INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 6 AND ISSUE 7 OF 2026

INSTITUTE OF LEGAL EDUCATION

INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN - 2583-2344

(Open Access Journal)

Journal's Home Page – https://ijlr.iledu.in/

Journal's Editorial Page - https://ijlr.iledu.in/editorial-board/

Volume 6 and Issue 7 of 2026 (Access Full Issue on - https://ijlr.iledu.in/volume-6-and-issue-7-of-2026/)

Publisher

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INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 6 AND ISSUE 7 OF 2026

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

BEYOND OPEN BORDERS: RETHINKING LABOUR MIGRATION GOVERNANCE BETWEEN NEPAL AND INDIA

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BEST CITATION – SUJAL KESHAR SINGH**,** BEYOND OPEN BORDERS: RETHINKING LABOUR MIGRATION GOVERNANCE BETWEEN NEPAL AND INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR),* 6 (7) OF 2026, PG. 535-539, APIS – 3920 – 0001 & ISSN - 2583-2344.

Abstract

Labour migration between Nepal and India is one of the most persistent and distinctive forms of cross-border movement in South Asia. Enabled by the 1950 Treaty of Peace and Friendship, the open-border arrangement allows citizens of both countries to move, reside, and work freely without formal documentation. While this system supports livelihoods and regional integration, it also creates a structural gap between mobility and protection. This article examines the economic, legal, and social dimensions of cross-border labour migration between Nepal and India. It argues that the absence of reliable data, weak policy implementation, and lack of legal recognition contribute to the vulnerability of migrant workers. The article also highlights the asymmetry in migration patterns, where Nepali migrants are largely driven by economic necessity, while Indian migrants often move in response to opportunity. By critically engaging with existing literature and broader migration theory, the article suggests that the open-border system has led to a form of "invisible migration" that is insufficiently governed. It concludes by proposing a shift toward a rights-based and data-oriented framework that balances mobility with protection.

I. Introduction

Migration between Nepal and India does not fit neatly into conventional categories of international migration. It is neither fully regulated nor entirely informal, neither domestic nor entirely foreign. Instead, it exists in a unique space shaped by history, geography, and political agreement. The 1950 Treaty of Peace and Friendship allows citizens of both countries to cross borders without visas or passports, creating one of the most open migration regimes in the world.[1] For many people, especially in Nepal, this openness has long provided a practical solution to economic hardship. Generations of workers have travelled to India in search of employment, forming a migration system that is deeply embedded in social and economic life. At the same time, Indian workers also migrate to Nepal, although this movement has received far less attention.

What makes this system interesting is not just its scale, but its contradictions. People can move freely, but they do not necessarily enjoy equal rights where they work. They contribute to economies but remain outside formal protections. This gap between movement and recognition is where most of the problems begin. Most existing studies look at migration in one direction or focus only on economic causes. That approach misses the bigger picture. Migration here is not just about jobs—it is about systems, relationships, and institutions that shape how and why people move. This article takes a broader view. It argues that the open-border system, while useful, has allowed migration to remain largely invisible in policy and law, leaving workers exposed in ways that are often overlooked.

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II. Economic Foundations of Migration

A. Migration as Survival and Strategy

Economic pressure remains the most consistent reason people migrate between Nepal and India. In Nepal, limited industrial growth, underemployment, and uneven development push people to look for work elsewhere.[2] For many households, sending a family member across the border is not a one-time decision but an ongoing strategy to manage uncertainty. Remittances from migrant workers play a significant role in sustaining rural economies.[3] They support daily expenses, education, and healthcare, and in many cases, they are the difference between subsistence and stability. Migration, therefore, is not simply about individual choice—it is tied to broader structural conditions. At the same time, the reasons for migration are not identical on both sides. Indian migrants moving to Nepal are often responding to specific labour demands or wage differences rather than severe economic distress.[4] This creates an imbalance in how migration operates. One group is pushed more strongly than the other, and that difference shapes their experiences.

B. Informality and Labour Conditions

Most cross-border migrants work in sectors that are informal by nature—construction, agriculture, domestic work, and small-scale services.[5] These jobs are easy to access but difficult to regulate. Workers are rarely given written contracts, wages can be unpredictable, and legal recourse is limited. This informality is not accidental. It benefits employers who can avoid compliance costs and maintain flexibility. But for workers, it means living with uncertainty. If wages are withheld or conditions are unsafe, there are few effective mechanisms for redress. The lack of regulation also affects how migration is perceived. Because it happens outside formal systems, it often goes unrecorded and under-discussed. This contributes to the broader problem of invisibility that runs through this migration system.

