

The Ethics of Migration Policy Dilemmas

The Moral Exigency of Free Mobility. A Response to Patti Lenard (2021)

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In her recent paper "Restricting emigration for their protection? Exit controls and the protection of (women) migrant workers", Patti Tamara Lenard argues that policy motives used to justify bans and conditions on women's emigration may be valid on moral grounds. However, she admits that their effectiveness is limited and, considering the harm they can cause, she argues that such bans and conditions can be rejected. The author classifies reasons justifying such bans into three categories: (1) 'the structured vulnerability' justification, which contends that the state needs to play a role in "protecting its citizens in their place of employment abroad by preventing citizens from taking up the most dangerous opportunities and by pressuring host states to commit to better protections", (2) 'the gendered structured vulnerability' justification, which elaborates on the "special risks faced by women in destination labour environments" ([Lenard 2021, 12](#)), and (3) the 'gendered paternalism' justification, which also focuses on the special risks faced by women but is articulated from the view that women are unable to protect themselves as their duties are linked primarily to their family.

In response to Lenard's paper, we start by deconstructing the dominant public discourse on the abuse of migrant women that frames the debate on the application of emigration bans or conditions for women to migrate. We complicate that discourse with findings highlighting a more contrasted canvass of women's labour migration which is not all about labour abuses and includes important benefits. We argue that given the existence of such benefits, the case for exit bans or conditions is questionable. In the second section, the problem of exit controls is situated in the wider context of the restricted gender roles and

women's autonomy in sending countries. This enables us to highlight how an entire corpus of policies and societal norms shape women's options in a manner that discriminates not only against their mobility rights, but other human and labour rights as well. This leads us to challenge Lenard's moral justification for exit controls. In the final section, we agree that emigration bans are not effective, but take the argument further by reviewing the effect of exit controls. This allows us to conclude that emigration bans are not so much about controlling migration per se. Instead, they seem to be motivated primarily by the sending country's will to address politically concerns of a patriarchal nature, which see in women's emigration a threat to prevailing gender roles and other gendered patterns of social reproduction.

Is there sufficient evidence that migrant women perceive themselves as being exploited?

Common perceptions of exploitation of migrant workers in the Gulf region are drawn primarily from two sources: public media, and reports from civil society in origin and destination countries. Although media and civil society reports abound, it would be important to consider also academic research on migrant women's own perspectives, which is unfortunately rather limited (for exceptions, see: [ILO 2021](#); [Praveena 2016](#)). Public media discourse focuses on acts of exploitation to garner attention as 'news'. In the case of male migrant workers, this leads to a discussion on the need for better protection in the destination country. By contrast, in the case of women migrant workers, this results in their construction as victims on the receiving end of sexual exploitation along with physical and psychological abuse, and hence the imperative to protect them by restricting their emigration ([Blanchet and Biswas 2021, 18](#); [Bosc 2021a, 17](#)). As we shall see later, these narratives play a key role in shaping policies in countries of origin ([McCarthy 2021](#)). While there are also civil society reports that disclose important issues, these may also be influenced by their own advocacy agendas.

Not least due to the difficulties involved in interviewing them, research on women's perceptions of their own labour migration experiences is scarce. Nevertheless, such perceptions need to be taken into account when considering emigration bans ([Bosc 2021a, 41](#)). Recent interview-based work by Parrenas ([2021](#)), Blanchet ([2021, 45](#)), Gardini ([2019](#)) and Kodoth ([2016, 2021](#)) suggests that despite abuses and multiple challenges, many women experience labour migration as enabling. They exhibit a sense of achievement and pride in being able to remit most of their earnings to support medical expenses, education and well-being of family members in the country of origin. Due to the nature of work and working conditions, female domestic workers in fact can remit much more, in some cases up to three times as much, as male migrants from the same source countries ([Wadhawan 2016](#)). They also report escaping abuse in their own homes, and social stigma emanating from patriarchal social norms, via their labour migrations. Such studies indicate that while migration may not be optimal, it does give autonomy to women –autonomy that they do not necessarily enjoy in their home communities. If such emigration is also beneficial to them, the moral argument to justify restrictions on women's emigration is on shaky ground.

