

COUNTRY BRIEFER

NEPAL

DECENT WORK FOR WOMEN MIGRANT WORKERS SERIES



BACKGROUND



Migration for better opportunities has been a common occurrence in Nepal for many years. Poverty, lack of employment opportunities and passive economic growth have made migration for foreign employment a forced choice for many Nepalese. This situation was exacerbated as a result of the 2015 earthquake when economic growth in Nepal slowed down significantly (from 5.9 per cent in 2013/14 to 0.6 per cent in 2015/16). This had a huge impact on the labour market, livelihoods and income of workers. Remittances as a share of Gross Domestic Product (GDP) has doubled between 2005/06 and 2015/16, from 14.9 per cent to 32.1 per cent. Over 50 per cent of Nepalese families rely on financial help from relatives abroad, which is among the highest rates in the region.² According to the Nepal Living Standard survey, around 11 per cent of total remittances come from women migrant workers.

COUNTRY OVERVIEW

Main Countries of Destination

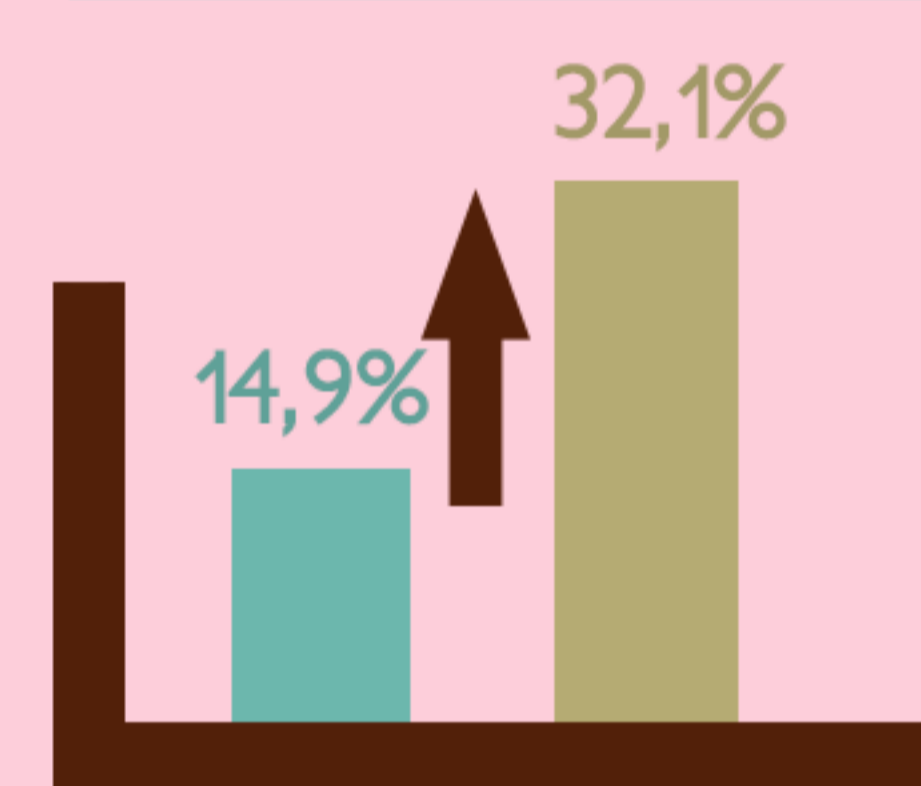
Malaysia, UAE, Qatar, Saudi Arabia, Kuwait, Lebanon, Cyprus, Republic of Korea

Women's share of total migration

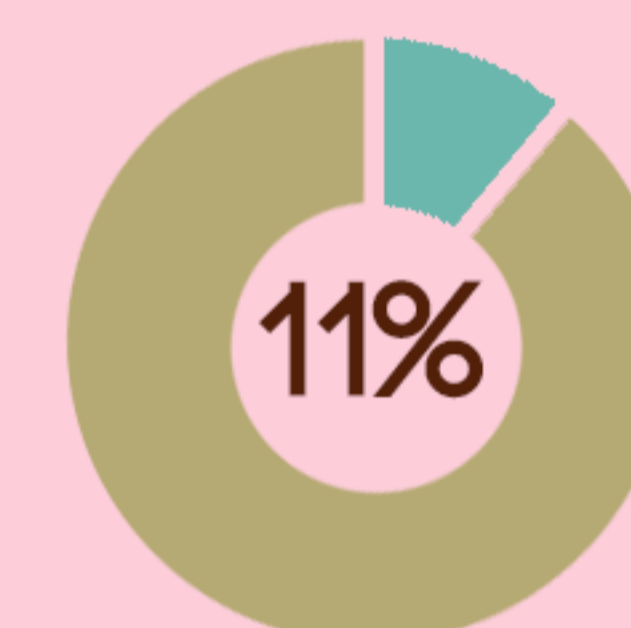
There has been a significant increase in the number of Nepalese women migrating for work in recent years. Official figures show 21,421 women migrated for work in 2014–2015.¹ *

Main sectors of employment

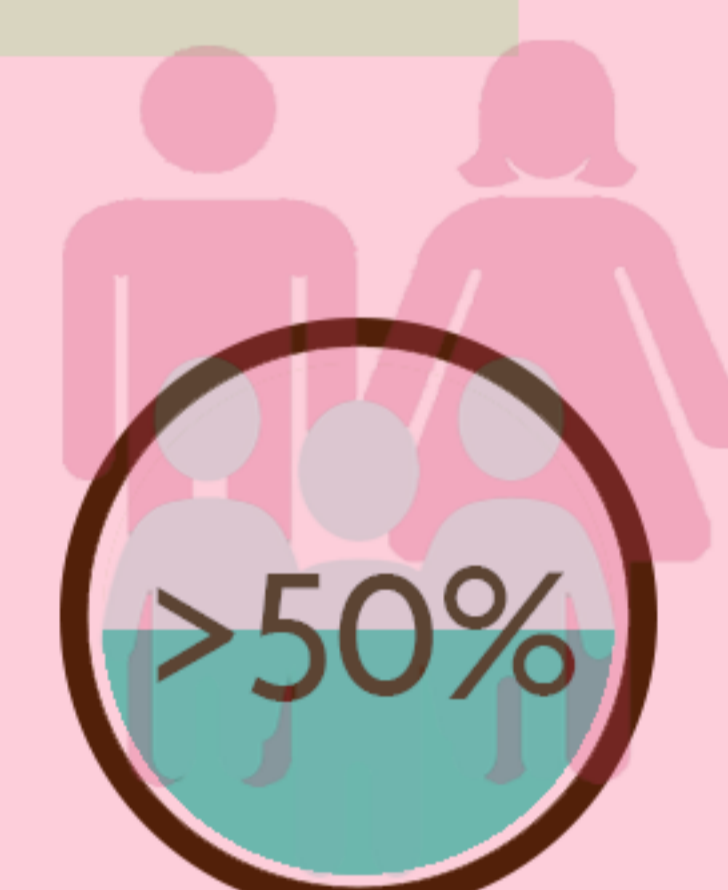
Domestic work, care-giving



REMITTANCES DOUBLED BETWEEN 2005-2015



REMITTANCES COME FROM WOMEN MIGRANT WORKERS



NEPALESE FAMILIES RELY ON FINANCIAL FROM ABROAD

TRAVEL BAN POLICY



IRREGULAR CHANNEL

INCREASES RISK AND VULNERABILITY

According to official numbers, women form a small part of the outward labour migration from Nepal. However, women are much more likely to use informal channels to migrate abroad, which makes their numbers harder to estimate. For women migrant workers, factors like violence, poverty, lack of decent economic opportunities play an influential role.

Various cases of deception, abuses and economic exploitation in the migration process are reported by women migrant workers. Lack of information, use of irregular channels, exorbitant charges by recruiting agents or agencies and deceptive recruitment agreements have contributed to the risk and vulnerability of migrant workers, especially women. The Nepali government has imposed a series of bans in recent years ostensibly to protect women migrant workers.

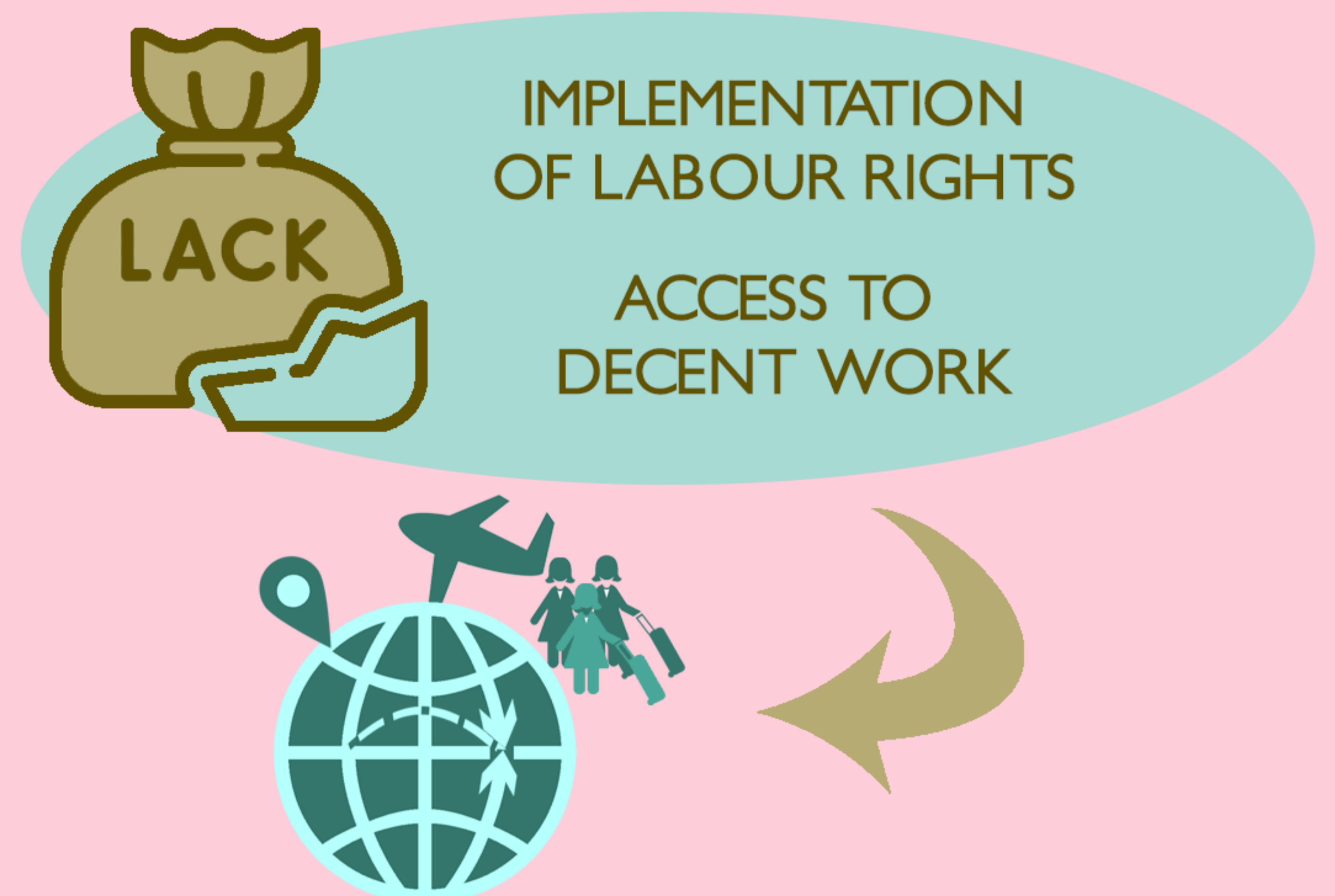
However, this paternalistic approach has resulted in restricting women's informed choice in migration and forced many women to resort to informal channels to migrate to sustain their livelihood. Most Nepalese women are employed as domestic workers in foreign countries. This sector is not covered by labour laws in most destination countries, which increases the vulnerability of women migrant workers.

