



PRESENCE OF
HUMAN
TRAFFICKING
AND FORCED LABOUR
IN LABOUR MIGRATION
SRI LANKA



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TABLE OF CONTENTS

EXECUTIVE SUMMARY	vi
Abbreviations	ix
1. INTRODUCTION	01
Background and Context – Sri Lanka	03
2. METHODOLOGY	07
2.1. Scope of the study	08
2.2. Location and Target Population	09
2.3. Methods	10
2.4. Data Analysis	10
2.5. Ethical Considerations	10
2.6. Limitations	11
3. LITERATURE REVIEW: PLACING SRI LANKA WITHIN THE GLOBAL CONTEXT	13
3.1. Defining Human Trafficking and Forced Labour	14
3.2. Reasons Leading People Toward Trafficking and Forced Labour	15
3.3. Trafficking and Forced Labour Conditions in Specific Sectors	15
3.4. Challenges in Addressing Trafficking and Forced Labour	16
3.5. Possible Means to Address Human Trafficking and Forced Labour	17
3.6. Trafficking and Forced Labour - Sri Lanka	18
4. THE PRESENCE AND NATURE OF FORCED LABOUR AND TRAFFICKING	21
4.1. Deception and Contract Substitution	22
4.2. Retention of Identity Documents	24
4.3. Restriction of Movement and Isolation	24
4.4. Withholding of Wages	25



4.5.	Excessive Overtime	25
4.6.	Working Conditions	26
4.7.	Access to Healthcare	27
4.8.	Living Conditions	28
4.9.	Physical and Sexual Abuse	29
4.10.	Threats when leaving	30
4.11.	A Good Workplace	31
5.	PROTECTION AND PREVENTION: LOCATING VULNERABILITIES, POSSIBLE ACTORS	35
5.1.	Reason(s) for Migration	36
5.2.	Cost of Migration	38
5.3.	Reliance on Intermediaries	39
5.4.	Instances of Increased Vulnerability	42
	FBR not being recommended	42
	Lack of awareness	42
5.5.	Current Efforts Targeting Protection	43
5.6.	Complaints Mechanism	44
5.7.	Role of the Consular Division	45
5.8.	Irregular Migration	45
5.9.	Government Actors at the Grassroots	46
6.	CONCLUSION	49
	References	54
	Annexe I: Cases of experiences of forced labour	56



EXECUTIVE SUMMARY

With a little over 300,000 migrant workers leaving Sri Lanka every year and a majority of those recorded leaving for work to the Gulf Cooperation Countries (GCC), understanding the factors that power their decision making process is important. Such an understanding helps locate what factors make workers vulnerable to exploitation and also identifies the gap between conceptual and practical understanding of forced labour conditions. The importance of implementing policies to ensure that migrant workers' rights are protected is underscored by the fact that Sri Lanka is heavily reliant on foreign remittances to cushion the negative effects of the domestic economy.

Public perception, mostly fuelled by the media, strongly associates labour migration in general, and women in particular, with difficult working and living conditions in the Middle East. However, making such blanket claims to denote that all migration for work culminates in negative experiences is largely misplaced. At the same time, denying that forced labour is present within the international labour migration process ignores the experiences of the migrant workers. Of importance, therefore, is that programmatic and policy efforts are able to identify the factors that make people vulnerable to experiencing forced labour. Thus, enabling government and non-government stakeholders to provide support for such identified vulnerable groups in order to minimise the impact of experiencing forced labour conditions when working overseas.

Given the scarcity of literature and data on Sri Lanka in relation to the presence of forced labour in the international labour migration process, the Centre for Poverty Analysis (CEPA) was commissioned by the Equipping Sri Lanka to Counter Trafficking in Persons (EQUIP) programme of the International Labour Organisation (ILO) to conduct a scoping study assessing the presence and the nature of trafficking and forced labour in four identified districts - Colombo, Gampaha, Kurunegala and Kandy. Adopting a qualitative approach, a total of 148 interviews were conducted over the course of the study. This included speaking to

51 returnee migrant workers and 45 prospective migrant workers. Since the debate around whether trafficking and forced labour are separate or constituent elements of the same process is yet unresolved, the data was analysed using ILO's indicators of forced labour.

Although there was evidence of both women and men being trafficked under false pretences and promises, such cases may not fall within the legal definition of trafficking, particularly because of the way in which coercion is established. A majority of the prospective migrant workers were found to be vulnerable because of a severe lack of information on working and living overseas. Women's susceptibility is further heightened by such processes as the Family Background Report (FBR) regulation, which paves the way for bribery and corruption, thus making overseas migration for work, a costly and riskier venture for the women.

In terms of lived experiences of the migrant workers, the gendered dynamics are highly visible. Women and men migrate for similar reasons: poverty, lack of stable incomes and/or livelihood options. But women are also pushed towards making this decision because of family dynamics. While none of the men indicated "problems" within the nuclear family, abusive husbands, alcoholism and one's marital status play a significant role in women's decision to migrate or re-migrate. For those women whose husband has abandoned them or is separated, the vulnerabilities are exacerbated as a single parent struggling to eke out a living either through wage labour or employment in the apparel sector.

For men who have to spend, 8,000 – 150,000 rupees (SLR), in order to migrate and women who received a financial incentive, up to SLR200,000 rupees, in order to leave, the money trail leaves them open to exploitation in the destination country. The men are bound to endure difficult working and living conditions because of the debt accrued at home. The women on the other hand, are bound to the recruitment agent who uses this incentive as a means to prevent the

women from leaving workplaces that are deemed unsafe, especially within the first three months of employment.

Both men and women also rely on their family members already employed in these countries to secure them employment, the women in particular showing a keenness to work as a domestic worker in a household known to their relatives. At the same time, those with even a distant relationship to the prospective migrant worker is considered trust-worthy, however complex that relationship might be. Sub-agents and recruitment agents who act as intermediaries continue to have a strong hold on the women in particular and the trust placed on sub-agents by the women is extremely high.

It is evident from the data that migrant workers from Sri Lanka experience both good and bad living and working conditions. On the basis of ILO's forced labour indicators, it is apparent that Sri Lankan male and female migrant workers undergo/experience several conditions of forced labour.

Deception begins at home, when prospective migrant workers are promised what the returnees term as 'fairy tales' about working and living conditions abroad. Among the men, there were several cases of being deceived in terms of the category of work and the promised wages. Women, on the other hand, were deceived by agreements that promised higher wages but also with promises of being sent to 'good' households and for specific work (i.e. cooking/cleaning) only to discover that they would have to work for several employers and carry out all the tasks assigned to them. But complicating these conditions further, is the fact that employers impose strict restrictions on mobility on the women and in almost all cases, retain the identity documents – of both the men and women, thus leaving the worker's employment status at the sole discretion of the employer. These factors therefore, tighten the hold the employer has on the worker which then, can be used as a means to control the worker's working and living environment.

Excessive overtime which is not financially compensated and withholding of wages were also reported and was more common within the domestic work sector and therefore, would affect the women more than the men. Restrictions on movement was also imposed upon most of the female domestic workers, in some cases, with the added burden of being under constant surveillance through Close Circuit Television (CCTV) systems. The least problematic for men was isolation, as they were able to move about freely and the accommodation provided afforded interactions with others. For women, isolation comes from being denied access to leave and being prohibited from talking to people outside. As some of the returnee migrant workers pointed out, the women were only allowed outside when accompanied by their employer and would “see” other maids when visiting the houses of their respective employer’s family. Where women had to negotiate the use of the phone or were denied access to the use of a personal phone, experiencing isolation was most prominent. While the workers may have experienced abusive working and living conditions, the fact that some view excessive work hours and additional tasks as normal, may lead some to question if they were indeed ‘forced’ into carrying out such activities.

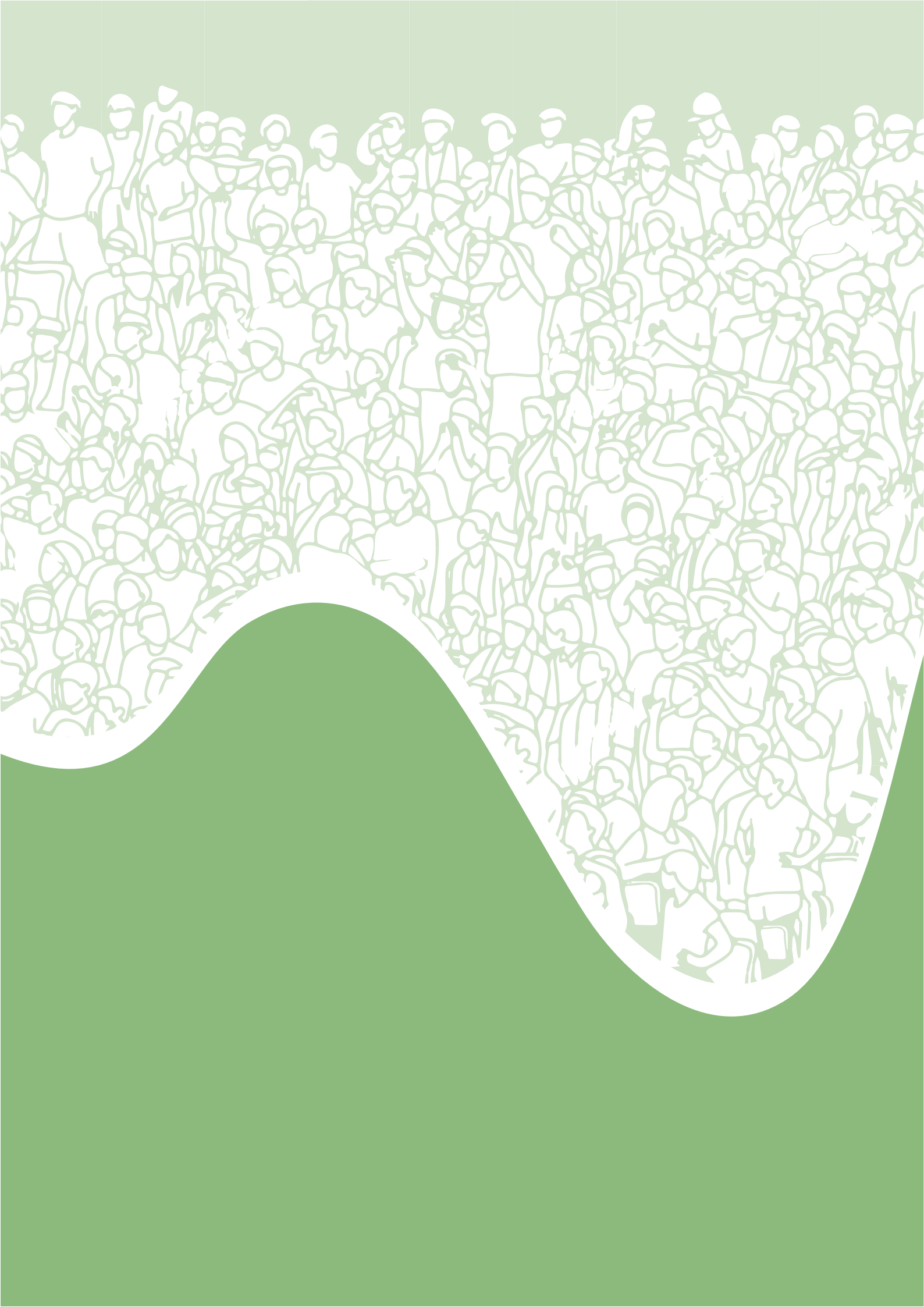
Such conditions however, do not take place in a vacuum. Rather, these take place in an environment where the worker’s mobility, access to identity documents, wages and the ability to stay in the country of destination are all dependent upon the relationship to the employer. While both men and women endure and tolerate these conditions without complaint, at a tipping point, they flee the employer. For women, a specific factor can push them to flee the employer while for others, it is a combination of factors that push them to make the decision to escape.

In terms of protection, trust in the consular services is almost non-existent among migrant workers, with many levelling accusations of the representatives siding with the recruitment agent and employer, rather than the Sri Lankan worker. At the national level, although the Government of Sri Lanka (GoSL) has been implementing efforts to counter trafficking in particular, the prosecution of such traffickers remains relatively low. There are concerns that the trafficked individuals are further victimised through the long-winding legal process in place in Sri Lanka. Furthermore, although trafficking may be taking place, such cases may be dealt with as contractual violations through the Sri Lanka Bureau of Foreign Employment (SLBFE). Hence, there is growing concern that while much has been done at the national, macro level, grassroots awareness on trafficking and forced labour conditions has been greatly neglected in this top-down approach adopted towards addressing trafficking and forced labour.

In moving forward, therefore, creating awareness at the grassroots level, on what constitutes forced labour and trafficking is of critical importance. But in order to reach out effectively, it is recommended that the EQUIP programme takes into consideration the contextual factors in the localities, refer to the lived experiences and perception of experiences of migrant workers in these campaigns and extend the target group for raising awareness to include family members of the prospective migrant workers. With regard to dissemination, it is highly recommended that social media platforms and smartphones are utilised effectively and the Grama Niladharis (GNs) and existing active Civil Society Organisation (CSOs) at the local level be made use of as focal points for dissemination.

ABBREVIATIONS

CBSL	Central Bank of Sri Lanka
CCTV	Closed Circuit Television
CEPA	Centre for Poverty Analysis
CSO	Civil Society Organization
DS	Divisional Secretariat
EQUIP	Equipping Sri Lanka to Counter Trafficking in Persons
FEDO	Foreign Employment Development Officer
FBR	Family Background Report
GCC	Gulf Cooperation Countries
GDP	Gross Domestic Product
GoSL	Government of Sri Lanka
GN	Grama Niladhari
ILO	International Labour Organization
IOM	International Organization for Migration
KPI	Key Person Interview
MFA	Ministry of Foreign Affairs
MFE	Ministry of Foreign Employment
NGO	Non-Governmental Organization
SAARC	South Asian Association for Regional Cooperation
SDC	Swiss Agency for Development and Cooperation
SLBFE	Sri Lanka Bureau of Foreign Employment
OP	Standard Operating Procedures
TIP	Trafficking in Persons
ToR	Terms of Reference
TVPA	Trafficking Victims Protection Act
UN	United Nations
UNODC	United Nations Office of Drugs and Crimes





01.

INTRODUCTION

For over forty years, Sri Lanka has been sending its citizens overseas for work, with a strong government-instituted system in place to facilitate this out-migration process. The benefits from such migration for work trajectories are well recorded and recognised, especially in terms of the economic benefits to be reaped from such migratory patterns. In 2016 alone, foreign remittances, of which a little over 50 per cent was generated from the Middle East region, amounted to US\$7.2 billion (Central Bank of Sri Lanka (CBSL), 2018) – constituting over 8 per cent of Sri Lanka’s Gross Domestic Product (GDP) (World Bank, 2018). Although there has been a slight decline in remittances in 2017, it continues to be the leading foreign exchange earner in Sri Lanka, offsetting Sri Lanka’s trade deficit by approximately 70 per cent (Sanderatne, 2018) and thus making migrant workers in some sense, the most valuable export Sri Lanka possesses at present.

Commodifying human labour, however, has its inherent challenges. Although the GoSL has played a proactive role in facilitating the labour migration process specifically of lower skilled migrant worker categories with the Sri Lanka Bureau of Foreign Exchange (SLBFE) assigned as the regulator, there continue to be concerns raised regarding irregular migration, unfair and exploitative recruitment practices, and the working and living conditions that women and men experience while working overseas. Such instances garner major media coverage, especially with physical abuse meted out against female domestic workers dominating the news at times (Abeyasekera, and Jayasundere, 2015). While it would be misleading to state that all migrant workers experience difficult working and living conditions, rarely are the workers’ narratives further probed and investigated in terms of forced labour and/or human trafficking frameworks.

However, two principal factors impede positioning the experiences of the migrant workers within a framework of forced labour and trafficking. First, is the inherent challenges associated with defining what constitutes these processes. Second, is the lack of awareness about forced labour/human trafficking in the public.

The United Nations Officer for the High Commissioner frames human trafficking as the process through which individuals are placed or maintained in an exploitative situation for economic gain. Trafficking is not limited to within a country but can transcend national borders. But it is difficult to find reliable information on trends and numbers of those trafficked (United Nations Human Rights Office of the High Commissioner , 2014, p.1).

The United Nations (UN) protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (The Palermo Protocol) was signed by members of the UN in 2000. The protocol defines human trafficking as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Palermo Protocol)

There is also a general understanding that trafficking is made up of three “constituent elements” - the act (what is done), the means (how) and the purpose (why) (United Nations Office of Drugs and Crimes (UNODC), 2018)). The main strategy in addressing issues related to human trafficking thus adopts the three pillars of, prevention of trafficking in persons, protection of victims of human trafficking and prosecution of trafficking offenders (UNODC, 2018). The understanding of the constituent elements and the three pillars must form the basis of any constructive action. However, when considering trafficking and forced labour, whether trafficking always leads to forced labour conditions, is debatable.

In this sense, the forced labour indicators drawn up by the ILO on the basis of The Forced Labour Convention, 1930 (No. 29), are more useful. Rather than viewing forced labour as an element arising out of human trafficking, human trafficking is embedded

within forced labour. These indicators thus reflect a spectrum of actions that are exploitative in nature and include, abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime. These indicators therefore, offer a point of departure for researchers to better understand how trafficking and forced labour conditions may take place within international labour migration.

Background and Context – Sri Lanka

In Sri Lanka, given the relatively long history in out-migration for work purposes, there has been some degree of engagement with addressing concerns regarding forced labour and human trafficking. With regard to human trafficking per se, the GoSL has received continued technical support from the relevant UN agencies, including the International Organization for Migration (IOM) to either build new structures or revise/introduce policies and laws to strengthen existing mechanisms. A fundamental piece of legislation was the amendment to the Penal Code of Sri Lanka in 2006, which defines human trafficking (under section 360c) as

- (1) Whoever—(a) buys, sells or barter or instigates another person to buy, sell or barter any person or does anything to promote, facilitate or induce the buying, selling or bartering of any person for money or other consideration; (b) recruits, transports, transfers, harbours or receives any person or does any other act by the use of threat, force, fraud, deception or inducement or by exploiting the vulnerability of another for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation or any other act which constitutes an offence under any law.

