



ESCR | Newsletter

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LAND GRABS OF NORTHERN FOREST AREAS¹: MANIFOLD THREAT IN THE MAKING

Nature Forum, an organization committed to protect the environment has completed a study on the extent of land grabs of forest areas in the north of Sri Lanka. It covers nearly six districts in the Northern Province. During the study the group identified land grabs of forest area at large, middle and small scale. The article involves two instances of large scale land grab.

In the North there are habitats gazetted under the Department of Wild Life Conservation as protected areas and forest areas gazetted under Forest Department Sri Lanka as conservation and reservation areas. The extent of land covered by both these Departments is nearly 30% of the total land area in the Northern Province. After the war ended there was an extensive collaborative plan by the government and UN institutions² to link these fragmented conservation areas and potential areas for conservation in order to solve or minimise issues such as the elephant-human conflict, water conservation i.e. water for agriculture, protecting the fisheries industry, protection of hydro catchment areas and mangroves; problems which originate due to these areas being highly populated with human settlements. Unfortunately though, none of these plans are being implemented at the moment and consequently many conservation/ reservation forest areas are being severely destroyed over time as a result.

Padaviya Forest Reserve located around the Padaviya water tank and is a catchment area is the worst hit by land grabbing. At present 32,000 acres of this area which has already been taken off the gazette, is being cleared to facilitate human settlements and created agricultural land under the 'L' block of the Mahaveli Development Project. In the future, the Nature Forum sees many complexities faced by new settlers in this area which has been recognised as a catchment area and an elephant corridor. Due to the advocacy work done by the Nature Forum the de-forestation of the 32,000 acres has stopped for now. The Department of Forestry has informed the Nature Forum in writing that a land survey will be carried out in the area and that cleared areas will be restored back as forest areas except for certain areas with less forest cover which the Mahaveli Development Authority has requested to be released to them.

Apart from the destruction of fauna and flora, human displacement could happen in two ways in land grabbing of such forest areas; the new settlers even though they own the land will have to struggle hard to eke out a living due to the existence of wild elephants and a dearth of water; at the same time, the clearing of forests in the catchment area will lower the water levels in the tank, compelling people who are engaged in farming in the area to be displaced. This is even before they experience the adversary effects of the natural mass migration of new settlers into the area vying for the extant, meager resources. Consequently, settlers will not be able to engage in farming practices during the two dry seasons. On the other hand with the clearing of a vast tract of land, the elephants living in the area will start entering human settlements aggravating the human-elephant conflict which will lead to further displacements.

Karuvalankalipuram in the Vavuniya district is a declared forest reserve which includes valuable trees belonging to the ebeinaceae family (kaluwara in Sinhala) which are specific to dry zone forests in Sri Lanka. According to the data of the Department of Forestry the forest area is 5000 acres in extent. At present this area is being cleared and Sinhala people are resettled³ in what could be viewed as creating a Sinhala voter base and changing the demography in the Northern Province by the government⁴. The extensive data collected by the Nature Forum has revealed ample evidence for the displacement of settlers in this newly resettled area consisting of five villages. Many settlers including children have succumbed to snake bites from varieties such as the russell's viper and common krait. There is also an acute shortage of accessible water in the area and water is provided through mobile water tankers or bowsers. It has also been found that some settlers who arrived have left within a week due to lack of infrastructure, resources and livelihood opportunities. Approximately 2,500 out of a total registration⁵ of 7,000 settlers are from the Hambantota district and a few are from the Gampaha district.

The clearing and resettlement in the area is handled by the Sri Lanka Army, the Civil Security Forces and the Mahaveli Authority and the Nature Forum bears evidence that these activities are carried out in an extremely ad-hoc manner without any preparatory planning whatsoever. Through the involvement of the Civil Security Forces and Mahaveli Authority this illegal process has been a 'formal procedure'. These forest areas have never been exposed to human habitation before. The land grabbing activities in Karuvalankalipuram are against Article 7 of the Forest Ordinance 16 of 1907 amended last in 2009. No Environmental Impact Assessment (EIA) has been carried out as required and specified by the National Environmental (Procedure for approval of projects) Regulations No. 1 of 1993, Gazette Notification Number 772/22 dated 24th June

1 This article draws from the presentation made by Mr. Sajeewa Chamikara of Sri Lanka Nature Forum to the network members of the People's Alliance on Right to Land (PARL) on 27th September 2013
2 Department of Forest, Ministry of Disaster Management, Central Environment Authority and UNDP

3 According to Nature Group, this forest reserve which falls into the Mahaveli 'L' area has still not been de-gazetted and thus the resettlement taking place is illegal according to Sri Lankan Law.
4 There is evidence to indicate that food rations to the settlers are provided from World Food Programme indicating involvement of the UN Agencies.
5 Nature Forum found that there is prerequisite that potential settlers have to remove their names from the voting register in the previous location and re-register in this area.

