



On The Move In Search of Greener Pastures:
Unsafe Migration and Human Trafficking in Sri Lanka's Tea
Plantation Sector
Policy Brief



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Introduction

- Background
- Purpose of the Policy Brief
- Focus of the Project

One of Sri Lanka's most vulnerable communities are those who reside and work on plantations. For decades they have faced political marginalisation, economic hardships, and social barriers. Plantation workers have the lowest rates of land ownership in the country as well as some of the lowest health and education indicators. Simultaneously, Sri Lanka has sent thousands of people abroad and internally mostly to cities like Colombo and Kandy to work in construction, as drivers or as domestic workers. Given the difficulties in the plantation sector, it comes as no surprise, that many of these migrant workers are from estates. Despite this deep connection between historic destitution and modern pathways for economic mobility, there have been few studies that focus on this group of people.

Some outstanding work has been done on the plantation sector and separately on migrant workers, however, these have rarely centred the intersection of these two communities. So they have not grasped the unique problems of migration specifically from plantations. What is more, internal migration has received even

less attention, despite the dangers and problems being of equal importance. This study sought to eliminate this gap in the literature, by exploring the unique aspects of the plantation sector that make migration both so desirable and so dangerous for those who undertake it.

This policy brief is intended for law makers, administrators, community organizations, diplomatic missions, and other decision makers. It seeks to provide a clear pathway to effectively protect the rights of migrant workers, promote their social and economic wellbeing, and prevent trafficking. To do so there needs to be changes to the legal system, economic policy, administrative entities, and social norms.

This brief is also intended for migrant workers, to inform them of their rights and the regulations that are currently in place to protect them. It is our hope that this will be a resource for people to navigate the existing system with an awareness as to its gaps and shortcomings.

Key Findings

- Plantations and Migration
- Migration Governance
- Trends in Migration
- Pathways, Processes, Vulnerabilities, and Support Mechanisms
- Impact of Migration

This study focused on the following areas:

1. Plantation Sector and Labour Migration
2. Labour Migration Literature Review
3. Labour Migration Governance
4. Methods
5. Trends and Causes
6. Pathways, Processes, Vulnerabilities and Support Mechanisms
7. Impact of Migration on Families and those left behind
8. Myths and Misconceptions

Plantations and Migration

Causes of migration

Both international and internal migrations are caused by economic as well as social factors. One of the major reasons for migration out of the plantation areas is the lack of opportunity and suitable income. Nearly all migrant workers, both international and internal, cited this as a major reason for their decision to work abroad or in a city. They found that income earned from the plantation was unstable, and

insufficient for the quality of life that they aspired to. This usually involved making repairs to or building a house, paying daughters dowry, or educating their children. However, for many workers these dreams never came true because they had to first attend to essential expenses such as repaying loans, and medical expenses. Many workers also said that since the cost of living was so high, income earned on the plantation was simply not enough for even basic necessities such as food and clothing. What is more, since the privatization of the 1990s, many estate workers are not formally registered on the estates and do not have an assured salary. Rather they work for a daily wage whenever work is available on the estate, which is a very precarious and unstable form of generating income. They are further not able to benefit from bonuses, house ownership and other advantages. So, they decide to go abroad and send money home.

Since the expansion of industry in Sri Lanka in the 1970s, factories have been established in rural areas too, including near to plantations. As a result, it was noticeable that many of the interviewees had experience

working in factories or shops nearby, not only in plantations. However, these opportunities too did not provide a sufficient income and they felt they could get a much better income by going abroad or by moving to bigger cities.

Another core reason for migration were social factors. Many of the youth no longer want to be associated with the plantation due to its historical oppression and the lack of dignity. They are also attracted to the modern lifestyle that is increasingly becoming

My parents forced me to work to feed the family. I started to work at the age of 10. I did not go to school. I can't read or write. I can sign. I have worked in multiple houses. I was able to cook for more than 10 people when I was around 11 years old. When I was working at different homes in Colombo, I have undergone some problems that I can't tell now as my children are here. I never saved anything for me.

- *Domestic migrant worker from Matale*

available to urban Sri Lankans through globalization. For women migration was also a way to escape from society and the confines of their family. Many interviewees expressed some interest in learning to be independent, traveling, and avoiding abusive husbands.