Reflecting the severity of the crime of trafficking, a conviction carries penalties ranging from imprisonment for a term not less than two years and not exceeding twenty years and/or a fine. In

terms of Sri Lanka's global commitments, the GoSL ratified the Palermo Protocol in June 2015 and has also signed the "SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution". Sri Lanka is an active member of the Bali Process that aims to support and strengthen practical cooperation on refugee protection and international migration including human trafficking and smuggling and other components of migration management in the Asia-Pacific region (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2016, p. 17)

In terms of forced labour, Sri Lanka has ratified the ILO Convention on Forced Labour (1930) and the International Protocol P029 of 2014 to the Convention Concerning Forced or Compulsory Labour that came into effect in 2014. According to the ILO,

The Protocol and Recommendation bring ILO standards against forced labour into the modern era. The new Protocol establishes the obligations to prevent forced labour, protect victims and provide them with access to remedies, and emphasizes the link between forced labour and trafficking in persons. In line with Convention No. 29, the Protocol also reaffirms the importance of prosecuting the perpetrators of forced labour and ending their impunity (as quoted by Zeldin, 2016).

Along with the ratification of the Palermo Protocol, a National Anti-Trafficking Task Force has also been created. The Task Force aims to strengthen the co-ordination among key government stakeholders to increase prosecutions, and to improve the identification and protection of victims. The Task Force consists of 22 representatives from government institutions and is chaired by the Ministry of Justice. Some of the institutions involved in the Task Force include the SLBFE, Ministry of Foreign Employment (MFE), Ministry of Women and Child's Affairs, Crimes Investigation Division of the Sri Lanka Police, the Ministry of Foreign Affairs (MFA) and the Department of Labour, among several other government representatives. The SLBFE has also

set up a counter-trafficking desk at its head office and maintains both a hotline and a walk-in facility in order to support migrant workers claiming to have been trafficked.

Despite all these efforts, however, there are concerns regarding government regulations that may indirectly push migrant workers to be trafficked. The Family Background Report (FBR) has been cited by both the Trafficking in Persons (TIP) report in 2018 and others as increasing the likelihood of women being trafficked.

The government maintained specific requirements for migration of female migrant workers including those migrating for domestic work, which observers stated increased the likelihood women would

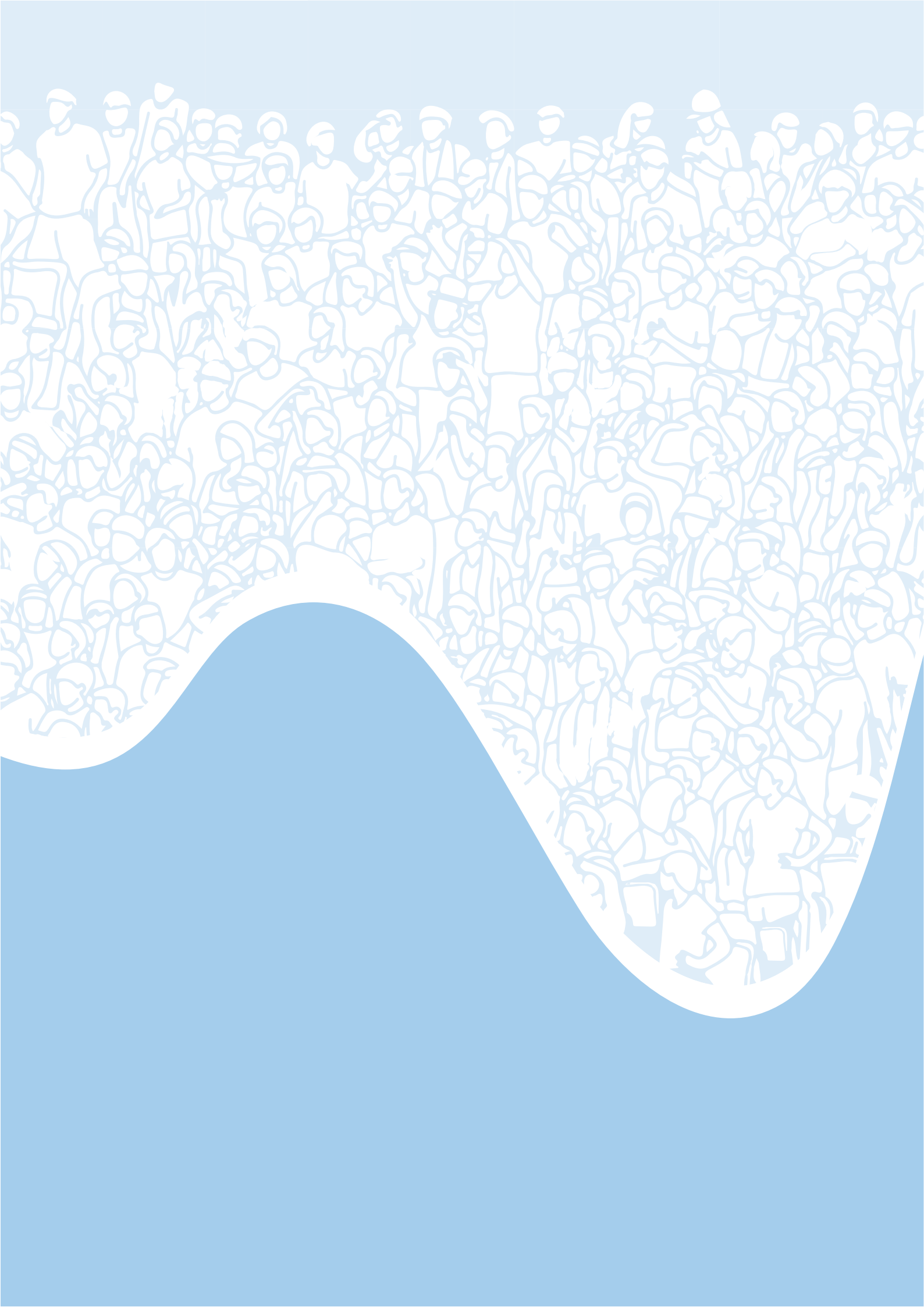
migrate illegally and therefore heightened their vulnerability to human trafficking (UNODC, 2018).

With several major efforts currently underway to address this key issue, the ILO Office for Sri Lanka and the Maldives commissioned the Centre for Poverty Analysis (CEPA) to carry out a scoping study to examine the presence (and the nature) of human trafficking and forced labour in the international labour migration process. The remainder of the report details the methodology, literature review, and the findings of the study. In light of the current scope of work being carried out to address human trafficking within the international labour migration process, it is expected that the findings will help better design and target prevention and protection efforts to counter trafficking and forced labour.



The forced labour indicators drawn up by the ILO on the basis of The Forced Labour Convention, 1930 (No. 29), are more useful. Rather than viewing forced labour as an element arising out of human trafficking, human trafficking is embedded within forced labour. These indicators thus reflect a spectrum of actions that are exploitative in nature and include, abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.







02.

METHODOLOGY

The parameters of the study were largely determined by the Terms of Reference (ToR) issued by the ILO’s EQUIP Programme. The study itself adopted a qualitative approach, largely in response to the lack of literature and data on this subject matter.

Using mostly a semi-structured interview guide, a total of 148 individual interviews were conducted of which 137 were conducted in the four identified field locations of Colombo, Kurunegala, Gampaha and Kandy. Those interviewed included returnee migrant workers, prospective migrant workers, government officials (both at the central level and at the Divisional Secretariat level in the respective districts), representatives of Civil Service Organizations (CSOs), recruitment agency representatives and representatives of UN bodies working on issues related to migration.

2.1. Scope of the study

The study consisted of four sub-objectives subsequently feeding into the broader objective of the study – to acquire a better understanding of

trafficking in persons and forced labour related to international labour migration (see Table I). These were:

1. Understand the real-life experiences of former migrants, and their push factors toward migration to understand the trafficking and forced labour elements within the context of labour migration in these four districts;
2. Gather information from the target vulnerable communities within each of the four districts who are deemed more susceptible to forced labour and trafficking and to identify how, when and where it occurs, and possible perpetrators of trafficking and forced labour;
3. Understand how government, non-government, civil society organisations and/or private structures, at the local level respond to the issues on trafficking and forced labour;
4. Understand the existing policy framework and the status quo with regard to counter-trafficking efforts.

Table I: Sub-objectives, rationale and the corresponding research questions

	Sub-objective	Rationale	Research question
I	Understand the real-life experiences of former migrants, and their push factors toward migration to understand the trafficking and forced labour elements within the context of labour migration in these four districts.	Returnees’ experiences provide information on their own awareness of exploitation/abuse experienced at different stages of the migration process.	How do returnee migrant workers view their pre-departure and in-service work experiences? <ul style="list-style-type: none"> - what factors led women to choose migration for work? - what process was adopted in order to migrate? - how do they view their pre-departure experiences? - how do they view their in-service experiences?

2	Gather information from the target vulnerable communities ...who are deemed more susceptible to forced labour and trafficking and to identify how, when, & where it occurs and possible perpetrators of trafficking and forced labour.	To better understand where, how and in what context trafficking and forced labour potentially takes place.	<p>What factors contribute towards making prospective migrant workers susceptible to trafficking/forced labour and which actors play a role in this process? (Mapping/chain of relationships)</p> <ul style="list-style-type: none"> - what factors play a role in the decision-making process to migrate? - what avenues have been explored to address these issues? - which relationships/linkages have been used to address these issues? - which actors have offered assistance, support to address these issues?
3	Understand how government, non-government, CSOs and/or private structures, at the local level respond to the issues on trafficking and forced labour.	Clarity on the ground situation with regard to efforts underway and perception on trafficking among stakeholders.	How do the government, non-government, civil society organisations and/or private structures, at the local level respond to the issues on trafficking and forced labour?
4	Understand the existing policy framework and the status quo with regard to counter-trafficking efforts.	Clarity on the current context at the national level is paramount in positioning the findings from the four districts and to inform next steps.	What is the current status on counter-trafficking in relation to the policy framework and counter-trafficking efforts?

2.2. Location and Target Population

As identified – Colombo, Gampaha, Kurunegala and Kandy – are high migration districts for international labour migration. In identifying returnee migrant workers to interview, the basic parameter used was the time of return: the researchers spoke only to those who had returned to Sri Lanka in the past three years. This was in order to both narrow down the sample and also to ensure that memories of their experiences were still somewhat fresh. Furthermore, their experiences would also reflect the changing regulatory framework in Sri Lanka, especially with regard to female migrant workers.

Even though it was initially proposed that under sub-objective 2, the definition of who constitute as vulnerable would be narrowed down to two

specific groups - those whose FBR had not been recommended and prospective male migrant workers - this was expanded to also include female migrant workers who were making preparations to leave. This was largely in response to the field level challenges encountered in accessing those women whose FBR had not been recommended by the Divisional Secretariat (DS) office. Due to administrative concerns, information on women whose FBR had not been recommended was not forthcoming. Therefore, with the exception of the Kandy district, where the research team did come across those whose FBR had not been recommended, their 'special status' was revealed only at the point of conducting the interview.

In addition, in the Colombo district, the team also interviewed a group of young men and women who

were aspiring to migrate to Japan and were currently learning the Japanese language – a pre-requisite in travelling to Japan. For the purposes of this study, expanding the category of those considered vulnerable to include women and men who were planning to re-migrate proved to be beneficial as was the inclusion of the young adult students learning the Japanese language.

2.3. Methods

Given the limitations in approaching the subject matter and lack of data on returnees, CEPA relied on key informants and/or the snowball method in order to find both the returnees and the prospective migrant workers. The Grama Niladharis (GNs) at the local level proved to be a helpful source in facilitating access to communities, especially the urban poor settlements in Gampaha, Kandy and Colombo. In Gampaha and Kurunegala, assistance was also sought from the two local partners of the Swiss Agency for Development Cooperation’s (SDC) Safe Migration Programme.

However, care was taken not to skew the sample by searching out only those who had experienced ‘bad’ conditions abroad. This was specifically in order to gauge a better understanding of how returnees in general viewed their work experiences and the parameters upon which they considered an experience bad or good. Hence, the selection of the interview ‘subjects’ was not all on the basis of having undergone negative experiences of migration.

The breakdown of the interviews conducted at the district level is provided in Table 2 below.

2.4. Data Analysis

To lessen the discomfort of the interviewee, with a few exceptions, the interviews were not audio-recorded. All interviews were conducted in the native language, with the exception of some interviews conducted with government officials and CSO representatives in Colombo in English. All interviews have been anonymised to protect the identities of the individuals. In writing up the interview notes, the research assistants utilised a data categorisation method on the basis of the responses to the questions. However, at the data cleaning phase, all transcripts were reviewed by the lead researcher and clarification sought where data elements were missing or where the initial structuring of the information was unclear.

Thereafter, the information gathered was coded first into narrow categories such as indebtedness, or to build a house, under ‘reasons for migration’, and then fed into the larger themes in response to the specific research questions raised through the study.

2.5. Ethical Considerations

The team of researchers was provided with a one-day training on the definition of human trafficking/forced labour and the current context in Sri Lanka with regard to forced labour within the international labour migration process. The team received strict guidelines on the limits of probing the narratives of the interviewees, especially when it becomes evident that they have experienced or were experiencing emotional trauma. Despite these instructions and a dry run of possible outcomes of

Table 2: Breakdown of interviews conducted in the field locations, by type

District	Returnees	Prospective workers	FEDOs	Grama Niladhari	Recruitment Agents	Total
Colombo	13	10	03	02	07	35
Gampaha	13	11	01	04	05	34
Kurunegala	13	13	02	02	06	36
Kandy	12	11	02	02	05	32
Total	51	45	08	10	23	137

such interviews, the researchers came across such individuals who had not sought support from any of the relevant authorities, raising concerns on the role of the researcher as an external individual, speaking to such individuals on the basis of gathering data. In such instances, the team was asked to provide basic information on how the interviewees could access help especially regarding the support of medical personnel.

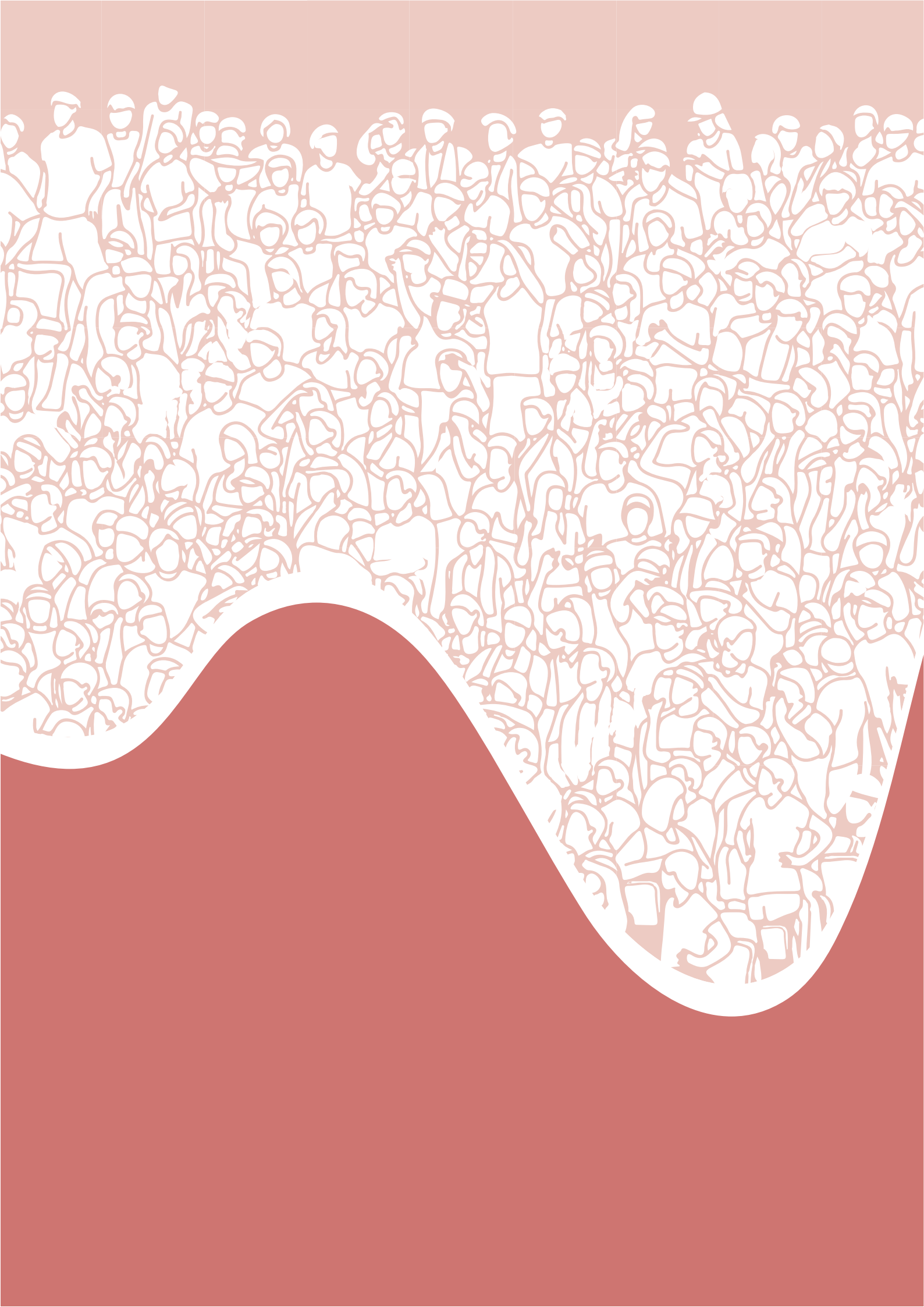
On the other hand, as noted in the observations section of certain interview transcripts, the way in which the questions were posed appears to have helped throw light on the importance of asking for more information from sub-agents and recruitment agents on working and living conditions. Some of the interviewees also challenged the research team's 'right' to ask for information for 'free', whereas others probed the researchers on the nature of the study in order to gather better information on how to migrate overseas, thus positioning the researchers as a source of information. Such situations were handled with sensitivity especially since information sources on safe migration should

come from established sources such as the Foreign Employment Development Officer (FEDO) and the SLBFE, rather than a research team.

