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Migrant mothers, family breakdown, and the modern state: an analysis of state policies regulating women migrating overseas for domestic work in Sri Lanka

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This paper aims to critically examine the *Family Background Report Circular (2013)* and analyse its implications as a policy document from a feminist perspective. The paper then draws from a research study conducted in four districts to ascertain the response to the policy as well understand impact of the implementation of the policy on the lives of migrant women workers and migrant-hopefuls.

Introduction

On 15th July 2013 a policy decision was made by The Ministry of Foreign Employment Promotion and Welfare of Sri Lanka to implement the *Family Background Report* (FBR)—a clearance certificate to be completed by all female migrant-hopefuls seeking overseas employment as domestic workers.¹ *The Family Background Report* circular effectively bans women with children under the age of five from migrating overseas for work, and requires all women with children over the age of five years to ‘guarantee the protection of [her] children’ by nominating a substitute caregiver. The circular also sets a higher minimum age requirement than 18 for women hoping to migrate overseas for domestic work.² It also stipulates the submission of a *Family Background Report* as a mandatory prerequisite for all women migrant-hopefuls. The clearance certificate is issued only when: the migrant hopeful obtains the written permission of a ‘guardian’, *i.e.*, the husband, or father if unmarried; a signed declaration by the alternative caregiver

¹ The first circular was issued by the Sri Lanka Foreign Employment Bureau on 07th June 2013 (No 13/2013) to all licensed foreign employment agencies. A second circular (No 19/2013) was issued by the Ministry of Foreign Employment Promotion and Welfare in December 2013 to all Divisional Secretariats, informing them that the policy that had come into effect on 15th July 2013 has been replaced by the current circular (no: MFE/RAD/1/3) with effect from 15th January 2014.

² The circular:

- Establishes different minimum age requirements for specific regions (Saudi Arabia -25; Other Middle-East Countries – 23; Other Countries 21)
- Sets in place the maximum age of 55 years for females migrating as domestic workers for the first time

consenting to fulfil the primary caregiver’s role for the entire duration of the mother’s absence; and the signatures of several government officers attesting to applicant’s family circumstances, including the *Grāma Niladāri* (local government officer), the Family Health Worker, the Migration Development Officer, and the Divisional Secretary.³

The ‘dysfunctional’ families of poor women migrating overseas for employment are at the heart of an impassioned debate about ‘family breakdown’ in Sri Lanka. The absence of the mother, it is argued, leads to the neglect of children, resulting in school drop-out, early marriage, and vulnerability to sexual abuse. Moreover, it is said that husbands of migrant worker women are prone to alcoholism, extra-marital relationships, and even incest, making the female migrant worker’s family even more susceptible to disintegration. The ‘family breakdown’ debate also resulted in the drafting of a ‘Family Policy’ in 2013-14 whose overall goal was ‘to strengthen family bonds and protect the family from fragility.’ The policy identifies the rise in overseas migration by women and female labour force participation as one of the principal causes for the ‘weakening of family solidarity.’ Although the ‘Family Policy’ has been put on-hold after the defeat of Mahinda Rajapaksa in January 2015 by Maithripala Sirisena, the link between family breakdown, child neglect, and poor migrant women workers continue to feature prominently in the policies and

³ The Divisional Secretary heads the Divisional Secretariat, the second closest unit of government administration. Clusters of villages make up 330 Divisional Secretariats in the country.

policy dialogues of the present government. Even though President Sirisena's women's manifesto—*A New Sri Lanka for Women*—recognises all women as *working* women contributing to the economy through their work 'in fields, farms, factories, estates, markets, and *even under difficult conditions abroad*,' and pledges to recognise women's right to employment and financial independence, migrant women workers and their children are portrayed as exceptionally vulnerable and requiring the protection of the state (*A New Sri Lanka for Women 2014, emphasis added*).⁴

Social science research on Sri Lanka and elsewhere in the Global South indicate that women's transnational migration is transforming kinship relations, household organisation, and gender relations while significantly impacting the lives of children (*cf.* Douglass 2007; Gamburd 2008; Locke et al 2013a&b; Parreñas 2005a&b; Piper and Roces 2003). Parreñas (2005a) reveals the experiences of abandonment, emotional distance, and longing for material and emotional care expressed by children of Filipino migrant families, as well as the feelings of ambivalence children feel towards their fathers who sometimes take on the role of the primary care-giver. Locke et al (2013a) highlight the consequences of the global labour market favouring 'young

women unencumbered by reproductive responsibilities', which is the significant renegotiation of 'intergenerational care arrangements' in South-East Asia (p.1874). The Sri Lankan State's policy response, however, ignores the complexity of these changes on the institutions of kinship, marriage, and family; neither does it adequately respond to the economic hardship and family survival that women (*and* their families) emphasise when explaining their reasons for migration. Instead, the consequences of migration are placed squarely on the shoulders of women.

Ever since the liberalisation of the economy in 1979, overseas employment has been a principal strategy by which the urban and rural poor aim to exit poverty that they are unable to overcome through economic activity within Sri Lanka. Starting from the early 1980s poor women began to migrate mainly to oil-rich Middle-Eastern countries to overcome the economic hardship brought on by liberalisation (Jayaweera et al 2002; Ruwanpura 2000). A significant feature of Sri Lanka's migrant worker population is that 40 per cent of the approximately one million workforce are women with 82.5 per cent working in low-skilled occupations mainly as 'house-maids'—domestic workers employed mainly by households in Middle-Eastern countries (Ministry of Foreign Employment Promotion and Welfare 2014). In fact, in the late 1990s women comprised 75 per cent of Sri Lanka's migrant labour force. By 2008, however, the numbers began to fall below 50 per cent in response to state policies promoting male migration over female and skilled migration over low

⁴ In *A New Sri Lanka for Women* president pledges to: "accept the children and other dependents of migrant women as a responsibility of the state, take protective action at state level against abuse, maltreatment, and injustices suffered by workers abroad, and make provisions for a provident fund similar to the Employees' Provident Fund (EPF), and unemployment trust fund, and a gratuity payment entitlements" (p.2).

skilled work. While the annual departure numbers of women workers remained largely the same, the numbers of male workers migrating increased, reducing the percentage of female migrant workers (ibid).⁵

The on-going debates about ‘family breakdown’ clearly indicate the currency of a powerful discourse on the ideology of ‘the Sri Lankan family’. This imagines the nuclear family as monolithic with the mother as primary care-giver and father as head-of-household, and ignores the existence of diverse family forms, as well as kinship networks on which women and men rely on a daily basis for child-care and family survival. Furthermore, the paternalistic tenor of these policies clearly disregards gender equality. More critically, in privileging the wellbeing of children and families over women’s access to employment, it contravenes women’s rights. What’s more, in targeting poor working-class women migrants and ignoring women from the middle-class who migrate for work and also higher education, the class implications of the policy discourse is highly problematic.

