitative situations.

VI. LOST IN AFGHANISTAN

> For almost three years, Teer Magar did not speak Nepali to anyone. In a jail in southern Afghanistan, the only way he could communicate with the outside world was through a Red Cross official who would bring him letters from his wife. The prison was a new one, built by the British, so the conditions were not as bad as they could have been. There were even televisions, though the Taliban prisoners had banned their use, which annoyed some of the other prisoners. Later, during a riot, all the televisions were destroyed, stopping the debate altogether.

The vast majority of those we interviewed were positive about their experiences in Afghanistan; they had earned money and returned home safely. For those not so lucky, their experiences in Afghanistan tended to be extremely negative, and much of this had to do with a complete lack of a safety net for those who faced legal or other challenges.

The fact that the Nepali government has no diplomatic presence in Afghanistan is one of the major issues for workers who run into trouble in the country. The nearest mission in Islamabad is responsible for Pakistan, Afghanistan, Iran, Iraq and Turkey. The Nepali government is thus not capable of doing much for its citizens in Afghanistan. This means that Nepali workers who faced problems either with the Afghan authorities or with brokers or their employers in Afghanistan, must rely on informal networks of friends, family and colleagues to try and get assistance.

In addition, it is difficult to provide government assistance when so little is known about the Nepalis in Afghanistan. For instance, following the recent attack on Nepalis working at the Canadian embassy, Nepal's Department of Foreign Employment stated that it had issued some 9000 permits to work in 'the Green Zone in Kabul'.[25] The problem is there is no Green Zone in Kabul. There was one in Baghdad, but in Kabul, most of the international facilities are actually scattered across the city. For those with permits, many are stationed in

25 Karmal Pariyar, 'Some 9,000 Nepalis Allowed to Work in Kabul in Past 10 Yrs,' *My Republica*, June 21, 2016.

various provinces, not in Kabul itself. This number also ignores the number of Nepalis in Afghanistan or other conflict zones that attempt to avoid the scrutiny of the Nepali government before going abroad. In many cases, respondents who had not secured these permits told us that the likelihood that they would be asked by officials for bribes while registering outweighed any marginal benefit they might receive from getting such a permit.

The fact that there have been questions about the legal status of Nepalis in Afghanistan, plus the perception of Nepali government officials as being corrupt, also means that Nepali workers in Afghanistan are unlikely to report their presence to the Nepali government under the current conditions even if some sort of assistance programme were to be set up. All this contributes to the fact that the Nepali government currently drastically underestimates the number of Nepalis working in Afghanistan.

One of the most extreme cases was that of Teer Magar, mentioned above, who spent three years in an Afghan prison. The Nepali government, it appears, was not even aware of his case until it was brought to its attention by a Nepali journalist who had overhead people discussing it in a grocery store in Kabul. There were multiple other cases, however, of Nepalis arrested for overstaying their visas or taken advantage of by brokers who knew they could manipulate the workers who were so nervous about imprisonment. The Afghan court system was already notoriously corrupt, with few defence attorneys available, and for those swept up in it, it could be very difficult to secure release.

The lack of regulation or even interaction between the Nepali government and the companies hiring Nepalis to work in Afghanistan also means that for those who end up in jail or in other situations, there is little incentive for the company employing the worker to provide any support. In Teer Magar's case, the company promised to send a lawyer to represent him, but the lawyer never arrived and there was no one to push the company to support him during the legal process.

The repercussions of having no diplomatic presence in a conflict zone, however, go beyond diplomatic relations between governments. In both Turkey and India, I interviewed individuals who had been a part of negotiations with insurgent kidnappers (either as officials, journalists or as the actual person kidnapped). In these cases, both the Indian and Turkish governments, had, on an informal level, facilitated negotiations with the armed groups who had taken

their citizens captive. In the case of Nepalis, there is no one to negotiate with the Taliban. So, when they were kidnapped they had to rely on friends and other Nepalis in the country to assist them.