2.6. Limitations

Since the study was exploratory in nature, the sampling method was not representative and therefore, the findings cannot be generalised. This is a general concern raised by other researchers as well in conducting studies on trafficking/forced labour (Surtees, 2014; Tyldum, 2010). However, the data gathered is rich in content and provides a more nuanced view on the experiences of the migrant workers.

At the same time, there were concerns regarding the narratives of the interviewees being diluted in the data coding phase, especially where men and women do not share information in a linear manner and where they have migrated multiple times and have encountered different experiences. Hence, attempting to draw 'number-driven' conclusions is not afforded in this methodology.





03.

LITERATURE REVIEW:
PLACING SRI LANKA
WITHIN THE GLOBAL
CONTEXT

Described by the Human Rights Centre of the American Bar Association as “the fastest-growing and third-largest criminal industry in the world today after the arms and drugs trades, [and] generating billions in profits each year” (Foot, 2010), conversations around human trafficking and forced labour have gathered prominence in the past decade (Weitzer, 2007, p. 455). However, there appears scant literature on Sri Lanka. Given this scarcity, this Chapter examines key issues related to trafficking and forced labour in order to place Sri Lanka within the global literature.

According to ILO estimates, forced labour appears to be more common than generally thought of, by the public. It is estimated that globally, over 24 million people were experiencing forced labour conditions in 2016. Alarming, 16 million of these individuals encountered forced labour conditions in the private sector, employed in varied types of work ranging from domestic work and agriculture to construction. Women, it is argued, are “disproportionately affected by forced labour, accounting for 99 per cent of victims in the commercial sex industry, and 58 per cent in other sectors” (International Labour Organization, 2017, pp. 9-10).

3.1. Defining Human Trafficking and Forced Labour

Defining what constitutes human trafficking and separating it from human smuggling and also understanding what forced labour constitutes, is challenging especially given the different ways in which key decision-making bodies have opted to view these elements.

In 2014, the International Labour Conference adopted a protocol to the Forced Labour Convention of 1930. The Protocol defines Forced Labour as “All work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” (International Labour Organization, 2014) In accordance with the Forced Labour Protocol of 2014, the ILO has identified indicators of forced labour which include: withholding of wages,

debt bondage, intimidation and threats, isolation, restriction of movement, abuse of vulnerability, deception, physical and sexual violence, excessive overtime, abusive working and living conditions and the retention of identity documents.

For the ILO, therefore, human trafficking is a sub feature of the overall phenomenon of forced labour. According to the 2014 Forced Labour Protocol “the definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.” The Protocol also recognises “that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation...requires urgent action for its effective elimination.” (International Labour Organization, 2015)

In contrast, the U.S Department of State, in its annual TIP report, defines human trafficking as those involving both sex trafficking and forced labour. The Trafficking Victims Protection Act of 2000 (TVPA), divides human trafficking into three categories. Though not specified in any order of importance, the way in which the categories are identified, shows the prominence attributed to each category. The category mentioned first is sex trafficking which identifies factors such as force, threats of force, fraud, coercion or a combination of such means to denote that a victim has been trafficked. The second, identified as forced labour and labour trafficking essentially understands recruitment through the use of force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work. The third category identified under the TVPA is the unlawful recruitment and use of child soldiers and focuses on the illegal recruitment or use of children - through force, fraud, or coercion - to act as either combatants or in different forms of labour (United States Department of State, 2017). Hence within the TVPA, forced labour conditions are considered a subset within trafficking.

One of the key factors in identifying trafficking is the element of coercion. Legally, coercion is central to establishing if the individual has been trafficked or not. However, this also proves to be the most contentious of all elements, especially where coercion is quite subtle. In general terms, coercion “explicate[s] the ability of one actor, the coercer, to diminish the free will of another, the coercee, in the absence of overt physical force. Sociologists speak of power dependence relationships that exert coercive pressure upon the dependent actor to succumb to the wishes of a more powerful actor” (Kim, 2011, p. 411).

The TVPA’s definition of coercion is slightly different to the implied definition of coercion in the Palermo Protocol. While the Protocol identifies coercion as an activity through which one could be forced into labour or be trafficked, the definition adopted by the TVPA influences the annual TIP report. Accordingly, the term “coercion”, includes merely physical harm and threat, while subtle and non-verbal coercion is not considered.

The term “coercion” means - (A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of the legal process (Immigration and Naturalisation Services, USA, 2000).

Examples of where employers can escape the terms set out by the Palermo Protocol due to the TVPA’s definition of coercion have been found in Canada and the United States, where workers are coerced (non-physically) into two or three additional jobs or into servile marriages with their employers. Establishing coercion in order to prove that trafficking has indeed taken place, therefore becomes challenging, especially if the adoption of the legal framework does not allow for subtle forms of coercion to be recognised. This also raises the question of the victim’s own perception of what constitutes coercion and how such experiences can fit into the trafficking framework.

3.2. Reasons Leading People Toward Trafficking and Forced Labour

According to ILO estimates in 2015, there were approximately 150 million migrant workers worldwide (ILO, 2015). Factors such as poverty, political instability, or discrimination push the migrant workers out of their home countries, while the demand for cheap labour in destination countries draws them in (Kim, 2011, pp. 414-415). While the increasing labour gap in destination countries (Chuang, 2006, p. 145) is an important pull factor, equally important is the need for wider profit margins in businesses and therefore the push for relatively cheaper migrant labour that can offset the high costs incurred in certain sectors by recruiting locally (LexisNexisBIS, 2016, p. 11).

At the same time, fewer constraints and restrictions on travel have enabled the creation of a space for intermediaries to establish networks and engage in a trade that requires a constant influx of labour. This has led to the establishment of migration routes in destination countries, coupled together with recruiters who are willing to facilitate jobs or travel with the promise of better living standards abroad. To persons living in isolated communities, advanced information technology, media and the internet provide information of better opportunities abroad, creating a pathway and a means for recruiters to attract persons to be sent abroad (Bukovcan and Fujimura, 2017, p. 88; Chuang, 2006, p. 145). These trends are evident in Sri Lanka as well, where poverty has been viewed as a strong determinant that motivates individuals to seek work overseas. Intermediaries, such as sub-agents and recruitment agents, with the latter regulated and the former working beyond the radar of the regulatory framework, continue to facilitate people’s migration trajectories overseas (Weeraratne, 2018).

3.3. Trafficking and Forced Labour Conditions in Specific Sectors

As the ILO has pointed out, forced labour conditions are evident in a number of business ventures within the private sector. Among these, domestic work

is generally surrounded by a discourse on forced labour. The ILO estimates that there are over 67 million domestic workers across the world (ILO, 2018), with mounting allegations of the women being abused and forced to work long hours with little to no pay. In addition to the low status of work, migrant domestic workers face several challenges with respect to language and culture and having to make drastic adjustments emotionally and personally in order to live and work for the stipulated time period.

The situation of migrant domestic workers in the Gulf region is further complicated by the local legislation. Despite a flurry of legislative actions by the Gulf Cooperation Countries (GCC) in the recent past to revise the Kafala system, there is still concern that domestic workers continue to be left out of basic protections afforded to other migrant workers through local labour laws (ILO, 2017, pp. 12-15). In a system where maintenance of the immigration and work status of the migrant worker is “outsourced” to the sponsor by the state, the ILO has identified four vulnerable groups of migrant workers: those whose kafeel (sponsor) is a labour supply company, migrant domestic workers who are not fully covered by domestic labour laws, workers who are on a “free visa” and workers whose status has been rendered irregular for reasons beyond their control (ILO, 2017, pp. 8-9). When the system fails to provide adequate protection for the workers, they tend to flee the employer/sponsor and are often forced into the informal economy to make ends meet (Mahdavi, 2011, pp. 45-49).

While the domestic work sector tends to garner a lot of attention, vulnerability of workers within the construction sector has also gained traction in the past few years, especially since Qatar gears up to host the FIFA World Cup in 2022 (Croccombe, 2014; Pessoa, Harkness and Gardner, 2014). Major developments have led to an influx of migrant workers to the construction sector which is low-skilled, manual, low-waged work. There are long and complex supply chains that span several countries and have many stakeholders (ILO, 2016).

The construction sector is the most predisposed [to exploitation] because it has subcontracting. When you have a contractor that assigns a subcontractor, who will also appoint a subcontractor, who will try to earn as much money as possible. And actually, at the end of the chain, there are workers in a difficult situation (LexisNexisBIS, 2016, p. 9).

Within the construction sector, several exploitative factors have been identified with many similarities noted to those identified in the agricultural and the domestic work sectors. Many of the workers’ passports and identity papers are confiscated, with workers not allowed to leave the construction site to meet with their family and friends. There is either no or low salary payments, forcing the workers into a situation of debt bondage with some workers not being paid until the project work is completed (ILO, 2015b, p. 1). There is excessive overtime, where people have to work for either six or seven days at a stretch with the agreements signed in the country of origin not being upheld in the country of destination (LexisNexisBIS, 2016, p. 10).

3.4. Challenges in Addressing Trafficking and Forced Labour

In general, human trafficking is primarily viewed as a border and crime control issue and thus diverts attention from a key factor:

Efforts to combat trafficking have proceeded from a narrow view of trafficking as a criminal justice problem, with a clear focus on targeting the traffickers and, to a lesser extent, protecting their victims. Addressing the socioeconomic factors at the root of the problem, by contrast, has largely fallen outside the purview of government action (Chuang, 2006, pp. 147-48).

At the same time, the underlying tension between economic and political realities foster conditions that allow human trafficking and forced labour. With governments pushing for policies to curb immigration flows, a larger platform has been created for intermediaries to bring in migrants

through irregular means to meet the demand for cheap labour (Chuang, 2006, p. 146).

In trying to control trafficking within domestic borders, many governments adopt restrictive immigration policies that are sometimes unable to differentiate between smuggling and trafficking which then, can lead to summary deportation or incarceration of trafficked persons. This leads to the construction of a different cycle in which trafficking victims are exposed to further harm and re-trafficked while being deprived of access to justice. Importantly, though many governments offer trafficked persons the option to remain in the destination country, their stay is conditioned upon their willingness to assist the government in the prosecution of traffickers, which exposes them to further trauma by their retelling of narratives and by being placed in the locality of their traffickers (Chuang, 2006, p. 151). These factors are important in the case of Sri Lanka as well, which works within the understanding of trafficking that is informed by the amendment to the Penal Code of Sri Lanka 2006. As identified in the previous sections, definitions of what constitutes as trafficking and forced labour can vary from one country to another. Hence,

[i]t is not uncommon for national laws to have been passed which only have a limited practical impact because they do not properly cover all forms of forced labour. This is frequently seen in relation to trafficking where national laws may cover trafficking for sexual exploitation but not labour exploitation (International Trade Union Confederation, 2009, p. 7).

Similarly, the prevalent discourse around trafficking and forced labour tends to focus on the sex-trade and therefore, much of the focus is on the plight of women and children (Weitzer, 2007, p. 455). This leads to a mainstreaming of funding for specific human trafficking related issues with men and male-dominated sectors such as work aboard ships and large plantations in the local economy being sidelined. Enforcement agencies also largely neglect the broader phenomenon of trafficking into agriculture, domestic service, restaurants, hotels, manufacturing, and construction, as they are concerned with the

rescue and/or prosecution of the victims and perpetrators associated with the sex-trade. This is evident in successive TIP reports as well, where prosecutions of perpetrators of trafficking is a key measurement of progress.

Furthermore, the Palermo Protocol itself has several shortcomings. First, there is no explicit protection from prosecution for the victim and therefore, a victim could be prosecuted for a crime they were forced to commit such as prostitution, working without a permit, or being in possession of false documents. Secondly, victims who remain in a country to be a witness for prosecution could be detained for months without access to critical support services or employment as victim assistance is optional. Third, the protocol does not discuss “reintegration” or a mechanism to provide service upon reparation to ensure that a victim is able to re-enter society (Kim & Chang, 2007, p. 31).

Notably, however, there has been a growing importance placed instituting prevention. Studies show the ingrained aspects of poverty, gender discrimination, abuse and lack of education as root causes that need to be dealt with, in order to reduce trafficking. The failure to link these causes to the policy level, especially with regard to trafficking and forced labour, allows a platform for agents and traffickers to continue recruitment especially where the economic context remains rather volatile for prospective migrants.

3.5. Possible Means to Address Human Trafficking and Forced Labour

In addressing these concerns, some of the more commonly cited recommendations include victim protection, law enforcement, awareness raising and addressing social discrimination. A victim centered response to trafficking and forced labour would allow those who have been victimised to seek and receive assistance and protection. This would help ensure physical security as well as psychological and social support (International Trade Union Confederation, 2009, p. 20). It is generally recommended that victims be given access to safe-houses and immediate and comprehensive state

sponsored services (Wilson & Dalton, 2008, p. 312). Furthermore, training, education, and outreach can help improve awareness of and responses to human trafficking.

Many human trafficking cases were discovered by a community member who saw something that “didn’t look right” and intervened in some way such as helping a victim or calling the police. Making the public more aware of this crime may lead to the discovery of more cases (Wilson & Dalton, 2008, p. 310).

But in order for such actions to bear fruit, a national action plan is considered critical whereby, all relevant stakeholders can collaborate towards addressing the issue of trafficking and forced labour. (International Trade Union Confederation, 2009, p. 34; Wilson & Dalton, 2008, p. 312).

3.6. Trafficking and Forced Labour - Sri Lanka

Although there are many reports and academic literature focusing on labour migration in Sri Lanka, specific reports examining forced labour and human trafficking is comparatively sparse. Sri Lanka has been identified as a source country for human trafficking by several organisations (US Dept. of State, 2018; 2017; Thomas, 2011, Ali, 2005), mainly for sending women to the Middle East as domestic workers. In addition to women and men being trafficked out of Sri Lanka, there is also a minute number of women from other Asian and Central Asian countries who have been forced into sex work in Sri Lanka (US Dept of State, 2017).

The Trafficking in Persons (TIP) report in particular, placed Sri Lanka within its Tier Two watchlist for four consecutive years and was lifted to Tier Two status only last year (US Dept. of State, 2018). But in doing so, the US State Department still cited local regulations, such as the FBR as contributory factors raising the risk of trafficking among women specifically. This concern was also raised by a study conducted by CEPA (2018, unpublished) for the ILO that focused on the effects of the FBR on different stakeholders in Sri Lanka. While much work has

been done in order to minimise and/or address trafficking and forced labour conditions in Sri Lanka, the low numbers of prosecutions continue to be a matter of major concern (US Dept. of State, , 2018). With regard to forced labour, data from Sri Lanka verifies the presence of some of the ILO indicators. In 2009, 12,061 complaints were lodged with the Conciliation Division of the SLBFE, of which 78 per cent of the complaints were by females. The complaints lodged were regarding physical and sexual harassment, not being allowed to leave employment after the completion of the contract, non-payment of agreed wages and breach of employment contract (Amirthalingam, Jayatilaka, Lakshman, & Liyanage, 2011, p. 2). By 2016, the number of complaints had halved and totalled 6,438, constituting 2.6 per cent of the total number of migrant workers who left Sri Lanka in the same year. But as the SLBFE notes, these complaints were received from or on behalf of migrant workers who had migrated for work in the preceding years as well. Unfortunately, the existing data does not provide a breakdown of the nature of the complaints received (SLBFE, 2017).

One of the few studies examining the presence of forced labour and trafficking in the Sri Lankan context (Amirthalingam et al., 2011), found that prior to migrating, migrant workers had monthly incomes in the range of SLR4,500 to SLR10,000. Prospective workers relied on friends, family, and members of the community to go abroad for work. Most migrant workers make hasty decisions as migration is usually the final option for many of the workers.

With regard to the legal framework of Sri Lanka, research shows that although the Police would deal with lodged complaints, the tendency is to treat them as civil cases occasionally using arbitration (Amirthalingam et al., p. 7). But as noted in the global literature, prosecution of cases of trafficking is very challenging as all three categories defined by the Palermo Protocol need to be ‘fulfilled’ for it to be classified as trafficking. Secondly, trafficking is a culmination of different crimes and therefore, may be dealt with separately (i.e. as forgery, under age recruitment). Thirdly, many victims refuse to retell their experiences partly due to fear and partly because of the associated emotional trauma. In Sri

Lanka, the legal procedure can be long, leading to frustration among the victims and the involvement of political figures can derail the investigation and prosecution of criminals (Amirthalingam et al., 2011, pp. 7-8).

Some of the features noted in the global literature cited here, are useful in understanding the particularities of the Sri Lankan context. Sri Lankan men and women continue to migrate overseas as a means out of poverty and thus, are vulnerable to falling into debt and being deceived prior to leaving

the country for work. In terms of sectors, domestic work (for females) and the construction sector (for males) which are considered highly vulnerable to forced labour conditions, continue to be popular among Sri Lankans, thus raising concerns about their working and living conditions. Addressing these concerns are, however, also limited because of the way in which the legal framework situates trafficking: establishing coercion is imperative in order to proceed with such cases and chances of trafficking being dealt with, through other means, are high.

“ According to ILO estimates, forced labour appears to be more common than generally thought of, by the public. It is estimated that globally, over 24 million people were experiencing forced labour conditions in 2016. ”

Given the complexities in separating trafficking and forced labour, the experiences of the returnee migrant workers were analysed using the previously mentioned indicators of forced labour. The following sections of this chapter therefore, discuss the presence of human trafficking and forced labour using the ILO's indicators of forced labour as a guideline.

4.1. Deception and Contract Substitution

Even though migration by self-basis is on the rise (SLBFE, 2017), for women, sub-agents and recruitment agents are critical players in securing work overseas. The women trust these intermediaries implicitly. But placing such trust on a single individual at times, carries unknown risks that have severe repercussions on the women as these cases illustrate:

“Generally, I would go through agencies, but this time because of the age, I went through a sub-agent. I was promised SLR3 lakhs but got only SLR1 lakh. I think boss the recruitment agent gave it to the sub and he didn't give it to us.” - Kurunegala, female returnee, 55 years, married.