This paper aims to critically examine the *Family Background Report Circular (2013)* and analyse its implications as a policy document from a feminist perspective. In addition to the textual analysis, the paper draws from a research study conducted in four districts in Sri Lanka with migrant workers, NGOs working on migrant rights, policy makers, and government agents responsible for the implementation of the FBR to ascertain

their response to the policy as well to understand the initial impact of the implementation of the policy on the lives of migrant women workers and migrant-hopefuls.⁶ The field work was conducted over a period of four months (October 2014 – February 2015). Focus Group Discussions were held with migrant worker returnees, migrant hopefuls, and families of migrant workers on how they felt about state policies and regulations on migration, their experience of the newly introduced Family Background Report, the impact it had on their decision to migrate, as well the strategies used to leave the country for domestic work. In-depth interviews were held with key stakeholders in the Ministry of Foreign Employment Promotion and Welfare, state officials at the local government level, and officials at the Foreign Employment Bureau to understand the political motivation and rationale for implementing the FBR, their attitudes towards women migrating overseas for domestic work, and

⁶ The field work was conducted in the following districts:

- Kurunegala - Located in the North-Western province, the highest number of women migrating overseas for domestic work in the country is reported from the Kurunegala district. It is home to primarily Sinhala and Muslim populations.
- Colombo - Home to the capital city and multi-ethnically composed, the district of Colombo has the highest number of departures in the Western Province. It is also the location for the highest number of foreign employment agencies
- Batticaloa - The district reports the highest departures in the Eastern Province and is home to predominantly Tamil and Muslim populations.
- Galle - The district of Galle reports the highest number of departures in the Southern Province. It is home to primarily Sinhala populations with small pockets of Muslim and Tamil communities.

⁵ With the exception of 2014 when the number reduced by 6.4 per cent

how they interpreted the policy at the point of implementation. Interviews were also held with key informants, namely migrant rights activists and managers of NGOs working on migrant issues, to understand further the political agenda underlying the FBR policy and its impact on women's rights and wellbeing.

Background and Context - Migrant Women Domestic Workers in Sri Lanka

It is estimated that around 1.7 million Sri Lankans are working overseas (Ministry of Foreign Employment Promotion and Welfare MFEPW 2013). Migrant workers have long been the highest avenue of foreign revenue earning for the Sri Lankan economy. Over the past decade the numbers leaving the country for employment have been steadily increasing and with the greater numbers of migrant workers, Sri Lanka has also seen a surge in inflow of remittances with inflows of US\$ 5.1 billion in 2011 (MFEPW 2013). Overseas migration in Sri Lanka is dominated by low-skilled workers on fixed-term contracts, usually between 2-5 years, mainly to Middle-Eastern countries (Abeyasekera 2010). Unskilled migrant workers comprise a little over 75 per cent of the total migrant worker population. Of the total female migrant workers, 88 per cent are employed as housemaids with 94 per cent of them working in Middle-Eastern countries (MFEPW 2013). Since 1993 private remittances from the Middle-East have accounted for between 55-60 per cent of total remittances.⁷

⁷ In 2012 migrant workers in the Middle East earned 438,525 million Rupees (approx. USD 3.4 billion), which accounted for 57.4 per cent of total

Sri Lanka, in recognizing the value of its overseas migrant labour population for its economy, has put in place several policy commitments and mechanisms to regulate and protect the migrant worker population. This includes the Ministry of Foreign Employment Promotion and Welfare (now the Ministry of Foreign Employment), the Sri Lanka Bureau of Foreign Employment (SLBFE), and *The National Labour Migration Policy*.⁸

In 2008 the Ministry of Foreign Employment Promotion and Welfare coordinated the drafting of the first ever policy on overseas labour migration for Sri Lanka. A principal aim of a 'national' policy was to make a uniform policy statement and commitment on overseas labour migration in the country. It received Cabinet approval in April 2009 and has ever since provided the overarching framework governing the processes and approaches associated with labour migration in Sri Lanka. A unique feature of *The National Labour Migration Policy* was the consultative drafting process: the process brought together a range of stakeholders—government institutions, migrant workers, employment agencies, trade unions, civil society organizations, and concerned international agencies—and resulted in a policy

remittances (Sri Lanka Bureau of Foreign Employment <http://www.slbfe.lk/file.php?FID=53> accessed 28 April 2015)

⁸ Sri Lanka is also a signatory to the *International Convention on the Protection of All Migrant Workers and their Families* (2003) and prior to that the *Convention for the Elimination of all forms of Discrimination against Women* (CEDAW 1981). The Sri Lanka Women's Charter (1993), influenced by CEDAW, recognises women's right to employment.

document that reflected and responded to the needs, concerns and demands of all those involved.⁹ Another important feature of the Policy was its commitment to gender equality where the role and situation of female domestic workers were specifically highlighted including provisions for their protection and empowerment.

The *Family Background Report*, on the other hand, was institutionalised by the Ministry of Foreign Employment Promotion and Welfare and supported by the Bureau of Foreign Employment (SLBFE) without any consultation, public discussion, or parliamentary debate. The conflicting content and processes of policy implementation emerging from same institution may, at first glance, seem incongruous. However, despite the commitment to the values of ‘gender equality’ and ‘women’s empowerment’—inserted in the national policy on the strong advocacy of feminist and rights activists involved in the drafting process—the negative light in which low-skilled female migrant workers are viewed by the state and its officials are evident in the text, and will be discussed in the next section.