VII. LACK OF INFORMATION

> The trick is to put your passport in your checked luggage before you arrive at the Kathmandu airport, Kusang told us. Since Nepalis do not require passports to travel to India, Kusang would tell them he was on his way to a conference in Delhi. If the immigration official saw the Afghan stamps in a passport, Kusang was concerned they would demand payments or not let him through. It had happened to many of his friends.
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> Later, Nepali officials apparently convinced Indian officials at Delhi airport to check for Afghan stamps as well, complicating travel even more and in his last years working in Afghanistan, Kusang flew to Bagdogra in eastern India and took a bus across the border to avoid airport officials.

While there is little the Nepali government can do for Nepali citizens who have trouble in Afghanistan, it is much easier for them to assist them and provide them with information at least before they leave Nepal. During the course of the study, we visited the government offices where Nepalis need to go to get work permits, besides taking interviews about their experiences. Instead of facilitating work abroad or doing much to actually protect workers, the current process forces the potential worker to secure permissions and documents despite the complications and ambiguities around the disjointed process. As Sijapati, Bhattarai and Pathak's study of migration out of Nepal shows, the Nepali government lacks a holistic approach to migration and the flaws in the current system are clearly even more exaggerated in the case of conflict settings where Nepal has no diplomatic presence.[26]

In Nepal itself, the ambiguity of the legal status of Nepalis in Afghanistan makes the issue more complicated. On more than one occasion, I was told by Nepali officials that work in Afghanistan was 'banned'. However, according to the Department of Foreign Employment (DoFE) website, work in Afghanistan is regulated the same way as in other countries. An official at the DoFE contradicted this, explaining that Afghanistan was not 'banned' as long as the contractor was working for a UN contractor (confusingly, this included those

26 Sijapati, Bhattarai and Pathak, op cit, p. 76.

working on non-UN contracts as long as the company had at least one UN contract). Despite this explanation, the official could cite no regulation in support of this practice and in our interviews with those applying for work permits, no one had even suggested that there was some UN-connected regulation. In reality, interviewees explained, officials at the DoFE often ask workers for additional documentation when applying to go for work in Afghanistan, Iraq or other conflict zones, and, in some cases, just ask straight out for additional bribes.

On occasion, the additional documentation includes securing a 'No Objection Certificate' (NOC) from the nearest Nepali embassy, stating that the company the contract was with was legitimate. This was the case in particular for those applying for Afghan visas in India. In a couple of instances, NOCs were also required from the Nepali embassy in the country where the company was based. So, in one instance, the Nepali embassy in Canada had to issue an NOC regarding a Canadian company working in Afghanistan, before the DoFE would issue a permit for the worker to work for the company. In an attempt to clarify these contradictions, I interviewed the director of the DoFE, who gave an entirely different set of criteria that did not mention NOCs at all. The fact that there are no clear guidelines made potential migrants more likely to attempt to circumvent the DoFE by claiming that they were going to work in the Gulf and then flying from there to Afghanistan or by crossing into India by land and then flying from Delhi to Afghanistan.

Perhaps most indicative of how the system is currently working, in interviews, numerous workers who went to Afghanistan complained about being forced to pay bribes to officials in both Nepal and Afghanistan. None, however, described ever actually being stopped from migrating. It seems that, in practice, if one is willing to pay the cost to these officials, the required documentation itself is rarely impossible to secure, suggesting that the goal of the entire apparatus is extractive rather than concerned with the safety of these migrants.