“I went through a sub. He did the last job well because I was treated well [at the previous workplace]. This time, when I was going, the visa was an “out visa” [visit visa] and he had not done it properly. There was no house for me to go to once I got there. Agency isn't taking responsibility either. Before I left, I felt something was weird because the colour of the seal [stamp on the passport] was different from the last time and I didn't sign the pay sheet either [agreement] ...I said I can't go before the flight but they made me go somehow. The signatures were different, and the bhaba's [employer/sponsor] name was also someone else.” - Gampaha, female returnee, 44, civil status not revealed.

Deception therefore, begins at “home” when the promises of incentive payments and the means of migrating for work are undermined by the intermediaries. As the previous case illustrates, even women who had a history of migration, are prone to be misled by the promises made. But the implications of the deception are felt the most when the workers are in the country of destination and experience differences between what was promised and that which was offered.

“At the agency, they asked my age, religion things like that. Then they asked whether I had gone before and I said yes. “this place you are going to, is also not going to be a problem it's a small house, they will give you 1000 riyals as a salary. There are two children to look after” they said, and that madam is in Kuwait. All these things they told me were lies. None of their staff is in Kuwait.” Kurunegala, female returnee, 36 years, married.

“I went through an agency. They [employers] took away all my gold jewellery and my money. I didn't have a cent to my name when I came back. When I called from there [seeking help], the agency people said, ‘we have given you SLR3 lakhs’. They think we have no work there at all. We really suffer a lot there. They [the agency] said if there is any trouble, they will see to it and that within three months, they would change the house. But they won't do that.” - Kandy, female returnee, 34 years, unmarried.

Women in particular feel let down by what they consider to be fake promises given by the agencies. Some had specifically asked for particular jobs within the domestic sector, preferring not to take care of children which they generally cite as one of the most difficult tasks. Instead, they had sought work as cleaners or cooks in houses, a preference that was evident among those who went through self-basis as well. However, upon reaching the household, the women felt let down by the agency as the composition of the household (number of

family members living in the house) and the range of responsibilities assigned to the women was very different to what had been discussed.

“The salary was not what was promised in the agreement. We complained to our families. They won’t give the amount promised you know. And the agency doesn’t even care. They say it is a superb house. Agencies really do put people in trouble” - Colombo, Returnee, Female, 52 years, married.

“The agency I went through was relatively good. You know some of these agencies, all they try to do is send women abroad for money somehow. This agency was not like that. Sir was taught me everything. He said “here’s the thing: we won’t put you somewhere where you will have to do things you don’t wish to. And there hasn’t been any problems because we checked and this house is good” - Kurunegala, female, returnee, 35 years, separated from spouse.

Among the men, reports of falling victim to fake promises of sending people abroad or being misled by the agencies with regard to working conditions were also found.

“I went for an interview at a Nugegoda [suburb of Colombo] agency, to go to Cyprus. They asked for SLR7.5 lakhs. I called the Bureau and asked if there are vacancies and they said no. The agency said to pay SLR1.5 lakhs first and then to pay the rest and that the basic salary is SLR90,000. Then the Bureau told me that the salary is not enough and that the government regulated amount is not SLR7 lakhs something but SLR 4.5 lakhs” - Kandy, male, returnee, 36 years, married.

“This is not the first time I went abroad. I went to Dubai at first for work. The agreement was for 2 years. They didn’t pay me for one and a half months. The

employees were trapped there. They didn’t give us food, we had to complain and get the food. There was no proper place to sleep. We were stuck, in the middle of nowhere. I threatened to go to labour court. My uncle was also with me and I fought hard. I found a connection in foreign services and fought and fought and we came back. We also got the money back. The agency was forced to return the money to us” - Colombo, male returnee, 33 years, married.

Thus, deception begins prior to departure when the prospective workers are promised certain working and living conditions, particularly wages and a standard of work that is then not met. This is despite the fact that many of those interviewed, had signed an employment contract prior to departure.

Commonly referred to as the Agreement, the employment contract appears to have been either in English or Arabic. While many of the respondents stated that the agency representative had explained what was mentioned in the agreement, some had not been provided with such explanations nor sought any clarifications. However, there were also accusations of the document signed in Sri Lanka being null and void in the destination country, with the workers being told to sign a fresh set of documents.

“When I went there, the Indian company gave its agreement and said that if I do not sign it, I would have to stay in the room and I would not be able to work. At first, I did not sign, but then later, because I did not have any other option, I signed. Apparently, this had happened to the previous groups also, but nobody told us about this, thinking that we would make a fuss. Let’s say the company gave SLR20,000 for each visa, they [the agency] just sell it to us at a higher rate...you know, I had a three wheeler and I had to sell it to go abroad. In the end, no proper wages

also. Wish I had stayed the way I was. I took loans also to go. The way they talked about it, said we would receive about SLR70-80,000 a month, in the end, it was SLR30-40,000.” - Gampaha, male, returnee, married.

“In the piece of paper [agreement], it says no children. But there were six children there. I never received a copy of that paper. It was in English. It also said my salary was 1000 Saudi Riyal but I received only 900.” - Kandy, female returnee, 34 years, unmarried.

“Although we sign the agreement here, nobody cares about them over there. It said my salary is SLR60,000 and that I get free medical care and that accommodation including soap and shampoo they have to provide. It also said I get one free call a month. In the end, I could not make a call even using my own money. I have a copy also, but it is just a piece of paper, in English and Arabic.” - Kandy, returnee, female, married.

Although the tendency for women to be deceived may appear to be higher, the susceptibility to be deceived is just as high among men. But identifying such instances are far more difficult among the men because they tend to consider such deception as part and parcel of the process of migration.

4.2. Retention of Identity Documents

With the exception of two or three instances, the identity documents of the workers, (i.e. passport, the work permit) were retained by the employer with almost all migrant workers interviewed viewing this as normal and non-problematic. The fact that this led to severe restrictions being placed on their mobility, particularly in the case of women, was accepted on the basis that these were the laws governing the workers in the destination country. Hence, the retention of identity documents was interlocked strongly with

placing sometimes, severe restrictions on the workers' mobility.

4.3. Restriction of Movement and Isolation

The restriction on mobility in the domestic care sector is extremely high, with women being permitted to step out of the residence unaccompanied, only to place the garbage. However, none of this is seen as problematic and in some cases, such restrictions are defended by the women themselves. The fear of being exploited or branded a bad woman or falling into trouble because of what lies “beyond” the household were all cited as valid reasons for staying indoors.

“I was allowed to go out to get medicine for her [the old woman the interviewee was taking care of]. I was given the ‘visa card’ to go out or else, the police could catch me. It’s the Saudi government that issues the card. They would give it to me to go outside for essential things, not for unnecessary things.” - Gampaha, female, returnee, 42 years, married.

“They [female domestic workers] go to the shop and find someone. All the women without men find someone there. For many days, around where I was working, there was a man and one day, he tried to give me a lift. I quickly went to the police there and informed. I told my elder sister also and she said to be careful because they try to take revenge from you afterwards.” - Gampaha, female, returnee, 52 years, married.

In contrast, free movement was not of serious concern among the men, especially because of the nature of their work. Since many workers were employed by companies and/or worked as cleaners, they were either occupying accommodation provided by the employer or were sharing with other Sri Lankans - the latter more common among those who had managed to leave the employer and find work as ‘free agents’. In such cases, mobility was of little concern. This

absence of restriction on mobility therefore, allows the men to explore other work opportunities. Some men worked in what they termed as part-time jobs, as taxi drivers, hotel cleaners and selling small retail items. These enable the men to earn an additional amount of money, compensating for any loss in wages experienced, especially in instances where the promised wages were not paid. The women, on the other hand, had no such options to choose from.

4.4. Withholding of Wages

One of the biggest concerns for all migrant workers was the existent discrepancy between the promised wages and what was eventually paid at the destination country. With the exception of less than ten instances from a total of 51 returnee migrant workers interviewed, all complained about lower wages than those promised. In relation to the work men engaged in, the overtime being paid acted as a 'saving grace' in some instances:

“What we want is to earn a little bit more right? When they build castles in the sky, even when we are experienced, we get lost. What I thought was, even if I was promised SLR50,000 and received only SLR40,000, I could have resolved my problems within a year. But once I got there, I received only SLR30,000 rupees (laughs). I fought a lot and managed to get the wages for two months but not for the other three months.” - Kandy, female, returnee, married, age not revealed.

“They don't give the promised amount. What they say is that the visa is stamped and we are provided food and lodging. So they say 1000 Dirhams is enough. There were those who were only receiving 600 also. Then what we do is to do other part-time jobs like cleaning and earn the rest. When you come on visit visa, people have to search for work. Even I have been asked for help. If we manage to find work for someone else, we also get paid.” - Kandy, male, returnee and prospective, worked in Dubai on a private visa.

“There were problems. They didn't give my wages and would not look after me when I fell sick. They promised SLR35,000 but I only received SLR29,000. The wages were put into an account. They say they deposited the money monthly but I had no way to check. During the initial months, they gave the wages but not so regularly afterwards.” - Kurunegala, female, returnee, married.

Complaints regarding the non-payment of wages and the discrepancy between what was promised and what was paid, indicate the ways in which both men and women's labour is exploited. More troubling is the fact that though wages were not paid or were being denied to them as a form of punishment, both men and women continued to work. In some instances, women dared not question the employer on missing wages for the fear of not being paid at all at a future date. Withholding the wages thus becomes a strong means of control in the hands of the employer, especially where the employer has the power to withdraw the sponsorship of the employee. Interestingly though, while men may not receive the promised wages, with a few exceptions, they had more flexibility to increase the wages by working "overtime" or taking on other small jobs on the side to compensate for loss of wages.

Furthermore, the fact that the promised wages are not paid shows how women and men are deceived by the recruitment agencies, either in Sri Lanka or overseas. There appears to be limited space made available for workers to initiate action against such contractual violations other than to lodge complaints with the SLBFE, which many of the interviewees had not resorted to.

4.5. Excessive Overtime

Long working hours, even for men engaged within the formal sectors of employment such as construction work, was a norm rather than an exception.

“I would wake up at 3.30 in the morning. There is no set time to finish work but have to be at work by 5. We had to eat our breakfast seated by the side of the road. It was hell. When we are taken to the sites, the Engineer decides to keep us for longer. If the Engineer is good, then we are fine.” - Gampaha, male, returnee, 33 years, single.

“It said eight hours of work but we would work for 12 hours. Sometimes till midnight. We would work from ten in the morning till 4 in the afternoon. And again, from midnight to eight in the morning. We had a number of deliveries to cover each day and we would work to a shift and they would pay us for meeting that target within a specific time period. time. Even when it was difficult, we would have to reach the target somehow. When there are no deliveries, we would have to do other work like packing.” - Kandy, male, returnee, 38 years, married.

While there were instances where the male workers were paid the promised overtime payments for working excessive hours, not being compensated for these extra hours, as promised, was a common complaint raised by them.

For women, however, unless under exceptional cases where they were experienced and opted to travel and find work on what they termed as ‘open’ visas or worked in the formal sector (i.e. hospitals, schools), the working hours and general conditions of work were non-negotiable.

For many domestic workers, the day started early morning, with the preparation of breakfast for the family members taking priority over all else. The chores to be completed during the day included, washing and ironing of clothes, dusting and mopping of floors, cleaning the bathrooms on a daily basis and preparing the meals for the family. Generally, the day starts between 4.30-5.00 a.m. with only a few managing to sleep ‘late’ till 6.00 a.m. The work hours generally stretch

up to 11.00 p.m. and beyond. While some were afforded a ‘break’ of about an hour, many were not afforded this.

“They had all the facilities. I had to look after an old ‘mother’. I would cook and clean and look after her. When I go to sleep it would be around 11 or 12 at night and wake up at 5 in the morning.” - Gampaha, Returnee female, 47 years.

Women have come to see such long working hours as the norm. Very few complained and many appeared to tolerate such hours, citing that they had come to work and earn a living. But limits to such long working hours do exist: when queried about ‘peak’ times when excessive working hours were necessitated, almost all former domestic workers and some of the men cited Ramadan as a particularly difficult period to work in. Among women, only a fortunate few received a little over 4 hours of sleep a day.

“During Ramazan, there is a lot of work to do. On normal days, I wake up at 5 in the morning and go to sleep at 12 or 1 and on Ramazan days, sometimes we are up the whole time.” - Kurunegala, female, returnee.

The long working hours and the exceptionally heavy workloads during Ramadan though viewed as difficult and unbearable, were also tolerated. Apart from a few women citing that visitors would give them some money on their departure, the men and women were not compensated in any way for the additional work they carried out during this labour-intensive period.

4.6. Working Conditions

Although at the outset, migrant workers stated that their working conditions were good, apart from excessive working hours, they were also saddled with multiple tasks. Although women were clearly sent for a particular type of work, they would also have to take on additional work, but for the same wages. For instance, Nirmala (name changed) was recruited to look after the

ailing father of the sponsor, but in addition to taking care of him during the daytime, she would also carry out the household chores for the families of his children:

“I would wake up at 6 in the morning and work till 10 at night. These are big houses. I had to do the work of the houses of the sons and daughters also. To wash clothes, and cook for them. One of his daughters had two daughters and her husband was not with them. So I had to do a lot of their work. but they were not strict or mean to me. The children would just throw away their clothes after wearing it for a few hours. I had to wash all of that and iron everything from the knickers. That is how I spent my day.” - Gampaha, Returnee female, 47 years.

Interestingly a factor that makes women ‘put up’ with such a heavy workload is instances where the female employer is sympathetic and not abusive.

In general, men worked steady hours and had access to a rest day, usually Friday. But for women, there were no breaks and no rest days. Just as with the long working hours, women have come to accept this as normal and the laws that govern their work lives abroad.

None of the women complained about the lack of rest days, rather, their major issue was with the pace and load of work required to be completed each day. A common complaint is that even during a break for meals, the employer would interrupt and call for assistance or for a particular task to be completed. These situations are further compounded when their access to food is also restricted. While some of the women noted that they were allowed to prepare their own meals, others were less fortunate and at times, their access to the refrigerator would also be denied. In such situations, while some women had to steal food meant for the family, there was also a fear of being caught through the CCTV systems in operation. A few reported relying on the neighbour’s domestic help to provide small amounts of food.

4.7. Access to Healthcare

With regard to access to healthcare, there are differences noted among the domestic workers and the male workers working in the formal sector. The men reported having access to a form of insurance provided by the employer: while the insurance pays a certain percentage of the medical costs, the employee will bear the majority of the expenses. Hence, in general, men do not always access healthcare unless absolutely necessary.

“The company covers healthcare but we take Panadol [paracetamol]. Just as soon as we get an injection, the fever goes down. There are doctors in pharmacies. When we tell them, they give us medicine, but it is expensive.” - Colombo, male, returnee.

“I recently developed a back pain. We get a medical, but 80 per cent of the medicine should be bought from outside. They only sponsor for common illnesses like fever and cold but not for back pains. I had to buy medicine from outside. It’s so expensive.” - Gampaha, male, returnee.

On the other hand, women reported either not having to pay for medical care or not having access to medical care at all. There was a general sentiment that one had to continue to work, despite the severity of the illness, with several of the women complaining that for every sickness the solution was a “paracetamol”. Even in cases where women had to be taken to seek medical treatment, they were expected to return home and complete the general tasks.

“Going abroad is no joke. You don’t go there to enjoy luxuries. Even if you fall sick, you must work. They take you to the doctor’s and get you the medicine and then ask you to work.” - Colombo, female, returnee, 40, separated.

There were, however, a few exceptions where the female workers reported being taken care of and being allowed time to recuperate.

One of the repercussions of the range of tasks female domestic workers are forced to complete is the manifestation of physical ailments ranging from back pain to headaches to burns caused by exploding cylinders or while preparing the meals. The women's exposure to household cleaning chemicals also appears to have some impact on their health. The presence of occupational health hazards could not be substantiated among men, though a few reported physical ailments such as back pains. In such cases, being denied proper medical care carries long term implications and as some pointed out, by the time they return home, it was deemed too late for any proper treatment to be received.

4.8. Living Conditions

Several common features were evident in the living conditions the women and men experienced. Unless working on an "out" visa, the men were provided accommodation by the sponsor. But these were not ideal. Men had to share rooms with at least 7 others with, at times, only a few bathrooms made available for all the residents in the dormitories. While facilities for cooking were made available, the midday meal at times was provided by the employer. As one employee succinctly pointed out, since they only worked the morning shift, the food consisted of a cup of tea and banana whereas in reality, the workers had to extend their working hours as the day progressed, but did not receive an additional meal.

"Of those who went, I got accommodation. There were about six of us in a room this size [about 12x10 feet]. They give about Dh200 (United Arab Emirates Dirham) for meals but that was not enough. There were three Tamil boys from Batticaloa and they would eat separately and I would eat by myself." - Kandy, male, returnee and prospective worker.

"We were in one room, about six of us. There was air conditioning and two bathrooms. We would take turns to clean it. The place was good since we

could cook and eat also." - Gampaha, male, returnee.

"We had to stay in large container boxes. I can't tell if it's a good thing or a bad thing to be honest. There were 20 ft. rooms for us inside that box. 8 of us stayed in one room. The bathrooms were outside. They normally provide food. If we want something else, we can make it. We have a kitchen where we can prepare our meals. I got all amenities like towels, soap, sheets and everything." - Gampaha, male, returnee.

A majority of the women reported having a separate room for themselves but in some instances, only a mattress was made available and no cupboard or wardrobe to keep their clothes. A separate toilet with facilities for showering was also reported with the clear understanding that using any other bathroom (i.e. those meant for the family) would be frowned upon. In households where there was more than one domestic worker, the women shared with the other workers. Such sharing of rooms allowed women to build a stronger rapport with the other workers especially where mobility was highly restricted and interacting with people other than the employer and his/her family was non-existent.

"They gave me food to eat, but problem was, they wouldn't allow me to call home. There was a room for myself on the third floor. Shampoo and soap they would give. But I was only allowed one cake of soap a month. They would not buy me another one, if I finish that... When it was closer to go home, they reduced the food they gave me." - Kurunegala, female, returnee.