Dysfunctional Families and Migrant Mothers – Rationale for Intervention

The preamble to the *Family Background Report* circular (2013) states that

⁹ A National Advisory Committee—comprising representatives from all stakeholder groups involved in the drafting process—and an Inter-Ministerial Coordinating Committee was set to ensure coordinated implementation of the policy.

it [has been] observed that considerable number of female domestic housekeepers leaving the country without informing the actual state of affairs at home in Sri Lanka or their illnesses which cannot be detected through medical investigation.

The rather sparse but nevertheless insidious rationale for intervention begs the questions: to whom should women be reporting to about their ‘actual state of affairs at home?’ To whom are they accountable? The justification for introducing the *Family Background Report* profiles the women migrants in a negative and degrading light: it implies that migrant hopefuls practice deception when reporting on their personal life and their health and are, in general, untrustworthy. The circular suggests that because this group of women often disregard their accountability to family and kin when making the decision to migrate overseas for domestic work, the state must intervene to ensure that women fulfil their familial duties and are held accountable to their families. The rationale immediately obliterates any boundary that may have existed between the ‘personal/private’ and the ‘public’ domain of women’s lives, and allows the state to scrutinise ‘family affairs’ and ultimately regulate the family.

The protection of children is the primary rationale for the intervention of the state. The circular asserts that in the event of a mother migrating overseas for domestic work, ‘it is difficult to guarantee the safety and protection of the child’. In addition, the circular declares that the family faces ‘difficulties and hardship’ when a mother migrates for work, and that

‘many social problems’ are a consequence of women’s migration. The limited social science research on the impact of migration on children’s wellbeing in Sri Lanka indicate that it negatively impacts on older children completing their secondary education (Jayaweera et al 2002), and, while major behavioural problems are rare, young children of migrants tend to be prone to bed-wetting, sleep-walking, clinging, and tantrums than other children of the same age (Athauda et al 2000). Gamburd (2008), in her ethnographic study of migrant families in rural Sri Lanka, finds that when women migrate overseas for work, the mother’s absence can have an impact on children’s education because it increases the chances of school drop-out. Moreover, the absence of the wife also leads to increased alcohol consumption among husbands ‘burdened’ with the responsibility of childcare and household management. Gamburd argues that while the social consequences of women’s migration on children and families must be acknowledged, it does not confirm the claims of “abuse, neglect, addiction, and delinquency featured in media portrayals of migration” (p.14). What Mody (2008) observes about the consequence of media reportage of elopement and abduction of young women in New Delhi is true for media accounts of poor migrant women and their families. She argues that ‘the more media space and coverage given to such sensational narratives the more widespread they appear and the more easily they get incorporated into a repertoire of reality’ (p.31).

The policy rhetoric also completely disregards the structural issue of urban and

rural poverty and also the various socio-cultural factors that contribute to social problems such as alcoholism, suicide, violence against women, child abuse, and abandonment. It ignores the social science literature that claims that the material consequences of poverty, as well as women’s experience of disadvantage and deprivation are the main reasons for their migration (*cf.* Ehrenreich and Hochschild 2003; Gamburd 2000 and 2008; Kottogoda 2004; Locke et al 2013b; Parreñas 2005a). Parreñas (2005a) establishes a direct relationship between the formation of transnational families and the reduction of family welfare provisions in the Philippines. Locke et al (2013b) argue that in a neo-liberal reform milieu where social protection schemes provided by the state have drastically eroded, families are carrying the bulk of the burden of social reproduction—in other words, ensuring the survival and security of their families. Gamburd (2008) illustrates how poor families in Sri Lanka express caring for their children and families in financial terms where providing for the material trump the emotional. She discusses how both women and men agree that in theory women staying home maybe the best for the family, but in reality it is ‘a moot point [...] due to economic hardship, the scarcity of jobs in Sri Lanka, and the opportunities for women to work abroad as domestic servants’ (p.8). The FBR circular turns research evidence on-its-head and blames social problems on poor women’s migration for domestic work. More fundamentally, by regulating women, and not men, the policy places the responsibility of childcare in particular and the wellbeing of the family in general

squarely on the woman's shoulders, and disregards the role of the father and the consequences the absence of the father has on the wellbeing of children and families (cf. Parreñas 2005a).

The patriarchal familial ideology that justifies such scrutiny and regulation by the state is evident in the stipulations of the *Family Background Report*.¹⁰ In implying that women can be 'deceitful' when disclosing information to the state about their family situation, i.e., marital status and age of children, and 'irresponsible' in leaving behind young children, the FBR calls into question women's capacity to make informed decisions. By placing a 'guardian', several actors of the state, and finally the private overseas employment agency to endorse, monitor, and evaluate a woman's caregiver role, the policy calls into question the very premise the policy is predicated on—which is that a mother's care is essential for the nurture and care of children. What is deemed 'natural'—a mother's love that underpins her sense of responsibility towards her familial duties and obligations—is the very thing that must be

regulated by the state. Migrant women are, therefore, according to the policy, 'unnatural' mothers.

It must be emphasised that the *Family Background Report Circular* (2013) is not applicable to *all* women migrating overseas for work, but specifically targets women who migrate overseas for *domestic labour*, i.e., *poor* women.¹¹ The gender and class dimensions of the policy have grave implications for the way in which poor women and their families are conceptualised. The circular suggests that *poor women* often do not understand the importance of protecting their children and do not prioritise the welfare their families, whereas women from a middle or upper-class background who migrate overseas for professional work or higher education are capable of protecting their children and the wellbeing of their families. Hence the state must intervene to ensure that poor migrant women fulfill their duties and obligations to their families in order to prevent family breakdown. *Poor families*, therefore, are implicated in the policy as the exclusive receptacle of a range of social ills from child abuse to alcoholism to marital breakdown, whereas families from a middle or upper-class background are more stable and hardly experience such social problems. The policy also suggests that it is the children of *poor women* who are more vulnerable and suffer more keenly the absence of the mother, whereas

¹⁰ The *Family Background Report* (2013) requires:

