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Migration in South Asia: Poverty and Vulnerability

Sri Lanka Poverty Report 2020

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Author's Introduction

Chandima Arambepola is a Senior Researcher at the Centre for Poverty Analysis, Sri Lanka. Her research interests primarily focus on migration-related concerns and specifically on labour migration related issues. Through CEPA, Chandima has conducted research focusing on both male and female migrant workers and the effects of government policies on such workers.

Different Migration Patterns and the State-level Responses in Sri Lanka

As an island-nation, Sri Lanka is generally considered an outlier among its South Asian neighbours in terms of social advancements. Such assertions are not misplaced since Sri Lanka's health and educational outcomes are generally comparable to the Global North. But access to sustainable livelihoods and imbalances in development programmes and outreach of government support compel people to be highly mobile, not merely in search of work but also for security and safety. This working paper examines the different types of mobilities Sri Lankans are currently experiencing ranging from development and climate induced, to the more traditional forms of migration linked to livelihoods and work. The remainder of the paper examines how government policies shape the opportunities for and migration outcomes for migrant workers, with a particular focus on regulations preventing women from migrating overseas for work. The paper concludes by making a broader commentary on the political underpinnings of Government policies and the contradictory nature of the Sri Lankan state that adopts a neo-liberal policy towards economic growth but is also mired in a nationalist agenda those results in further marginalising particular groups of migrants.

People on the move are not a new phenomenon in Sri Lanka. Historically, as the political power shifted, and new power bases were established, people would move as well. Tracing such 'developments' across the centuries is challenging but little appears to have changed in Sri Lanka, where people continue to move for a varied number of reasons, including as a result of colonization schemes, in search of work, marriage and due to conflict or climate changes.

Geographically isolated from the rest of South Asia, the island-nation of Sri Lanka's post-independence history is mired in political upheavals, a three-decade long civil war in addition to youth insurrections and a major natural disaster that resulted in the loss of over 40,000 lives. Hence, it is not surprising that in a country of 21 million, migration – both internal and external – constitute a pathway out of not just poverty but also as a coping mechanism against man-made and natural disasters. This particular chapter however, focuses mostly on the underpinning nexus between poverty and migration dynamics in Sri Lanka and the structural inequalities that perpetuate and at times exacerbate the already difficult socio-economic conditions of marginalised populations.

Brief Overview of Sri Lanka

Considered a lower middle-income country (World Bank, 2018), the Government of Sri Lanka's (GoSL) national strategy is to shift towards a knowledge-based economy and thereby graduate to a higher-middle income status (Vision 2025). While ambitious, such a policy position at the outset, is not misplaced. In large part due to a long standing policy of providing education and health services as publicly accessible services, Sri Lanka has continued to outperform its South Asian neighbours in terms of key social indicators. Poverty has been on the decline, with the Poverty Headcount Index declining from 6.7 in 2012/13 to 4.1 by 2016 (Department of Census and Statistics, 2017).

Sri Lankan youth have achieved near universal literacy rates and women continue to outperform their male counterparts in tertiary education especially in the streams of arts, law, management and commerce and comprise about 42 percent in the scientific streams (Dundar et al, 2017, 157). The unemployment rate of 4.2 is set against a labour force participation rate of 54.1 percent (DCS, 2017). Significantly, youth (18.5%) and female unemployment (6.5%) (DCS, 2017), contribute more to the overall unemployment of the country.

However, a closer look at the key development indicators throws light on the existent disparities. For instance, while poverty is indeed on the decline, income inequality is increasing with the richest 20 percent controlling more than half of the total household income and the poorest 20 percent's stake amounting to less than 5 percent (Nanayakkara, 2018). Similarly, despite Sri Lanka's high performance in terms of ensuring access to education, the quality of the education has been questioned (Sarma, Licht and Kalugalagedara, 2019), ill-preparing the

youth to take advantage of the macro level policy shifts towards a knowledge-based economy. Female labour force participation rate has remained consistently low (Solotar off, Joseph, and Kuriakose, 2018), and those that are occupied, are mostly present in the informal sectors such as the tea plantations or in unskilled or semi-skilled work to be found in the garment factories of the apparels and textile industry. While care giving has been cited as primary reasons keeping women outside of the labour force, Sri Lanka also has one of the worst gender wage gaps in South Asia (World Economic Forum, 2017). On average, the monthly income of a male worker is higher (37,878 Rupees) than that earned by a female worker (29,179 rupees) – a trend that holds for daily earners as well but with a higher disparity (24,236 rupees and 12,046 respectively) (DCS, 2017).

Demographically, all of this is taking place within the context of an ageing population (United Nations, Sri Lanka, n.d) and when youth aspirations in terms of employment do not match the demands of the labour market (Chandrasiri and Gunatilaka, 2016). Within the larger national context, the country is yet recovering from the effects of a prolonged civil war, which officially ended in 2009 but its multitude of impacts are keenly felt within the country. In the absence of any form of strategy towards reconciliation and decentralizing power structures, the underlying factor that may have propelled the conflict continues to remain.

Migration of people, from rural-urban and cross-border has enabled Sri Lanka to sustain a relatively sound economic growth rate; the foreign remittances has, for a long time, cushioned Sri Lanka's trade deficit (Sanderatne, 2018). Foreign remittances are Sri Lanka's highest foreign exchange earner and accounts for about 8.9 percent of the Gross Domestic Product (World Bank, 2016).