* According to the official figures, between 1985 and 2001, only 161 women migrated and by 2014–2015, the figure shot up to 21,421. These numbers do not include crossborder migration to India and those migrating through informal channels

THE STATE OF 'DECENT WORK' FOR WOMEN IN NEPAL

The Constitution of Nepal (2007) ensures the fundamental rights of citizens, including the right to employment. The Constitution also prohibits gender-based discrimination. The Nepal Labour Act 2074 (2017) has replaced the previous Labour Law as a major legal framework to regulate labour rights in the country.

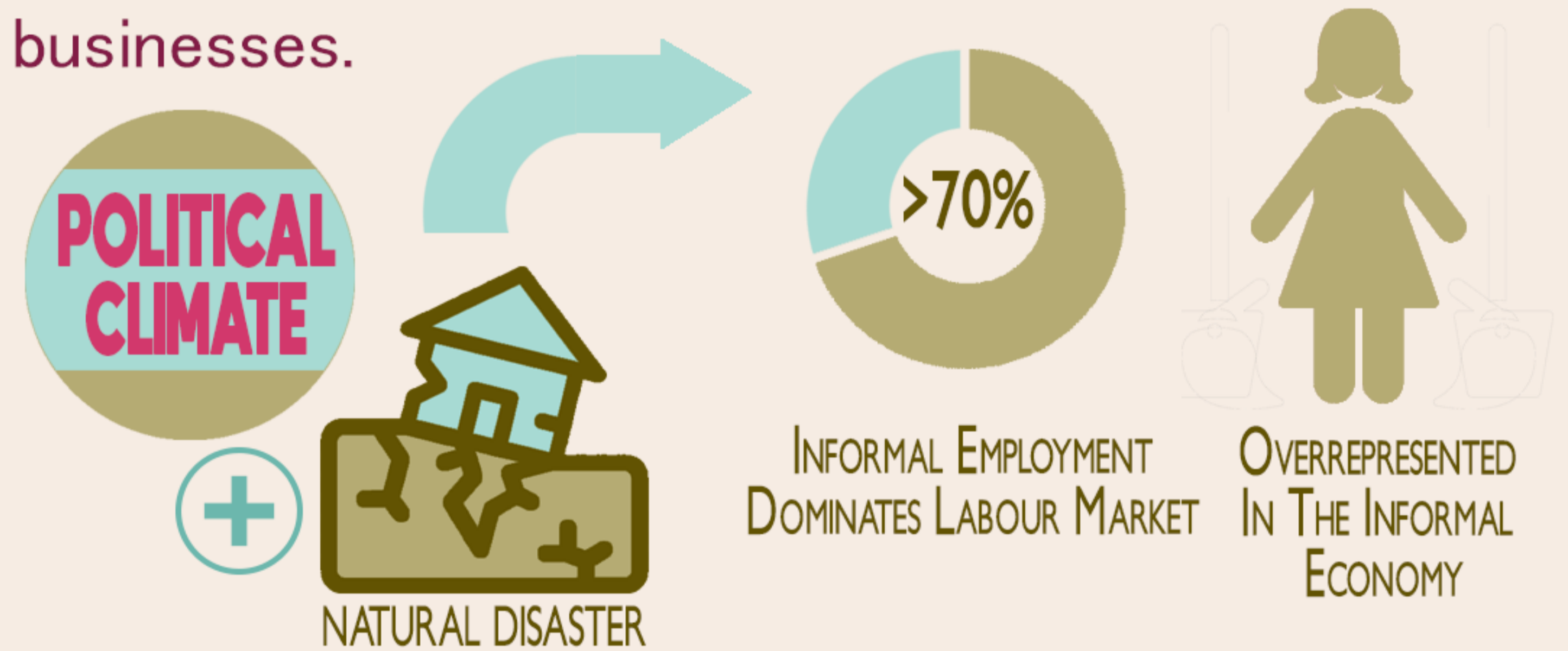
However, civil society groups have pointed to the lack of implementation of labour rights and lack of access to decent work as a strong impetus for women workers to migrate out of Nepal.



FULL AND PRODUCTIVE EMPLOYMENT

JOBS A turbulent political climate, combined with recent natural disasters have had a serious dampening effect on the economy and decent job creation. Although the government has produced a number of policy documents in recent years to develop better employment and income generating activities, their implementation in practice has been criticised by experts.³ Informal employment dominates the labour market – over 70 per cent of people are employed in the informal economy, which is not covered by the labour law.⁴

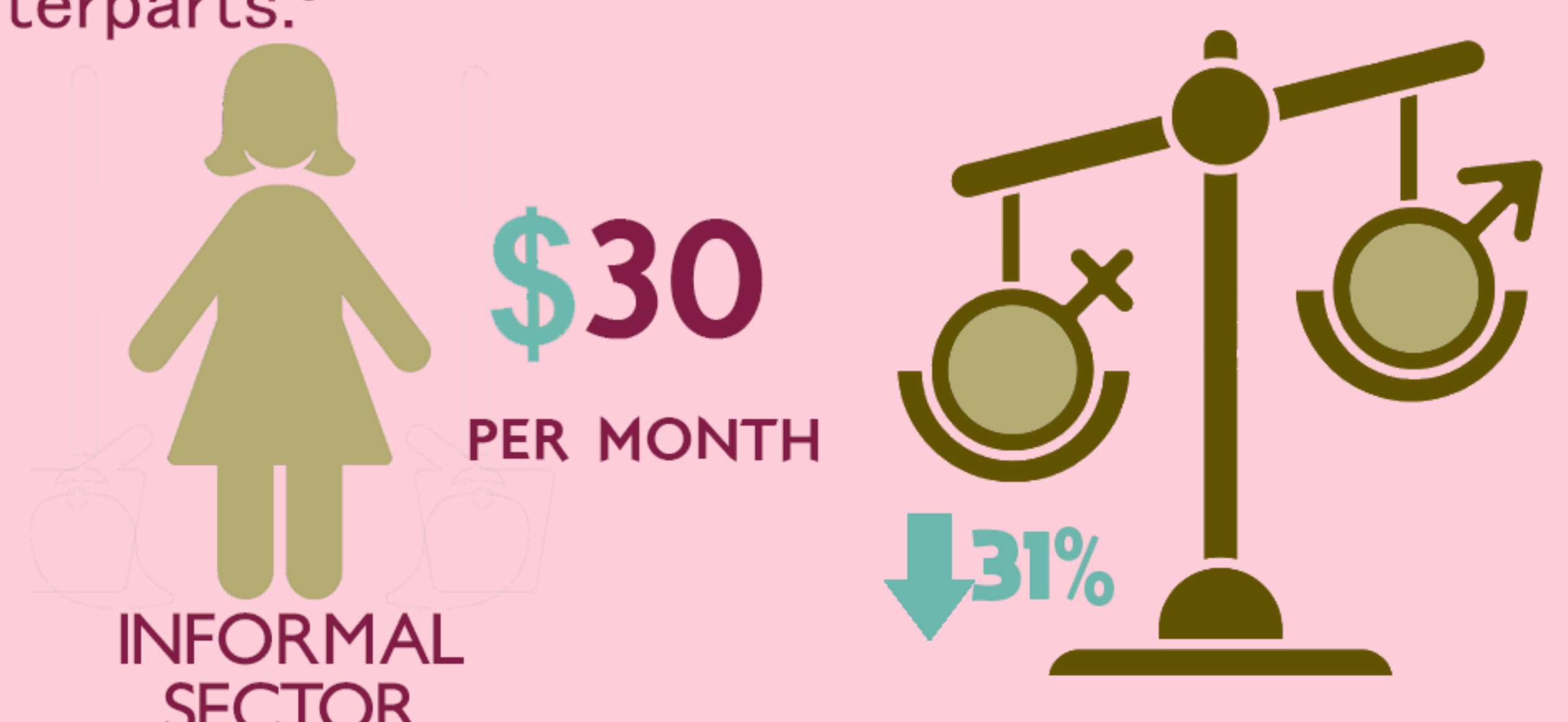
Women face particular disadvantages in obtaining decent and productive employment. Due to lack of opportunities in the formal sector, they tend to be overrepresented in the informal economy including self employed women workers, casual daily wage earners, unpaid workers of family businesses.