- Declaration of marital status
- Declaration of the number of children with dates of birth
- The name and signature of a 'guardian'
- Nomination of a caregiver: his/her name and address
- Nominated caregiver's kinship relationship to migrant
- Status of nominated caregiver's health status
- Proof of nominated caregiver's attendance on 'Family Day' and declaration of consent to fulfil the primary caregiver's role for the entire duration of the mother's absence
- Signatures from the following state officials verifying the information provided: *Grāma Niladāri*, Family Health Worker; Migration Development Officer; Divisional Secretary

¹¹ Women who migrate overseas under the following categories are not subject to the policy: 'skilled' (e.g., seamstress, design maker, embroiders); 'clerical and related' (e.g., accountants, beauticians, clerks, computer operators); 'mid-level positions' (e.g., nurse, teacher); and 'professionals' (e.g., doctors, managers) (SLBFE 2005).

the children from middle or upper-class families are more resilient and are able to cope with such a situation. It also implies that the kinship networks and family ties of *poor families* are weak and hence substitute caregivers must be identified and approved by the state in the event of migration, whereas these networks and ties are stronger in middle or upper-class families and can be relied on for care giving without state intervention. The presentation of the middle-class as being more educated and progressive and as more representative of what constitutes 'Sri Lanka' is part of the state's ideology of presenting itself as a 'modern' state, which I will discuss later.

Despite its commitment to 'gender equality' and 'women's empowerment', the *National Policy on Labour Migration* (2009) echoes the FBR circular's equation of poor migrant's women's vulnerability with 'irresponsibility'. The policy acknowledges the critical nexus between poverty and vulnerability established in the literature on the feminisation of the low-skilled labour force. It discusses how 'low-skills'—'lack of adequate education and training, language skills and capacity to conform to work demands'—as the root cause of the vulnerability and disadvantage faced by overseas migrants (p.10). It asserts that 'low-skilled workers face violations of human rights, including labour rights, harassment and abuse at the work place more than skilled workers and professionals' (ibid). However, 'low-skilled workers' (in this case: poor migrants) are then associated with the inability to make rational decisions:

Some citizens, *especially in the low-skilled category*, may choose to migrate *without* due consideration of its adverse implications for personal and family interests, and rights of spouses, children, extended families and the migrant workers themselves (p.20 *emphasis added*).

The policy is careful to emphasise the structural dimensions of the lack of access to information by acknowledging 'the absence of an environment that promotes informed decision-making on migration for employment' (p.20). Nevertheless, the discomfiture with poor people's decision making is evidenced in the assumptions being made here: that being 'low-skilled' prevents migrants from adequately assessing the opportunity costs of migration and fully comprehending the significance of the decision on the wellbeing of the self, children, and family. The literature on poor women migrating overseas for domestic and other low-skilled work indicates that the impetus to migrate is never an impulsive decision, but is the result of individual and collective deliberation (Gamburd 2008; Kottegoda 2004; Nicholson 2006; Parreñas 2005a&b; Piper and Roces 2004).¹² In fact, as discussed before, women talk about their children's wellbeing and the economic survival of the family as the main reasons for migration. Finally, the national policy imagines low-skilled migration as a

¹² 'Push' and 'pull' factors frame the analysis of women's motivation to migrate in much of the literature. 'Push' factors include poverty, unemployment, domestic violence, and dignity of labour due to anonymity. There is no in-depth analysis, however, of what motivates and compels particular women to migrate for work.

psychologically stressful (even traumatic) event, and conceptualises low-skilled migrants as vulnerable to psychological issues and are deemed to be less resilient when it comes to coping with changing life circumstances:

Migrant workers, *particularly in the low-skilled category*, suffer from psychological issues due to the isolation, cultural shock and alienation, which can make them vulnerable to diverse problems, such as emotional and sexual exploitation, and lower productivity. Migrant workers, *particularly in the low-skilled category*, are largely unaware of the need for psychological preparation for employment overseas. In order to prepare workers for this, prospective migrant workers must receive adequate psychological preparation for migration (p.20 *emphasis added*).

The conceptualisation of poor women as vulnerable and predisposed to making uninformed and irresponsible decisions not only sanctions the intervention of the state, but makes state interpolation imperative. Hence, the *Family Background Report Circular (2013)* is seemingly justified in deliberately placing a woman in a web of unequal power relations to minimize the risks her decision to migrate can have on her family and children. As discussed in the introduction, she is required to obtain the signature of a ‘guardian’—which places, in most cases, her husband, and in the case of unmarried women—her father—in the role of ‘protector’ who must grant her permission to migrate overseas for domestic work. The FBR completely

disregards the principle of gender equality enshrined in Sri Lanka’s constitution and ignores how husbands and wives arrive at decisions through a process of discussion, negotiation, and bargaining (Kandiyoti 1988; 1998; Kottegoda 2004; Osella 2012). In the context of the interdependent relational nature of women’s actions women’s decisions and choices are also always made within constraints, which raises questions about women’s agency (Abu-Lughod 1991; Kandiyoti 1998; Strathern 1987). Kandiyoti, in her discussion of women’s bargaining power in households, points to how the rules that govern kinship and conjugality ‘[inform] both women’s rational choices and the less conscious aspects of their gendered subjectivities predisposing them to favour differing strategies of resistance and/or collusion in different contexts. By so doing’, Kandiyoti argues, ‘I was both presenting women as rational actors deploying a range of strategies intelligible within their normative universe *and* pointing to the essentially circumscribed nature of the same strategies (Kandiyoti 1998:139, *emphasis in original*). In the case of migration, women may be resisting one set of constraining structures, i.e., poverty in their home countries, only to be entangled within a far more insidious system of domination—the exploitative global feminized labour market.

The stipulation of obtaining permission from a guardian also reinforces the familial ideology of ‘mother as primary care-giver and father as head-of-household’. Such a limited and static understanding of family roles makes no provision for the father to play the role of

the caregiver in the mother's absence. Moreover, the need to nominate a substitute caregiver ignores the existence of kinship networks on which women and men rely on a daily basis for child-care and family survival. The complex and unspoken bonds of kinship that bind people in a web of duty and obligation is formalised placing the woman in a disadvantaged position of the 'favour seeker'.