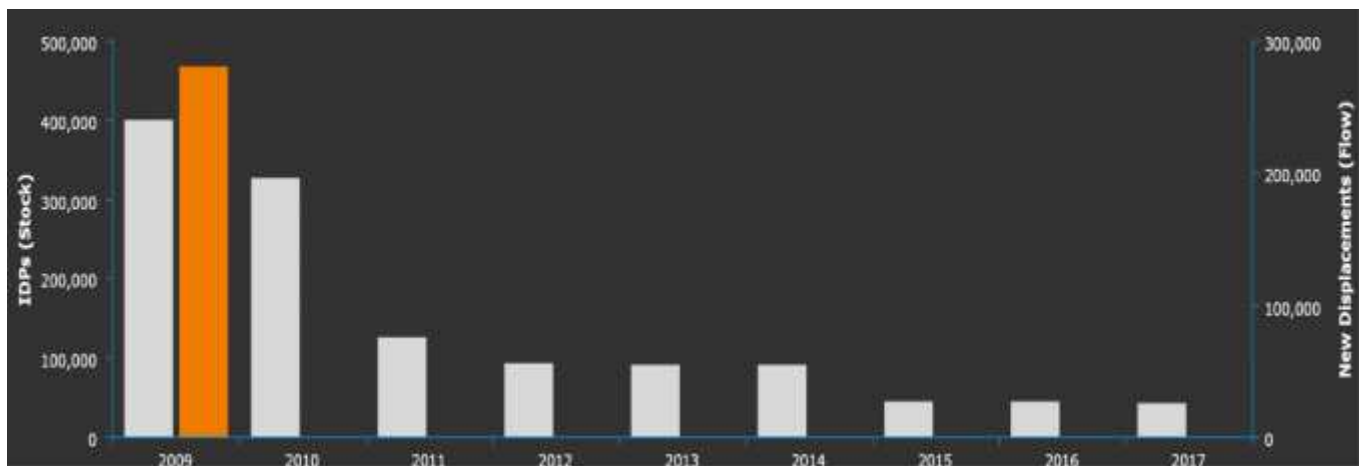
The tea plantations continue to be heavily reliant on Indian Tamil workers who were brought to Sri Lanka to work in the plantations in the nineteenth century and received enfranchisement only in the 1960s. The manufacturing sector, especially the apparels industry which is heavily reliant on migrant labour, especially since most of the factories are located within specially set up Export Processing Zones (EPZs) in close proximity to urban commercial hubs. As stated earlier, equally important has been the relatively large number of men and women who have opted to migrate overseas in search of work – mostly to West Asia – as unskilled, low-wage workers. All these groups of migrants are from under-developed, rural, agriculture-based communities in Sri Lanka. This again points to the underlying concerns regarding how state actions determine the outcomes for people.

Different Migration Trajectories

Although an island-nation, Sri Lankans are highly mobile within Sri Lanka. Tracing their mobility however is difficult. The Department of Census and Statistics does not collect data on internal

migration patterns and such data can only be surmised through research and estimates of migration patterns. But by some accounts, one fifth of the country's population is internal migrants (ILO, 2019).

Research has consistently pointed to the many reasons why people are compelled to move in Sri Lanka. One of the relatively recent reasons was war-induced migration that resulted in both internal and external migration – both with major repercussions for the people who were forced to move. As indicated in Graph 1 below, for the internally displaced, 2009 proved to be a turning point with the end to the three-decade long war when over 450,000 people are estimated to have been displaced internally. The next few years indicate a progressive decline in the number as people were encouraged to return “home”.

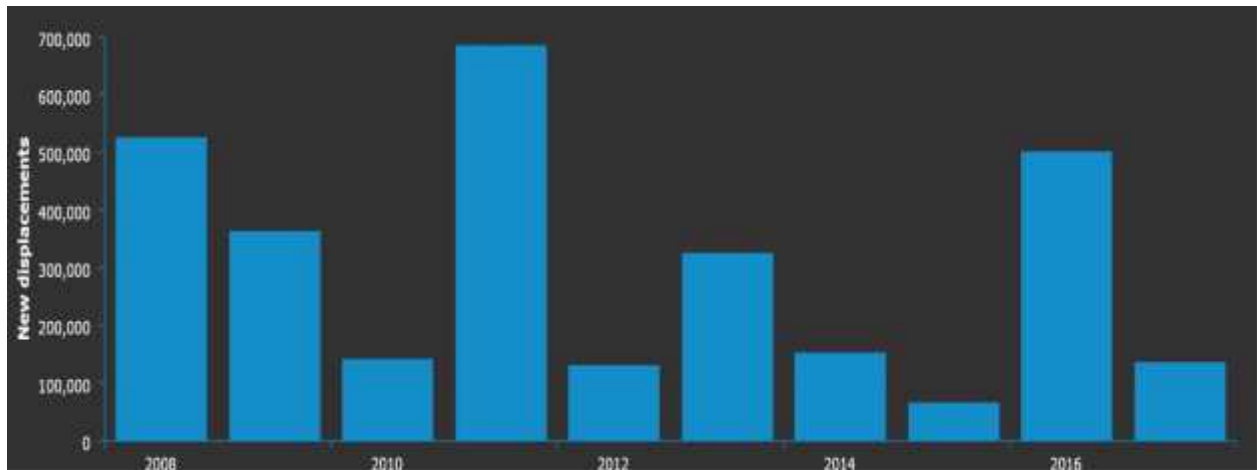


For the “internally displaced”, the end to the war has not necessarily meant an automatic return to their original dwellings. Rather, return has been complicated by a host of factors including the release of land held under military control, demining of previously war-affected regions and the absence of the necessary physical infrastructure that would enable people to resettle and rebuild their lives. Reports of tensions rising between such displaced communities and the host communities where they were living ‘temporarily’, point to how already-deprived communities are forced to struggle over limited natural and physical resources.