Making the decision to migrate

Decisions to migrate are usually made collectively rather than individually. Most families choose to send one person to work to provide security of income. When migrating abroad, in many cases families chose to send women because the process of migrating for women was cheaper than it was for men. Additionally, husbands were often salaried employees of the estate while wives were daily wage workers, and thus risking less in choosing to leave. Domestically, parents often make the decision to send their children (sometimes underage) to earn income for the family. In the case of girls especially, children are easily coerced into abusive work environments. These two phenomena indicate the lack of or reduced element of choice in the decision to migrate. In the case of child-labour this is obvious, but

even in the case of women migrants, the decision is often not solely up to them but is also made by their families. What is more, women especially due to the patriarchal nature of society generally have lower levels of education and skills, winding up in very exploitative work environments and low-income jobs.

Migration Governance

The Migration Process and Local Regulation

There are a number of laws and regulations that govern foreign and to a lesser extent domestic migration including the act to establish the Sri Lanka Bureau of Foreign Employment and the National Labour Migration Policy. If using legal means, when migrating abroad, workers are expected to register with the SLBFE (which requires a registration fee), obtain a passport, and receive training. Migrant workers usually come to know about opportunities through friends who connect them to sub-agents who are usually members within their community. These sub-agents then arrange for all the documents that are needed for

migrating. Since many of the migrants are unaware of the exact process there is a lot of room for abuse at the level of the sub-agent.

International migration is regulated through a number of laws and institutions. The SLBFE which is the main body regulating migration abroad comes under the purview of the Ministry of Foreign Employment Promotion and Welfare. A number of laws most importantly the SLBFE's Act No 21 of 1985, regulate this migration. Other government stakeholders such as the foreign employment officer at the divisional secretariat, the Grama Niladhari, child protection officers, and police are involved in the migration process and regulation at the local level.

If a migrant is a woman there are more processes she must complete. Migrant women are further expected to complete the Family Background Report (FBR), which limits the possibilities of mothers with children under the age of five from migrating. The procedures related obtaining FBR is complicated, and it is highly criticized for violating women's rights for employment and reinforcing the traditional gender roles. Thus, the FBR was a major reason for women

choosing to migrate outside of the regulated system. In other situations, the FBR is utterly pointless as sub-agents arrange for FBR approval by bribing officers. Due to COVID-19 and the economic crises the limitation on mother's migrating through the FBR have been eased significantly.

Internal migration is regulated far less than international migration. Similar to international migration, internal migrants too are often recruited by agents who work in the estates. They migrate to export processing zones and cities to work in construction, at factories, in shops and as domestic workers. They fall under existing labour laws and regulations including Labour code of Sri Lanka and the National Policy for Decent Work in Sri Lanka 2006. However, unlike international migration, there aren't any specific protections for internal migrant workers. Domestic workers are especially vulnerable as individuals are sent through informal channels rather than official recruiters. Even recruiters and employers for the construction and shop sector do not abide by regulations that require a contract, payment of EPF/ETF, freedom to unionize and other fundamental rights.

The issues with the current regulation and process are that they are very complicated and difficult to complete. As a result, many people opt for informal methods of migration. Furthermore, the documents often have to be procured from local bureaucrats who take advantage of people's desperation. Procedures like the FBR further restrict reasonable migration and push women towards illegal methods. A second gap with local regulations is that agents are able to function without accountability and there is no regular process for penalizing violations. Finally, internal migration is not monitored or regulated enough and there are few institutions that support internal migrants and seek to protect them.

Regulation in host countries

Many host countries in the gulf absorb migrant workers through the Kafala system which ties the worker to the employer. Although the details are different from country to country, this system restricts migrant workers ability to find employment outside of their original employer, excludes them from minimum wages or labour protection, prevents them from

unionising, and most severely as in Saudi Arabia, prevents them from leaving the country. Migrant workers who tried to escape their employers house narrated how law enforcement simply brought them back amounting to forced labour.

Regional and bilateral agreements

In addition to domestic regulations, regional and bilateral agreements have attempted to regulate migration. The Colombo Process and the Abu Dhabi Dialogue are two regional agreements that focus on regulating the supply and demand of migrant work and prevent illegal recruitment. This is further supplemented by bilateral agreements between Sri Lanka and host countries. MOUs have been signed with a number of host countries with particular focus on protecting women migrants. However, there is a distinct lack of political will from host countries to dramatically transform the situation and Sri Lanka as only one sending country does not have much leveraging power.