Overall, the imposition of regulation on a woman's decision making process ignores the research that illuminates how the decision to migrate is almost always made in a relational context where the collective interest of the family is often emphasised over individual desires and personal wellbeing (*cf.* Gamburd 2000; ILO 2005; Kottegoda 2004; Risseuw 1991; Waxler-Morrison 2004). Kottegoda (2004; 2006), drawing from her ethnographic study of migrant women, describes how the decision to migrate is never an ad-hoc decision, but is often discussed with husbands and other family members and their help sought to negotiate the process of migration. According to Kottegoda, husbands are initially reluctant to give their consent because they are reluctant to assume childcare and household responsibilities. Very often extended family members commit to supporting the endeavor because they understand the economic benefits of migration not only to the nuclear family, but to the extended family as well. Earnings from overseas migration are almost never confined to the nuclear family but are utilised by the extended family for weddings, education, building of houses, and repayment of debts

(Gamburd 2000 and 2008; Kottegoda 2004 and 2006). Fernando (1989) describes how parents of the husband, young unmarried sisters of either the migrant woman or her husband, and in some cases close relatives of the woman would often assume the responsibility for child care (as quoted in Jayasundere et al 2015). Our own fieldwork reinforced these findings, and will be discussed in the next section.

The Modern Regulating State

Over the years the Sri Lankan state, on the advocacy of rights activists, have made several provisions to protect the women migrant workers from exploitation and abuse and introduced various schemes to protect their children and families. The *Family Background Report Circular (2013)* however dramatically changes the role the state has been playing thus far of overseer and protector of migrant workers' rights to that of regulator of migrant women's families. The state's intervention in the intimate sphere of kinship and marriage is not unusual as family laws across the globe bring the family and the relationships and activities associated with it, i.e., reproduction, divorce, and inheritance, under the State's jurisdiction. What is significant here, however, is how the state invokes middle-class norms as the 'ideal' of family life. In fact, Smith (2010), in her analysis of state-run training programmes for new migrants, argues that the Sri Lankan state promotes the ideals of heterosexual marriage and family by emphasising sexual abuse and promoting the need for restraint and control if women are to protect themselves from HIV. Amarasuriya (2010), commenting on state sector employees working on child

protection in Sri Lanka, observes how middle-class state officials ‘assert moral personhoods and identities in opposition to their class “others”’ (p.242), namely the poor working classes, in their interventions. Mody (2008) in her study of love marriages in New Delhi, argues that the Indian state colludes with the family in deciding what constitutes a moral union. The ideological power of middle-class norms will be illustrated in our discussion on the every-day practices of policy interpretation and implementation.

The state, it seems, is also anxious to present itself as a ‘modern’ and ‘progressive’ economy. This is reflected in the idealistic language used in the ‘vision statement’ of the *National Labour Migration Policy (2008)*.¹³ Middle-class ideals and practices are, therefore, equated with modernity, while the practices of the poor, working classes are seen as undermining the state’s ‘image’. This is evident in the immediate precursor to the FBR—the 2011 Annual Performance Report of the Ministry of Foreign Employment Promotion and Welfare:

Even though a large outflow of unskilled male and domestic female workers contributed to earn the much needed foreign exchange to our country, this also had a *negative impact on the broad image of Sri Lanka as a country sending mostly*

housemaids and unskilled workers. Apart from the many problems faced by few of the female domestic workers, another detrimental aspect of the migration of large number of mothers with young children was the psychosocial impact on the children left behind. These issues have been identified by the government as needing priority attention by taking counter measures for the protection of children left behind and to *increase the outflow of professional, technical, middle management and skilled manpower so that Sri Lanka can harness the true potential of its intelligent and educated human resource, thus reducing dependence on the earnings of female domestic workers (SLBFE 2011 emphasis added).*

The present reality of an economy supported by unskilled female migrant workers clearly undermines the state’s vision of an efficient economic model underpinned by a proficient workforce. The modern and progressive economy and an advanced society that such visions invoke contrasts with the narratives of poverty, exploitation, and vulnerability through which low-skilled migrant workers, especially women, are discussed in the *National Labour Migration Policy (2009)*. There is also a disjuncture between such a vision and the structural realities of an already globalised economy. The unprecedented technological changes of the late 20th and early 21st century has resulted in a global movement of labour wherein the demand for low-skilled low-waged workers in technologically

¹³ “The Ministry’s vision is to become the best skilled and professional labour provider in the global job market. Its mission is to convert the entire labour migration sector into a demand-driven process, making it highly competitive by introducing required structural changes, together with necessary promotional, protective and welfare measures” (National Labour Migration Policy 2009:3).

advanced countries in the global North are fed by developing countries like Sri Lanka in the global South. Despite the structural constraints, even impossibility, of realising such a vision, the policy asserts the Sri Lankan state's determination to not rely on migration as a long-term economic strategy. The discourse of becoming a 'self-sufficient' nation where citizens are 'cared for' by a paternal state is clearly nationalistic. Hence, the FBR can also be seen as a response, albeit a knee-jerk one, to the state's aspirations to be a modern, middle-income country and shed its 'developing nation' status. The ideological tension between a *paternalistic state* intent on protecting poor, often exploited, women migrant workers and a *modern state* intent on ignoring the plight of poor families can be described by what Gupta (2012) terms 'structural violence'. He uses the term to describe the Indian's state's relationship to the poor: while the state is not indifferent to the poor and sponsors substantive poverty amelioration programmes, the widespread corruption and the 'governmentality' or the expansion of bureaucracy leads to the widespread failure of anti-poverty programmes resulting in the death of millions of people.