Not all rooms had locks, but women were generally satisfied with the degree of security afforded. But in some cases, the rooms assigned to the women were located outside of the main house or they were required to sleep in the children's room. A pressing concern was the availability of an air conditioner during the warm season.

The use of CCTV within the house and the kitchen in particular, acted as a strong means of control on how women behaved inside the household. In one instance, the woman noted that her own room had been under surveillance and had discovered this because the children mentioned seeing her undressing. Other women reported that the “madam” would keep an eye on her, using the phone, indicating that the CCTV systems were being monitored remotely. This level of surveillance on the lives of female workers further imperils their ability to exercise the limited freedom they are offered within the household. Being under such constant surveillance could also be detrimental to their psychological wellbeing, creating a sense of hysteria of constantly being watched.

Another pressing issue for the female migrant workers was whether toiletries such as soap, shampoo and toothpaste had to be bought or was provided for free by the employer. Many of those who complained about the female employer being “not good” cited the fact that these basic amenities were not provided for free. It is unclear if this expectation is informed by the Agreement or is a practice that is generally associated with the domestic work sector.

Among the women, access to a phone and owning a phone was considered crucial but one that needed to be negotiated. In a specific case, the returnee reported that the daughter of the employer destroyed the SIM card and took the mobile phone away. In many instances, women bide their time and after a few months, request a phone from the employer. Until such time, they rely on the employer to provide limited access to the house phone for which international phone cards are provided by the employer and the cost deducted from their wages. Some of the women reported using smart phones to call home, through the popular application Imo.

The researchers noted the considerably high use of smartphones among women, especially when they offered to show pictures and videos of the

houses they worked in. Hence, while restrictions may be placed on mobility, women are increasingly accessing the outside world using such technology - a fact that has been directly attributed by some female returnee workers and a large number of male returnee workers for leading women “astray”. The research team came across a few isolated incidents where women had met their Sri Lankan partners through social media such as Facebook, culminating in marriage or plans to marry in the near future.

4.9. Physical and Sexual Abuse

Among the returnee workers, men did not report any instances where they were subjected to physical or sexual abuse, whereas, among the women working within the domestic sector, there were a few isolated incidents reported on such abuse. But men were vocal about the abuse women experience at the hands of the male sponsor and the inability of the women to retaliate. This was one of the main reasons cited by returnee men to control the out-migration of women for work.

Verbal abuse was the most commonly reported issue among women, especially when the workload had not been completed. Women reported the employers checking if the completed tasks were up to their standards; failure to meet those standards would lead to being verbally reprimanded. Some of the women also faulted the children for carrying tales to the parents, which then leads the sponsor to lash out verbally against the worker.

Physical and sexual abuse - though reported - were only a few isolated cases, but where reported, these experiences could be only termed as harrowing. In two specific instances, the women experienced severe beatings and were threatened with death. Locking up the women, undressing them as a form of humiliation and denying them food were reported. In both these cases, being forced to or threatened with the use of household cleaning/bleach substances such as Clorox was also noted. In cases where sexual harassment was reported, the women feared punishment for reporting

such cases to the “madam” and therefore, by maintaining a silence, further strengthened the power the males in the family wielded over her. However, in one instance, where an older woman encountered such sexual harassment from the younger son of the employer, she countered such actions by threatening to leave and complained to the sponsor.

The fact that one has access to a locked room was considered a benefit in providing a safe space for the women. But the fact that women are unable to counter harassment in any concrete manner and also seek redress by leaving the household, makes the women highly vulnerable to keeping quiet about such abuse.

4.10. Threats when leaving

Although some workers undergo difficult working and living conditions at times, very few make the decision to leave or seek help. This again raises the issue of endurance and high levels of tolerance noted among the women in particular, and how much the working and living conditions are normalised and accepted. In those instances, where women decided to leave the workplace, they had already sought help from the employment agency and had either been advised not to leave the household or to use an opportunity and flee the house altogether.

“I was given so much work and was not paid. I was not allowed to sleep even. So I ran away. I went to the police, Baba said he will return in 8 days and pay my salary but he did not give me a cent.” - Gampaha, female, returnee.

“They hit me so hard and so much and then took me to the agency. Then at the agency also, they hit me. I went from Sri Lanka because I wanted to resolve my problems so I decided to work at the agency. They sent me to another house. They also didn’t give me the wages so I was sent to another house. The madam in that house paid. Then the agency told me to go back to

that old house and I refused. But I was sent anyway and when I got there, they beat me with the broom till it broke. I pleaded with the driver in that house to take me back to the previous house and was told to pay SLR150,000 if I wanted to change houses. I managed to do so and ended up staying there until I returned. She bought me shampoo and powder and all that and bought my ticket to come home also.” - Gampaha, female, returnee, 42 years.

When women decide to flee the employer, it is not a decision made lightly. They are aware of the consequences and seek help and assistance from relatives living in the same country or home in order to make a decision. While not all cases are resolved by the recruitment agency, there is also a fear that the agency would “sell” the woman to another household. The factors that lead a woman to make that “leap” cannot be easily generalised, and must be considered on a case-by-case basis. What is evident, however, is that women are discouraged from leaving the employer by the agency, both in Sri Lanka and in the country of destination; but those who decided to leave did so because there appeared no other viable solution to what they faced.

Women are also well aware of the stigma attached to those who leave the household. As one woman pointed out, the local agency had informed her husband that she had “eloped” with another man, whereas she had only sought refuge in the Sri Lankan embassy. For women, therefore, it appears to be a case of “doomed if you, doomed if you do not”.

In contrast, a few of the men who left the employer, managed to “get by” by working for daily, cash wages and without getting caught by the authorities, thus indicating that they can operate below the radar. There was only one case reported where the woman managed to change her status and work in a shop, living independently until the contract period was over. Apart from that, those women who made the decision to escape were either ‘resold’ by the agency to

another employer or sought refuge in the Sri Lankan embassy or worse still, in one particular case, was kept in Police custody.

Hence, it is not surprising that returnee women's advice to aspiring female migrant workers assume two strands: try to find work in Sri Lanka and not leave for work overseas or, try to maintain a low profile and carry out the work without "acting out" too much:

"If there is any issue, talk to the agency. Don't try to leave. That creates a lot of problems because the police will question. And then there are all these other relationships also. When there are problems like that, you go and stay with that man for about a month or two and then fight and then try to return to that same house. Then suddenly you have no place to eat from, no place to sleep." - Kandy, female, returnee, 30 years, married.

One must be careful. It is not good to be overly scared of them. It is best not to go out of the house, even if you are allowed a day-off. If we stay in our room and manage to do something, they are happy. If we go out, that's pretty much the end of things. If someone says, well the wages there is quite low, you can come here and work, you must not get caught to such talk. If there is any kind of a problem the best thing is to go to the embassy. Then the responsibility is with the embassy (Kandy, female, returnee, married, age not revealed).

"What I want to say is that there must be discipline. That is the main thing. You must not argue with them. Discipline is what must be there. You must stay the way they want you to be. If you do something wrong, there is no forgiveness." - Kurunegala, returnee, female, 57 years, married.

In contrast, the general advice from men, is to be wary of the agencies that promise a fairy tale but then fail to deliver. But there is little indication on

how to identify such "bad" agencies. Interestingly though, many spoke of the plight of women and the need to protect them.

"There is nothing wrong in going abroad. But you must first find out as much as you can about it. I sometimes feel like I also should have found out more information before going. We were in a hurry. I felt it when I was there." - Kurunegala, male, returnee, 33 years, married.

"The women of course need to be careful of the Baba and the sons in the house. Those men won't let the women be. If the woman is out of the house, they think the domestic worker is their woman. Sri Lankan women are too afraid and don't talk about their plight. If they complain, they know they will get it from the employer." - Colombo, male, returnee, 37 years, married.

This tendency on the part of the men to deflect attention from themselves must not be taken lightly. As the findings indicate, men are as equally vulnerable to fall into trouble when working overseas, but they appear not to report such instances to either the agency representative or the SLBFE. With so many men now migrating on self-basis, it is unclear how well prepared they are to face the consequences of a possible breach of contract, loss of wages and/or excessive working hours. Ironically, female workers are instantly recognisable when they "appear" in public because they are generally confined indoors. The reverse holds true for the men, making it far more challenging to identify cases of deception leading to trafficking, and experiences of forced labour given their high visibility within the public domain.

4.1.1. A Good Workplace

While men and women at times endure harsh working and living conditions, their notion of a good workplace indicates a more relational aspect: a workplace is considered good when the employer treats the worker with respect and

shows humaneness towards the worker. This idea came out strongly even among those who were planning to migrate overseas for the first time. For me, a good house is if baba and the family are nice people. It's good if I have a room, I don't need a separate bathroom. I don't have a problem (Gampaha, female, prospective migrant worker, 47 years old, married).

“If they treat us as they would treat other people and give us proper food and lodging, that is more than enough.” Kurunegala, female, prospective migrant worker, 19 years.

“It should be a house that gives you food and drink and one where a woman's values and touch are visible you know, not people who are like demons because all they do is shout and scold us. It is difficult to find houses like that, after all, people shout at us at home also, right? The women must be good 1000 per cent.” - Kurunegala, female, returned and prospective migrant worker, 31 years, separated.

This expectation to be treated as fellow human beings, is also indicative of the “wellbeing” aspects and the dignity of labour. While using the forced labour indicators as a means of measuring an individual's work experience is helpful, efforts to curb forced labour must also be cognizant of the way in which migrant workers themselves view their experiences. These measurements are also useful since they can help identify where the tipping point for migrant workers could lie, especially when making a decision to flee the employer or seek recourse through an intervention on the part of the recruitment agency.

In conclusion, Sri Lankan migrant workers do experience forced labour conditions when working overseas. Although indicators such as debt bondage was scarce, it was not absent altogether (refer Annexe I for details). Abuse of vulnerability and intimidation and threats were not widely reported, but were undercurrents in the individual, non-linear narratives of the workers.

But what is evident is the interlocking nature of these forced labour conditions. If the workers experience a particular forced labour condition (i.e. retention of identity documents), it can also lead the workers to experience other forms of forced labour conditions as well.

The findings indicate that the men tend to dismiss their experiences and deflect attention to the plight of the women. While comparatively lower than among women, men have also experienced unacceptable living and working conditions and found themselves working for lower wages, in different sectors than those promised. However, enduring such conditions is considered normal with only a few cases of the male workers fighting back being reported. Where such action has rendered some result, the men had protested as a group, thus increasing their chances of either negotiating for better conditions or seeking help from the relevant authorities.

For both men and women, there is no established course of action to adopt that would help them find a good employer. Even when men secured work in the formal sectors of construction and other larger companies, the conditions of work and living status appear to vary quite greatly. For domestic workers, this is even more blurred: as there is no screening of the prospective employers and women are rarely given a choice in selecting the employer, until they experience it first-hand, it remains a “luck of the draw”. What is unfortunate, however, is that in some cases, the women also reported that other domestic workers who were preparing to leave or were already in the workplace had warned them about the employer – such warnings, however, come a little too late.

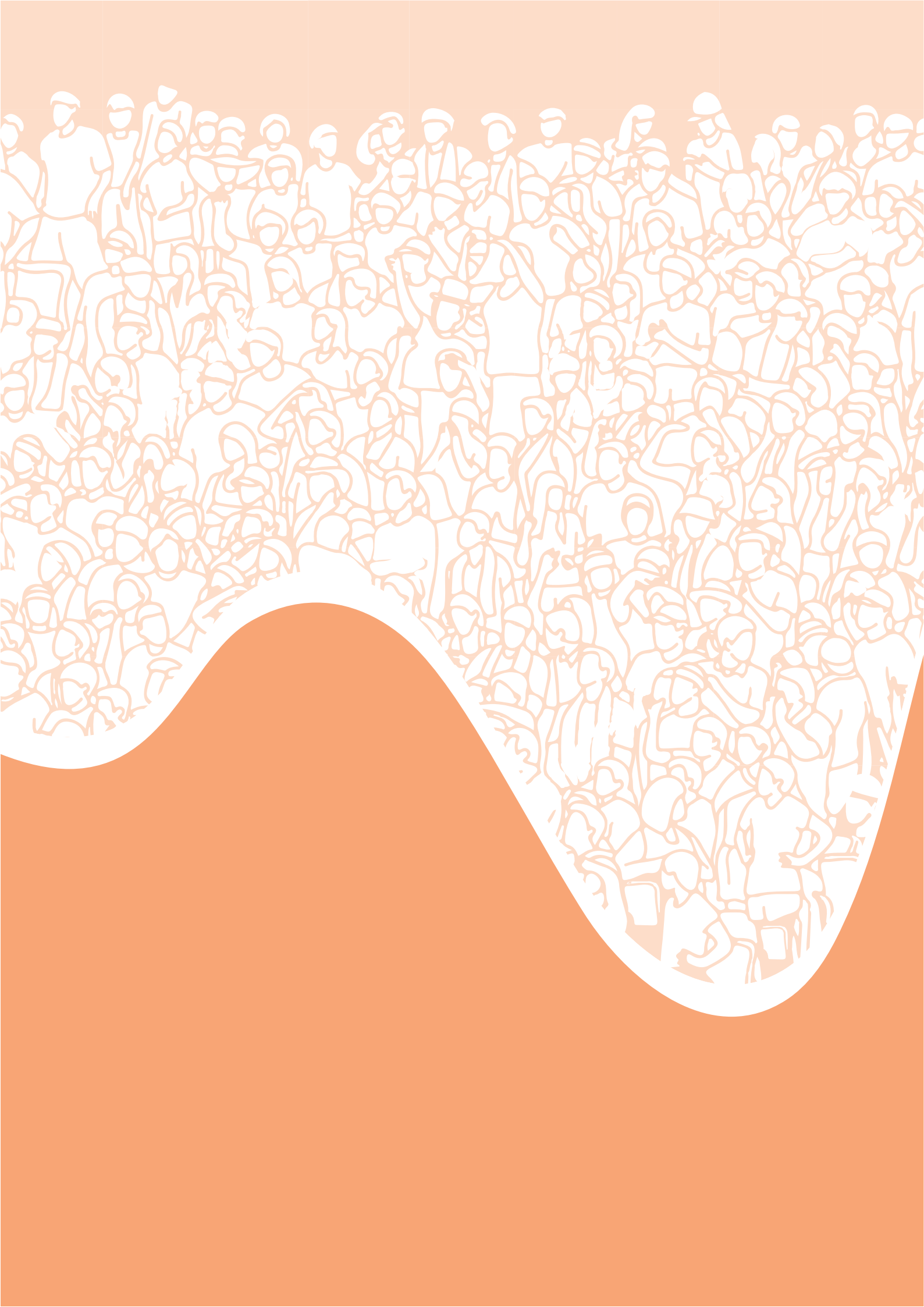
In short, while not all migrant workers experienced conditions of forced labour, a majority of men and women had experienced some forms of forced labour, with retention of identity documents and withholding of wages being the most common. Of greater importance is also the noticeable gender differences in experiences. Women, by the nature of their work, experience relatively

harsher working and living conditions and have to negotiate carefully in order to secure basic facilities such as the use of a personal phone. For men, the ability to work in the informal sector in order to compensate for loss of and/or low wages was possible because of lesser restrictions

on mobility. But both men and women appear to be on the back foot, trying not to compromise their work status within the destination country by demanding or negotiating for what was initially promised in the employment contract.

“ There is nothing wrong in going abroad. But you must first find out as much as you can about it. I sometimes feel like I also should have found out more information before going. We were in a hurry. I felt it when I was there. ”

- Kurunegala, male, returnee, 33 years, married -





05.

PROTECTION AND
PREVENTION: LOCATING
VULNERABILITIES,
POSSIBLE ACTORS

This chapter is structured around two main sections. The first focuses on identifying the vulnerabilities that could potentially expose Sri Lankan migrant workers to forced labour conditions, including human trafficking when attempting to or working overseas. The second major interrelated section looks at what protection mechanism(s) are already in place to address forced labour and how such efforts can be further strengthened.

5.1. Reason(s) for Migration

Poverty and its consequences continue to be a major push factor. Among the men, even though none was employed in the government sector, they had all engaged in some form of employment in Sri Lanka, either as wage labourers, masons/carpenters, three wheel drivers or in the formal sector as security guards or carpenters etc. The income generated was considered inadequate for the upkeep of the family, which sometimes, extends beyond the nuclear family to include the parents-in-law or one's own parents. Hence, in keeping with Sri Lankan traditional gender roles, men seek work overseas primarily to earn a more stable income with the higher expectation of building a house for the family. There was, however, a minority who wished to go because peers or someone known to them had gone abroad. This was more the case among the younger cohort, and those who were not yet married.

Many of those interviewed do not intend to work overseas for a long time. The notion of saving some money and returning home to set up a business of their own is an integral part of their plan. This factor then leads the men to consider departing for work overseas again, as they require more capital in order to meet this goal. Some had 'returned' to their former work as carpenters or masons, but others had stronger aspirations that were leading them to contemplate searching for work overseas again.

“I want to go again to buy a house and vehicle. I want to live a comfortable life outside this colony [urban settlement]. So I'm hoping to somehow fight and work there for another four years... I'm trying to go to Japan actually. If I can't

go there, I will go back to where I was [in Saudi Arabia]. I only have to book the ticket to go back to the previous place. There is a contact in Japan who is my uncle's friend. The salary is better in Japan and we can earn more in Japan, the problem is to learn the language.”
- Colombo, male, returnee 33 years, married.

Hence, while the decision is not to stay overseas for a long period, many find it difficult to fulfil their expectations in the shorter-term and therefore, consider re-migration as the natural next step. At the same time, for those who do not wish to migrate again, the lack of opportunities in Sri Lanka and the inability to find stable work, may lead them yet again, to reconsider migrating.

Among the women, returnees and prospective migrant workers alike, an inadequate income for the maintenance of the family is key, even where the husband is gainfully employed and where the women themselves have engaged in work in the formal sector (garments, office cleaner) or in the informal sector as wage labourers. In instances where the woman is separated or had been abandoned by the spouse, the pressure to assume the role of the primary breadwinner was very strong. In addition, an alcoholic spouse was another reason pushing women to re/migrate. These reasons were also cited by both government officials and recruitment agents interviewed during the course of the study.