MINIMUM WAGE

The minimum wage level in Nepal is regulated by a tripartite committee and social dialogue that has regularly been revised every two years. In 2021, a tripartite consultation decided to increase its minimum wage to NPR 15,000 (USD 126) a month and the daily minimum wage at NPR 577 (USD 4.8) – an 11 per cent increase since the last revision in 2018.⁵ However, the increase of the minimum wage is not applicable for workers employed in tea estates, and their minimum wage remained at NPR 10,781(USD 91) a month.⁶

Furthermore, this statutory minimum wage is not enjoyed by the majority of women workers. A research from civil society groups shows that women workers, especially those working in the informal sector usually make about NPR 3,500 (USD 30) per month only.⁷ Moreover, women in Nepal face serious wage discrimination – women workers in Nepal get 31 per cent less wages compared to the wages of their male counterparts.⁸



THE STATE OF 'DECENT WORK' FOR WOMEN IN NEPAL

WORKING HOURS



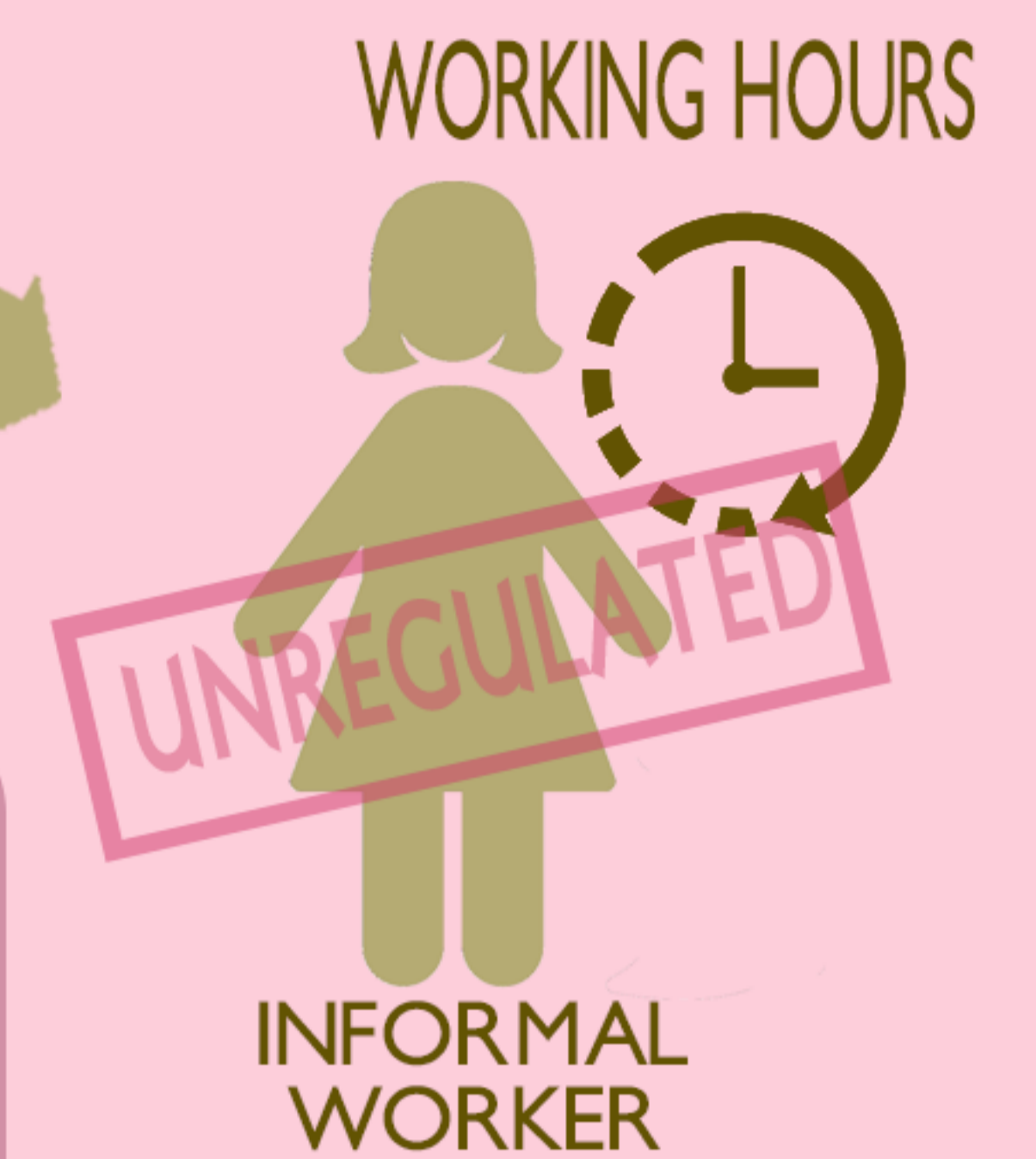
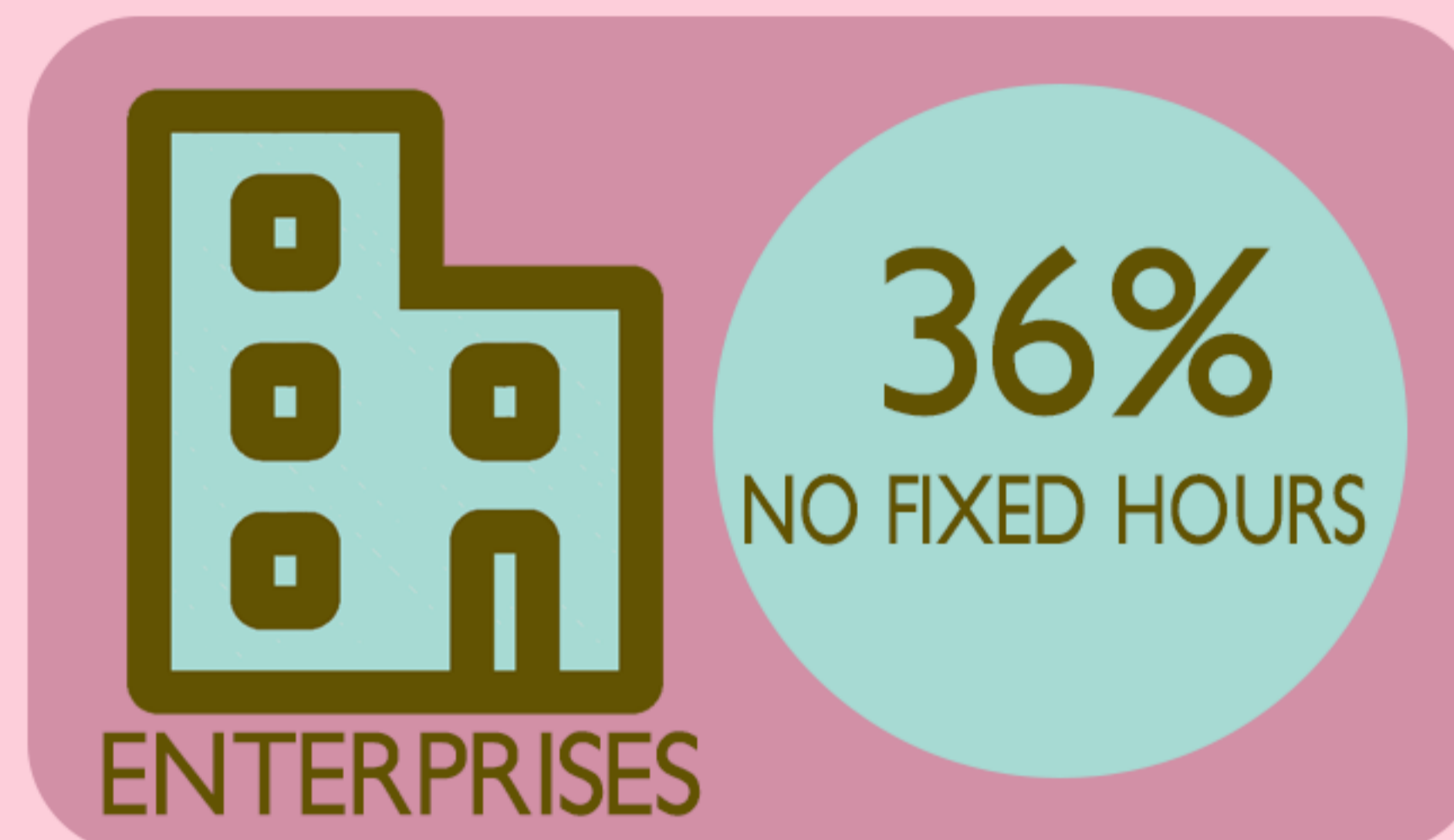
The Labour Act specifies that no worker should be engaged to work for more than eight hours per day or 48 hours per week. However, the implementation of this law is quite poor. In the formal sector, about 36 per cent of enterprises have no fixed working hours.⁹ The working hours of the informal workers are highly unregulated. There were reports of workers in motorcycle workshops who need to work 16 hours a day, from 8 am until 12 pm in the late night, seven days per week without holidays.¹⁰