Implications of The Family Background Report Circular (2013)

This section draws from the field work conducted in four districts to understand how *The Family Background Report Circular (2013)* has been received by the various stakeholder groups including migrant workers, NGOs working with migrant women, overseas employment agents, and state officials, as well as document the ways in which the policy is

being interpreted by the state officials placed in charge of implementing the policy and analyse the implications of the policy on migrant-hopefuls and their families.¹⁴

Reception – A Long-Overdue Policy Intervention for the Protection of the Family

There is overwhelming approval of the *The Family Background Report (2013)* in safeguarding not only children, but also in securing and maintaining the role and responsibilities of the mother as the primary caregiver of children and families. The policy is seen as a strong and incisive intervention from the state to prevent, on a general level, unskilled labour from migrating overseas for work, and specifically and more significantly, women with children migrating overseas as domestic workers. '*Children under 5 years need the mother's love*'; '*mothers have to protect their children*' and '*it is the duty of the mother to the family to make sure the children are loved and protected*' were common mantras repeated by various state officials in all districts. Unlike the underlying principles of gender equality and women's empowerment in the *National Labour Migration Policy for Sri Lanka (2008)* that were too abstract for field-level implementation, many of the state officials felt that there is more clarity regarding the rationale and objective of the FBR and how it should be implemented. A Migration Development Officers (MDOs) interviewed in the Kurunegala

¹⁴ Fieldwork was conducted in the districts of Batticaloa (Eastern Province), Kurunegala (North-Western), Galle (Southern Province), and Colombo (Western Province) from November 2014 to February 2015s

district, for example, stated that until the FBR was introduced they *'had very little sense of what 'child protection' meant, and its social and administrative implications.'* Another MDO asserted that the FBR is mandatory because it guarantees the *'safety, security and protection of migrant women's children [...] below the age of five and even teenaged children.'* A *Grāma Niladāri* (GN) from the Batticaloa district stated that the objective of the FBR was to *'ensure the safety and security of married women migrant workers' children before they leave the country, and also to make sure that women get their husbands' consent go overseas for employment.'* That the protection of children in particular and the wellbeing of the family in general were the principal aims of the FBR were echoed by all the GNs interviewed, and all GNs without exception were unanimous in their support of the FBR as a positive and timely intervention.

Most state officials were unselfconscious in their acknowledgement that the FBR targeted women, and not men. A few MDOs acknowledged that the FBR discriminated against women and undermined gender equality. They felt that the FBR should be made applicable to husbands and fathers as well, but did not elaborate further. The discomfiture with women migrating overseas for work is not limited to state officials, but one that is shared by women's organisations working with migrant women. Many organisations though the introduction of the FBR was 'a good thing' even though it was targeted exclusively at women, and not male migrants with families.

The positive response to the FBR by state officials is underpinned by a strong sense that migration of women overseas for domestic work has negative consequences on society and is detrimental to the family, especially children, and must be stopped. It is significant that the underlying causes for migration—poverty and the lack of viable employment opportunities in Sri Lanka, as well as domestic violence in some cases—were recognised during the discussions with GNs, Women Development Officers (WDOs), and MDOs. In Kurunegala, for example, an MDO acknowledged that

there are no alternative jobs to speak of in [this] area [...] All the garment factories are in Colombo and garment jobs, of course, are poorly paid [...] If a Gulf-returnee starts a small business, marketing her products are difficult [...] and local domestic work is not so attractive to women because such work is also poorly paid.'

These sentiments were reflected by an MDO in the Batticaloa district: *'Other than going to a Gulf country for domestic work, there are no other job options open for women in Sri Lanka [...] Also, domestic work within Sri Lanka is neither encouraged nor promoted.'* There is certainly no absence of a discourse on why poor women migrate overseas for work. A GN from Galle acknowledged that *'women migrate because husbands do not do their duty and provide for the family and look after the family. Often family responsibilities are on women not on men.'* Yet the recognition of the material conditions of poverty is undermined by their contempt for migration. State officials are quick to add that *'women go*

because of habit, because it is a fashion' and oppose migration of mothers because children 'go astray', 'become drug addicts', and 'cause fathers to neglect children when mothers are absent'.

Hence, regardless of the lack of viable opportunities for employment within Sri Lanka, but precisely because the *impetus* to migrate has emerged in response to deprivation, the *act* of migrating overseas for work is perceived as an imprudent decision that exacerbates, not mitigates, what these state officials interpret as the conditions of poverty. A GN in Kurunegala, for example, spoke about the problem of school drop-outs in his area. Although the number was as low as 13, he attributed the issue to female migration, specifically the absence of the mother.

The husband of migrant worker to-be would bring a paternal aunt of his children and say that she would act as a guardian for the children, during the absence of their mother and I, as the GN, would recommend this aunt to the DS as a guardian. But in reality, what happens is this aunt will not look after the children once the man's wife has migrated. In the circumstances, the man would start drinking like a fish, neglecting his children.

A Women's Development Officer from the Kurunegala district spoke about how quite often the complaints they receive in their office about children are usually those belonging to migrant women's families. An MDO in Kurunegala asserted that there was research evidence to show that children's education improved significantly when the father has emigrated for work, *'leaving the*

mother to run the family.' The perception that fathers were incapable of caring for children was a sentiment echoed by many officials. Hence, many of them strongly felt that rather than *regulating* women's migration by introducing policies such as the FBR that seek to ensure the protection of children and families, the migration of women for domestic work must be stopped altogether. A GN from the Kurunegala district stated that:

Migrant workers venture out with lots of hopes, dreams and aspirations, but it's hard to realise them all. In my division, there are only a handful of Gulf returnees who could be said to have achieved some sort of economic success. Nowadays, even in the villages, families don't have more than two children. So, I for one would prefer if immigration for work were stopped

The feeling that migrating overseas for work, although undertaken with the hope of alleviating the conditions of poverty, was an unsuccessful venture was reflected by women's organisation in the Batticaloa district. The deep discomfiture with women migrants and, more critically, the tendency to regard low-skilled female migration as the 'scapegoat' of all social ills was echoed by another GN:

There aren't any successful migrant workers to speak of in his area. Therefore, worker migration should be discouraged. They indeed contribute in no small measure to the rapid erosion of social and moral values that underpin our society.

In addition to the repercussions on children and families, migration is seen as a negative experience for migrants who are subject to exploitation and even cruelty. Almost all officials spoke about the non-payment of promised wages, long working hours, and the sexual and others forms of harassment women faced in their workplaces. More importantly, migration was seen as failing to resolve the issues of poverty that women sought to alleviate by migrating overseas. An MDO spoke quite passionately about how

Most migrant workers are not economically successful. They can't even afford to buy or build a house for themselves with what they earn during their employment period [...] It is this money that drives most women to migrate. But usually what happens is this money is collected by their husbands and some of them spend it to drink and, sometimes, womanize too, once the wives have gone.