“When you take women who go abroad, it's primarily because of the shortcomings of their partners. They are low income earners who do nothing. The men sometimes don't earn at all. They are not legally married sometimes; it's a situation of living together. I came across a man who had five women with him; he is living with all five of them and sends them abroad periodically to get their money.” - Colombo, FEDO - District Secretariat, male.

“Nobody liked me going abroad. They

may have not liked it, but there were so many issues in the family. I had taken a loan and could not pay it off. It is because of those issues I went. In the end, the motor bicycle, the three wheeler we had, all were gone when I came back. There was nothing left by the time I came back. Well, the wheel is there, it is broken though and the motor bicycle had been taken away because they had not paid the lease payments. In the end, all I did was to waste lakhs of money. When the man drinks, he doesn't know what he is doing." - Kandy, female, returnee, former apparel sector worker, married.

According to recruitment agents, young women aspire to save some money prior to marriage but for others, an alcoholic husband or an absentee spouse severely undermines their ability to provide for their children. Such women have few livelihood options available to them and hence the decision to migrate. Some agents also referred to the abuse married women experience at the hands of their spouses and how migration abroad becomes an escape route for such women.

"There was a young woman, about your age, sister, who came pleading to be sent abroad. She was crying and saying that her husband takes her to Colombo and sells her to different men. She said "sister, I can't live in this hell, please send me abroad". She hid here and there from the man in order to go to the training and managed to go to Singapore. See the kind of problems women have. Some have children, either the man has left or he is a drunkard and doesn't support the family" - Kurunegala, recruitment agent.

The difficult economic conditions are further exacerbated by large amounts of debt, incurred for consumption and family expenses, including meeting health and education needs of children. In such instances, the financial incentive is viewed as a means of settling debts at home, prior to migrating.

"There are problems, that's why I am going. I have a loan of SLR 2.5 lakhs. My husband doesn't have proper work; he cuts tea leaves for a living but it is not a regular job. He gets paid only SLR750 per day. We have to pay the debt, the interest is SLR12500, the house rent is SLR2,500 and the water bill should also be paid. All of this are monthly costs." - Colombo, female, prospective migrant worker, married, 44 years old.

"It is loans for sure, these weekly payment ones. They have gotten caught to these schemes. Then there are those who go to build houses and young unmarried women go to save some money before they settle down." - Kurunegala, FEDO.

"And they take money, from micro finance loans. This is the biggest problem actually. Sometimes they have to pay SLR10,000 a week. What they do is to cover the loan amount through the promised amount when they go abroad but when they re-migrate also, they have become debtors. Some come back prematurely saying the house was not good and then they have to pay back that money to return. There have been instances where they had been forced to sell their houses even." - Kandy, Grama Niladhari.

Despite the burden of debt, the women appear to lack any concrete plan(s) on how to manage upon return. While some are contemplating returning to the previous workplace or migrating to another country, interestingly none have plans for setting up a business. Rather, with commitments towards children and problems of caregiving, women have a tendency to fall back to wage labour, or the traditional livelihoods they had engaged in before. In the absence of savings, lack of livelihood options in their communities, and faced with abusive spouses, some women contemplate returning overseas. But such plans are also vague, with little information forthcoming on how this process of re-migrating will take shape.

In contrast to other individuals interviewed, the GNs were also aware of the community level issues that were driving either men or women to migrate, especially in communities that are branded as 'problem' communities due to high levels of crime and the proliferation of drugs and alcohol consumption. In such communities, both in Kandy and Colombo city limits, people's vulnerabilities were heightened.

“With the recent drought in the area, opportunities for wage labour dried up as well. Also, young people now don't want to engage in casual labour and because of this, women have to make a decision to migrate. And when they do migrate, then a new set of problems set in, with the men leaving the work they were doing and then new family problems crop up. These family issues are not ones that even we can resolve that easily.” - Kurunegala, Grama Niladhari.

The interviews conducted in Colombo's low income urban settlements reinforced the importance of taking into consideration these local contexts. Threats of displacement, to make way for major urban development programmes or having been relocated to new low-income housing, have intensified people's push to look for work overseas, since the related cost of resettlement, despite government support, was considerably high.

The exception to these common reasons was found among the young students studying the Japanese language. While the students were learning the language with the hope of migrating to Japan, there was no major push factor such as financial need that had led to their choice of the country. Rather, Japan was seen as an attractive option, with many opportunities to offer. With the exception of one entrepreneurial youth whose aim was to start his own business of importing spare parts for automobiles, none of the others appeared to be led by financial need or poverty.

5.2. Cost of Migration

The cost of migration and its impact on people's decision making is a key issue highlighted in the findings. For many, the related cost determines one's country of destination. Among prospective migrant workers, there was a strong association between the cost of migration and the country of preference. Among the men, although there was a preference for countries such as Japan and Malaysia it was clear that the cost was considered too high and that the Middle East could offer less costly work options.

For men, the cost of migration varied depending on who was purchasing the ticket and sponsoring them. Hence, it ranged from at a minimum of SLR8,000 (cost of medical) to a maximum of SLR150,000 to be paid as fees to the recruitment agency. For countries such as Japan, the cost of migration was perceived to be close to a million Sri Lankan rupees. In order to finance these movements overseas, men rely on their family members and relatives, especially the wife or mother to pawn their jewellery. They also sell their own assets such as three wheelers to raise the required amount. This leads to incurring a debt prior to migrating.

In contrast, for women, the related cost of travelling as domestic workers to the Middle East is negligible as the promised payment allows for many of the related costs to be covered. These include the medical and related transportation expenses, insurance coverage at the SLBFE and where applicable, the cost of training. But a determining factor for women is the promise of a large sum of money upfront if she were to work as a domestic worker in the Middle East. This payment works as a strong incentive for women especially where the women have micro-credit debts to pay off. But many appeared to have not received the promised amount.

“The Medical [test] costs about SLR10,000. And the ticket costs about SLR65,000. They send free tickets to Sri Lanka but the agency basically sells it to us. Altogether, I spent about SLR90,000.” - Gampaha, male returnee, 36 years, married.

“I did not spend from my own money, all the costs were borne by them. I was given SLR160,000 by the agency after cutting the expenses for training and medical.” - Gampaha, female, returnee, 47 years, married.

“I thought of going to the Middle East because they give money also. That is why I considered. But they didn’t give the promised amount. In the end, they gave only SLR60,000 though they promised SLR2 lakhs. They said rest have been spent on medical and this and that. When my aunt had received the money, I said it’s alright take it, because what else can we do ? ” - Colombo, female, returnee, 45 years, separated from spouse.

In discussions with recruitment agents, however, it was evident that technically such expenses are not deducted from the promised incentive but are costs to be borne by the recruitment agent. But even where the women were aware that the sub-agents had cheated them of the promised amount of payment, they rarely confronted the individual or the recruitment agency. This reinforces the degree of power that the sub-agent and the recruitment agent wields over the women.

The fact that the women continue to ‘pay’ for such expenses in an indirect manner through the money promised to them, highlights the lack of awareness and/knowledge on the pre-departure process currently in place. For women, what is further detrimental is that the agencies are not allowed by law, to offer the women money. Therefore, the space to challenge or demand for clarification from either the SLBFE or the agency itself is non-existent. Additionally, given that the commitments are made verbally, women are reluctant to seek recourse through the Police for breach of trust.

The cost of migration was corroborated by the recruitment agents as well. In almost all instances where men were being sent abroad, the cost incurred was around SLR100,000 or more, whereas

for women, the cost would be determined by a different set of factors including whether training and a new passport was required and the commission to be paid to the prospective migrant worker and the sub-agent.

“They sign an agreement and the amount of SLR4.5 lakhs and the amount they get to their hands, which is let’s say SLR115,000, well that total amount needs to be paid back if she wants her house changed. If she wants to return home, then she has to spend for the ticket. We try our best to make her stay there, by talking to her. Recently this woman went and she was indebted to so many places. She was asked to pay SLR 250,000 rupees, and we can’t do anything in that situation. Then I spoke to her and asked “do you want to fall into more debt, or do you want to somehow stay there for the stipulated time period?” Yes, I won’t deny that women don’t get into trouble there. But one must try to keep the woman in that house happy.” - Gampaha, recruitment agent.

For women who sign an agreement for a period of two years and cannot return home until the agreement has been fulfilled, the upfront cash payment becomes a strong means of coercing them into staying on even at workplaces where the conditions are not what she expected. The example of the woman in debt cited by the recruitment agent is a good example of this type of subtle coercion. Some of the other agents also pointed to this particular dilemma: changing houses is not easy and changing the house within the probation period is even more difficult. Therefore, subtle forms of coercion in the form of reminders of the money accepted prior to departure, is used to convince the women to stay put and to work, rather than attempting to leave the workplace.

5.3. Reliance on Intermediaries

Once the decision has been made, many of the individuals sought help from close relatives and their spouses in order to make the arrangements. For the

men, this included asking friends and peers about job opportunities overseas and the kinds of work available. For men, most support came from their wives and mothers whereas for married women, it would be the husband; the unmarried/separated women rely mostly on themselves.

For women, relatives living abroad, particularly female cousins or aunts already working as domestic workers, were considered of equal importance or more important, especially as a source of information. Information regarding working and living conditions, wages and good versus bad countries were sought from such contacts.

But the most central figure for aspiring or returnee domestic workers is the sub-agent. The sub-agent assumes the major role in directing the women to the recruitment agencies. Therefore, even amongst returnee migrant women preparing to 'return' for work abroad, the sub-agent continues to be the principal actor in directing women towards a specific agency and by extension, the country of destination. In order to select a sub-agent, women rely on recommendations of relatives or neighbours in the community.

“My husband’s uncle’s son is a sub. He is on his second marriage so we don’t have a lot of connections with him. In a way, he is my husband’s brother. He is also someone who had gone abroad before and he had told my mother-in-law that the agency that helped me go abroad is looking to send people abroad. This is the agency he used to go abroad. And so he introduced us to the Miss [owner of the recruitment agency].” - Wife of prospective male migrant worker.

“I didn’t go to ask anything from the agency. When you go for training, a lot of things are taught. I didn’t ask because of that. In those countries, you have to stay a certain way and behave around these people in a certain manner – they taught us all this.” - Colombo, prospective migrant worker, female, 38, separated.

The relationship to the sub-agent is based on a trust that, to an outsider, appears superficial and rather tenuous. But for the women, the fact that the sub-agent visits them and shares information with them, makes the relationship stronger. GNs, FEDOs and the recruitment agents all stressed the central role that the sub-agent plays.

“The contract is not in a language they can understand. They may say “yes”, “no” in English but beyond that, they don’t know any English at all. The Sub or the Broker really takes them for a ride and creates a fancy story. These people also happily believe what is said to them. In the end, it is the Sub who earns through these women.” - Colombo, Grama Niladhari.

“Only a very few people seek information from us because they are heavily dependent on the Subs to give them the necessary details. Rarely do they come to double-check some details about going abroad from us ... people trust the sub-agents more than they believe us. But this is because of the problems they have also mainly because of the poor level of education and lack of intelligence. All they care about is the fairy tale world that the sub creates and not a reality.” - Kurunegala, Grama Niladhari.

But such relationships are severely tested in instances where the sub-agents deceive the prospective migrant workers. However, being cheated of one’s money does not appear to act as a deterrent for male migrant workers determined to migrate for work overseas. There were clear instances where the men, despite being deceived once, would then, seek the help of another intermediary.

[previously] “I was tricked by a sub-agent who took my money, my documents and promised me that there are two openings to work at a supermarket there. That man hurried me and asked me to send money immediately. He

asked me to send money through ez cash [transactions through mobile phones]. I have recorded all the phone conversations between us. He asked for SLR60,000 and told me he will pay us SLR90,000 in return. He keeps asking for documents at random times. He has told me that he will book tickets at least ten times. I am scared to go to the police because they will scold me for giving cash without checking his documents.” - Gampaha, male, prospective, 23 years, married.

“This time around, I had a phone number of a friend who passed out with me from the Tech course. He is working there [in Bermuda] now. It is his father who sends people. Asked for SLR15 lakhs to send us. I have spoken to him but I have no big hopes, I don’t want to get my hopes up. His father lives in Sri Lanka and has already sent two of my friends there. So I trust him. His son will send the visa from there and only after the visa is sent do I need to pay him. And I have to pay everything before I depart. This is exactly what happened last time [when he tried to migrate to Japan] so that is why I am not that excited. He said there are vacancies and asked to email my CV and pictures.” - Gampaha, male, prospective migrant worker, 22 years, single.

Even among recruitment agents, sub-agents were viewed as a necessary evil. None of the agents was unaware of the exploitative relationship that exists between the sub-agent and the prospective migrant worker but they had no qualms about using the sub-agent as an intermediary.

“For every five houses, there is a Sub. The Sub of course has his commission right? Once, there was a mother who came and demanded she needed her commission although it was her daughter who was going. She said “I don’t care if it is my daughter, this is my

business”. So she wanted SLR320,000 rupees to herself in addition to giving the daughter her share.” - Colombo, recruitment agent.

“There are subs who come also. They are the ones who eat away most of the money. Some of them keep something in the range of SLR1 to 2 lakhs of the money. Of course, the Bureau has said we should not give money, it’s actually illegal.” - Gampaha, recruitment agent.

Referring to the sub-agent as the one individual who assists the prospective migrant worker from step one – securing the passport – up until his/her departure, they are viewed as easing the pressure on the agencies to ensure that the men/women follow through with their plans to migrate. But one of the agents also offered a more nuanced explanation as to why the sub-agent’s word was trusted over everyone else’s.

“This [business of labour migration] will not happen without the sub-agent. Some people despite how well they are paid and treated come back home. When the men here treat women badly, and they are abusive to the women, it is natural that they would get close to someone who brings her to Colombo and buys her a fried rice and a coca cola? They will naturally get closer to someone like that. Why would she want to sacrifice her freedom, her happiness to a man who keeps drinking from her money?” - Recruitment agent, Colombo, 01.

Despite recognising the role they play, concerns were raised regarding the unregulated manner in which the sub-agents operate, raising the associated risks of working with such intermediaries. The degree of power the sub-agent exercises over the prospective migrant worker becomes a bargaining chip especially where the agency may refuse to meet the high financial demands made by the sub-agent.

5.4. Instances of Increased Vulnerability

During the course of the study, special instances which increased a person's vulnerability to exploitation were found. Though not exhaustive, these instances show some of the ways in which both men and women could potentially be made more susceptible to be taken advantage of in navigating the international labour migration process.

FBR not being recommended

Among the small number of women whose FBR had not been recommended, the desperation to leave was relatively higher than among the women whose FBR had been cleared. Except for one instance, the reason for rejection of the FBR was not the presence of children under the age of five years, rather, it was the presence of a disabled child or the refusal to accept the designated guardian. This subjective decision-making process frustrates the women, especially because they had not anticipated encountering any problem since the children were above the age of five years. The women would not reveal what they wished to do next. However, given that no concrete solutions were forthcoming to address their pressing needs, the tendency to seek out other means to migrate is higher among these women. This makes them susceptible to whoever wishes to provide them with a workable solution to their pressing concerns. In Kandy, where a young family's "house" (consisting of single 8x10 room) was under threat of collapse, the FEDO had offered to find funds for the residence to be repaired. However, the family remained sceptical of the time such a process would take and the impending disaster especially with the onset of the rainy season. Similarly, there exists a strong sense of the system being unjust to women, leading the women in particular to question the benefits of using the regular method of migrating. These frustrations were echoed by the recruitment agents as well, who pointed to the increased use of the visit visa option as a means of circumventing the FBR process. As some of the women's narratives indicated and the recruitment agents corroborated, the FBR clearance can either be navigated around completely by using

the visit visa or by bribery and forgeries. But both options heighten women's vulnerability: in the former, the chances of women being trafficked are higher with the GoSL unaware of their whereabouts. With the latter option, women bear the cost since the recruitment agents deduct the cost of the clearance of the FBR from the promised amount. In one particular instance, SLR100,000 was deducted from the promised amount as the cost of securing a FBR approval.

Lack of awareness

Lack of awareness regarding working and living conditions was found to be common among those who wished to migrate for work overseas. Among those who had worked previously, there was an understanding of the range of salary to be expected. As mentioned earlier, although the women tend to trust their mediator whether it is the sub-agent, agency or the relative living abroad, there were also reservations that once at the workplace, the wages may not reflect the stated amount in the agreement. This sentiment was strongest among those with a history of working overseas as domestic workers. A similar tendency to speculate rather than find out concrete information or details was evident when queried regarding the anticipated working and living conditions.

Friday is a holiday it seems. We can even work on that though. I don't know though, if when we are working at the hotel, Friday would be a holiday... So far, I don't know anything much yet. Must find out everything when I go there the next time. Must ask these questions and collect all the information [from the agency] (Gampaha, male, prospective migrant worker).

**"The one [person] who is arranging all this tells me that the place I am going to is really good. It's not like going through an agency. I trust this person."
- Gampaha, male, prospective migrant worker, 23 years, single.**

Even among those with a prior history of migration, especially the women, very few had asked questions

from the agency or the sub-agent regarding working and living conditions. Women tend to use their prior experiences as a baseline to speculate what could be expected from the new workplace. In contrast, men tend to be prepared to 'put up with anything'. Very few had a clear idea about working or living conditions, trusting the company (i.e. employer) to provide accommodation.

Among the young female and male students learning the Japanese language, the choice of Japan as a destination country was informed by what Japan symbolises: an advanced and modern society that reflects cultural and societal values similar to those of Sri Lanka. But beyond this superficial level of information, the students had not yet explored the avenues of information and like the other prospective migrant workers, lacked comprehensive knowledge on what to expect once they migrated to Japan.