In the absence of concerted and coordinated efforts to support the returnees, people have struggled to find a foothold in their previous homes and return to their traditional livelihoods. Struggling to rebuild their lives in such vacuum has also resulted in high levels of indebtedness being reported among the newly settled, largely because of lack of access to a stable income source beyond the subsistence agriculture families have been compelled to engage in. The conditions for Women Headed Households, in particular are severe.

But just as the internally displaced are gradually being moved back to their original land, new forms of displacement are taking over. As the IDMC reports, climate-induced internal

displacement are fast taking over, with Sri Lanka highly vulnerable to environmental changes (Graph 2).



The importance of looking more closely at climate-induced migration is underscored by organisations such as the International Organisation for Migration (IOM) conducting assessments to measure the possibilities for displacement as a result of future climatic events (IOM, 2018). However, very little information is available as yet on how people are adapting to such changes is available.

One of the few research studies conducted so far (Tennakoon, Fernando and Niles, 2018), points to the coping mechanisms adopted by farmers who experienced a prolonged drought. A few exploratory case studies highlight how farmers, all male, opt to seek work in the construction sector in Colombo as a stop-gap measure. None of the farmers anticipates staying permanently in the commercialized, urban centre of the country, but rather wisher to return to their homes and their traditional form of livelihood as soon as the rains return. But as the Asian Development Bank (ADB) has pointed out, government-led interventions are critical at the policy level to respond to these changes underfoot:

To reduce migration compelled by worsening environmental conditions, and to strengthen resilience of at-risk communities, governments should adopt policies and commit financing to social protection, livelihoods development, basic urban infrastructure development, and disaster risk management (Asian Development Bank, 2012).

The importance of such efforts is further strengthened by the number of climatic “incidents” Sri Lanka has experienced in the past few years and the resultant displacements people have experienced (as indicated above). What is further troubling is the juxtaposition of those vulnerable to such displacement with those already living in under-developed rural locations of Sri Lanka where their livelihoods are also heavily reliant on weather patterns. In such situations,

their risks of displacement are heightened and their ability to move heavily constrained by the nature of their livelihoods and their limited access to financing and state-led support for adaptation.

Development-induced

In contrast to these more visible forms of displacement, what is also more difficult to document and trace is development-induced displacement. In the post-war phase, mega development projects have been highly concentrated in the heart of Sri Lanka's capital city Colombo. Gentrification of the city-centre has been accompanied by the eviction of people who had lived in urban underserved settlements around the city-centre. Despite sporadic protests, the political will has been strong enough to prevent any long-standing opposition to protect the rights of the displaced. Although it can be argued that such populations in the underserved settlements received adequate housing through the new housing schemes, rendering such people *persona-non-grata* from the beautified hubs of the city centre points to the ways in which State policy can discriminate against the poor and the marginalised. That such communities also tend to represent ethnic minorities poses further questions of social exclusion on the basis of ethnic and religious identities. Even though these new housing schemes are offered as a panacea for the "problems" experienced by such households, the impacts of uprooting people's ways of life, their social cohesion and livelihoods will carry medium to long-term impacts for these communities. The underlying class element – making way for expensive real estate by removing under-served settlements – throws further light on how city beautification is achieved at the expense of those considered "undesirables". The lack of evidence and research makes it difficult to assess how people are coping with such displacements.

Equally or more problematic is that what takes place beyond Colombo remains largely obscured. For instance, people have been forced to move out or fight for their right to their ancestral land, in the face of new "development" – generally brought to the coastal regions through tourism development projects (Gunasekera, Philips and Nagaraj, 2016). Two such high profile cases were reported from the Eastern Province (Borham, 2018; International Tribunal on Evictions, 2017) and in the South West among the fishing communities (National Fisheries Solidarity Movement, 2013). In both instances, forced to give up their ancestral land and their traditional livelihoods, the inhabitants lacked political patronage to oppose their displacement. In the former however, concerted efforts by the CSOs have delivered some form of relief whereas the conditions among the latter remains unclear. Hence, when such development projects are introduced, those at the epicenter of the development project are the most vulnerable and at-risk as they are least likely to reap the direct benefits of such development programmes. With limited access to further their education, children tend to continue in subsistence economy and will fail to secure formal employment, if the hotels and resorts should

eventually be established. As the number of those affected is relatively small, their ability to influence government policy positions is also vastly limited. Disturbingly, in such instances people had encountered double- displacement – initially due to the war and subsequently as a result of such development projects ((National Fisheries Solidarity Movement, 2013)

Beyond these new forms of migration, Sri Lankans are increasingly on the move in search of more stable forms of economic engagement. In total, one fifth of the Sri Lankan population is officially considered to be internal migrants (ILO, 2019) but the reasons for migration remain rather obscure. But by any estimate, securing employment in the formal sectors of work is made largely possible by moving to the commercial “hubs” in Sri Lanka especially the Export Processing Zones (EPZs) that have been established in different parts of the country. The EPZs in general attract most of its labour force from rural areas, and their stock of workers tend to be generally young, with few educational qualifications and poor or no acquisition of appropriate skills (Attanapola, 2004, Ministry of Health and IOM, n.d.). Within the EPZs, one of the key sectors absorbing migrant labour is the apparels industry where a significant majority of the routine manual workforce is female (Attanapola, 2004; Hewamanne, 2008). Located mostly within the EPZs, the apparels employ between 300,000-600,000 workers directly and indirectly (Export Development Board, 2016) who, in turn, help generate an export commodity to the value of 5.3 billion US Dollars - almost 50 percent of Sri Lanka’s export revenue. Much research has been conducted about the working and living conditions of apparels sector workers (Ruwanpura, 2015, 2016; Gunawardana, 2016; Attanapola 2004), with some focusing specifically on the condition of the female migrant workers (Hewamanne, 2006). These have helped highlight the social dissonance and the rupture of the social fabric that migrant workers experience in working away from home and living in temporary, sun-standard boarding houses that all contribute towards poor living conditions (Ministry of Health and IOM, n.d.)