The rhetoric of victimhood that dominates the popular discourse on migrant women workers as well as some of the literature on migrant women workers often mask the stories of resilience in not just surviving, but successfully managing the migration experience that contribute to women's empowerment (Abeyasekera 2010). Many returnee migrants spoke about how successful child-care arrangements with extended kin as one of the principle reasons for their ability to make a success of their migratory endeavour. A returnee residing in the Colombo for example described how her mother-in-law moved in with her husband to take care of her three-old-son. *'I migrated four times [...]*

and when I came back to settle down he was 13 years old and doing well in school. Today he does a good job, is financially stable and looks after my husband and me.' Another returnee shared her experience of leaving three children under the age of six with her mother and younger sister.

When I came back after three years my youngest was calling my sister 'amma' (mother), but he quickly got close to me. After I came back I had another child. All four children are educated and married now and the foundation was laid by my work abroad.

There were also a number of stories where fathers had stepped in as the primary care-giver. One man talked about how he took care of his son from the age of four until he was twelve while his wife worked in Lebanon. *'She used to come home for a few months at a time but had to go back several times to make sure we built a house and bought a vehicle'*. Many migrant returnees described their experience of working overseas as empowering because it enabled them to provide for their families financially and ultimately improve their overall standard of living and status. A woman from the Kurunagala district described her micro-credit project of making spice powder packets that was *'doomed'* because she *'did not know anything about marketing'* in response to another woman's positive migration experience: *'I worked for 20 long years for one family in a Gulf country and I had absolutely no trouble from them. Indeed, they are still in touch with me.'*

Positive stories like those related above are not meant to divert attention

away from those who have suffered due to abuse and exploitation while working overseas; neither are they meant to discount the stories of children of migrants who experience neglect, suffer abuse, and drop out from school. A woman from Kurunegala, for example, described how *'in Saudi Arabia, our employers wouldn't give us food to eat. Domestic workers who run away from the houses they work in have to face issues like loss of income and accommodation.'* Another woman spoke of the difficulty of leaving her child behind: *'maternal love is essential for small children. Sometimes their teachers too request of us not to go abroad for work. But we have to go because of our poverty.'* A rights-based NGO working in the district of Batticaloa in the Eastern Province discussed the number of cases they handle on trafficking, sexual abuse, physical violence, and missing persons—most of them originating in Saudi Arabia. They discussed the difficulty of getting compensation for domestic workers who have suffered abused under their employers and briefly described a compensation case *'that had been dragging on from 2012'*.

The positive stories in the previous paragraph were related to highlight that all migrant stories are not framed by narratives of suffering. More importantly, while there are many reports of child neglect and abuse as well as marital breakdown, there is no research evidence indicating that these social ills are exclusively confined to the families of migrant women. Cases of school drop-outs and child neglect in fact extend beyond migrant families, and, more critically, beyond even poor families.

Moreover, there is no research evidence that indicates the absence of the mother as being the primary cause for these issues related to children.

Interpretation and Implementation

The *FBR circular (2013)*, unlike the *National Labour Migration Policy for Sri Lanka (2008)*, assigned specific roles and responsibilities to state officials in the form of validating the migrant hopeful's family details through house visits and interviews. Hence, their role in the implementation of the policy was clear and also gave the MDOs and WDOs especially a sense of self-importance. There was a strong sense that they were responsible for the protection of children and the wellbeing of families and that these responsibilities must be taken seriously by ensuring that the FBR is meticulously implemented. MDOs and WDOs often saw themselves as the moral guardians of children and families. There is, therefore, significant variation in the way the FBR is interpreted. In the Batticaloa district, for example, the MDOs discussed how said that before sanctioning a FBR of a migrant hopeful, they methodically checked the birth certificates of the woman's children, guardianship details, and the GN certificate for its accuracy and authenticity. Even though the FBR circular bans women with children less than five years of age from migrating, the MDOs did not grant the FBR certificate to women with teenaged daughters. They argued that *'we cannot grant the guardianship of even to their father, since only a woman can responsibly take on the guardianship of [teenaged girls].'* Another MDO from the Batticaloa district admitted that they did

not grant the FBR certificate if they found that a *'brother-in-law of a prospective female migrant worker happened live in her home [of a migrant hopeful] with a teenaged daughter.'* In fact, she admitted that the guardianship of a girl child is never given to her father. The extension of the FBR to include the extra protection of teenaged girls was confirmed by a GN in the Batticaloa district who listed his duties as *'ensuring women with children under five and teenaged girls did not migrate.'* Amarasuriya (2010) observes that state sector employment is an important source of social mobility, gaining respectability, and constructing a middle class identity. She argues that state employees are anxiety-ridden about the 'in-between' position they occupy in relation to the upper and lower classes, and this shapes the way in which they translate policies and engage with institutional and bureaucratic procedures. The middle-class status that these state officials maintain in relation to the 'poorer' and 'less educated' constituencies is often 'apparent in the nationalist consciousness, morality and professional identity' they assert (p.242).

The ad-hoc interpretation of the FBR gives limitless power to the MDO. Migration Development Officers take their role very seriously and often assume wider powers of investigation including visiting and inspecting homes. An MDO from Galle described how

In one situation where a woman said she did not have any children, I inspected her house thoroughly and found a few children's clothing items. She had hidden any evidence of having a child under 5 years but not been able to hide everything

which enabled me to refuse authorisation for her to leave as a domestic worker.

An official of a women's organisations in Batticaloa spoke about how if an MDO deemed that the *'wall around [the migrant hopeful's] water well was not high enough'* and posed a threat to her children's safety, the FBR certificate was denied. The moral high-ground MDOs often adopt in the execution of their duties, sometimes make them vindictive. For example, in the Batticaloa district a woman with a child of 2½ years had migrated overseas prior to the introduction of the FBR and had now returned. The WDO was adamant that this woman will not be issued a FBR clearance certificate in the future 'under any circumstances.'