From the outset, the young students do not appear to be vulnerable but during the course of the interviews, they revealed their ultimate objective of securing employment in Japan. Migrating as a student is the means by which they choose to leave Sri Lanka, given the difficulties of securing a work visa for Japan. Despite showing an interest in working as caregivers and/or in shops or with aspirations to ultimately set up their own business in the automobile industry, the students were unaware of the living and working conditions and the cost of living in Japan. The young men echoed the sentiments expressed by the other prospective migrant workers: life was going to be difficult, and one must be ready to face any inevitability. As one student pointed out "we are going there with an objective and in order to reach it, we must endure and undergo whatever we have to". The lack of knowledge on the labour laws pertaining to student visas and the types of work available point to the ways in which their expectations may not be met upon reaching Japan. The students were also unaware of the SLBFE facilitated apprenticeship programme in place for young men and women. Like the migrant workers therefore, the students also appear to be living in an information vacuum even when such information would be more freely accessible via social media platforms and through the internet for this relatively younger, computer

literate cohort of youth. Although it could be argued that the students still form a privileged group and do not necessarily fall within the category of prospective migrant workers, their ultimate goal of securing work in Japan raises concern of their susceptibility to be deceived as well as exploited.

In short, it is imperative that such gaps in information are addressed in a meaningful manner. Importantly, although forced labour is experienced only once the worker reaches the workplace, the pathways originate in Sri Lanka and therefore, requires more targeted efforts, especially regarding creating awareness among those who wish to re/migrate for work.

5.5. Current Efforts Targeting Protection

At the centre of facilitating the labour migration process in Sri Lanka is the GoSL – from directing policy to initiating regulations on the industry through the SLBFE. The evolution of the state structures in response to the demand for people to migrate overseas is well documented (Collyer, Wimalasena, Ansar and Ali Khan, 2009; Oishi, 2005; Pinnawala, 2009).

Presently, several key efforts are being implemented under the larger umbrella of protection. The safe migration programme funded by the SDC has been working alongside multiple stakeholders, including the ILO, CSOs and national and local level government officials to promote safe migration for prospective migrant workers.

At the national level, the National Labour Migration Policy (NLMP) is currently being revised to reflect the changes taking place within the external labour migration process. Community based CSOs are working closely with both male and female returnees to help them reintegrate while simultaneously linking them with government agencies including the SLBFE where workers had experienced contract violations. Additionally, awareness raising is conducted among prospective migrant workers in order to ensure they have the necessary information sources to make informed decisions. Underscoring the importance of working with all stakeholders, the ILO in particular,

is also engaged in promoting fair recruitment practices and has engaged with recruitment agents to promote safe migration practices.

In addition, continued trainings are being provided to different stakeholders but with a special focus on those who could help identify cases of human trafficking. In this regard, the FEDOs are being targeted for trainings in addition to the SLBFE officials training its own staff and those in the Police on how to identify victims of trafficking.

The high-level meetings of the Task Force also facilitate better information sharing and cross-sectoral coordination. The different government stakeholders also work closely in order to report to the US State Department for its annual TIP report. Despite these efforts, non-governmental representatives had strong reservations on the effectiveness of these efforts, especially as they adopted a top-down approach. As one long-term practitioner in the sector pointed out, with the technical support of bi/multilateral agencies, the GoSL was able to set up a proper legal framework and structure to prosecute cases of trafficking earlier on. However, in the absence of awareness raising at grassroot level on identifying/recognising forced labour and/or instances of trafficking, such efforts have not been as effective as anticipated.

5.6. Complaints Mechanism

At present, there are several ways in which an individual can lodge a complaint regarding human trafficking in particular. The special unit within the SLBFE's main office is geared towards accepting such complaints, either once the individual has returned or while he or she is still in the destination country. In addition, complaints can be either lodged with the FEDO at the DS office or at the local Police station. Where the information is deemed valid, such cases are then referred to the criminal investigations unit of the Police in order for further investigations.

With regard to experiencing a breach of contract, registered migrant workers can lodge complaints directly with the SLBFE. But generally, the workers first approach the recruitment agent or sub-agent.

According to the recruitment agents, the majority of complaints were regarding the non-payment of wages or the payment of a lower wage than what was promised. As one agent pointed out, if wages were not paid regularly, men would leave the workplace, whereas for women it would be far riskier to leave the employer's household. However, where the problems persisted, the agents confirmed that they would ask the women to leave the employer and seek the assistance of the embassy. But the agents also discourage women from leaving the employer especially during the first few months which constitute a period of probation for the worker.

“Men have less problems. They can leave the workplace. But for women, leaving the house is as good as stepping into hell. If you get caught to some low life, you will end up in some room.”
Colombo, Recruitment agent.

“If there is a problem, we tell them not to make an arbitrary decision. We buy them a phone before they go. If they really don't want to stay there, then we find another house. But if she leaves the house, then we can't do anything afterwards, if the wages are not being paid or is less, then we can get that sorted. But none of this works, if she leaves the house.”- Colombo, Recruitment agent.

By law, we are responsible for the women for two years. So we have to see to her wellbeing for those two years. If a problem crops up that we can't handle on our own, then we ask for the Bureau's help. We of course tell the passenger that she is going to another country. It is almost like slave work right? So we do our maximum to keep an eye on her. The last resort when all else fails is to bring her home (Kurunegala, Recruitment agent).

The fact that the agency would ask the women to leave the household is significant but how many would exercise this 'permission to leave' is not clear, especially in cases where the women are unable to pay for their return trip home. There also appears to be added reasons de-incentivising women from leaving the household of the employer:

“Actually, now the number of runaways has also come down. Because even she knows that if she is a runaway, they [immigration officials in destination country] will take her finger print and that she runs the risk of being blacklisted.” - Kurunegala, Recruitment agent.

Lodging complaints with the SLBFE is also common and this is reflected in the annual SLBFE statistics which also cite issues related to wages as one of the most common complaints lodged.

Investigations of these complaints by the SLBFE however, can be short-sighted. As some practitioners correctly point out, instances of trafficking and forced labour can become subsumed under the more generic complaint of a breach of contract. But as the SLBFE officials point out, pursuing cases of trafficking is also challenging since coercion and deception have to be established. However, even where such cases of trafficking were reported, there was also agreement that the process of prosecuting such perpetrators was time consuming and would eventually culminate in further victimising the trafficked individual. Therefore, although at times, women and men may come forward with evidence of trafficking, their willingness to “sit out” a lengthy legal proceeding which is costly and time consuming and prevents them from re-migrating is limited. Hence, although protection structures are in place (i.e. a safe house for victims of trafficking), in the absence of longer-term support for such women who come forward, there remains little incentive to commit to such long proceedings.

5.7. Role of the Consular Division

One of the fundamental ways in which the GoSL and the SLBFE by extension, offers assistance to those who have experienced exploitation is through the consular divisions in the country of destination. Specially trained SLBFE officials are stationed in many of the GCC countries to act as mediators; there are also safe houses for the women migrant workers who have escaped their abusive employers. But Sri

Lankan migrant workers were clearly unhappy with the degree of protection offered to them.

Both men and women accused Consular staff of either sending the women back to abusive employers or worse still, selling the women to new employers or the same abusive agency for a high price. This notion of women being sold was a consistent accusation levelled against Consular staff by both men and women, with some offering examples of such cases taking place. While the veracity of such incidents cannot be established, the fact that such a strong sentiment is present among migrant workers cannot be easily dismissed either. Those women who had stayed in embassy safe houses accused the staff of treating the women with little care and being verbally abusive. Accusations of not being provided adequate food, including sanitary care were raised. With little access to other consular staff, particularly at the higher levels, the women felt abandoned to their fate until their issue was resolved. There was general agreement that the Embassy of Philippines represented the ideal since the consular staff is empowered and would represent and safeguard the interests of the migrant worker above all else.

5.8. Irregular Migration

The protection efforts underway are not fail-safe. There also exists a gaping chasm where women and men who have used irregular means of migrating for work overseas are left outside of the protection safety net. In such cases, the SLBFE does not extend the assistance of its conciliation staff and such workers can only seek support through the Sri Lankan embassy in the country of destination. However, the risk in refusing to extend such support has major repercussions for women and men especially where the visit visa option had been used as a means of circumventing the existing system. In such cases, the system fails to offer help to potentially trafficked victims and also ignores potential cases of trafficking that originate in Sri Lanka. With migration on self-basis outpacing migrating through an intermediary and the increased use of the visit visa option, the question of what happens to those who do not register with the SLBFE prior to migrating overseas thus remains unanswered.

5.9. Government Actors at the Grassroots

Among the many stakeholders that have been appointed to extend support to migrant workers, the FEDO is one of the key figures. Significantly, a majority of workers interviewed did not view the FEDO as a central figure in the migration process. The exception was with those who had to secure the FBR clearance and even in such cases, interactions with the FEDO was limited to securing the report only. The nature of the FEDO's work, with a heavy time commitment towards the FBR regulation, has led to the FEDOs lacking information on male migrant workers. The FEDOs were also quite aware of the limits to their authority especially in relation to the strong linkage the migrant workers have formed with the sub-agent. The FEDOs were frustrated by their inability to counsel the women to re-think their options and migration trajectories.

“There really is no need for an intermediary. My opinion is that a migrant worker should approach the agency directly. The intermediary lies to the migrant worker and creates a world that does not exist in reality because they are trying to somehow send these women to make money... they don't come to us asking for information. We are the last stop and by then, it is difficult to change their minds because the agency and the sub-agent have done all of this beforehand.”
- Kandy, FEDO, female.

“They come to us to hand over the “AGA” paper. They trust the intermediaries. By the time they come to us, the agencies have already helped them make up their minds.”
- Kurunegala, FEDO, Female.

Among those interviewed, information regarding human trafficking and what it entails was found to be lacking. Although the FEDOs had received trainings, both from the Ministry of Foreign Employment (MFE) and where applicable, from the stakeholders engaging in safe migration related implementation projects including the ILO, the absence of

information was rather stark. This could also be due to the fact that some of the officers were relatively new. But as an experienced officer at the District level pointed out, identifying trafficking cases has its inherent challenges:

“There is a high risk of trafficking in our areas, there is no solution like a task force for them, and we've only had a discussion about it. One really can't distinguish trafficking in Colombo because both parties are completely aware of the process. The person knows he is going in an illegal way and still opts to do it. In Colombo a person can even get a death certificate by spending some cash. You can see what people do to put their children into a school no? People go without any proper documentation.” - Colombo, District level FEDO, male

Rather than being voluntary, the relationship to the FEDOs has come to be defined through government regulation and thus is largely an institutionalized relationship. This inability to engage constructively with the migrant workers is further compounded when the FEDOs reject the FBR application.

In contrast, as an official with greater access to the communities at the most local level, GNs are well placed to support any efforts targeting either prevention or protection elements. The GNs continue to play a rather important role in the migration process, despite being sidelined in the FBR process. Since many of the migrant workers, male or female, require the DS-4 certificate confirming one's residence within the GN division, they have to approach the GN and share details regarding the decision to migrate for work overseas. Even where such information is not forthcoming, the GN is still better placed to find out about such cases because his/her list of duties invariably put them in touch with such families, be it for drawing up the voters' list or to extend/refuse social security. Therefore, ironically, in some ways, the GNs are better placed than the FEDOs to offer assistance to prospective migrant workers.

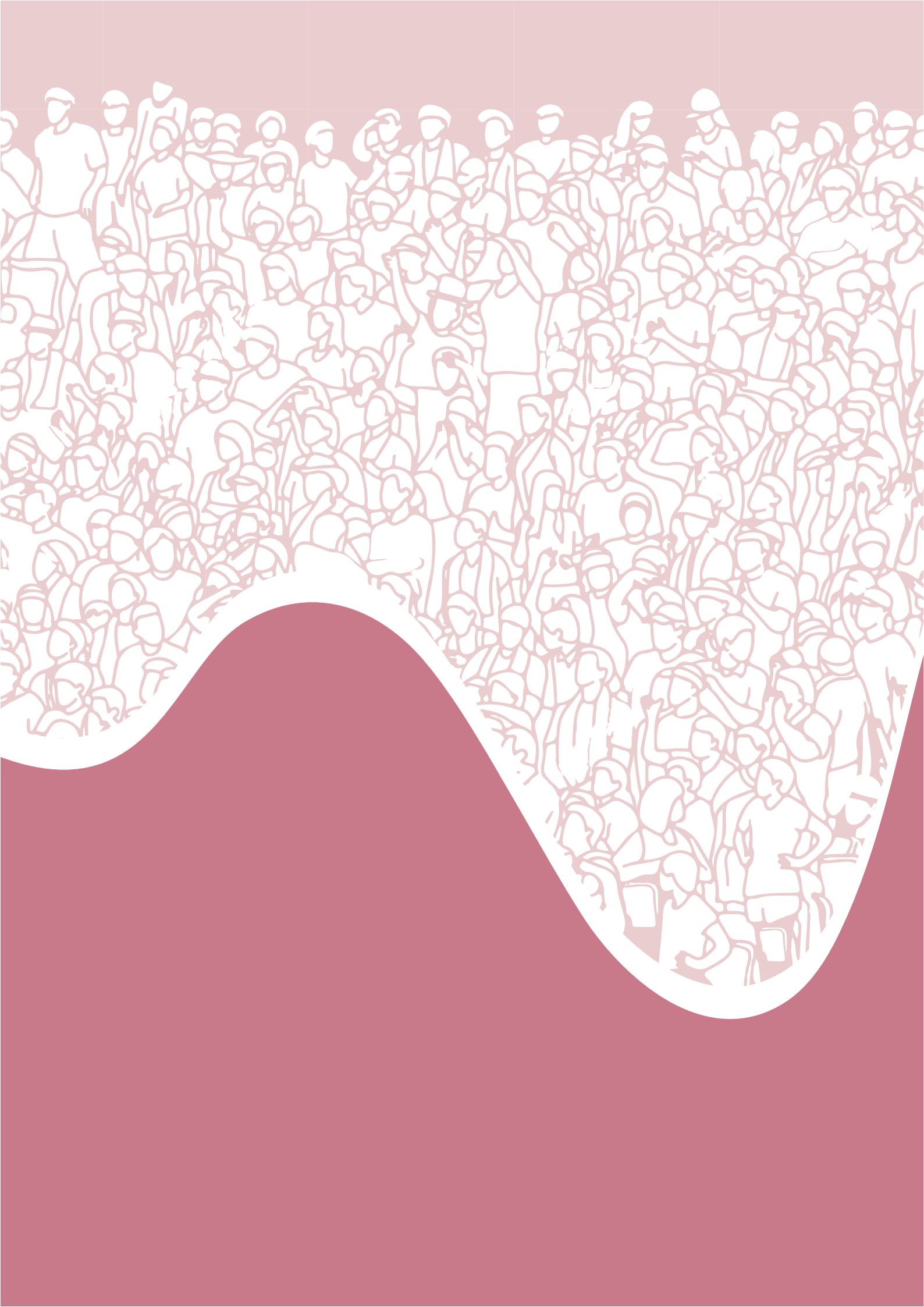
As a majority of those interviewed pointed out, migrant workers do not approach the GN to lodge a complaint upon return, but the GNs come across these stories through their regular interactions with community members. And therefore, unlike the

FEDOs, the GNs possess a wealth of information on not just those who have migrated from within their jurisdiction, but also the particularities of each of these cases and the ways in which such families have coped.

“ There is a high risk of trafficking in our areas, there is no solution like a task force for them, and we’ve only had a discussion about it. One really can’t distinguish trafficking in Colombo because both parties are completely aware of the process. The person knows he is going in an illegal way and still opts to do it.

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- Colombo, District level FEDO, male -





06.

CONCLUSION

This study was conducted with the broader objective of acquiring a better understanding of trafficking in persons and forced labour related to international labour migration. In order to identify such instances, the research focused on four sub-objectives:

1. Understand the real-life experiences of former migrants, and their push factors toward migration to understand the trafficking and forced labour elements within the context of labour migration in these four districts;
2. Gather information from the target vulnerable communities within each of the four identified districts, who are deemed more susceptible to forced labour and trafficking and to identify how, when and where it occurs and possible perpetrators of trafficking and forced labour;
3. Understand how government, non-government, civil society organisations and/or private structures, at the local level respond to the issues on trafficking and forced labour;
4. Understand the existing policy framework and the status quo with regard to counter-trafficking efforts.

In this concluding chapter, the major findings in relation to the sub-objectives are re-visited and possible next steps with regard to issues of human trafficking and forced labour in the international labour migration process are discussed.

While there has been a noticeable spike in efforts to counter trafficking, the issue of coercion which is central to how trafficking is defined has been problematised, for, as many point out, those trafficked may be willing participants at some stage, especially when attempting to flee conditions of violence or abuse at home. Workers in sectors like construction despite being part of the formal sector and domestic work within the informal sector of work are considered vulnerable to

experiencing forced labour, especially when such labour is 'imported'. Although there are very few studies conducted on the presence of trafficking within external labour migration in Sri Lanka, one study (Amirthalingam, Jayatilaka, Lakshman and Liyanage, 2011) throws light on how people's poverty and inability to earn a liveable income increase their vulnerability to be trafficked.

At present, Sri Lanka has a legal framework to prosecute traffickers and a national level anti-trafficking task force to oversee the coordination of activities across the wide range of government agencies engaged in this process. With non-state actors also playing a role at the ground level in engaging with migrant workers and promoting safe migration and to a certain extent, referring cases of contract violations to the SLBFE, there is a considerable range of activities taking place on this particular issue.

However, in terms of the three pillars, prosecution continues to be rather challenging and in the current system, there is no incentive for trafficked victims to come forward and engage in lengthy legal procedures. As government and non-governmental stakeholders point out, the trafficked individual is further victimised in this long winding process. There is also concern that cases of trafficking tend to be subsumed by focusing on the contract violations that are handled by the SLBFE.

While the reasons for migration continue to be those cited by other studies – to build a house, to earn a stable income and to fulfil children's needs including education and marriage expenses – indebtedness among women is also a reason pushing women into migration. In such instances, the money offered by recruitment agents works as a strong financial incentive to migrate for work to the Middle East and as domestic workers.

The gendered dimensions to returnees' work experiences overseas are quite strong, from the choice of work opportunities and the cost of migration to the prevalence of forced labour in the migration process. Men have to spend in order

to migrate for work and their choice of countries are therefore, also determined by the cost factor. Money required is raised through loans and by borrowing from close relatives. For women, the opposite holds true but in many cases, the cost of training, medical and other expenses are deducted from the promised amount and thus in some ways women also bear the cost of migrating as domestic workers.

