

# Sri Lanka: Criminalising mothers who migrate

Is there an alternative to the Family Background Report?

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**A national debate is brewing around the imposition of the Family Background Report (FBR) that bans women with children under five years from migrating for work overseas. Despite being unconstitutional, violating a woman's right to mobility, contravening Sri Lanka's commitments to ratified international conventions and overtly discriminating against women from the lower social class strata, the Government of Sri Lanka (GoSL), continues to "hang on" to the FBR because of the generally held notion that the mother's presence as the primary caregiver must not be replaced by any other family member, including the father.**

While this value-laden, gendered approach to the care of children and the marginalisation of the father as being unfit to parent, should be a national conversation, the question of whether the FBR, as a regulation, is even working on the ground, also has to be addressed. Research conducted by the Centre for Poverty Analysis (CEPA) and commissioned by the International Labour Organisation to aid the Ministry of Foreign Employment (MFE) on assessing the effects of the FBR on different stakeholders, highlighted existent gaps in an administrative structure that has been burdened with policing prospective female migrant workers' "right" to leave the country for work.

The study, questioned the capacity of the FBR to protect children on two accounts: Despite the regulation, women continue to migrate for work, leaving behind children considered by the GoSL as too young to be left motherless. Rather, systematic yet simplistic alternative pathways have mushroomed to facilitate women's migration trajectories, rendering the administering of the FBR null and void. Secondly, the FBR regulation ignores the children of male migrant workers - who at present, constitute the majority of Sri Lanka's outbound migrant worker population - leaving them beyond the reach of welfare and social assistance that the state provides for such left-behind families. Compounding these issues further, the FBR regulation is implemented within a complex state structure involving different national ministries and levels of government spanning from the Grama Niladhari, the Divisional Secretary (DS) to the Ministry of Foreign Employment and the Sri Lanka Bureau of Foreign Employment. The burden of implementing the FBR is heavy, especially since the locally-based Development Officers (DOs) are assigned the role of policing the lives of prospective migrant workers in order to find out if they are providing the correct information. Hence, rather than helping children whose mothers work overseas, DOs spend over 80 per cent of their time, investigating if the information provided in FBR applications is true and accurate. In short, the administering and imposition of the FBR has been counter-productive, leading to children continuing to remain unprotected and women engaging in riskier, irregular forms of migration in order to circumvent the FBR.

**Protection**

In this context, the larger question is whether an alternative to the FBR exists. While the commitment of the GoSL to protect children in the absence of the parent is laudable, it is of critical importance that such regulations do not impinge on a woman's right to mobility and the right to choose work of her liking. This calls for the GoSL to walk a tightrope by balancing two competing interests; ensuring the wellbeing of children while safeguarding the right of all Sri Lankan citizens to work and travel.

Some of the alternatives suggested here are therefore, informed by the drawbacks noted in the current implementation of the FBR and are offered as options keeping in mind the primary objective of ensuring the wellbeing of all children of migrant workers, regardless of the gender of the parent.

Instead of attempting to reissue the circular related to the FBR thereby, trying to "patch up" a dysfunctional regulation, the Ministry of Foreign Employment should consider the further development and refinement of the Family Care Plan, introduced at the local level. This would capture more details on the families of all migrant workers and leverage the information collected to identify those at-risk of or vulnerable to experiencing educational and health related setbacks. Rather than imposing the burden only on the shoulders of the DOs to collect such information, recruitment agents can play a role in ensuring that those who migrate for work through agencies provide information related to the Family Care Plan which then is shared with Bureau officials and respective officials on the ground. This would help minimise the time and resources spent by government officials at pre-migration phase and focus more on the in-service period where the family requires support and assistance. Another option would be to conduct mandatory pre-migration advisory and counselling session(s) for all prospective migrant workers and guardians of the children at the DS level to ensure that decisions to migrate are not made rashly and that prospective migrant workers can work with the DOs to develop a care plan as part of the mandatory advisory session.

### **Self-reporting mechanism**

Such non-intrusive mechanisms that do not compromise women's privacy, mobility and right to work, can also address some of the key problems associated with implementing the FBR. These would help minimise incidence of corruption associated with securing approval, reduce the time taken to process the FBR application and also reduce tensions that have arisen between different DOs attached to various Ministries at the DS level. More importantly, the replacement of the FBR with a workable alternative will help prevent women in particular, from opting to migrate using risky, irregular pathways. Furthermore, the introduction of a self-reporting mechanism would be able to capture essential data on the families who remain in Sri Lanka, facilitating the monitoring and extension of services to those who require them, thus, mitigating the concerns regarding the impact on children in the absence of a parent – be it mother or father.

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### **P.S.**

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