1993. This Gazette Notifications is stipulated by the National Environmental Act No.47 of 1980 amended last in 2000. Consequently, if these unsanctioned land grabbing activities continue to be carried out ignoring the existing, extensive plans formulated by the government itself, their extreme adverse effects will gradually spread to other areas in the island adversely affecting both human and natural resources.

ESCR Team

GOVERNMENT'S DRIVE TO PROMOTE TOURISM THREATENS FISHERFOLK'S LIVELIHOOD AND THEIR RIGHT TO LAND

“This fisher folk’s pension scheme is good. There is nothing wrong with it as the money will be useful in our old age when one cannot engage in fishing any longer. However, at present there are many more issues which take priority in our lives than the pension scheme. For example as fishermen we now pay the government large amounts of taxes through purchasing fishing equipment which is much more than what we pay as premium for the pension scheme”, said Mr. Aruna Roshantha, the President of the United Fisheries Society of Pitipane Parish. Although it was my intention to speak with him specifically of the fisher folk’s pension scheme, his preliminary comment made me curious to better understand the current state of the fisheries industry in the country.

According to Aruna, he had started contributing to the pension scheme for himself as well as for his father in the 90s. However, gradually enthusiasm for paying the premium had died out with the gradual realization of the ‘utter unattractive bargain’ a fisherman would finally obtain in their retirement age¹.

Speaking of the hardships faced by the fisher folk, Aruna said it is very difficult to engage in fishing as a livelihood at present due to non receipt of fuel subsidy for over four months and fishermen being compelled to take loans to purchase kerosene for an exorbitant price. In addition, the prices of all essential goods and services such as electricity and water have increased as well. Due to the debts they have incurred, fishermen are compelled to go out to sea every day and if they fail to catch a considerable haul of fish they sink further into debt.

When questioned about the reaction of the fishing community to the harsh reality of surviving against all odds at present, Aruna stated that in February last year a fisherman

died by police attack² during a mass protest against fuel increases³. Even though the Mahinda Chinthana stipulates numerous policy directions and strategies to be taken to develop the fisheries industry and bring it on par with countries such as Japan and Thailand, ‘development’ policies which aim to attract local and foreign direct investment (FDI) in the tourism sector through leasing of coastal belt areas to investors threaten the right to land and livelihoods of the fisher folk and the future of the fisheries industry. At present the fisher folk want to have a dialogue with the government authorities about the future preservation of their livelihood. But they are striving to eke out a living and are completely distracted and weary of fighting to overcome the issues they face daily.

Further explaining the present situation, Aruna said that the present modus of operation of the government’s newly founded Fisheries Cooperative has been to purchase fish from foreign ships and sell to the consumers in order to gain profits; thereby ignoring trade with the local fishermen. This practice has compelled fishermen to dispose tons of fish back into the lagoon as they are unable to sell their fish. He also mentioned about the government’s ambiguous signals regarding illegal fishing. Prior to the provincial council elections which was held in the North and North Eastern provinces, the government unofficially allowed fishermen to engage in seine fishing, which is considered illegal up to a distance of 7km from the shores of Sri Lanka; a move considered to be a populist, electoral campaign initiative.

Aruna Roshantha has done much to promote conditions of life of the fisher folk in his area and enhancement of the profitability of their livelihood with new strategies - both in his official capacity as the President of the Fisheries Society and in his personal capacity. He strongly believes that in order to develop the fisheries industry and to improve social attitudes towards fishing as a dignified livelihood in Sri Lanka, there should be a continuous and transparent consultative process among all the relevant stakeholders – fisher folk, the government, civil society, the private sector, investors and as appropriate, the Church.