A recently concluded study further illustrates (Centre for Poverty Analysis, unpublished), that while the working conditions for women engaged in the apparels industry has indeed improved, their living conditions remain sub-standard. Even though the apparels sector offers such youth an adequate income –albeit not a living wage – the temporality of their work lives and living arrangements make it challenging for them to translate their acquired skills and knowledge to other sectors. Hence, many do not foresee a long-term future within the sector. Rather, their employment in the formal manufacturing sector amounts to a stop-gap response to earn an income to support their families at home and educate their siblings.

The social costs of such employment for female migrant workers however, are high. Labeled as “juki girls”, the young women encounter social stigma and exclusion in their everyday lives (Hewamanne). They occupy specific public spaces outside of the EPZ and their dress code and behavior are used as markers to differentiate them as ‘garment girls’. The high concentrations of young men and women in these urban EPZs, has also resulted in a form of ghettoization, as

the migrant workers seek to carve out a space for themselves within that particular local community.

Notably, although migrating for work has resulted in social dissonance and breakdown of ties with left-behind family members, such migration patterns have also led such individuals and their families to gradually move out of poverty. This was most evident in the recently concluded study by CEPA where, many of the migrant workers interviewed in the apparels sector, were able to channel their savings towards supporting their siblings to further their education and/or to acquire assets such as gold jewelry and vehicles and at other times, to help rebuild or improve their houses.

Evidence that internal migration supports marginalised, poor communities to move out of poverty was found in studies conducted in the tea plantations – some of the most under-privileged and underserved communities in Sri Lanka. Studies conducted by CEPA (2005) showed that migration – either to work in the informal or formal sectors of work and internally or externally – was a strong determinant in pulling households out of poverty. Notably, even where young adults sought work as domestic helpers in the urban centres, the likelihood of helping their families overcome economic hardships was strong. Hence, the preference for people to move in search of work, even at the cost of their social well-being.

But no other form of migration is as well documented in Sri Lanka as Sri Lanka's migrating for work overseas. The promise of higher economic "returns" by securing work overseas is not necessarily a myth among such workers, but rather a reality evidenced among their fellow community members. Unlike in other parts of South Asia, women took the helm in using migration overseas for work as an alternative to earning an income in Sri Lanka. Although the initial "frontier" women were generally from the underserved settlements in the Colombo district (Hettige, 1988) married women from the "backward" regions of the country – those considered to be agriculture-based and under-developed, soon outpaced their urban counterparts.

To such women, migration for work overseas appears to have coincided with other external factors affecting the Sri Lankan economy: the introduction of structural adjustment policies adversely affected women as their traditional roles in agriculture and small-scale enterprises came under direct threat. With the opening up of the economy, rural women were further pushed to the margins, lacking access to services and new types of work that arose. In such conditions, migrating to "Dubai" offered an alternative means of earning an income, where the State had failed to offer them viable alternatives. Hence, for the longest time, overseas migration for work was dominated by women who sought work as unskilled domestic workers in West Asia.

Although the GoSL maintains that the number of skilled workers outnumbers those of low skilled work (*read*: those with poor educational qualifications and limited skills), the number of women opting to migrate as domestic aides to West Asia remains high. But such women who sought their ‘fortunes’ overseas, have not been spared being branded as “loose” women. In addition to the social stigma, their migration trajectories are generally judged through a very narrow gendered lens that frames them as victims and mothers (i.e. caregivers) rather than as workers. While some have opposed this view (Handapangoda, 2014; Pande, 2012), much of the research echoes the fears of the public that Sri Lankan women are highly susceptible to being abused by the “master. With regard to the latter, research continues to raise the question of care giving and mothering from a distance (Athauda et al, 2000; Gamburd, 2008; Kurupparachchi et al, 2013; Pinnawala, 2009; Senaratna, 2012; Siriwardhana et al, 2015; Ukawatte, 2010), with very few focusing on male migrant workers and their relationship to their families and susceptibility to be victimised.

Hence, people continue to move, for a varied number of reasons, but those that are mobile are also drawn from the rural, agriculture-based regions of Sri Lanka. That women, especially young, unmarried women, tend to migrate in search of work has been established but regardless of the sector they are employed in, their presence in the public sphere continues to be problematic, as evident in the degree of stigmatization and social exclusion they experience in their everyday lives. This then raises the question of how state structures in Sri Lanka, enables or discourages such migration patterns, especially in relation to women who already face recriminations for engaging in different forms of employment.

The Sri Lankan Government and Migration Trajectories

In all these instances of different forms of migration, the GoSL plays a central role in either directly or indirectly determining the outcomes for the migrants. In the case of internal migrant workers, the absence of any concerted efforts to develop the regional economies, push the youth in particular to seek their fortunes in the urban, commercial centres. Ironically however, for those living in proximity to rich natural resources, the development plans of the GoSL could ultimately push them to migrate towards less secure areas. Similarly, the absence of state action to mitigate the negative impacts of climate changes will now push people from these rural “backwaters” to the urban centres where already, the GoSL plans have pushed the poor towards the periphery of the city. The Government’s actions, especially in the case of external labour migration, can facilitate or easily hinder the migrant workers to engage in safe and regular migration.