III. Legal and Institutional Gaps

A. The Limits of the Open Border

The open-border arrangement is often described as a strength, but it also creates serious limitations. Without documentation, it becomes difficult to know how many people are moving, where they are working, and under what conditions.[6] This lack of data weakens policymaking and allows problems to persist without clear accountability. In most migration systems, regulation begins with documentation. Here, the absence of that step creates a gap that is never fully addressed. Governments are aware of migration, but they do not have the tools to manage it effectively.

B. Mobility Without Rights

Perhaps the most significant issue is the disconnect between movement and rights. Migrants can cross borders freely, but they do not gain full access to labour protections, welfare systems, or legal remedies in the destination country.[7] This creates a form of partial inclusion. Migrants are present and economically active, but they remain on the margins of formal systems. In legal terms, they are neither fully included nor fully excluded, which makes their position particularly fragile. Existing laws do little to resolve this. Immigration frameworks in both countries are not designed with open-border migration in mind.[8] As a result, a large segment of the workforce operates in a space that is only loosely governed.

IV. Social and Cultural Dimensions

A. Networks and Mobility

Migration between Nepal and India is sustained by strong social networks. People rarely migrate without some form of connection—family members, friends, or community ties who have already made the journey.[9] These networks reduce uncertainty and help new migrants find work more quickly. At the same time, they can limit options. When people rely on existing networks, they often enter the same types of jobs as those before them. This reinforces

patterns of low-skilled migration and makes upward mobility more difficult.

B. Inequality and Access

Not everyone participates in migration in the same way. Social background plays an important role in determining who migrates and what kind of work they find. Many migrants come from communities with limited access to education and resources.[10] This affects their bargaining power and the conditions they accept. It also shapes long-term outcomes. Without access to education or skill development, migration can become a cycle rather than a stepping stone.

C. Gendered Experiences

Although migration is often described as male-dominated, women are increasingly part of this movement. Their experiences, however, are less visible and often more precarious.[11] Women are more likely to work in unregulated sectors such as domestic labour, where oversight is minimal. Despite this, gender remains underexplored in both research and policy. This gap limits the ability to design responses that reflect the full reality of migration. The issue is not simply that fewer women migrate, but that the system itself is not designed with their mobility in mind. One of the defining features of female migration in this corridor is its informal and often concealed nature. While men are more likely to migrate through socially accepted and visible pathways, women frequently rely on indirect routes shaped by family networks, intermediaries, or unregulated channels. This is partly a consequence of restrictive norms in both origin and destination communities, where women's mobility is still viewed with suspicion or moral scrutiny. As a result, female migrants often move without adequate documentation, institutional support, or awareness of their rights. The type of work available to women further deepens their vulnerability. A large proportion of female migrants are concentrated in domestic work, caregiving, and low-paid service roles, sectors that are not only informal but also located within private spaces.[13] Unlike construction or agricultural labour, which occurs in more visible settings, domestic work isolates workers within households. This isolation reduces oversight and increases the risk of exploitation, including excessive working hours, non-payment of wages, and, in some cases, abuse. The absence of clear employer-employee relationships in these settings makes it difficult to enforce labour protections or seek legal remedies. Gender also shapes the terms of negotiation and agency within migration. Women often have less control over decisions regarding migration, employment, and income use. Migration may be mediated by male family members, and earnings are sometimes managed collectively rather than individually. This limits the extent to which migration translates into empowerment, even when it contributes economically to the household.

At the same time, it would be inaccurate to view female migration solely through the lens of vulnerability. For many women, migration provides new forms of autonomy and exposure that are not available in their home communities. Access to income, even if limited, can shift household dynamics and expand decision-making capacity. However, these gains are uneven and often fragile, depending heavily on working conditions and social support structures. Another critical issue is the lack of gender-sensitive policy frameworks. Migration policies in both Nepal and India tend to adopt a gender-neutral approach, which in practice means they fail to address gender-specific risks.[14] For instance, regulations aimed at protecting women migrants have sometimes taken the form of restrictions rather than safeguards, limiting mobility instead of improving working conditions. Such measures can push women further into informal channels, increasing rather than reducing risk. Moreover, access to justice remains a significant challenge. Female migrants facing exploitation or abuse often encounter barriers in reporting grievances, including lack of legal awareness, fear of retaliation, and absence of accessible institutional mechanisms. In cross-border