Can exit controls on migrating women be isolated from other factors that restrict their mobility and employment, and can they be justified on any moral ground?

Lenard situates her analysis within the context of temporary foreign labour migration (TFLM). We argue that a more exhaustive framework needs to include debates on women's employment, which Lenard (2021, 5; 8) briefly refers to, and informal labour market dynamics in source and destination countries. Gendered paternalism undermines more than just women's right to exit the country. Exit controls are integral to a much broader range of discriminatory patriarchal norms. As Lenard describes, it is common in South Asia to view women as daughters or wives whose decisions depend on parents, husbands, or male relatives. Women outside such frameworks challenge traditional gender roles and tend to be associated with loose morals, and hence social and political norms to contain them are required. In other words, exit controls should be seen as the state's mirroring response to analogous restrictions at the household level on women leaving the household, speaking to strangers, seeking work outside, etc.

States' mirroring of familial restrictions on women is not limited to emigration. They extend to conditioning access to civil registration, property rights, recognition of work, access to employment, and enjoyment of labour rights – all of which are supported not only by mobility rights but other fundamental labour and human rights. As a result, the overall choices available to women are very different from those that are available to men. Enforcing an exit control on women is not just one temporary restriction on women's mobility and work options, it is one of many other discriminatory restrictions that have a limiting, compounding and discriminatory impact on their choices. We argue that, seen from this angle, the moral justification for exit controls loses ground.

While Lenard does acknowledge unemployment and difficult conditions of work in countries of origin, she does not explore whether banning or conditioning work abroad is justifiable if unemployment and abusive or discriminatory conditions of work exist in the home country as well. Banning migration for domestic work abroad when domestic work is not formally recognised in the home country seems morally untenable (Gardini 2019). More generally: how can a government ban employment of its citizens abroad if it cannot offer sustainable employment and decent working conditions for its population at home? And why should women bear the brunt of facing bans to work in the few sectors where they could be employed?

In India, for example, a prolonged 20-year agrarian crisis combined with patterns of deindustrialisation underpin structural unemployment and underemployment of the population (compare Kannan and Raveendran 2019). Women are particularly impacted by this crisis (Hardikar 2019). Their role in social reproduction and subjection to prevailing patriarchal norms exerts immense pressure in determining how they must face challenges of providing adequate food and subsistence when male relatives are unable to provide enough. They do so by entering into sectors which essentialise women's work and associated skills (childcare, cleaning households, cooking etc). Significantly, lower female workforce participation rates reflect the several barriers that exist to women's entry into the productive labour market. These barriers also include the absence of care provisioning by the state or the private sector, and such policies squarely put the burden of unpaid work on women in several sending countries, in turn preventing women from seeking paid employment in many sectors.

Hence, the existence of any moral ground to justify restrictions on women's emigration can be questioned. In fact, women's contribution to social reproduction at home and at the destination urgently deserves to be acknowledged ([Wadhawan forthcoming](#)) to create enabling policies for women workers, both at home and abroad.

Can emigration controls be effective as a bargaining measure to prompt destination countries to enforce protections?

We concur with Lenard that emigration bans and controls are ineffective and harmful for migrant women. However, we argue that even the hope that they can be made more effective is futile, as there are additional reasons behind their ineffectiveness, which taken together with dynamics of overseas recruitment processes ([Bosc 2021b](#)) render them fruitless in preventing unsafe migration (see [ILO 2015](#), [Napier-Moore 2017](#), [Bosc 2021b](#) for further explanation).

Lenard ([2021, 9](#)) argues that emigration bans as temporary measures may put pressure on destination countries to improve working conditions. While this is plausible, bans are ineffective if different sending countries do not coordinate such attempts. In fact, at the behest of recruitment agencies, countries of origin often compete for access to labour markets in destination countries. They do so to bolster foreign remittances, with arguably only secondary concern for the working conditions of migrants ([Bosc 2021b, 11](#)). In many cases, temporary bans could work to disrupt and divert the flow of migrant workers from one source to another. For example, it would be interesting to explore if in the cases of Madagascar and Nepal the restrictions placed on women workers' emigration to Gulf countries resulted in a corresponding increase in migration to these destinations from other countries of origin. Media and available research show, at least, that these restrictions didn't stop emigration from Nepal through irregular channels ([ILO 2015](#)).