Policy formulation, particularly since the introduction of the liberalisation of the economy in 1978, is greatly influenced by the political party in power and the existing socio-political conditions in the country. Successive post-independence governments therefore, have

struggled to juggle “its neoliberal foundations and its attempts to claim popular legitimacy” (Gunawardana, 2015, p. 56). These two contradictory dynamics also represent the divide between the urban and the rural respectively (Gunawardana, 2015, p. 56). Elected officials have to pander to both the electorate and other stakeholders in Sri Lanka’s development, particularly global stakeholders like the International Monetary Fund (IMF).

When at constant play, these dynamics have also made it difficult for any government to institute a consistent position on any policy. As Kodikara noted as early as 1980 (with regard to changes in foreign policy), each successive government has been quick to suspend the development programmes implemented by the previous regime and to either re-launch the same programmes with new labeling or abort the existing plans and strategies altogether. These trends have frustrated mostly economists, as pandering to populism is seen as detrimental for any long term plan to lead Sri Lanka out of debt and into a path of sustainable development (Athukorala, 2012). With regard to internal and external migration dynamics, such ever-changing notations in policy can easily spell more adversity than good.

For instance, government regulations and policies have so far failed to adequately respond to a highly mobile migrant workforce. Even though individuals are encouraged to seek work in the formal sectors within the EPZs, government regulations fail to count such workers as part of the residents of the region. As non-voting temporary residents, they are positioned as outsiders and as sojourners. As has been consistently pointed out with regard to workers in the EPZs, they are unable to access any form of government assistance in emergencies such as natural disasters as they lack the necessary documentation to confirm their residence status. Hence, even when such migrant workers are eligible to ask for social support from the government, they are denied such “claims”. In the absence of a permanent residence, such workers, despite working and living in a specific location for years, cannot register to vote in the region. Hence, their ability to exercise their voting right to effect change at the local level is severely curtailed by such inaction on the part of the Government.

Further exacerbating their conditions is the curtailment of the right to freedom of association. While the GoSL has sought to encourage investments into the EPZs and has ensured compliance of labour and environmental regulations through the Board of Investments (BoI), the ability to join or seek redress through trade unions is becoming more challenging in these EPZs (Ruwanpura, 2015). This is despite the BoI regulations on labour specifically pointing out commitments of the GoSL under ratified ILO Conventions to ensure the right to collective bargaining and the presence of Trade Unions (BoI, n.d.). The absence of CSOs and Union representatives also contribute towards making the conditions of migrant workers further tenuous within these zones.

Similarly, migrant workers who are engaged in the informal sector continue to be overlooked and under-represented. This is especially true in the case of migrant workers who are engaged

as domestic workers in the urban cities. With next to no legal protections and any form of employment contracts, such workers remain below the radar of labour regulations (Abeyasinghe et al., n.d.) The fact that a majority of domestic workers are sourced from the regions that are heavily reliant on tea plantations, underlines the importance of ensuring that such marginalised, vulnerable migrant workers are afforded the minimum standards of protection under the current labour regulations.

But nowhere else is the role of the GoSL more present than in regulating and thus, controlling the ability of prospective workers to migrate overseas to work. Hence, the major part of this section examines the State's role in "managing" the external labour migration processes.

External Labour Migration

Given that Sri Lanka is generally considered a source country for cheap labour, the GoSL has proactively sought to control the migration flows to and from Sri Lanka. This is most evident in the evolution of the regulations related to external labour migration. While different waves of highly skilled professionals left Sri Lanka to the global north in the post-independence phase, migration among the masses became far more popular only once successive governments introduced enabling regulations to allow people to migrate.

Up until the late 1960s, the GoSL strictly controlled who was allowed to migrate for work overseas. The initial waves of migration resulted in a brain drain and this in turn, led the government to become heavily involved in controlling the outflow of its skilled workforce. These rules, which were in force up to the late 1970s, included strict passport control and signing of a surety bond by the individual "with the government, undertaking to return and serve the country for a specific period, as stipulated by the employer" (Pinnawala, 2009).

While labour migration received an initial boost with the oil boom in the Gulf region (Institute of Policy Studies, 2013), this coincided with a rather volatile political context at home: a youth insurgency in the late 1970s concentrated exclusively around the unemployed youth of the Sinhala majority ethnic group also triggered the government to look for employment opportunities for the youth overseas (Gunawardana, 2014). What was not anticipated was that women would quickly begin to outpace their male counterparts as the demand for 'housemaids' in the Middle East rose sharply. The government took a lead in determining the outflow of women by engaging in negotiations and establishing bi-lateral agreements with labour receiving countries which in turn, determined the terms and conditions of employment.

As these demographic changes took root, the administrative structures that governed the migration process also underwent changes. In the 1980s, new laws regulated the activities of the licensed agencies and their agents (Pinnawala, 2009), with the Sri Lanka Bureau of Foreign Employment Act no. 21 of 1985 bringing about some major changes to the management of labour migration. This led to the founding of the Sri Lanka Bureau of Foreign Employment

(SLBFE), a quasi-independent government institution, working as a “regulator within the administrative jurisdiction of the Department of Labour” (Pinnawala, 2009).

The Act looks beyond the promotion of labour migration and encompassed other facets such as the welfare of the migrant workers. The government’s active role therefore “emanates partly from its strong commitment to protect women migrants and partly from the fact that it was becoming a politically sensitive issue that could be damaging if not correctly handled” (Pinnawala, 2009, p. 71).