The responsibilities of implementing the Family Background Circular (2013) goes beyond the issuing (or denial) of a certificate permitting a woman to migrate overseas for work. The GN and the MDO are also responsible for monitoring the progress of children who have been left behind by checking their progress in school as well how well the guardian is fulfilling his/her duties by monitoring the children's situation at home. There are no guidelines for how such monitoring should take place and hence it is at the discretion of the individual GN or MDO officers. The general lack of sympathy for women migrating overseas for work means that such monitoring is undertaken from a highly moralistic standpoint with the intention of proving that the consequences of migration are generally negative to children's wellbeing.

Implications – 'Irregular Migration'

While this was the only concrete evidence of what is deemed as an ‘illegal’ migration—women migrating for overseas employment without the FBR clearance certificate—state officials, NGOs, and employment agents revealed that they knew of a significant number of cases of ‘irregular migration’. Here ‘irregular migration’ was the term used to describe how in order to by-pass the implementation of the FBR, many women were migrating on ‘Visit’ or ‘Tourist’ visas. An agent spoke about how the demand in Middle-Eastern countries for domestic workers was high and that incentives were being paid for women to migrate. According to agents Qatar and Saudi Arabia pay a domestic worker LKR 250,000 (approx. USD 2000), while Dubai pays LKR 200,000 (approx. USD 1500), and the other Gulf countries pay LKR 150,000 (approx. USD 1000). Although in reality agents often pay a domestic worker only around LKR 100,000 (approx. USD 750) with the balance being taken for expenses such as the preparation of documents, nevertheless the payment is a significant incentive. Hence, women were willing to by-pass the law to migrate even though it posed a risk to their own safety and security. In addition, women’s organisations in the Batticaloa district noted that agents use the incentive to persuade husbands to give their consent and sign the FBR.

An official of an NGO working on safe migration in Batticaloa revealed that the FBR has resulted in sub-agents taking migrant workers to other districts for the preparation of the necessary documents to obtain the FBR clearance certificate. The temporary change of residence enables

women to falsify their family circumstances. Sub-agents also mobilise their networks to ensure that state officials grant these women their certificates without too much investigation into the veracity of their residence information. A GN from the Kurunegala district commented on the need to submit an FBR even when an unmarried woman was above the age of 21, which compelled many women to disregard the FBR and migrate through illegal means.

In limiting the FBR to female migrants has resulted, ironically, in exposing one of its main loop-holes. Migration Development Officers as well as community organisations reported instances where husbands—who have been accepted as the alternate caregiver of his young children—subsequently migrate for work leaving young children behind. It was noted that quite a few of these men were utilising the incentives provided to their wives to fund their migration costs. As men are not required to submit a FBR clearance certificate there is no way of finding out if a male migrant is a nominated caregiver. Hence, the very children the state wishes to ‘protect’ can be ‘abandoned’ by their own fathers. In reality, many of these children are taken on by the ‘traditional’ kinship systems in the community.

Conclusion

The social ills of child neglect and abuse, marital tension and breakdown, and substance abuse as well as the material conditions of poverty have led to a moral panic about the ‘disintegration of the Sri Lankan family’. The fear and anxiety about social change and its impact on the

structure and function of families as well as kinship relations has resulted in blaming poor migrant women as the receptacle of all social ills. The response has been to disregard the principle of gender equality enshrined in the Constitution as well as the *National Labour Migration Policy* (2008) and introduce a policy that discriminates against women, especially poor women migrating overseas for domestic labour. The *Family Background Report Circular* (2013) is patriarchal and its paternalistic intention and implementation are very clearly to reinforce the 'traditional' roles of women as primary caregivers of children, moral guardians of the family, and place women in a secondary position to men who are deemed as women's guardians. The state, it seems, is also anxious to present itself as a 'modern' and 'progressive' economy. The reliance on unskilled labour, specifically female domestic workers, as the primary source of foreign remittances clearly undermines the image the state wants to portray. Hence, the policy is also a response to the state's aspirations to be a modern, middle-income country and shed its 'developing nation' status.

The social science literature on poor Sri Lankan women migrating overseas as domestic helpers has tended to focus on risk factors as well as the socio-economic costs and benefits of migration to the migrant and her family. By concentrating on vulnerability, the literature infers the disintegration of the family without an adequate consideration of how the institutions of kinship and family are transforming in response to social

change.¹⁵ While structural change to the institution of the family is referred to broadly in the social science literature on Sri Lanka, there is little in-depth analysis of changes in kinship and family relationships in periods of transition. In fact, not since the classic village-based ethnographies detailing kinship in the mid-twentieth-century has there been substantive research on family and kinship in Sri Lanka.¹⁶ Scholars studying ethnic minorities as well as gay and lesbian communities elsewhere point to the increasing heterogeneity in family forms beyond biological and conjugal bonds (Bengston 2001; Nicholson 2006; Stacey 1993). Studies also indicate the increasing importance of multi-generational relationships, especially with female kin, in fulfilling family functions and maintaining family solidarity (Bengston 2001; Ellingson and Sotirin 2010; Milardo 2010; Widmer 2010). Recent studies on family change in India indicate that while there is a structural breakdown of the extended family, 'functional jointness' persists with joint families continuing as adaptive extended families (D'Cruz and Bharat 2001).

Hence, without an understanding of how family structures and functions and kinship relations are changing, we are left with an inadequate analysis of how families in Sri Lanka are balancing collective and individual interests in the

¹⁵ The exception is Gamburd (2008) who discusses how transnational migration affects and is affected by gender roles, kinship relations, intergenerational obligations, and ideologies of parenthood.

¹⁶ The exception is Sidharthan Maunaguru's [2009; 2010] research on marriage in Tamil transnational families; and Abeyasekera (2013) inter-generational study on urban middle-class marriage within the Sinhala-Buddhist community

face of migration that creates the conditions for ill-informed policy decisions. Moreover, policy makers must also be mindful of how gender and class inequalities are reproduced through the family. At the same time, research on Sri Lanka has not adequately explored how

changing family forms are in fact being accommodated and experienced by individuals. Analysing how individuals and families are making meaning of their choices and circumstances is critical if we are to understand more deeply the production of modern subjectivities. 🙄

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