In reality, destination countries too place temporary bans to 'balance' the migrant workforce across nationalities and regulate the market, even if doing so results in temporary labour scarcity. For example, in 2014, Kuwait banned Ethiopian domestic workers and deported thousands while lifting the ban on Bangladeshi domestic workers imposed in 2007 ([The Daily Star 2018](#)). In 2016, the ban on Ethiopian workers was lifted. Such temporary bans disrupt migration flows, even though migrant workers still find ways to move around them, taking greater risks in the process (as Lenard admits). Arguably, such temporary bans do not make most employers interested in providing better conditions, but rather in access to cheap labour from often poorer source countries.

Lenard ([2021, 9](#)) further argues that Memoranda of Understanding (MoU) that bargain for better conditions can sometimes work, such as the ones promoted by the Philippines. However, given that the Philippines occupies the top of the labour market in certain gendered occupations such as domestic work, it is difficult to argue for the replication of such MoUs with source countries occupying lower rungs of the labour demand-supply networks. In fact, MoUs could further disadvantage source countries as these agreements may bind source countries to fixed wages, limit numbers, and fail to respond to dynamic labour market changes. Upon close examination, we can confirm that they often favour the destination country more than the source country.

Controlling labour supply and demand is a complicated matter for states. Emigration controls may disrupt migration. However, as long as the structural drivers of both supply and demand for migrant workers are not addressed, such measures are bound to be ineffective. In a study on Nepalese emigration bans constraining women's overseas migration by enforcing a lower age limit, McCarthy (2021) cites decision-makers who admitted that such bans were not effective, and yet they remained in place. He demonstrates how such policy decisions respond to media reports and political expediency. Such an analysis can also be extended to other source countries such as India. In short, emigration bans are symbolic policies enabling political leaders to temporarily pacify emerging patriarchal public narratives rooted in perceived threats of women engaging in non-traditional gender roles. Their effectiveness is at best of secondary concern to decision makers.

More broadly, it is important to recall that TLMPs themselves are intended to relieve unemployment pressure in countries of origin. While countries of origin should indeed have protection concerns regarding their citizens abroad, such concerns pale in political significance compared to the expediency of relieving unemployment pressure at home and keeping the balance of payments stable with steady remittance flows.

The Moral Exigency of Free Mobility: Some Conclusions

As we have seen in previous sections, while migrant women working in destination countries in sectors such as domestic work do often face abuses, they also report benefits to their migration which question the need for emigration restrictions. By framing emigration bans within a broader context of labour and work restrictions affecting women, we demonstrated the compounding nature of such restrictions on women's rights. In the last section we argued that emigration restrictions can hardly be effective anyways. We therefore conclude that securing women's freedom to emigrate will do more to protect women by giving them greater autonomy over their lives.

This brings us to the distinct question of deontological priorities. Lenard describes three moral justifications for emigration bans and conditions for women but does not sufficiently analyse their validity, even if she does critique the gendered paternalism argument. By simply assuming that the reasons motivating the temporary emigration bans and conditions are good ones provided their effectiveness can be improved, she construes the protection of women as a paramount moral principle beyond questioning, while women's mobility is treated like a secondary moral principle that can be temporarily suspended. For example, rather than tacitly setting the protection of women as a priority, we could inversely argue that article one of the Human Rights Declaration gives precedence to freedom and equality in dignity and rights. Hence, the means of protection in the form of emigration bans and conditions should not take precedence over foundational international human rights and labour standards, such as freedom of movement, access to employment, and non-discrimination (Bosc 2017).

In conclusion, there are both consequentialist and deontological grounds to uphold the exigency of free mobility.

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