Trends in migration

There were increases in migrations from the plantation sector in the 1970s as a result of nationalisation and the anti-Tamil riots in 1983. This trend was broadly in relation to internal migration. However, in the 1990s with privatisation there was again an increase in migration out of the plantations, this time internationally. There have also been changes in the gender demographics of those who migrate abroad. When international migration initially began in the plantation sector in the 1990s it was women who mostly migrated to fill the rising demand for domestic workers in gulf countries. However, since the imposition of restrictions by the government, most notably the FBR, there has been a decline in the official number of women who migrate. Nevertheless it should be stated that many women migrate through unregulated means and thus it would be difficult to definitively say that migration has decreased among women as compared with the early days of international migration.

Pathways, Processes, Vulnerabilities and Support Mechanisms

Trafficking and unsafe migration

Most migrant workers heard about opportunities abroad through friends or relatives who then put them in touch with sub-agents. Sub-agents often promise to handle all the documentation for a fee. Due to the lack of knowledge about documentation, and migration, many individuals trust these sub-agents, who abuse this trust by trafficking individuals or by making false promises. In severe cases sub-agents trick groups of young women with the promise they will be sent abroad instead forcing them into prostitution in Colombo. Sometimes sub-agents promise individuals they will be working in one country but instead send them to another. In still other cases, migrant workers find themselves in countries on visit visas rather than employment visas, without legal protections and themselves in trouble with the law. Since prospective migrants have limited contact with the main agent or with government regulated bodies, they are coerced into accepting

unsafe migration conditions by the sub-agents directly. Many agencies operate without the proper licensing required by the SLBFE and are thus unaccountable and cannot be monitored as easily.

It is apparent from these findings that the definition of “trafficking” needs to

be expanded to take into consideration the many ways that migrant’s freedom to choose is taken away during the migration process. The gender, education, and class of the migrant must be taken into consideration when understanding how migrants can be trafficked even if they are not physically forced to migrate.

As I continuously cried, they [my employer] sent me to the embassy. The people in the embassy sent me to a camp. They did not help me. The name of that camp is Olaya camp. It is in Riyadh. Life there was very difficult. Although I worked in that house for nearly 2 months they did not give me any salary. We were taken to that camp in a vehicle with dark glasses. We were told to hide and lower our heads when we saw the police. In the camp, we were given a small bottle of water to wash our faces. Our food is a small roti with dhal curry. We were also given a cup of tea. I came to know some people in the camp, became mad. I have seen some women being kicked by men who were wearing boots.

- Female returnee from Badulla

Wage exploitation during service

Migrant workers suffer severe exploitation during their service, both internally and abroad. Nearly every single international migrant who was interviewed said there was some irregularity in their payment. In some cases workers are paid less than they were promised before departure. This is because often workers do not even know how much they are legally promised as agents do not ensure they clearly understand the contract before signing it. Sometimes, there is no mention of payment in the contract at all or even worse no contract in the first place. In addition to irregularities of payment many workers were not paid for entire weeks or months of their labour. Importantly, even in cases where an employer was otherwise kind, migrant workers still reported problems with their payment.

Domestically, workers are sometimes not paid for extended “training” periods or not informed about their EPF/ ETF benefits. As a result they struggle financially in their old age.

With the onset of COVID 19, my boss sent the two maids back to their home countries. I was the last one to join. They kept me. My salary was paid irregularly and finally they stopped giving me my salary. At that time I was forced to do the works of two maids.

- Female returnee from Nuwara Eliya

Abuse during service

Many domestic workers reported abuse during their employment. Workers reported that employers would overwork them, not provide them with enough food and sanitary products, force them to work in other houses, beat them, and restrict or delay their return home. Many internal migrants also reported beatings, starvation, sexual abuse, and severe overworking. Another common issue was the lack of facilities for communicating with family. In severe

cases workers have gone for months without being allowed to call their families. Even in instances where communication was facilitated by the employer the lack of video calls was a major concern for migrant workers and impacted their well-being.

Complaint mechanisms

When migrant workers are being underpaid or abused they find it difficult to stand up for themselves or take action against the abuse. This is because domestic workers in particular are in a vulnerable situation, wholly dependent on their employer. In many cases workers tried to contact the agency that arranged for their employment but agents would either not answer the phone or say that they could not help. Since many workers migrate on visiting visas they get into trouble with local authorities if the situation becomes so severe that they choose to run away. Law enforcement and local authorities rarely are a source of redress because the migrants are there illegally. Many migrant workers have been detained for months on end due to these issues. Other migrant workers said they were even afraid to confront their employers about pay or work-

related issues for fear. Even when migrant workers are aware that they are being underpaid, they are unable to address it because of the lack of redress mechanisms. Further, they are controlled by the ‘Kafala’ System too.