LABOUR ACT

MAX

8 Hours/Day
48 Hours/Week

REALITY



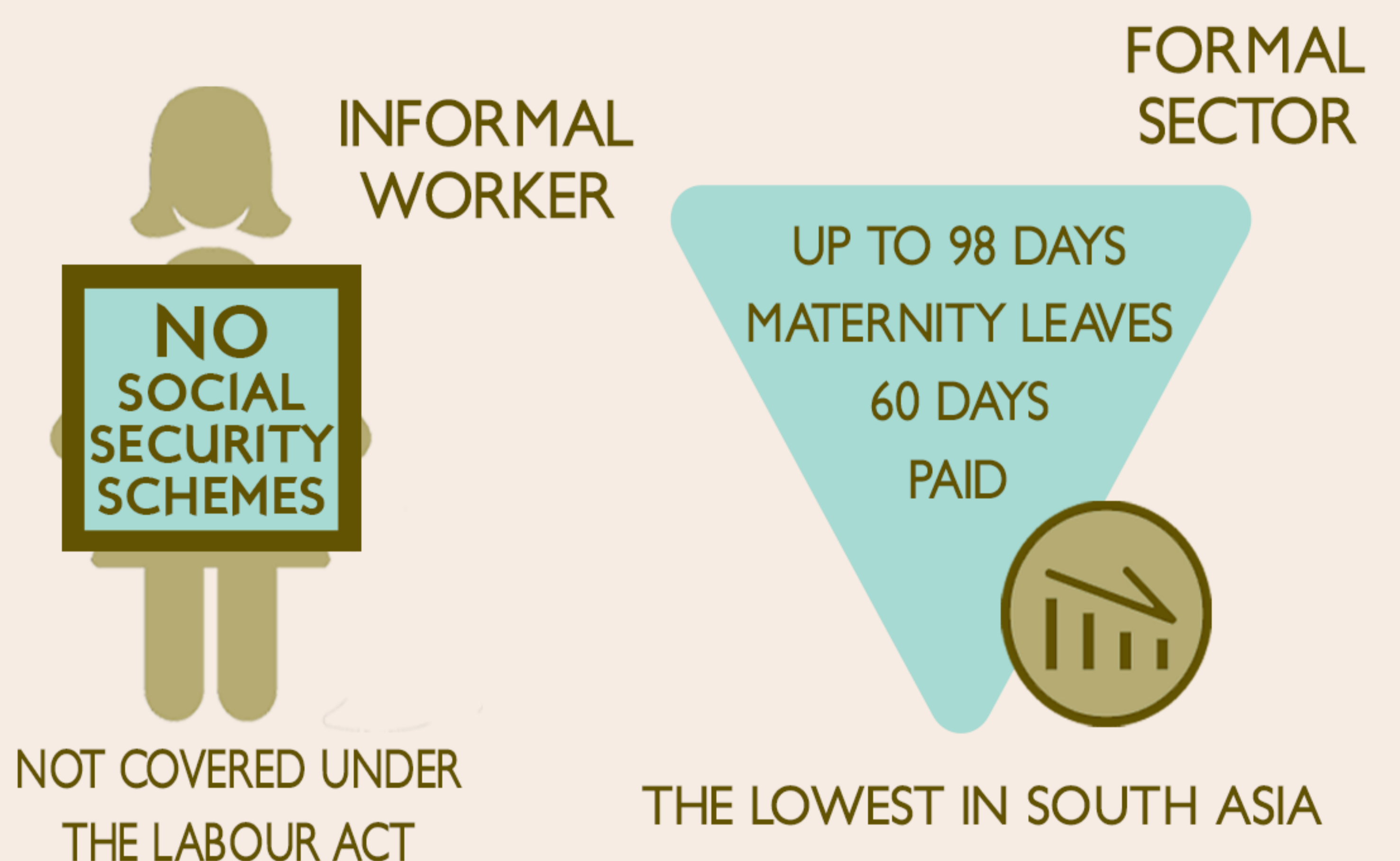
SOCIAL PROTECTION



The Labour Act contains provisions for social security, but it is restricted to public sector employees and a limited number of private sector workers. Since the large majority of women in Nepal work in the informal sector, they are not covered under the social security schemes of the Labour Act.

Under the old Labour Act, government civil servants received 60 days of paid maternity and 15 days of paid paternity leave. Nepal's Labour Rules 2050, which governed the formal private sector, allowed for 52 days of fully-paid maternity leave before or after the birth of a child.¹¹ Under the new Labour Act (2017), maternity leave in Nepal has been increased to up to 98 days, fully paid for 60 days.¹²

However, this is still among the lowest in South Asia, with the South Asian Association for Regional Cooperation (SAARC) countries offering paid maternity periods up to 26 weeks.



PROMOTION OF SOCIAL DIALOGUE



There is widespread hostility to trade unions as most employers perceive unions as a threat to employment and profit making. Trade unions have contended that laws regarding freedom of association are not implemented and therefore employers are able to evade it easily. Industrial relations are poor with frequent strikes, lockouts and blockages being commonplace.¹³



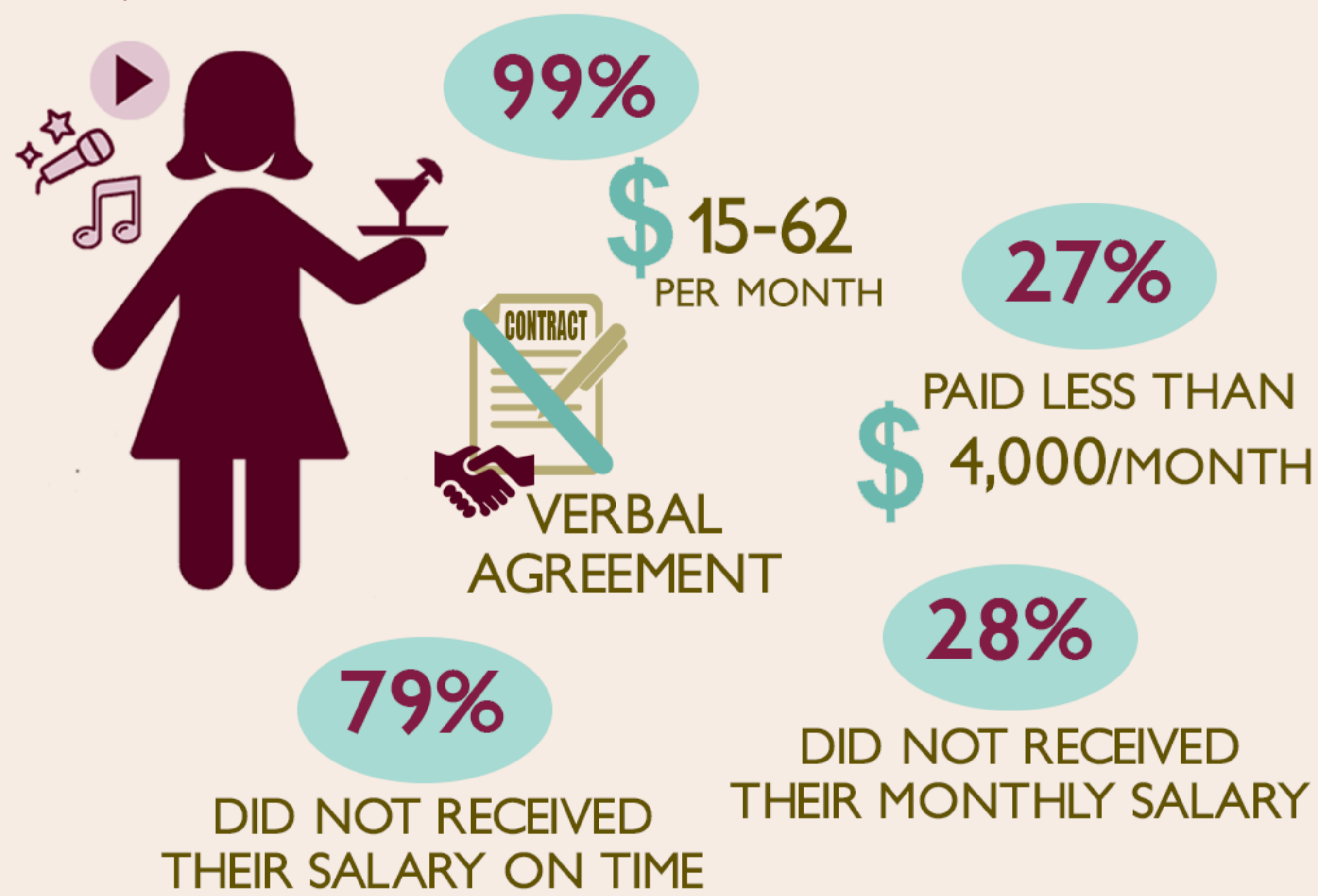
WIDESPREAD HOSTILITY TO TRADE UNION

THE STATE OF 'DECENT WORK' FOR WOMEN IN NEPAL

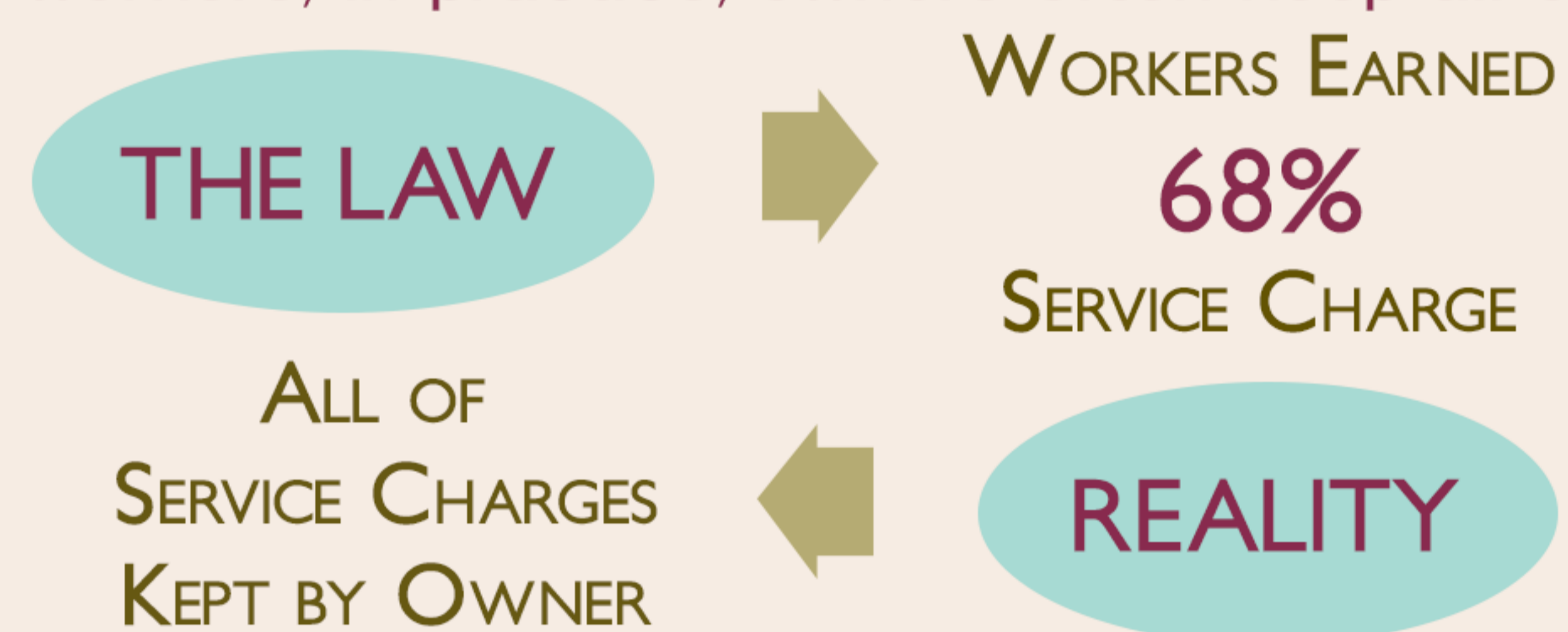
LOW OR NO PAY AND ABUSE CHARACTERISE WORKING CONDITIONS FOR WOMEN IN THE ENTERTAINMENT SECTOR IN NEPAL

Research by Women Forum for Women in Nepal (WOFOWON) with women working in the entertainment sector in Kathmandu found that women in this sector face severe wage discrimination and unsafe working conditions. *Entertainment work is not fully recognised as work by state, labour authorities or police in Nepal.* In order to support their families, women work in dance bars, duet restaurants, cabin restaurants, massage parlors and restaurants in urban areas.