The trust placed on the sub-agent is very strong among women and to a certain degree among men, but the latter also rely on friends and family to find them work overseas. Although there were clear cases of migrant workers being deceived – not being sent to the promised job, not receiving the promised wage, being taken across borders without their consent – the issue of coercion is not as clear. This then points to the problem that researchers have continued to raise with regard to human trafficking: on how to define coercion especially where willingness on the part of the migrant worker is evident, to some degree. But in specific cases, deception is quite evident and how that transforms into forced labour is captured in the narratives of the returnee migrant workers.

The retention of identity documents including the passport and the work permit, and the inability to leave the country of destination without the consent of the sponsor/employer is common but especially harder on the women whose mobility is also restricted. The withholding of wages and/or not receiving a fair wage for the work performed was a common complaint cited by both men and women, with the latter ‘fighting’ to have the wages increased and the former afraid to protest too much for the fear of losing out on being paid altogether.

While men and women both reported relatively good living conditions, there were concerns regarding the small spaces, access to toilets for women, access to food and even more importantly, freedom to use one’s phone. The importance placed on the phone by the women is understandable given that they are discouraged

from talking to outsiders and have little to no communication or interaction beyond the immediate family of the sponsor/employer. Worryingly, the women are also bound not to complain or protest during the probation period particularly, for fear of having to return the money they had received as an incentive and the ‘threat’ of having to pay for their return home.

As the ILO points out, the retention of identity documents and the restrictions on mobility or withholding of wages alone does not constitute forced labour. This is also reflected in the narratives of the returnees. Among those who experienced forced labour conditions, rarely were such experiences limited to just one element of forced labour. Rather, different elements of forced labour were interconnected and linked, which then make their work lives difficult to tolerate. However, what is still unclear is where the tipping point lies for women in particular. Women “put up” with a lot of conditions that clearly fall within the category of forced labour, and at some point, make the decision to leave the household. But what triggers this action is a far more personal matter and therefore remains hard to pin down. Understanding the triggers and the high tolerance level for enduring such difficult conditions is important especially in preventing or reducing the prevalence of trafficking and forced labour.

Among the prospective migrant workers, there exist gaps in information regarding migrating overseas for work; this was also the case among those who had returned and were making preparations to leave again for work. Women do not ask for much information from either the sub-agent or the recruitment agent, placing their trust almost completely on the intermediaries to secure them not merely employment, but a “good” workplace. There is a tendency for the women and men also to rely on friends and relatives working abroad for recommendations on the destination countries and potential employers. The lack of knowledge on the kind of working and living conditions including access to health care that can be expected was also noted among the prospective migrant workers.

In conclusion, therefore, a few key aspects must be emphasised. Although the study findings cannot be generalised to the larger migrant worker population in Sri Lanka, it provides insight into how trafficking might take place and how forced labour conditions are experienced by the migrant worker population. The gendered differences in experiences cannot be ignored as these have different outcomes for men and women. The fact that the reasons for migration continue to remain similar, with the added burden of indebtedness on women, must be taken into consideration, in determining the migrant worker's willingness to migrate at any cost.

More importantly, questions regarding how women and men respond to the difficult working and living conditions they encounter abroad must be noted. That women are much more vulnerable and will experience forced labour conditions is evident. The nature and the location of their work with the associated concern that domestic work is not considered real "work", increases women's risk of being trafficked and experiencing forced labour conditions.

But the greater concern also lies in the fact that at times, trying to place the migrant workers' experiences within these indicators would not always help capture the complexities of working in a foreign country. Women in particular, appear to be making negotiations with themselves in assessing what would be considered a good working place. In doing so, they may be unintentionally accepting forced labour conditions. Similarly, men tend to deflect attention from themselves towards the plight of women migrant workers and use their gender identity to claim endurance and a capacity to withstand possibly forced labour conditions, sometimes arising out of trafficking. Unless these dynamics are well understood and acknowledged, trying to address issues around human trafficking and forced labour will not render the expected results.

As the EQUIP programme prepares to launch bespoke awareness campaigns in the four districts among prospective migrant workers, the fact that

women's perception of forced labour may differ from those mentioned within ILO's framework of forced labour must be taken account of. Additionally, in launching the campaign in the districts, the aspects noted below may be taken into consideration:

- Sensitivity to context-specific factors: The study was conducted primarily in the high migration DS divisions of the four districts. It is important to take into consideration the socio-economic dynamics existent in these settings, especially within the urban poor settlements in Kandy, Gampaha and Colombo. Written material may not be as effective in these communities especially where the sources of information on migrating abroad for work tends to be returnee migrant workers and the sub-agents who are already living in those communities. Furthermore, the ethnic composition and the corresponding language differences need to be taken account of when reaching out to the target audiences.
- Perceptions among migrant workers: Apart from highlighting the aspects of forced labour, another means of reaching out to the target groups would be to consider what elements constitute a good workplace. As the findings indicate, women and men's perception of a good place, transcends these indicators with an approach that echoes the decent work agenda of the ILO. These sentiments expressed could be used as a springboard to initiate a discussion around forced labour conditions and trafficking.
- Reference to lived experiences: The use of actual experiences of forced labour and cases of trafficking to inform the awareness campaign would be a more practical and effective approach to adopt in the campaign. While there is room to use returnee men and women to share their experiences with prospective migrant workers, this should be carried out with caution, as

an individual's personal experiences and views on gendered roles can greatly colour their views on who should and should not migrate for work overseas.

- Targeting the communities: In terms of target audiences, the interviewees indicated that they rely on neighbours, friends and relatives for support as well as for information. Hence, extending the awareness campaign to include these non-migrant populations, especially the close family members of the prospective migrant worker (i.e. spouse/parent/adult child) would help in getting the message across more efficiently and effectively.
- Grama Niladhari as a Focal Point: As noted, except for the women seeking the FBR clearance report, the FEDOs are not sought by the returnees or the prospective migrant workers. Rather, it is the Grama Niladhari who acts as a central figure and key informant on the dynamics of the communities. Hence, it is of importance that the GNs are made part of the awareness campaign – having the GN made aware of forced labour and trafficking helps to also strengthen the multiplier effect because migrant workers and their family members interact much more with the GN in comparison to other government officials at the DS level.
- Key Platforms: The study findings indicate that communication via phones is of critical importance to migrant workers. The use of social media platforms, including Facebook groups such as the Korea-Lanka Association with a focus on migrant workers could be used as key platforms for dissemination.
- Dissemination through CSOs: The EQUIP programme is well positioned to use the existing local partner network of the SDC-funded safe migration programme in order to disseminate information regarding trafficking and forced labour. Given that prospective and returnee migrant workers are currently being targeted through their ongoing projects reaching out to these vulnerable groups much more effectively should be easier.

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Annexe I: Cases of experiences of forced labour

Attempts to Seek more Freedom Results in Debt Bondage

Ranjan is a 38-year-old resident of a Colombo urban settlement which is increasingly under threat

of being razed to give way for new developments. A father of one, Ranjan worked as a security guard before deciding to search for better wages abroad as a house driver. In 2013 and for a cost of SLR150,000, Ranjan was promised a job by an agency which pointed out that he would have to re-certify himself in Saudi Arabia before working as a driver. Until such time, Ranjan would have to carry out whatever tasks assigned to him by his sponsor for a monthly salary of 1000 riyals.

Upon reaching the sponsor's house, Ranjan discovered he had to work for two houses – that of the sponsor and his brother - in order to earn 600-700 riyals of the promised wage. However, after much negotiation, the wages were increased to 1000 riyals with one brother paying 750 and the other paying 250 riyals.

"I had to suffer and endure a lot. Nobody spoke on behalf of me when I started to face problems. Only the person who was working in the neighbouring house advised me to go find some other work. The agency convinced me that it was a good place but I realised once I went there. My work starts at 6.30 a.m. and ends around 10.30 p.m. On the first day, they treat you like their son; from the next day onwards you are treated like an animal"

Determined to overcome these difficult conditions, Ranjan manages to re-learn driving in an old vehicle in the household and borrows money in order to secure the license. Next, in order to free himself from working for both brothers, Ranjan negotiates with the brother of the sponsor who agrees to switch the sponsorship to his name but on the condition that Ranjan works for him to pay off the cost of transferring the sponsorship, according to him about 5500 riyals.

At present, Ranjan is working as a driver and also as a houseboy. "I sometimes can't sleep because I have to work till late. I have to drive 260 km to drop the children at school. When I drive madam to school she doesn't give me food or anything. The first wife buys sometimes but the second does not buy anything".

Currently he has managed to 'free' himself from the house and lives in a separate room with a few of his friends and does some 'side business' by selling small retail items to earn some additional money. When he was granted leave to visit home, the new sponsor made it clear that he would still need to pay off the debt and Ranjan is determined to pay off the debt.

"I came home with nothing. Whatever I brought for my son, was given by one of the 'sisters' who said I should not go empty-handed [...]. I still have to work to pay the 5500 I owe. They took my signature and finger print on some documents that were in Arabic. I'm going back soon because I only have the visa for a month. I feel like if I don't go, I owe these people something because I signed papers to pay them back. I can stay back and not return, but I don't want this hanging on my conscience worrying me that I have not paid a debt I owe. I don't want these debts to fall on my child's head one day".

Despite all these difficulties, Ranjan is more worried about the conditions Sri Lankan women undergo in Saudi Arabia: "Do not send women because they become so vulnerable and abandoned. They are not given breakfast or sometimes lunch. A lot of them run away because they are given the phone to make calls. Men of course have the courage to face these hassles".

Enduring Difficult Working and Living Conditions

Kanthi (38 years), was not a first-time migrant worker when she decided to leave for work in 2016 in order to build her house. Using the same sub-agent who had helped her younger sister to migrate, Kanthi was sent to Saudi Arabia despite her strong reservations about working there. She accuses her sub-agent of cheating her as she was not given the money she was promised by the agency.

Upon her arrival at the workplace, Kanthi discovered that she had to work for three separate houses - that of her employer, the mother of

the employer and another sibling. "Although the agreement said 1,000 riyals I was only paid 900. I called the sub-agent and told him all this and he said, 'after a while, all of this will be sorted out'". With no help from the sub-agent "I told Madam I cannot work like this and to send me home. But she said 'we can't because if we give you a ticket, you have to pay us SLR400,000.'" After several complaints were lodged, both Kanthi and the employer were summoned to the Embassy and it was agreed that she would only work for one house and that her wages would be paid. However, little changed despite this negotiation.

Kanthi would work long hours looking after a baby. She was granted no leave despite the agreement stating that Friday would be her rest day. She also had little to eat, with the refrigerator locked and recalled fainting on several occasions while climbing steps to carry out her assigned tasks. Even though she had her own room, there was no air conditioning, making the warm days unbearable.

She received no medical attention either "Look at my feet. They are swollen. When I was there, they would crack and bleed because the cold and the warm weather was so different. My lips would crack and bleed also and when I could not bear it any longer, I had someone bring me a Vaseline with my own money. That helped a lot. At times, I felt like ending my life."

Although she threatened to leave, Kanthi did not wish to, worrying about what would happen if she did so. "The woman told me one day that a Sri Lankan who was in the neighbour's house had been burnt with boiling water. I retorted saying 'well it's your people who do these things.' Then I kept quiet. I don't generally go to argue because I was scared of what they would do".

Despite this decision to maintain her peace, upon being dropped off at the airport to return home, Kanthi discovered that she could not leave the country because the sponsor had not granted her permission to do so. "I was really helpless and had no one to ask for help. Then this Indian 'brother' asked me why I was crying and when I explained,

he said ‘if you know the number, then call her from this phone’. I managed to call this person I knew who then contacted that woman and within minutes to spare, she granted the permission. It is only then I remembered that she had done the same thing to this other domestic worker and that she had only managed to leave Saudi after three days and after having paid for the ticket from her own money”.

Broken Promises: From Salon to Domestic Work and Crossing Borders with the Visit Visa

Fifty-three-year-old Mumtaz lives with her two daughters in central Colombo. Since her husband’s death, she has managed on her own, both working as a quality controller and renting out a part of her house. However, mounting debt and the tenants not paying the rent for several months, led Mumtaz to decide to take on a job opportunity to work in a salon abroad. With few people to ask for information from, Mumtaz placed her trust in a person she met at the Mosque in November 2016 and despite strong reservations on the part of her family, makes the decision to go to work. As a first-time migrant worker, little to no information was shared with her regarding her job opportunity abroad.

“Until the end of December I heard nothing from her and then suddenly, on January 4th, she asked me to get ready to leave. I didn’t know anything because apparently you have to register at the Bureau right? But I asked anyway and then this woman told me “yes, all that is done”. The moment I stepped into the airport, she handed me to another person and asked that person to accompany me. I was given a visit visa and when I asked why, it was too late because I had already taken that step to go”.

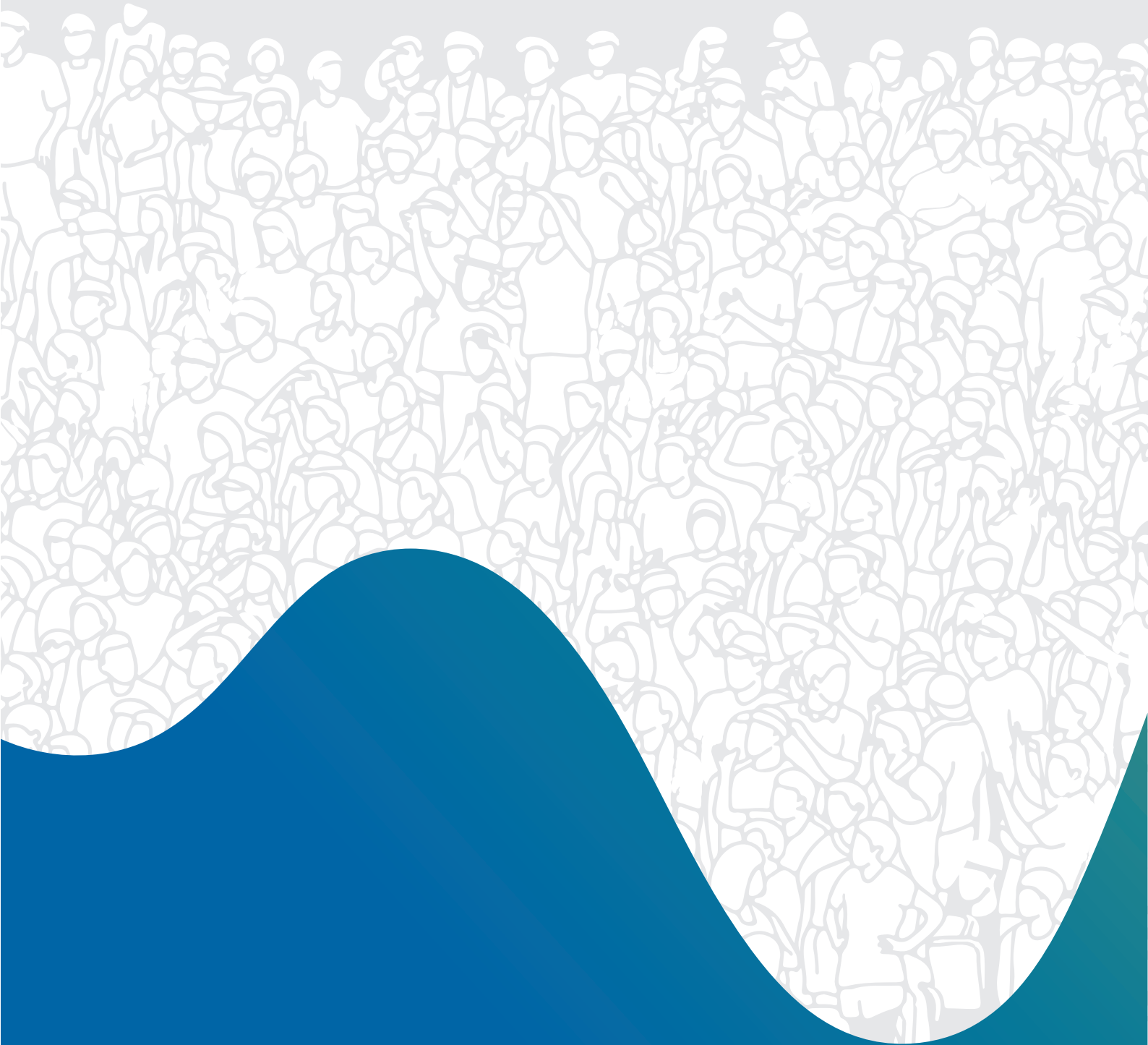
On arrival in Dubai, Mumtaz stayed at the recruitment agency for a couple of days before being sent out to work. In the course of four weeks, Mumtaz was sent to work in three separate houses. At each house, she would spend

around eight days on average, at times under abusive working conditions. The tasks varied greatly and so did the time required to complete the tasks ranging from washing clothes by hand in one house to being under constant CCTV surveillance while she completed the work. Her work hours extended from 4.30 a.m. to past midnight especially when there were visitors to the house. Mumtaz was not paid for the work she carried out in these houses, instead, she accuses the agent of keeping the money to himself.

At the end of the one-month visa period, Mumtaz was taken across the border to Oman by the agent. “The brother of my boss [recruitment agent], he said “Mumtaz, you will have to stay here now, you don’t have a choice”. While she experienced a small reprieve and worked for a family that she deemed were nice to her, Mumtaz was again sent to the recruitment agency as her employer was relocating to another country.

“I also went back to the agency like a fool. We didn’t have much to eat. Just rice with chilies and unclean water to drink. We generally had that one meal for the whole day. Again, I was sent to work in another house, but only for a month and ended up back in the agency”.

Despite appealing to the SLBFE, given her visit visa status, the SLBFE refused to intervene or help her return home. Left to her own devices, Mumtaz managed to leave the house of yet another employer and reach the Sri Lankan embassy. Her eventual return home after spending three months in the Embassy in Oman was funded by her sister who borrowed money in addition to using her savings and those of a friend. “I have been to the CID three times now, I told one of the madams there all that happened to me. They asked for documents and I gave whatever I had with me”. Acknowledging that she was now straddled with more debt, Mumtaz is hoping for a positive outcome from the CID investigation and lives with the hope that her phone and the wages denied to her would be returned.



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