Of late however, the implementation of the Act has become a bone of contention between the GoSL and civil society organisations (CSOs). Concerns regarding the inability of the Act to protect the rights of migrant workers have been raised. A greater point of contention has been the absence of CSO or worker representation in the Board of Directors which is over-represented by recruitment agencies (ILO, 2018). This power imbalance has fuelled fears that such private agencies can curry favour with the Bureau, thus sidelining the complaints of the migrant workers themselves. Furthermore, with recent changes introduced to the Act, private recruitment agencies do not have to join the membership the Association of Licensed Foreign Employment Agencies (ALFEA) thus, any form of self-monitoring and regulation that may have taken place has also been eroded.

Training programmes have been instituted, to “improve” the domestic work related skills of the prospective female workers and insurance schemes have been introduced to provide some form of security for the women and their families, (Ireland, 2015). In addition, all migrant workers are required to register with the SLBFE prior to their departure – failure to do so leave them with no recourse to assistance of the SLBFE while working overseas, especially regarding repatriation. In theory, all migrant workers must register with the SLBFE but in practice, this generally applies only to semi- and unskilled workers and not the professionals working in the same countries. This brings to light the high price such lower skilled workers including domestic workers have to bear in order to migrate.

What is troubling is that protection of the GoSL therefore hinges on the ability of a migrant worker to “pay” to receive the protection of the State. Hence, the imposition of such regulations negatively affects the more vulnerable groups of migrants rather than offering them the necessary protections required when working overseas.

In addition to the Act and the regulatory framework that is administered by the SLBFE, at the national level, the National Labour Migration Policy (NLMP), provides some coherence with regard to how the government would address three particular aspects: “[the] governance of the migration process, protection and empowerment of migrant workers and their families, and linking migration and development processes” which, in turn “articulates the State's

commitment to ensuring a labour migration process that adheres to principles, and guidelines enshrined in international instruments and international good practices (ILO, 2016).

But the relevance of the NLMP in addressing issues related to migrant workers has also been questioned. At present, the national policy being revised in order to “keep up” with the rapid changes taking place on the ground. For instance, since its introduction in 2008, Sri Lanka has also become a “host” country for migrant workers – especially for Chinese, Indian and Bangladeshi workers allowed to work in the construction sector under specific investment projects. This has already led to tensions regarding access to work and the health and social implications of an exodus of foreign workers flooding the nation’s capital city.

But there exists a rather visible gap between such a comprehensive national policy and its practice on the ground. In many ways, the way in which the GoSL has grappled with introducing and thereafter maintaining a process of controlling women’s migration for work overseas best illustrates the complex manner in which the political and the administrative structures both clash and coordinate in facilitating and controlling the migration of workers. And at the same time, it stands as an example of how policy, formulated at the centre, is translated to practice at the ground level.

In 2013, the GoSL failed to stay the execution of Rizana Nafeek, an under aged domestic worker from Sri Lanka who was employed in Saudi Arabia. The public outcry in Sri Lanka and the accusations against the Government’s failure to mediate successfully on behalf of her set the stage for some form of intervention on the part of the government. Confirming the commonly held belief that with regard to migrant workers, the GoSL tends to be reactionary than proactive (Collyer, Wimalasena, Ansar and Khan, 2009), the GoSL sought to impose restrictions on mobility rather than at providing more comprehensive protections to women migrant workers. The new regulation sought to ban under-aged women and women with young children from migrating for work overseas as domestic workers. The sudden imposition of such a “ban” came at a time when public scrutiny on women’s migration had been quite high and was also considered a step back from the GoSL’s consideration of imposing a blanket ban on women’s labour migration as domestic workers (Ukwatte, 2010).

Initially introduced in 2013, the Family Background Report (FBR) regulation soon came to be absorbed into a complex state apparatus that continues to be administered against prospective female migrant workers. Under this highly discriminatory regulation, prospective women migrants have to be “cleared” by the Foreign Employment Development Officer (FEDO) of the respective Divisional Secretariat (DS)¹ office, in order to migrate. The officer collects data on the woman’s family background and disallows women from migrating on conditions such as the

¹ This is the local level government administrative unit. Development officers attached to different national Ministries work at the DS office in order to implement national regulations and programmes locally.

absence of a proper *female* guardian for the children, the presence of children under the age of five and/or any child with a disability (Ministry of Foreign Employment (MoFE), 2015).

Branded discriminatory, unconstitutional and a violation of a Sri Lankan's right to choose and engage in a job for her own choosing (Abeyasekera, and Jayasundere, 2015). the FBR regulation has become a contentious policy issue for the Government of Sri Lanka. Pointing to the short-sighted, ill-conceived introduction of the regulation, the FBR conditions have undergone much change, with at least five government Circulars being issued so far on how to administer the FBR regulation. In a study commissioned by the International Labour Organisation for the Ministry of Foreign Employment, the Centre for Poverty Analysis (CEPA) found that the burden of implementing the FBR regulation falls squarely on government officials whose primary responsibility – to ensure that men and women engage in safe migration and the families left behind receive adequate care – is subsumed by the pressure to implement the FBR regulation.

The current Circular in operation has further diversified the responsibility of issuing a FBR clearance. While the Foreign Employment Development Officer (FEDOs) holds the primary responsibility of ensuring that the information provided by the prospective migrant worker is accurate, the ultimate decision on allowing or disallowing women to migrate lies with a committee comprising the Women Development Officer and other DS level officials related to child protection, welfare and rights.

The review process of the FBR varies from different DS divisions and at times, has veered away from the guidelines set out in the 2017 government Circular that is currently in force. In addition to providing basic identity documents and confirmation of their residence, several additional documents pertaining to the children's welfare (including a letter from the school principal), letters from the husband and/or the parents stating their approval for the woman's need to migrate are demanded by some of the FEDOs. The FEDOs in turn, have transformed into a policing force, acting as sleuths to investigate if the documents and information provided by the applicant is accurate.