The study found that over 99 per cent of women working in this sector are not given contracts or appointment letters detailing work duties and wages. Owners verbally agree on salaries of typically NPR 1,500– 6,000 (USD 15–62) per month, far below NPR 8,000 (USD 67) which was the legal minimum wage at the time the study was conducted. Twenty-seven per cent of the participants reported being paid less than NPR 4,000 per month. It also found that 28 per cent of women did not receive their monthly salary, and 79 per cent of those who did, did not receive it on time.



Women working in restaurants and the entertainment sector reported on often being told by their owners that they should accept a low base salary because they would earn extra through tips. While the law mandates that 68 percent of the service charges collected from customers should be distributed to the workers, in practice, owners often keep all of it.



Women workers are also told to accept sexual harassment from customers in order to help sales. One woman participating in the study said,

“We were not even considered human. Business owners and managers would only look for sales, business, money. For more money, they wanted us to accept any forms of exploitation from the customers. Eventually, the customers’ behaviours went on to become more violent.”

When women protest these inhumane working conditions or try to organise to demand their rights, they face violence from their employers or are fired immediately. Organisations such as WOFOWON are working to help workers form unions to address these violations of workers’ rights and they have succeeded in restoring the jobs of some entertainment sector workers who were unjustly terminated. However, they face fierce resistance from employers who continue to abuse workers once they go back to their jobs. Workers also often face intimidation and violence from the police and their landlords.

Civil society groups such as WOFOWON cite the lack of regulations and inspections or implementation of existing laws as the main reason behind the woeful working conditions of women in the entertainment sector in Nepal. Despite the challenges, very few women want to leave their jobs as it is their only means of earning an income. They instead want the sector to be managed and well regulated.

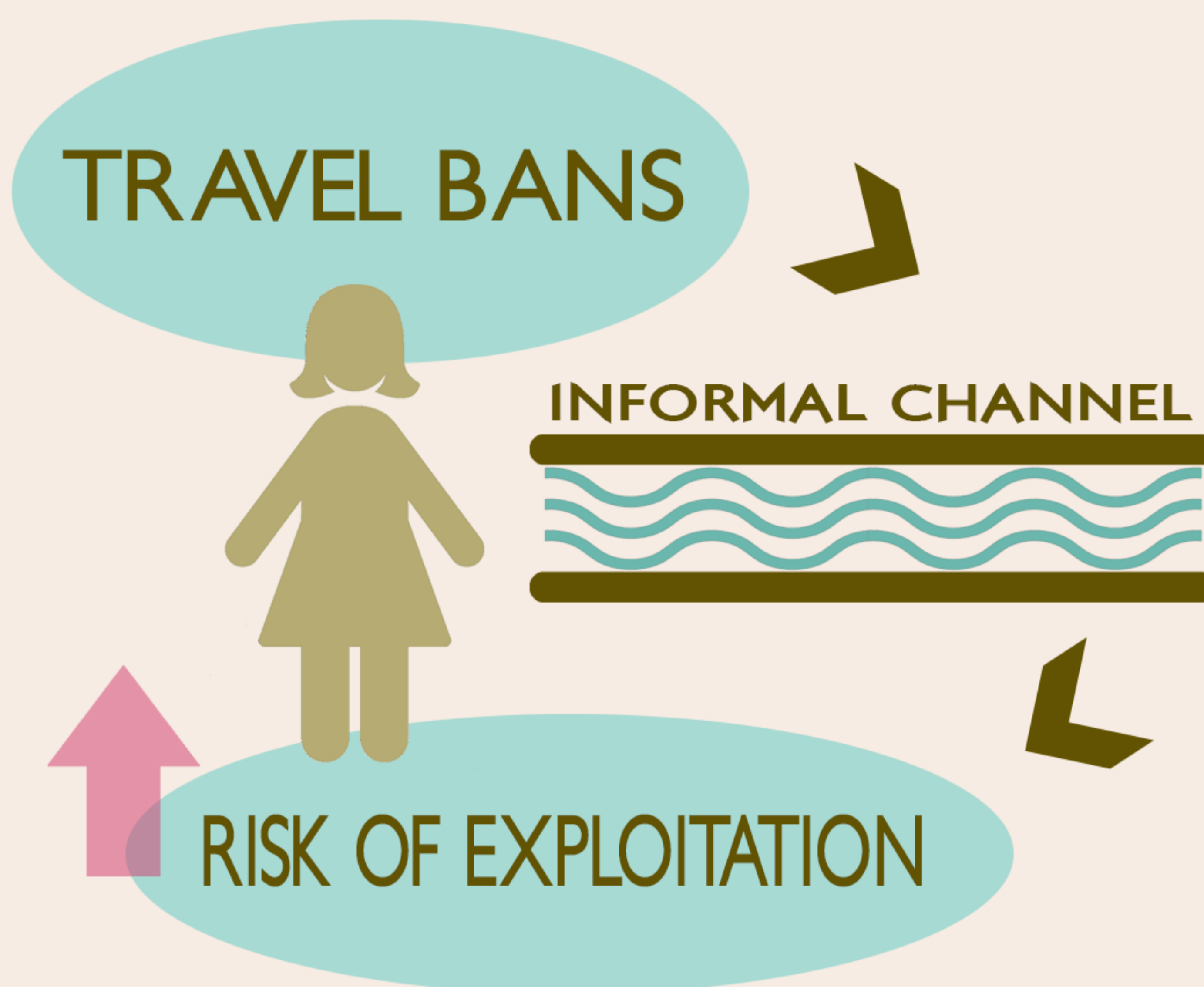


CHALLENGES FACED BY WOMEN MIGRANT WORKERS FROM NEPAL

TRAVEL BANS FORCING WOMEN TO USE INFORMAL CHANNELS

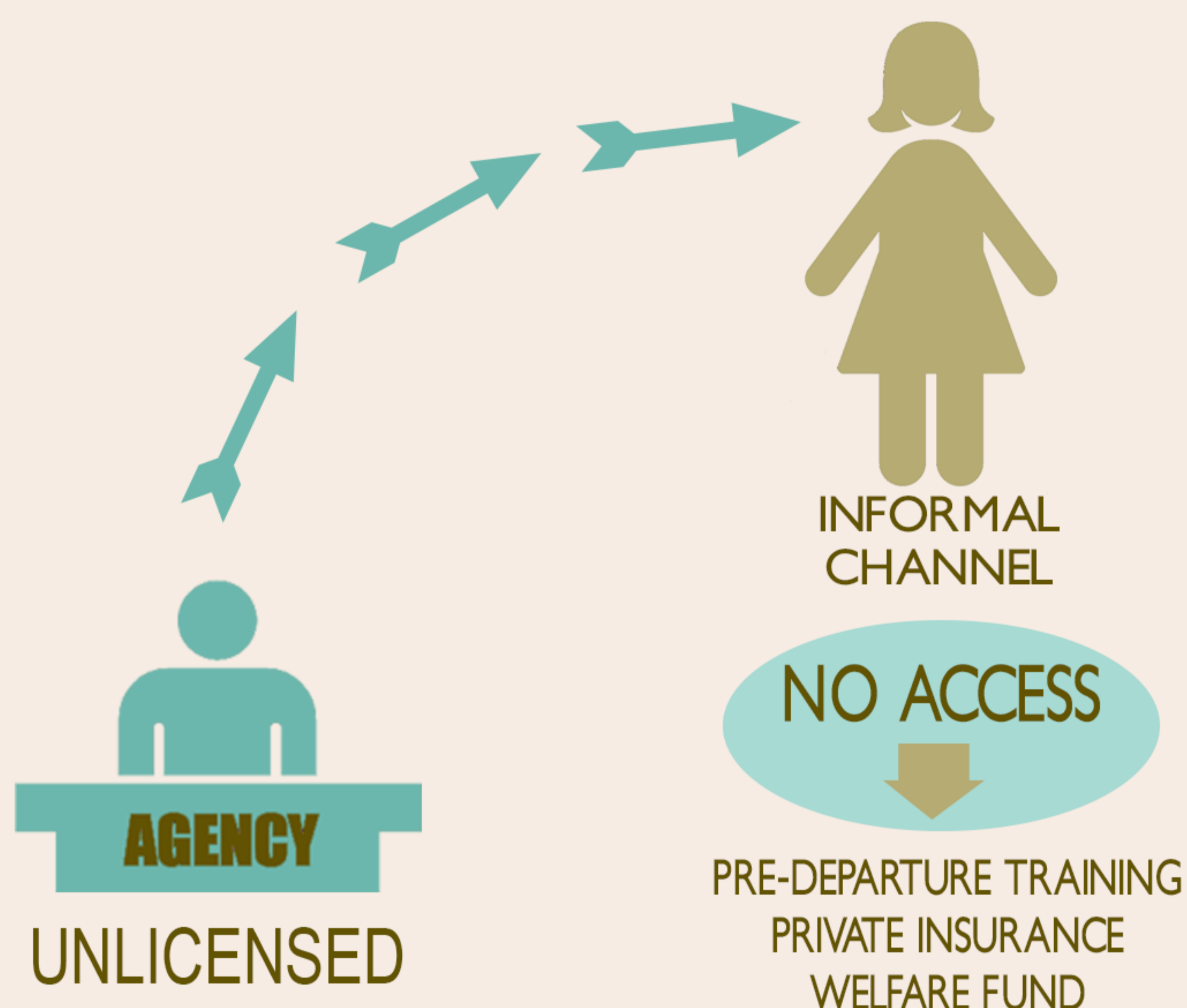


During travel bans women have fewer economic opportunities and possibilities to escape oppressive social circumstances such as early marriage or abusive relationships. Surveys of women migrant workers revealed that the travel bans did not prevent women from migrating. Instead, they forced women to resort to informal channels, putting them at a greater risk of exploitation by agents and a variety of middle-men.



Licensed recruitment agencies had less power during the ban periods, creating an opening for unlicensed agencies to prey on women. Women migrating through informal channels do not have access to pre-departure training or the private insurance fund or the welfare fund, which provides compensation to workers.