Return and Reintegration

While some migrant workers are happy they worked abroad and were able to make repairs to their house or fulfil other aspirations, many migrant workers returned home to disappointment. Sometimes workers trust family members with their salary only to find that the money has been squandered upon return. Moreover, debt is such a severe problem in the plantation sector, that a lot of the money earned must be spent on repayment and very little is left to improve quality of life. What is more, some returnees found it very difficult to obtain their old jobs on the estate and were forced instead into daily wage work, sometimes turning again towards migration. Thus, it is very challenging to re-integrate into the local economy.

Impact of Migration

Impact of Migration on Workers

Migrant workers suffer from a variety of mental health issues. This includes, depression and trauma caused by being apart from family and suffering severe exploitation. However, even upon return women, in particular, face a number of issues. The stigma associated with migrant work means that women struggle to re-enter society and are shunned by members in their community. Many workers also feel that their children have not been raised properly and struggle with estrangement from their children, spouses or extended family. Workers



cited those improved facilities for communicating while in service could help abate this problem.

Migration and Families Left Behind

Most mothers who migrate leave children in the care of their husband or a female relative. Nevertheless, children struggle due to lack of parental attention, disciplining, and love. While on the one hand some children were able to continue school due to money coming in from abroad, on the other, many children did poorly at school and teachers reported a lack of interest in their education from fathers and other guardians. In more severe cases children suffered from physical and sexual abuse during the absence of the mother.

The impact on families is also gendered as girl children end up doing household chores and taking on caregiving responsibilities for their siblings. Even fathers who did take on traditionally maternal responsibilities, found it difficult to complete tasks of housekeeping and care in addition to their daily work.

COVID-19 and Migrant workers

In the early stage of the pandemic, the Sri Lankan government imposed harsh lockdowns and airport closures. Migrant workers abroad were stuck without a way to return home, and there was no serious coordinated effort to repatriate them. As a result, many workers were stuck sleeping outside the embassy without work or food. Internally, many migrant workers were stuck in construction sites or other worksites unable to return due to restrictions to inter-district travel. This general abandonment by the government cost many migrant workers, as some of those abroad went into debt to find a way home. Many workers were hesitant to migrate again for fear of such treatment. However, after the restrictions eased the government tried to encourage migration by easing regulations such as the FBR. Furthermore, the economic crisis pushed many workers who had grown cautious back towards migration, which has already paved the ways for unsafe migration.

Policy **Recommendations**

- Recommendations to ensure migrant workers can make informed decisions
- Recommendations pertaining to legal protections and regulations
- Recommendations pertaining to abuse during service
- Recommendations pertaining to trafficking
- Recommendations pertaining to migrant workers wellbeing
- Recommendations pertaining to development of plantation communities
- Recommendations pertaining to families left behind
- Recommendations pertaining to international and regional policy
- Recommendations pertaining to future research and policy

Recommendations to ensure migrant workers can make informed decisions

1. Make information on the migration process, complaint mechanisms and labour rights easily accessible to all. Regulations that ensure migrant workers have not only read but also understood their contract must be put in place, while contracts and all other documents must be available in Sinhala, Tamil, and English.
2. Make pre-departure trainings free of charge and ensure they are available in Tamil, Sinhala and English. Include rights and mental health training as part of migrant workers' training.
3. Increase awareness on labour rights at a young age, including by adding it to the existing school curriculums.

Recommendations pertaining to legal protection and regulations

4. Require contracts for domestic workers and connect the employer and employee with a

- local administrative authority with a clear mandate. Legally recognise domestic workers by incorporating them into existing labour laws.
5. Create a separate institution to handle domestic migrant workers, recognising their diversities.
 6. Amend the extremely outdated Domestic Servants' Ordinance.
 7. Eliminate the FBR and instead incorporate a gender-neutral framework for protecting young children.
 8. Regulate private sector industries to bridge the wage disparity between rural and urban areas, and ensure that there are safe working conditions particularly for women.
 9. Enforce minimum age requirements for employment, particularly migrant work.

Recommendations pertaining to abuse during service

10. Develop a smartphone app to record complaints and an information system to record issues of migrant workers.
11. Strengthen administration to protect the victims and witnesses of sexual and other forms of abuses. An easily accessible 24/7 system should be in place to report cases.
12. Increase the number of SLBFE offices in rural areas and strengthen complaint mechanisms at the local and regional level.
13. Internal migrant workers should be protected and the brokers should support the family members to communicate with the employers (especially those who are working as domestic workers at homes in cities).