The Review Committee thereafter examines the applications on a case by case approach and meets monthly or bimonthly in order to assess the suitability of the woman to migrate. The composition and the role of the committee members have led to tensions and conflicts rising among the officials elected to the case conference. Despite being a part of the committee, the officials of the Ministry of Women and Child Affairs (MWCA) are discontent with their role. They exercise their authority within the committee to promote the rights and wellbeing of the child over the women's right to mobility and employment, as has been specified by the MWCA.

In interviews conducted with such officials, it was apparent that many members of the review committee believe that the presence of the mother is necessary for the overall development and well-being of the family. Rather than creating a conducive environment to engage

proactively and support the women attempting to migrate, these opposing views on women's right to migrate lead to tensions and mistrust among the different officials. Therefore, despite there being only two fundamental issues to assess the FBR of an applicant, subjective interpretation of the circular has led to conflicting understandings and decisions being made, which ultimately affect the migrant woman's right to seek work overseas. Even though women have the recourse of seeking redress from an Appeals Committee operating at the national level, the delays culminate in additional expenses as the Committee may require the applicant and/or her family members to be present at the Ministry of Foreign Employment.

Beyond the administering of this discriminatory regulation, the FBR in its current form has been criticised for several other failings. In imposing such a regulation, the GoSL has failed to recognise the primary reasons for women's migration abroad which are fundamentally linked to ensuring the wellbeing of their family, particularly the children. Hence, a decision to migrate, leaving behind young children, is not so easily arrived at. However, the regulation acts only as a control mechanism and fails to provide such women with alternative income-generating options. In the study conducted by CEPA, many of the women were already engaged in some form of livelihood prior to attempting to work abroad; but the income generated was inadequate to meet the high cost of living, and the costs related to public services offered such as education and health. Hence, in the absence of any workable solution being provided to the women, they were compelled to find alternative means of migrating overseas for work.

The FBR circular does not take into consideration male migrant workers and their families. In a context where men are securing work overseas more than women and they are not required to furnish family details at any government office there is no mechanism to extend support to families of male migrant workers.

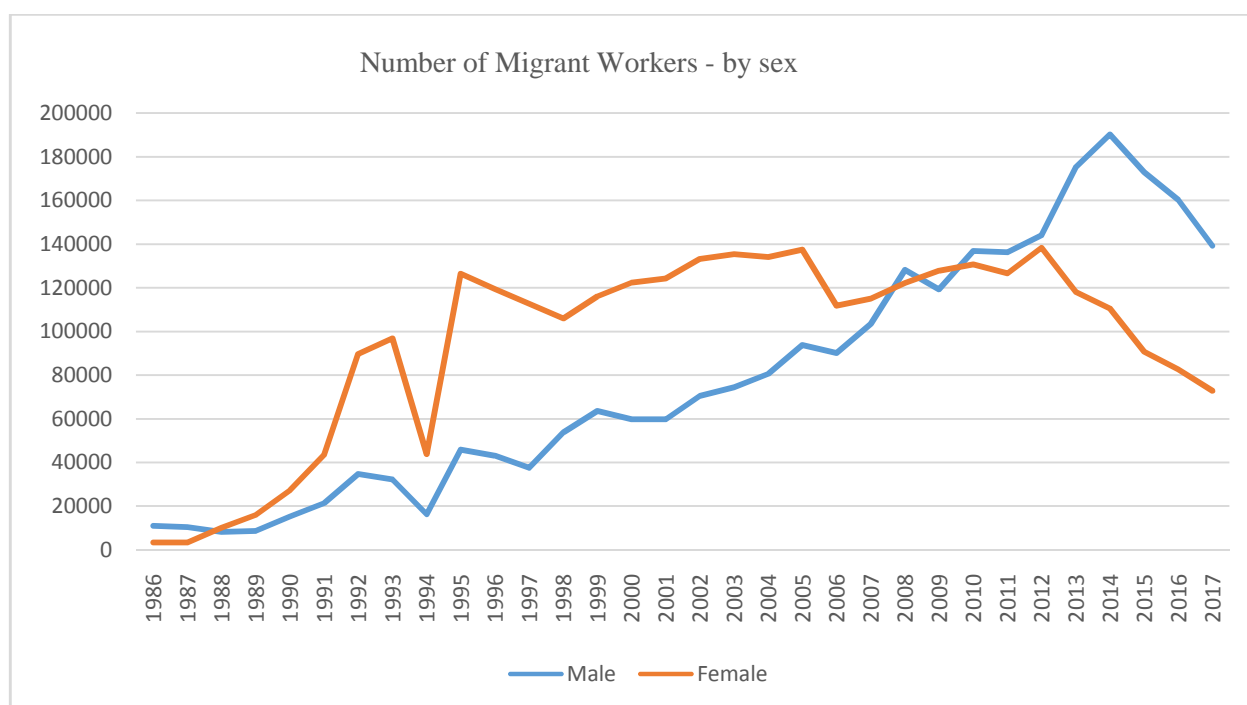
But the more problematic element of the FBR is the class dynamics that underpin the regulation. As has been argued elsewhere (Jayasundera and Abeysekera, 2015) the FBR unfairly targets the lower-class, unskilled and semi-skilled female workers, rather than the female professionals. There is a general perception that poorer women are unable to provide adequate care for their children and therefore, such a regulation helps ensure that the children left-behind are under proper guardianship. The assumption that educated, middle-class women are better "mothers" and caregivers is merely anecdotal but treated as fact by those administering the regulation locally.