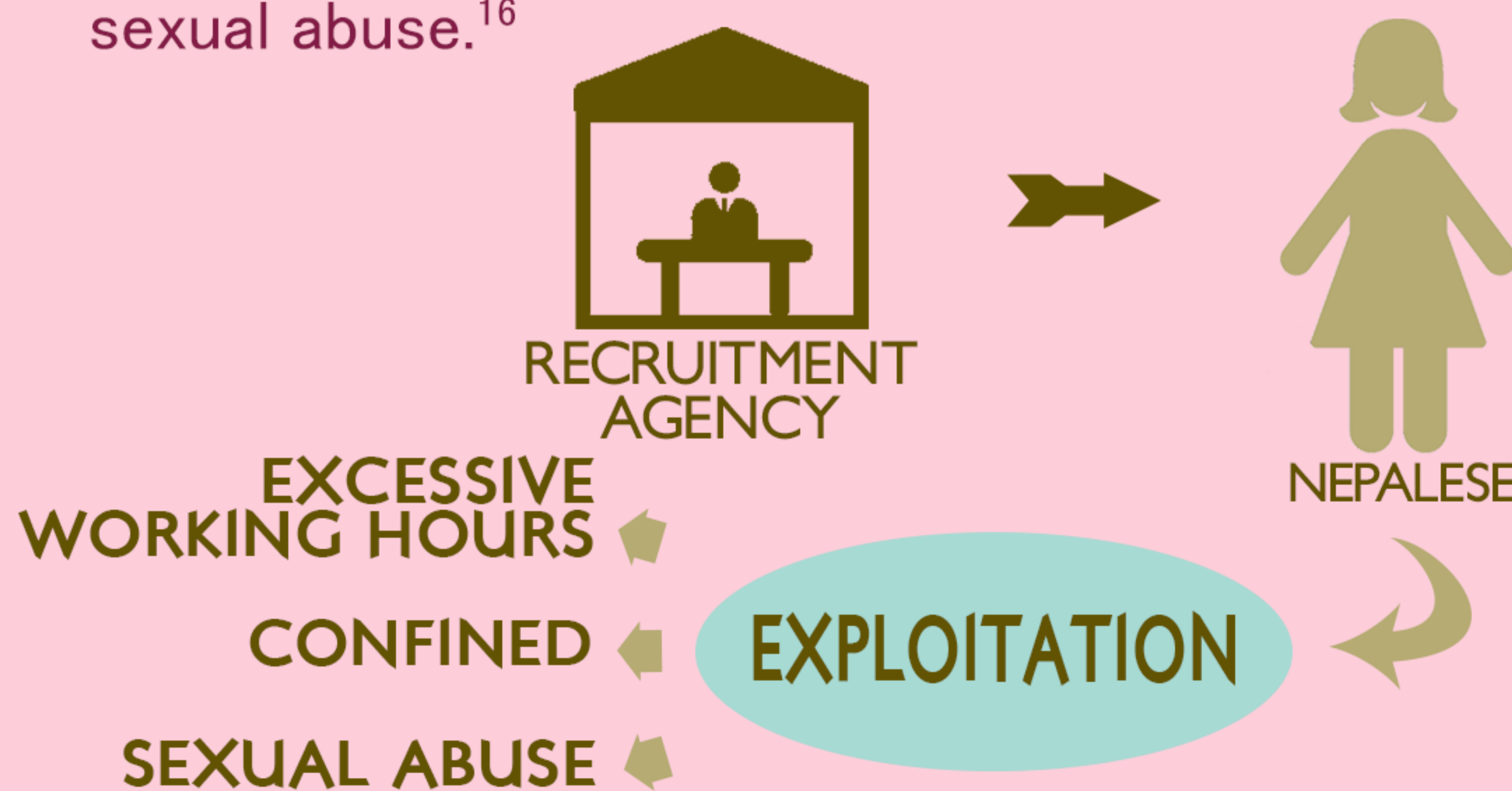
The travel bans often force women to migrate via third countries, such as India. This puts them at a greater risk of deception and exploitation as well as exposes them to potential violence in the countries of transit.¹⁴



Bans also increase the vulnerability of women to trafficking. In the aftermath of the 2015 earthquake, there was an increase in demand for resources to rebuild homes, support medical treatment and support families. The desperate circumstances combined with the government's ban created a golden opportunity for human traffickers to exploit women migrant workers. They were able to use the ban as an excuse to silence women about excessive fees and dubious and vague employment opportunities.



On the other hand, recruitment agencies in the Middle East were hiring Nepalese women because they saw them as being more exploitable since there was no embassy to look after them if they were in trouble.¹⁵ Once abroad, many of these women migrant workers face harsh working conditions that can include 21-hour work days, being confined to their employers' homes and sexual abuse.¹⁶



CHALLENGES FACED BY WOMEN MIGRANT WORKERS FROM NEPAL

EXCESSIVE FEES AND LACK OF REGULATION OF RECRUITMENT AGENCIES



Nepal's Foreign Employment Act (2007) requires recruitment agencies to provide migrant workers with a copy of their contract in advance and guards against excessive fees for recruitment services. It also states the punishment for recruitment agents that fail to abide by terms of contract. However, research by Amnesty International found that recruitment agencies often fail to provide workers with contracts, can change terms and conditions at the last minute and overcharge for fees. The government of Nepal is failing to enforce the legislation and punishment for recruitment agencies is few and far between.

Migrant workers also have rights under the Act to compensation when their terms and conditions have not been met, yet few are aware of existing mechanisms for complaint and redress in Nepal.¹⁷ Furthermore, it was found that when travel restrictions are placed on women migrant workers, they are often forced to pay bribes to airport officials that can range from USD 100 to USD 600 per person. This also adds to the cost of migration.¹⁸

FOREIGN EMPLOYMENT ACT

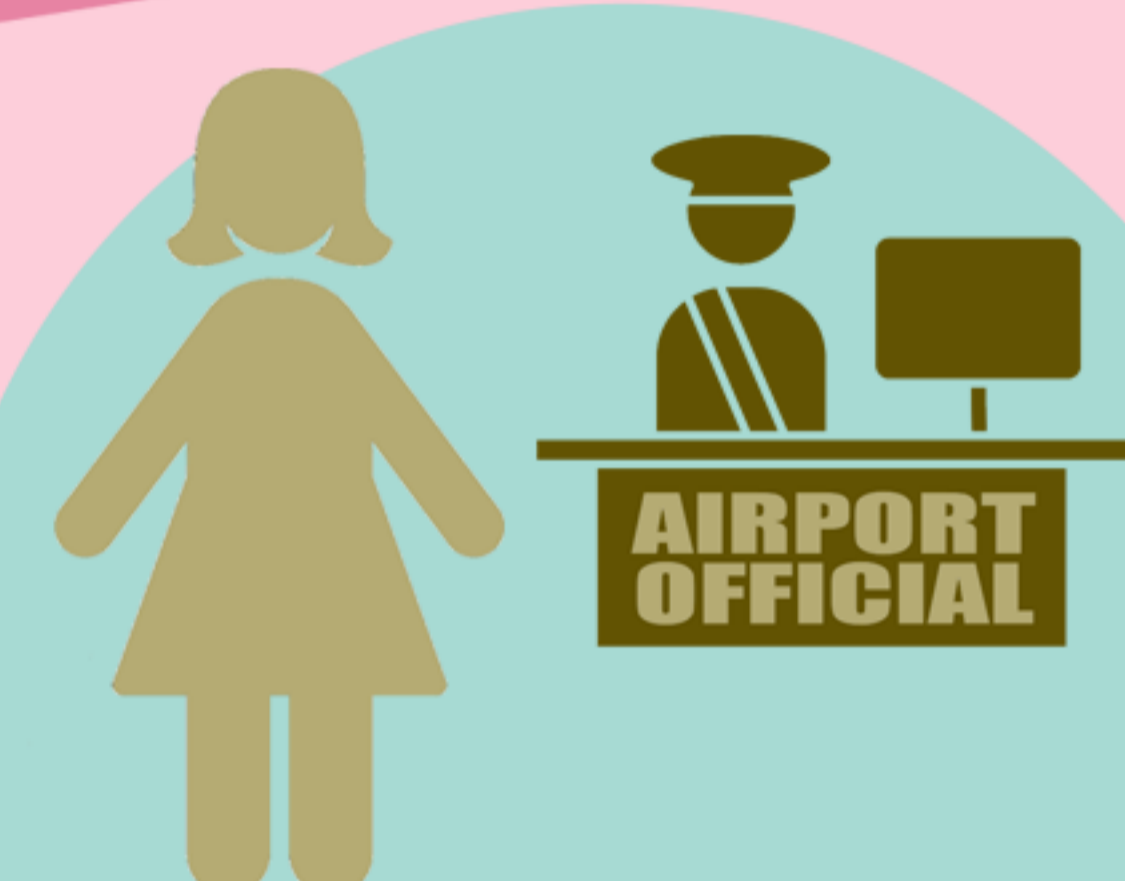
WORKER ENTITLED COPY OF CONTRACT IN ADVANCE

PROTECT AGAINST EXCESSIVE FEES

MECHANISM FOR COMPLAINT & REDRESS

LAW ENFORCEMENT

~~FAILED~~



FORCED TO PAY USD 100-600

DEFICITS IN TRAININGS PROVIDED



In Nepal, the implementation of pre-departure training is exclusively done by private recruitment agencies. The agencies charge around USD 10 /person for this mandatory orientation session. The Foreign Employment Promotion Board (FEPB) acts as overseers of this process with the following mandate to: 1) register the recruitment agencies; 2) develop the curriculum; and 3) monitor the trainings. The trainings are meant to cover: foreign employment law of Nepal, language of destination country, geography and culture, occupational safety and health, conduct, treatment and security of workers, labour, immigration and traffic rules of destination countries among other topics. Women workers receive around 12.5 hours of training and their fees are reimbursed by the government.