Recommendations pertaining to trafficking

14. Strengthen embassies in host countries to be able to address concerns of migrant workers, especially if they have been trafficked illegally or do not have proper visas.
15. Regularise procedures to prosecute those who conduct trafficking.
16. Establish more safehouses for migrant workers and provide funding to embassies to do so.
17. Introduce bio-passports to minimise trafficking and unsafe migration.
18. Publicly advocate for the abolition of or, at the very least, reforms to the Kafala system.
19. Re-assess the definition of trafficking so that it includes the gendered and socio-economic dimensions of migration.
20. Strictly enforce licensing of agencies and close monitoring of brokers.
21. Require the registration of sub-agents at police stations.

22. Ensure that blacklisted agents are not in operation and strictly penalise them.

Recommendations pertaining to migrant workers' financial wellbeing

23. Introduce a pension scheme for migrant workers.
24. Encourage workers to send remittances only through an NRFC account.
25. Make it a requirement for internal migrants to be paid during their training period.

Recommendations pertaining to the development of plantation communities

26. Immediately grant title deeds to all those in the plantation sector who do not have legal ownership of their house.
27. Require that plantations register regular employees and have a mechanism for registering returned migrant workers.

28. Invest in employment opportunities outside the plantation but close to home.
29. Establish Tamil medium vocational training centres to develop the community's skills and enable them to take up opportunities besides migrant work.

Recommendations pertaining to the wellbeing of families left behind

30. Conduct trainings to encourage men to participate in household and caregiving duties.
31. Host awareness programs to eradicate the stigma associated with the work done by migrant women. Promote the attitude that "migrants are partners of development".
32. Care arrangements for dependents should be done in discussion with the relevant parties, especially the school community.
33. Create tailor-made programmes for children of migrant workers to ensure their education, as well as their physical and

mental wellbeing. Awareness programmes should be conducted to stop school dropout and child labour.

34. Establish hostels or boarding schools for children of migrant workers.

Recommendations pertaining to international and regional level policy

35. Empower UN mechanisms to protect and promote migrant worker rights.
36. Sign MoUs or bilateral agreements with host countries. Consider multi-lateral agreements with other countries that provide workers (Philippines, Ethiopia etc.) to ensure greater leverage when negotiating terms with host countries (Saudi Arabia, Qatar etc.).
37. Set up a regional mechanism to gather information and documents and to monitor the process of labour migration.

Recommendations pertaining to future research and policy

38. Ensure access to the plantation sector for frequent monitoring and make follow-up visits easy for relevant officers. Adequate physical and human resources should be made available to the officers.
39. Involve local trade unions as important partners in the process of migration and make decisions through a collaborative approach with a clear agenda and without politicisation.
40. Consult with migrant workers whenever implementing policy related to their lives.
41. Review the problem of unsafe migration and trafficking within a broader framework, rather than limiting the approach to merely considerations of law and order, and address the root causes of the problem.
42. Take appropriate measures to mirror adopted conventions in acts and policy implementation.
43. Explore existing successful measures taken by the community and the migrants themselves to minimise the negative impacts of migration.
44. Expand the use of qualitative research methods to capture true stories and empower migrants through their own voices.

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Policy Brief

The tea plantation sector, which is closely connected to the colonial history of Sri Lanka, is important in terms of foreign exchange earnings and securing millions of people's livelihoods. Despite the contribution of tea to its economy, Sri Lanka as a state has yet to address the persisting economic, social and political issues of the people living in the tea plantations. Amongst other issues faced by the plantation sector, like poverty, low wages, issues in access to healthcare, housing and education, the outflow of labour from plantation communities caused by an increasing numbers of workers leaving the estates in search of work outside, has been identified as important phenomenon. Available anecdotal evidence from the tea plantation sector in the study districts of, Badulla, Matale and Nuwara Eliya suggests, that migration, both internal and increasingly international, is becoming an important livelihood strategy. The total volume of migration taking place is unreported and under reported. Hence, such migration trends and patterns warrant further consideration and scrutiny. This research attempts to fill this gap, by situating itself within the framework of migration, development and gender. In doing so, it draws from the lived experiences of returnees, on service and prospective migrants, through the use of extensive, participatory qualitative methods, and through individual articulation of migration experiences. This research provides an understanding of the causes, trends, processes and myths surrounding labour migration within the plantation sector and the associated socio-economic dynamics that would lead to a stakeholder dialogue on the issue to stimulate an adequate and appropriate policy, as well as institutional dialogue and lobbying.



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