As mentioned earlier, to treat all such prospective female migrant workers (from poor backgrounds) as "bad mothers" is to ignore the primary reasons that push women to migrate – build a house for their family, to educate the children or generate an adequate income to pay off debt and support the family income. Such decisions to migrate therefore, are made with the children's wellbeing kept in mind. A regulation such as the FBR therefore perpetuates and solidifies socially held beliefs that places the woman within the household and identifies her as

the primary caregiver of the family – a role that in the Government’s perception, cannot be substituted by any other individual, including the father of the children.

If the objective of the GoSL was to reduce the number of women migrating for work overseas as unskilled workers, the data indicates that the imposition of the FBR has been quite successful. At its peak, female migrant workers constituted over 75 percent of the total stock of migrant workers (refer Graph 3). Since the introduction of the FBR, women now constitute less than 35 percent of the total migrant stock. More notably, the number of women migrating is also fast-declining as indicated in Graph 1.

Graph 3: Number of male and female migrant workers employed overseas



(Source: Sri Lanka Bureau of Foreign Employment)

Women therefore, are increasingly finding alternative means of migrating for work. This then raises the question of the validity of the data sources. As Weeraratne (2017) argues, preliminary analysis conducted shows that while women’s migration pathways through the official means has declined, the number of women migrating as “tourists” to West Asia and specific countries within, has increased. Government officials themselves, are raising concerns that women are circumventing the regular processes in order to overcome the problems related to the FBR regulation. This has contributed to fears that women are made more vulnerable to exploitation and unsafe migration.

The imposition of the FBR has also received unfavourable attention globally. Opposition to the FBR regulation has been quite strong with the Special Rapporteur on Human Rights of Migrants

stating that neither the execution of the domestic worker nor negative experiences of female migrant workers can be used as an excuse to deny women's right to mobility (United Nations Human Rights, Office of the High Commissioner, 2014). Similarly, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (October 2016) has flagged the FBR regulation as a discriminatory tool. The State Department of the United States has also raised concerns regarding women's ability to engage in safe migration through its annual Trafficking in Persons (TIP) Report.

Official complicity in trafficking offenses remained a serious problem. Some sub-agents reportedly worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. The Ministry of Foreign Employment (MFE) reported it investigated 18 officials for allegedly creating fraudulent documents to provide workers employment abroad and referred six of the cases to the police for further investigation (Trafficking in Persons Report, 2017, 370).

The imposition of such regulations as the FBR also helps raise a more critical question: how does the State, while ratifying and adhering to international norms, then fail to maintain the same standards locally? The gap between rhetoric and practice in terms of the GoSL's position are therefore highlighted in such instances as the introduction of the FBR regulation. Globally, Sri Lanka has ratified some of the key Conventions, including the CEDAW that seeks to improve equal access and opportunities. Sri Lanka is a signatory to the Global Compact on Migration (GCM) and is part of the Abu-Dhabi Dialogue and the Global forum on Migration and Development. But such visible international presence has not impacted how the Government approaches the issue of female migrant workers, preferring to use a more patriarchal, paternalistic approach to keeping women within its borders instead of facilitating safe migration and ensuring safe working conditions while overseas.

The differential treatment meted out against disparate groups of migrants shows how the GoSL has made migration – both internal and external – very much a political issue. But it also throws light on the State that is fast confronting a duality of personalities.

On one hand, having set its economic growth strategy on a fundamentally neo-liberal agenda, the State requires migrant workers for the market and export-oriented strategy to work. Where such workers are absent, it has covertly allowed migrant labour from overseas to enter the Sri Lankan labour market and thereby, fill the vacuum in such sectors such as construction. At the same time, developments of tourism in the non-urban regions are also fast-displacing Sri Lankans, particularly those engaged in fisheries and agriculture. In the urban heartland, developments of the commercial hubs and the burgeoning real estate sector have resulted in the forcible removal of underserved settlements. The resultant economic growth in the respective sectors however, do not appear to even trickle-down to the migrant workers and the

regions they originate from and thus, they continue to remain invisible in state policies and occupy the margins of the cities they work and live in.

But at the same time, the State itself is becoming more nationalist and patriarchal. The “rush” to impose a regulation such as the FBR and its continued imposition despite inadvertently exposing women to be victimised further, throws light on the complicated relationship female migrants' encounter with regard to the State. As Jayasundera and Abeysekera (2016) argue, the FBR constitutes a form of structural violence meted out against women struggling to earn a living by migrating. Marginalised, ignored and lacking political will to effect change, women seek alternative livelihoods that provide an adequate and stable income through migrating overseas for work. And in a backdrop of rising nationalist sentiments, women are again cast in the role of the symbol of the nation's purity and steadfastness.

As the Sri Lankan government panders to its electorate and implicitly promotes a nationalist agenda, this undermines Sri Lanka's commitments under international conventions, especially regarding protecting refugees and asylum seekers. Fuelling further nationalist sentiments could also lead to the expelling of ethnic minorities in Sri Lanka from their original habitats. As the recent Easter Sunday attacks highlighted, the rhetoric on border control, stricter immigration regulations is gathering momentum (Weeratane, 2019). The inherent contradiction within the adoption of neo-liberal economic policies and the need to facilitate easier mobility therefore, will have to be balanced against these nationalist drives. But as the State grapples with these duality of personalities, Sri Lankans will continue move and in the face of absence of policies or the inability of existing policies to support them adequately, migrants will remain vulnerable and at-risk of losing out in maximising outcomes from their migration trajectories.

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