NGOs have criticised the outsourcing of pre-departure preparations to private recruitment agencies. There have been reports of agencies providing poor quality training or issuing certificates without providing any training at all.¹⁹

POOR QUALITY TRAINING



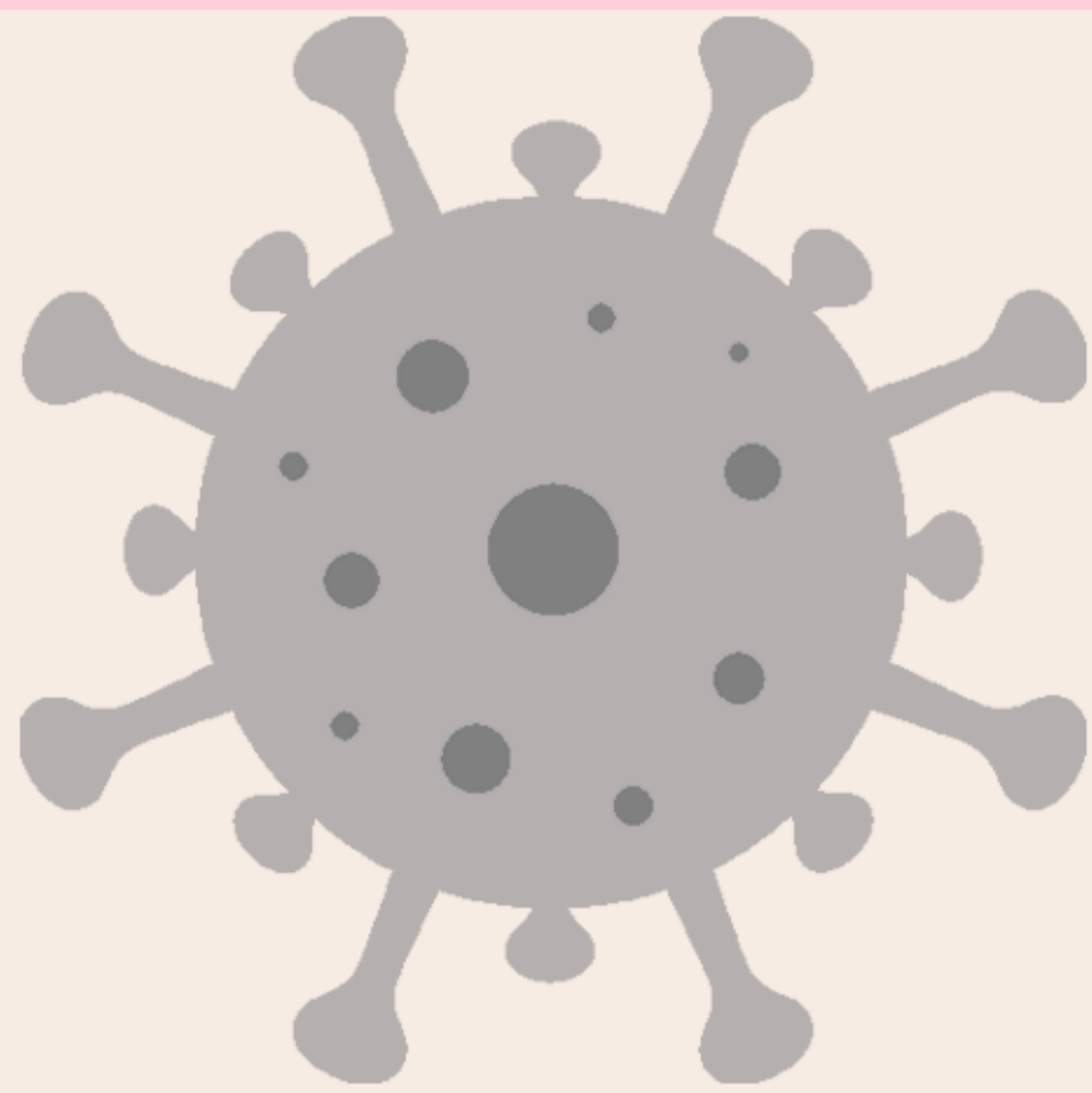
RECRUITMENT AGENCY

ISSUING CERTIFICATES WITHOUT PROVIDING TRAINING

CHALLENGES FACED BY WOMEN MIGRANT WORKERS FROM NEPAL

IMPACT OF COVID-19

ON NEPALESE WOMEN MIGRANT WORKERS

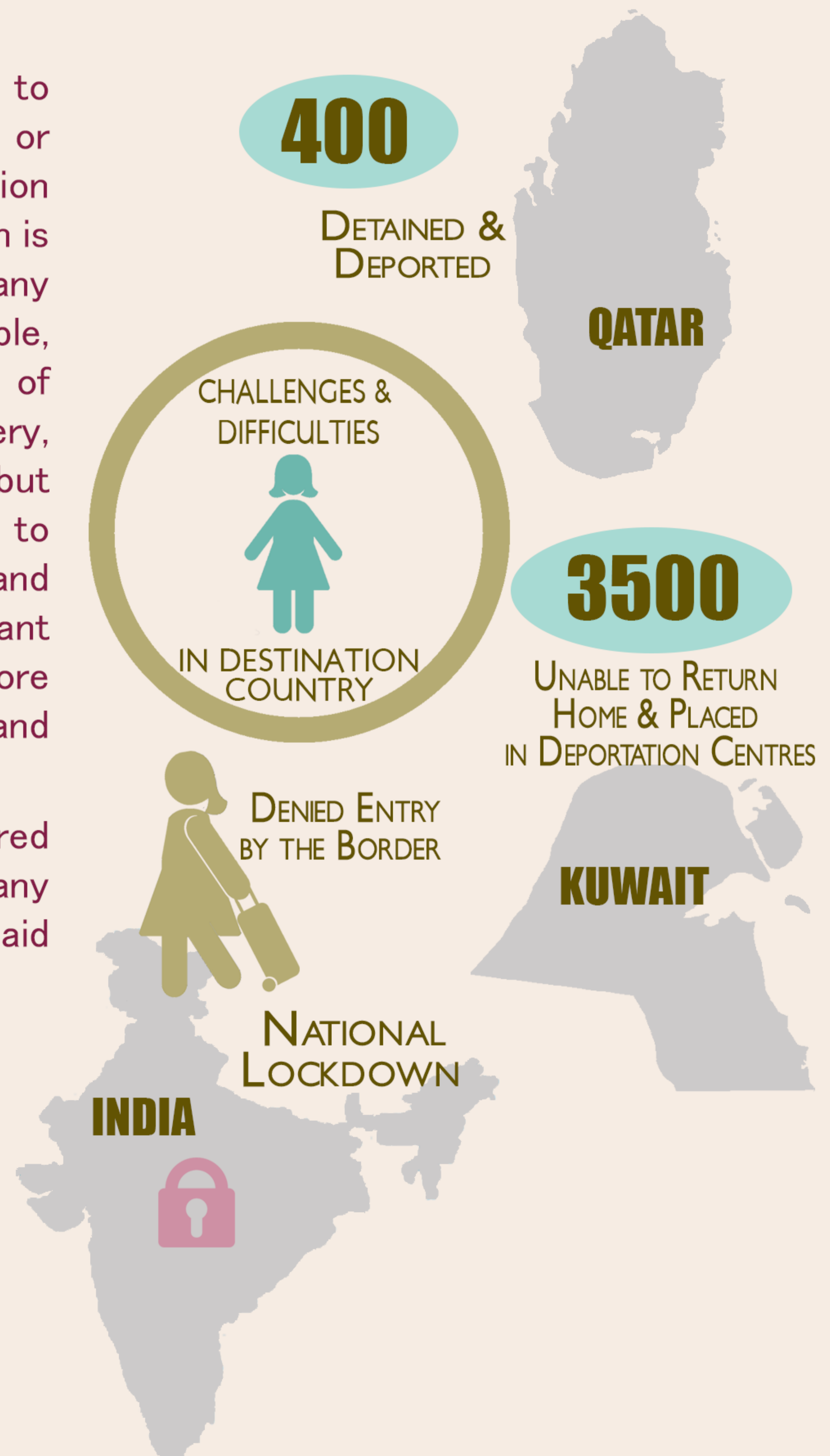


There are reports of women migrant workers from Nepal facing a range of challenges and difficulties in the destination countries as a result of the pandemic. In Qatar, authorities detained over 400 Nepali migrant workers with valid legal status in March 2020 saying that they were being held for coronavirus tests before deporting them to Nepal. Over 3,500 migrant workers, including women, in Kuwait were unable to return to Nepal because of restrictions on international flights and

have instead been placed in substandard deportation centres to wait until flights resume. Similarly, Nepali migrant workers in India have struggled to get back as India announced a national lockdown in March 2020. Many walked hundreds of miles to reach the border to Nepal, but were denied entry for over two months until the Nepali government designated border points to enter the country.

Moreover, migrant workers have been unable to access critical information to keep them safe or access government services in destination countries during the pandemic. This information is often only available in local languages, which many migrant workers do not understand. For example, in Jordan, the government launched a range of online platforms for services including grocery, health services, registering grievances, etc., but all of them were in Arabic and inaccessible to migrant workers due to language and technological barriers. This puts women migrant workers at a great disadvantage as they are more likely to lack access to information and technology.

Reports also indicate that workers have suffered severe economic consequences, with many workers losing employment and not being paid their due wages by employers, resulting in them living off their meagre savings.



LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

The Nepal government's Thirteenth Plan (2013–2016), emphasises the need to make foreign employment safe, respected, organised and productive. The Foreign Employment Act (2007) and the Foreign Employment Policy (2012) include various provisions for the protection of the rights of women migrant workers.²⁰

FOREIGN EMPLOYMENT

The Foreign Employment Act (FEA) opened avenues for the private sector to facilitate labour migration. Over the past decades, the country gradually moved to a free market economy which highly encouraged out migration. It can be shown in the steady increase in the percentage of the Nepalese population migrating out of Nepal from 3.4 per cent in 1961 to 7.3 per cent in 2011.

RECRUITMENT

The Foreign Employment Act 1985 requires women to obtain consent of a guardian (parent, husband or other relatives) to go for foreign employment. In May 1997, for the first time, the Government of Nepal started to permit women to work in foreign countries in certain organised sectors. Since 1998, the government has imposed various types of bans and restrictions on women's access to international labour migration.

PRE-DEPARTURE EDUCATION AND TRAINING

The Foreign Employment and International Labour Relations Division within the Ministry of Labour and Employment is tasked with managing pre-departure orientation and training for migrant workers, which includes cultural knowledge, protection mechanism and health requirements. Women domestic workers are mandated to have a 21-day pre-departure orientation course. The Ministry also has a programme with development partners on fair recruitment and decent work for women migrant workers in South Asia and the Middle East (2013–2018).

LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

SOCIAL PROTECTION

The contribution-based Social Security Act 2017 led to the establishment of the National Social Security Fund. However, the Fund only covers the employee from the formal sector to provide pensions, maternity and sickness, and employment injury. Informal economy workers and migrant workers are not covered at all.

OVERSEAS SUPPORT

Under the Ministry of Foreign Affairs (MOFA), the Department of Consular Support (DOCS) provides coordination and facilitation services to migrant workers such as rescue, compensation of disability and during work, handling of insurance issues and repatriation of dead bodies. MOFA is responsible for documentation, assistance in case of crisis occurring to workers, including protection of Nepalese migrants at countries of destination.

REPATRIATION AND REINTEGRATION

Foreign Employment Board (FEB) was established as per the Foreign Employment Act (FEA). FEB is responsible for the socio-economic reintegration of distressed returnees, providing them with skills training, business development training, psychosocial support, shelter support, financial literacy, grants, in-kind kits and referrals.

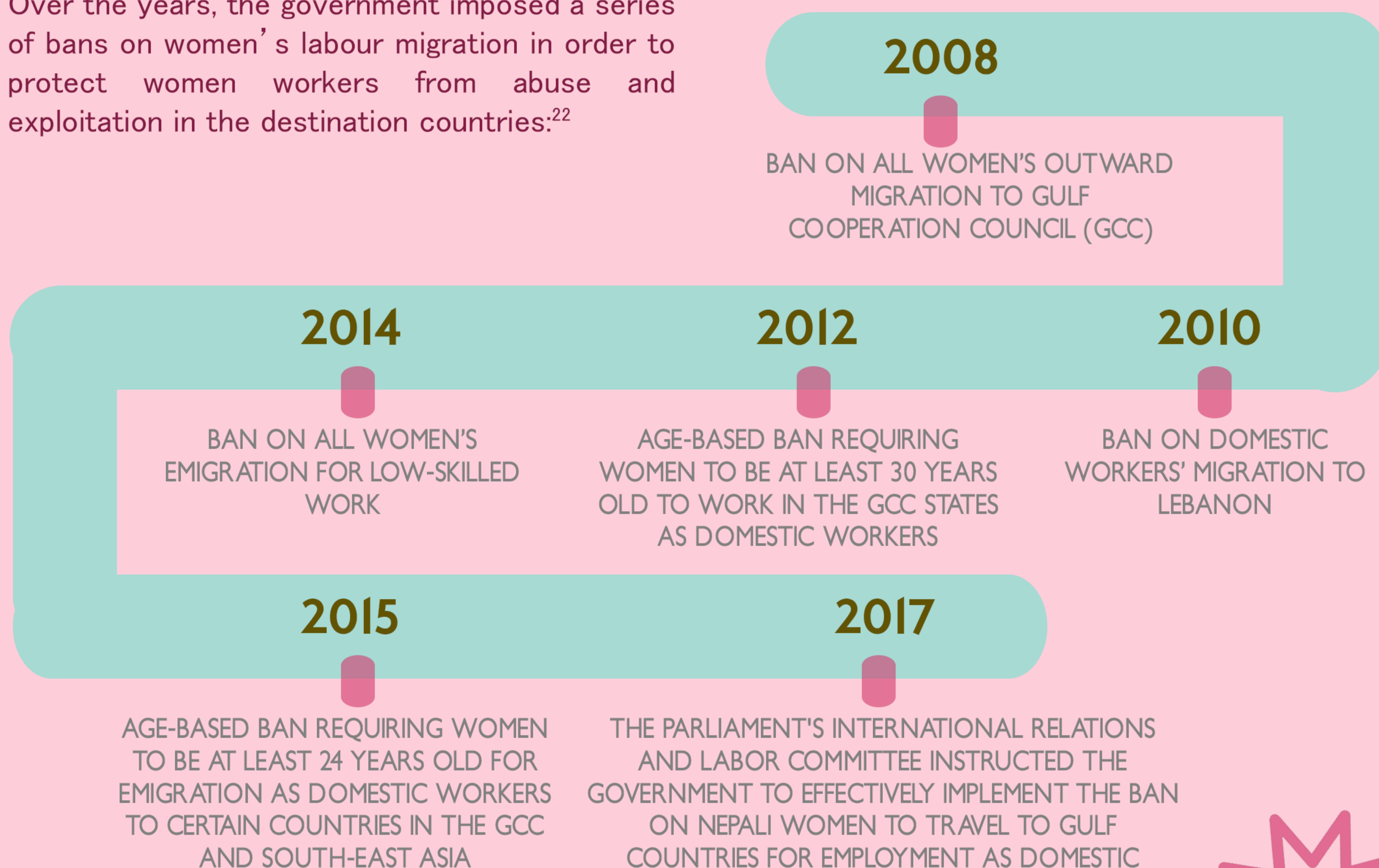
Besides the Act, the federal government along with the provincial government established programmes such as Prime Minister Employment Programme (PMEP) and Chief Minister Employment Programme (CMEP) to provide employment opportunities at the local level.

MEMORANDUM OF UNDERSTANDING (MOU'S), BILATERAL AGREEMENTS AND BANS

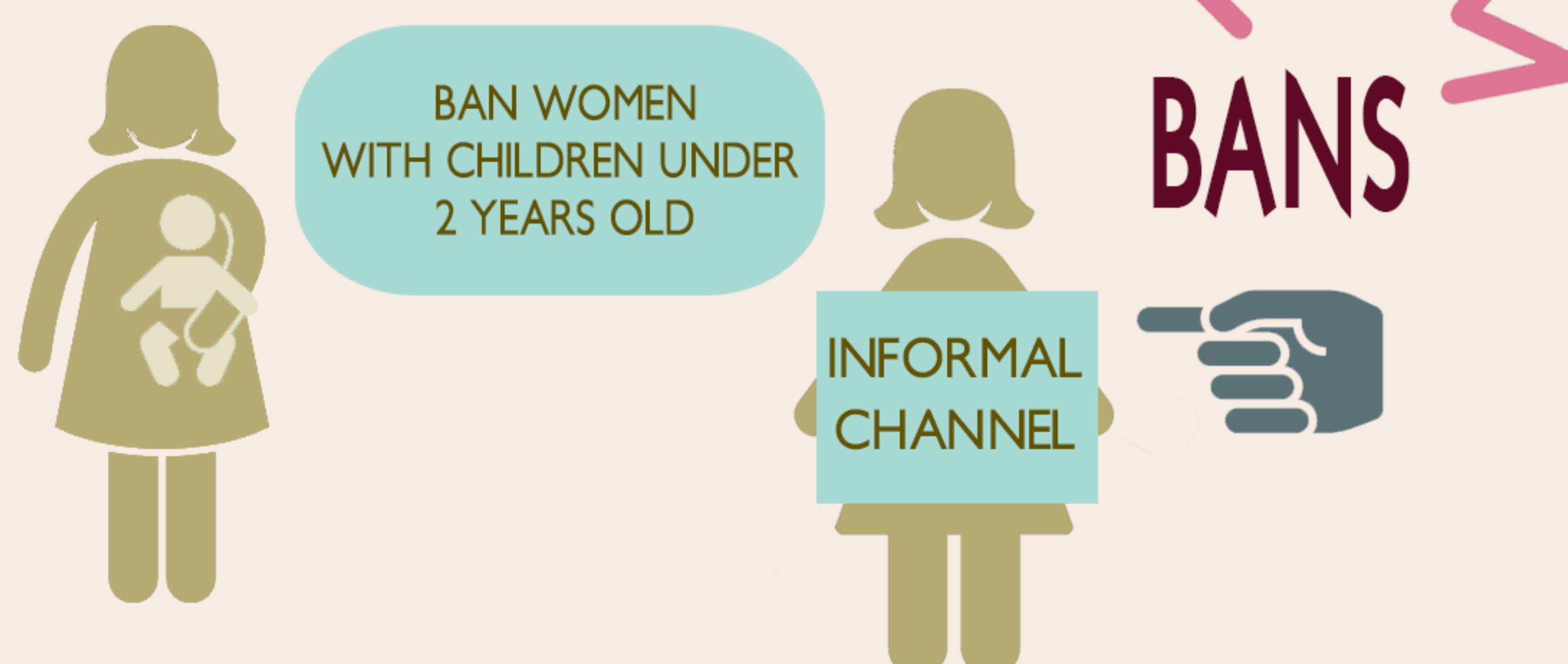
The Government of Nepal has MoUs on labour migration with nine countries – Qatar, UAE, Republic of Korea, Bahrain, Japan, Israel, Jordan, Malaysia and Mauritius.²¹



Over the years, the government imposed a series of bans on women's labour migration in order to protect women workers from abuse and exploitation in the destination countries.²²



Nepal also bans women from migrating if they have a child under two years old. Surveys of women workers found that bans did not prevent women in Nepal from migrating; instead, they forced women to migrate through irregular channels, increasing risk and vulnerability to unscrupulous agents.



STATUS OF RATIFICATION OF INTERNATIONAL INSTRUMENT AND CONVENTIONS

NAME	ADOPTION STATUS
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)	✓
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)*	✓
INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD)	✓
CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)	✓
INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (ICMW)	✗
ILO 29 FORCED LABOUR CONVENTION	✓
ILO 87 CONVENTION ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE	✗
ILO 97 MIGRATION FOR EMPLOYMENT CONVENTION	✗
ILO 98 CONVENTION ON RIGHT TO ORGANISE AND COLLECTIVE BARGAINING	✓
ILO 100 CONVENTION ON EQUAL REMUNERATION	✓
ILO 105 ABOLITION OF FORCED LABOUR CONVENTION	✓
ILO 111 DISCRIMINATION IN EMPLOYMENT AND OCCUPATION CONVENTION	✓
ILO 143 MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION	✗
ILO 156 WORKERS WITH FAMILY RESPONSIBILITIES CONVENTION	✗
ILO 181 ON PRIVATE EMPLOYMENT AGENCIES CONVENTION	✗
ILO 183 MATERNITY PROTECTION CONVENTION	✗
ILO 189 DOMESTIC WORKERS CONVENTION	✗
ILO 190 VIOLENCE AND HARASSMENT CONVENTION	✗

✓ Signed and Ratified

✗ Not ratified

* Acceded in 1991

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