contexts, these challenges are compounded by jurisdictional ambiguities and limited bilateral coordination. The invisibility of female migrants is also reflected in data gaps. Because many women migrate informally or are categorized under household movement, their presence is undercounted in official statistics. This lack of visibility reinforces their exclusion from policy considerations and resource allocation. Understanding gender in migration, therefore, requires moving beyond simple participation rates. It involves recognizing how social norms, labour markets, and institutional gaps interact to produce distinct experiences for women. Without this perspective, migration governance remains incomplete. A more effective approach would involve integrating gender into all levels of migration policy. This includes recognizing domestic work as labour, improving access to legal remedies, and creating support systems that account for the specific risks faced by women. Equally important is shifting the focus from restricting movement to making migration safer and more equitable.

V. Rethinking the Problem

A. The Issue of Invisibility

A recurring theme across all aspects of this migration system is invisibility. Migration happens openly, but it is not fully captured in data, law, or policy. This creates a situation where problems are known but not adequately addressed. Invisibility also shapes perception. Because migration appears routine and unproblematic on the surface, deeper issues such as exploitation and exclusion are often overlooked.

B. Beyond Economic Explanations

While economic factors are central, they do not explain everything. Migration between Nepal and India is also shaped by history, culture, and institutional design. The open-border system itself is a key factor—it enables movement but also limits regulation. Understanding migration in this context requires moving beyond simple push-and-pull explanations and looking at how systems operate over time.

VI. Toward Better Governance

If the open-border system between Nepal and India is to remain both functional and legitimate, it must move beyond simply enabling movement and begin to address the conditions under which that movement takes place. At present, the framework prioritizes access over accountability. People are able to cross borders with ease, but the systems that should protect them once they do are either weak or absent. A more effective approach would begin by recognizing migrant workers not just as economic participants, but as rights-bearing individuals. This requires a shift toward a governance model that places working conditions, fair wages, and access to remedies at its core. Without such a shift, the benefits of open mobility will continue to be unevenly distributed, with risks falling disproportionately on those who are least equipped to manage them.

At the same time, improving governance does not necessarily mean restricting movement. One of the common concerns with reforming open-border systems is that any attempt to regulate migration will undermine its accessibility. This need not be the case. It is possible to strengthen oversight without introducing rigid controls. The central issue is not mobility itself, but the absence of information about it. Migration between Nepal and India remains largely undocumented, which limits the ability of both states to respond effectively to emerging challenges. Even modest steps, such as voluntary registration systems, labour identification mechanisms, or localized data collection at key transit points, could significantly improve understanding without interfering with the ease of movement. Better data would not only support more informed policymaking but also make it easier to identify patterns of exploitation and respond in a timely manner. Equally important is the need for closer cooperation between the two

countries. Cross-border migration, by its very nature, cannot be addressed through unilateral measures. Policies introduced in one country inevitably affect conditions in the other. Yet, despite the long history of migration between Nepal and India, institutional coordination remains limited. A more structured form of engagement is necessary, particularly in areas such as labour standards, dispute resolution, and access to legal support. Bilateral mechanisms could provide a platform for addressing grievances, monitoring working conditions, and ensuring that basic protections are upheld across borders. Without such coordination, existing gaps in governance are likely to persist, and responsibility will continue to fall through institutional cracks.

Taken together, these changes point toward a broader rethinking of how migration is governed in an open-border context. The objective should not be to control movement, but to make it safer, more transparent, and more equitable. Achieving this balance is not straightforward, but it is essential if the system is to remain sustainable in the long term.

VII. Conclusion

Labour migration between Nepal and India is both ordinary and exceptional. It is ordinary in the sense that it is part of everyday life for millions of people. But it is exceptional in how it operates—open, informal, and only partially governed. This article has argued that the real challenge is not movement itself, but the lack of systems around it. When migration is not properly recorded, regulated, or recognized, it creates space for inequality and vulnerability. The goal should not be to restrict movement, but to make it fairer and safer. That requires better data, clearer legal frameworks, and stronger cooperation. Without these changes, the open-border system will continue to function, but it will do so unevenly, benefiting some while leaving others exposed.

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ISSN 2583-2344