In terms of actual worker protection and information about the dangers of migration and trafficking to specific countries, the government has done less. While both the DoFE in Kathmandu and the regional office we visited had information booths meant to explain to workers the dangers of some forms of migration, in practice, few workers stopped at these booths. Moreover, the information given was very general (e.g. 'You should know your rights') and advising workers not to trust brokers. There was significantly less information on

how the migration process worked, how they could avoid relying on brokers or how to ensure the companies they were working for were legitimate. Also, perhaps indicative of how the Nepali government thinks about migrant protection, the workers in these information booths were not actually government employees, but had been hired by international NGOs. Their information pamphlets were all stamped with the European Union logo, perhaps explaining why they seemed to be of little help to Nepali workers who are already aware of the fact that there is a risk, while what they really needed was more knowledge on how to reduce the risk of being exploited.[27]

In practice, these contradicting sets of regulations, pronouncements by officials, and rumours, do very little to help the worker and make the process of working abroad much more confusing than it needs to be. As a result, applicants are more likely to pay bribes to officials and not understand some of the real risks of working in conflict zones before arriving there. (One returnee, for example, said he was surprised when he got to Afghanistan because he thought it would look like the US with high skyscrapers.) Instead, the workers are left to rely on informal connections and brokers to help them navigate systems they understand only partially.

27 In addition, over the course of spending at least eight hours in and around these information booths, I never actually saw anyone take any one of these pamphlets with the exception, of course, of the social scientists involved in the study. One of the ironies that became apparent was that much of this information seemed aimed at dissuading migrants. However, of those interviewed, few suggested that they could have been dissuaded from working abroad. Thus, it seems an education campaign aimed at explaining how to migrate more safely would be far more effective than a campaign that attempted to stop migration.

VIII. BROKERS AND INFORMAL NETWORKS

> I met five young Nepalis gathered at a small restaurant in the budget district of New Delhi. The waiter and cook were Nepali as was the owner of the place. They are all waiting for visas and contracts from their various brokers, but none had any real sense of when these might arrive. They hoped it would be in the next couple days and the brokers kept saying it would be soon, but one of the young men had already been there a month. To pass time, they watched TV and occasionally called their brokers for updates.

Most of the security guards and workers we interviewed were very forthcoming about the role of brokers in securing them jobs and visas before heading to Afghanistan. While some said they had found their jobs on the internet and the company had arranged their tickets and visas for them, the majority said that they used brokers or some other type of manpower firms.

In every case, workers relied on networks of brokers rather than on one figure. This created international webs of Nepali, Indian and Afghan brokers: the village brokers would connect the worker with a broker in Kathmandu. The broker in Kathmandu would fly the worker to Delhi (and in some instances Dubai), where they were met by a broker who would arrange their Afghan visa. That broker would then fly them to Afghanistan where Afghan brokers, sometimes in partnership with Nepalis, would run compounds where Nepalis would wait for employment.

A typical payment for all these services was NPR 3-400,000, but the price changed depending on position, and in some cases we heard of NPR 1 million being paid to secure the best jobs. Nepali workers who went to Afghanistan without a job secured could save some money but they would often have to pay the broker NPR 2-300,000 just to get them to Afghanistan and then pay an additional month or two of their salary once hired while staying at one of the hotels run by Nepali and Afghan brokers in Kabul. This strategy was more cost effective, but also more dangerous since if the Nepalis did not have the proper visas, they risked arrest.

While we did not uncover any instances of companies directly encouraging brokers to exploit labourers, there were clearly some companies that allowed for

this to happen more than others. This often came in the form of transparency around things like the hiring process and, in several instances, interviewees actually paid money just to find out about interview days that had not been publicly announced.

The worst cases of exploitation in hiring happened when companies hired international workers within Afghanistan itself. As rumours of jobs spread, brokers encouraged Nepalis to go to Afghanistan without pre-arranged employment, often with nothing more than a 30-day entry visa. Once inside Afghanistan, Nepalis had little agency. If they could not find a job within the 30-day period, they would risk arrest and the Afghan brokers often charged them for room and board by the night. This meant that with each passing day the worker became more desperate and likely to take a poorly paying or unsafe job. Companies and brokers both took advantage of this weakness.

In one case, a Nepali worker got a job just before his visa was about to expire, but on the way to report for the job, the taxi driver pulled over and demanded all his money and his cell phone. The driver was unarmed, but the worker was so desperate to get the job, that he handed over almost all of his possessions willingly. It is worth noting, however, that in certain instances, the lack of formal protection for Nepali workers has given rise to an informal network of Nepali security contractors, managers and journalists who look out for one another. In interviews, workers told stories of other Nepalis pooling their funds to pay a ransom to get a fellow worker released by the Taliban or, in other cases, journalists and other workers serving as go-betweens for Nepalis in Afghan prisons and their families back at home.

IX. LOOKING AHEAD

> It seems highly unlikely the practice of international migration in the security sector will disappear soon, and, over time, is likely to increase. The drawdown of American troops in both Afghanistan and Iraq, however, does mean that current levels are briefly lower than they have been in the past decade. This provides an ideal moment for both researchers and governments to reassess the political, economic and social costs of contracting.

Most pressing is the need for better information and monitoring of international contractors and those that work for them. As outlined above there are incentives for the companies, brokers and other involved to hide information about the process. This means no one knows the true scope of many of these ongoing practices. The Nepali government, the American government and other donor governments should push for better monitoring and more transparency in contracting.

With better information about the number of Nepalis in conflict zones, the companies they are working for, and the countries sponsoring these companies, the Nepali government and civic groups would also be more able to help those Nepalis in conflict zones who end up with legal or other concerns. An updated understanding of the roles of workers abroad would put the Nepali government in a better position to attempt to regulate the flow of workers out of the country. In particular, the current practice of putting the onus on the individual worker to secure government permission is not working very well. A better approach perhaps would be to demand that companies apply directly to the Nepali government for permission to issue permits for workers. In this way, the Nepali government, with the assistance of civic groups, could research company practices, and grant permission to those in good standing while restricting those known to exploit workers.

While the Nepali government lacks some of the resources to implement these steps, it is also in the American government and international community's best interest to avoid the exploitation of workers in conflict zones. Both the American government and an international consortium based in Switzerland have attempted in recent years to be more active in their regulation of contractors

and in monitoring their activity. Coordination between the countries funding contractors and the countries supplying the bulk of the labour for contractors could greatly assist this process, even though this is not happening at all at present. In the future, the Nepali government should lobby the American and other donor countries government to provide more information about the contractors they fund and to implement mechanisms for better joint oversight.[28]

Finally, for those Nepalis returning from war zones, a better support network is needed. In the most extreme cases, some of these workers are suffering from posttraumatic stress disorder, but in other instances, there are simply difficulties readjusting to civilian life. The majority of those contractors interviewed had spent much of the money they had earned in Afghanistan, particularly on building new houses and buying cars or motorbikes. Several, however, had clearly planned for a time when they would not be working in Afghanistan anymore and had invested in setting up shops or other small businesses. Others had used the money to send their children to better schools or abroad. Many had spent the money quickly and now had no other choice than to look for new work abroad.

The practice of international companies hiring contractors from Nepal and other countries to work in war zones is far more likely to expand in the coming years than contract. It is necessary for the American government, the Nepali government and civil society to provide better protections for those travelling to these areas of conflict. Without better understandings of the issues and cooperation between the key actors involved, exploitation is likely to grow and undermine some of the very goals of these international interventions such as the protection of human rights.

28 Donor countries are not taking an active role in this and when I discussed this study with one official at the US embassy in Kathmandu, he expressed surprise that Nepalis were facing challenges while working on American contracts in the US.

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The Centre for the Study of Labour and Mobility is a research centre within Social Science Baha, Kathmandu, set up with the primary objective of contributing to broader theories and understandings on labour and mobility. It conducts interdisciplinary, policy-relevant research on critical issues affecting working people; serves as a forum to foster academic, policy and public debates; and provides new insights on the impact of labour and migration.

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