Densil Pradeep

National Fisheries Solidarity Movement (NAFSO)

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- 2 Miyuru Gunasinghe (2012). National Human Rights Commission of Sri Lanka: Marionette of the State, Law & Society Trust, page 3. http://www.lawandsocietytrust.org/PDF/resource/marionette_state.pdf
 - 3 In February, 2012 price of a liter of kerosene was abruptly increased by Rs. 35 to Rs. 106.

1 A fisherman or spouse will receive Rs. 1000 per month as the pension, which most of them spend on medication.

STORY IN PICTURES

IN WHOSE INTEREST?: MEGA DEVELOPMENT PROJECTS IN HAMBANTOTA

In the morning of 23rd November 2013 the residents of Handilla, Hambantota on Airport road witnessed a tragic death of four wild elephants due to electrocution¹. These deaths were located at the ‘elephant corridor’ within the Managed Elephant Range (MER). Two adult females and two young elephants –one about six year old and the other about two years old, lay dead as a result of coming into contact with an electric fence, the electricity for which had been illegally tapped from a power line of a house. The villagers said that they had been part of a herd of about fifteen. The aggravating state of conflict between elephant and man in Hambantota due to the mega construction sites of the Suriya weva Mahinda Rajapaksa Play Ground, Mattala Air Port and the Magampura International Harbour has been pointed out by the government authorities as well as the residents in Hambantota². The stark brutality of the incident which even shocked the residents of the area who frequently suffer from the roaming wild elephants clearly indicate the insufficient measures taken to resolve the issue in comparison to the rapid development process taking place in the area.

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- 1 Four elephants killed within Managed Elephant Range, Sunday Times, 24th November, 2013, <http://www.sundaytimes.lk/131124/news/four-elephants-killed-within-managed-elephant-range-74512.html> and Development forces jumbos to rebel, the Nation, 1st December 2013, <http://www.nation.lk/edition/news-features/item/23282-development-forces-jumbos-to-rebel.html>. Also see Kumudini Hettiarachchi, Development out of step with conservation in Hambantota, Sunday Times, 16th June 2013, <http://www.sundaytimes.lk/130616/news/development-out-of-step-with-conservation-in-hambantota-48848.html>
- 2 In whose Interest?: Mega Development Projects in Hambantota (video) <http://www.youtube.com/watch?v=sk5hRKts0so>



WOMEN UNIONISING: CHALLENGING TRADITIONAL UNIONISM

During the last three years Sri Lanka has seen a revivalism of trade-union activities with the stands of the Free Trade Zone's Workers Union and The Women's Centre (FTZWU & WC), the Federation of the University Teachers Association (FUTA), and the Ceylon Teachers Congress (CTC). This has given a new life span to unionism and revitalized the whole notion of trade-unionism.

In general the culture of unionism in Sri Lanka is predominantly masculine and it appropriately endorses women's unpaid reproductive work in households¹. This had kept women workers subordinated within a primarily masculine union culture, limiting them to be passive union members without agency. The transformation of this nature of women's subordination is dependent on the "redefining of work, economy and nationhood (community) as well as empowering women within union practices and processes"². It is in this context that I thought it was appropriate to look at an emerging trend in unionism in Sri Lanka which was initiated at the beginning of the 21st century, contrary to the mainstream unionism in the country and is giving more authority to women workers where they are active participants and influencers.

This trend involves the formation of trade-unions by women to look into the interests of women workers. Two good examples for such unions are the Red-Flag Movement formed in 2005 by Menaha Knadasamy, and the recently established Free Trade Union of the Stand-Up Movement which is a civil society organisation formed in 2008 by Ashila Niroshi Mapalagama. These unions have been formed partly as the existing unions have not been able to adequately address the needs of women workers. They epitomise freedom from women's subordination within traditional unionism.

The Red-flag movement mobilizing domestic workers from the plantation sector was formed due to the non-existence of women in trade unions' decision-making strata which had led to omitting of women's issues from the main agenda or the suppression of such issues³. The Red Flag Movement aims to support women workers in taking on leadership roles and to mainstream women's issues as workers' issues within the trade union movement⁴.

The Free-Trade Union was formed by the Stand-Up

Movement in 2013, in the process of expanding the social security programme which has around 250 free trade zone workers as beneficiaries, works for the protection of workers' rights and provides monetary assistance to workers⁵ in emergencies. The Stand-Up Movement, a collective of workers who have come together to work on protection and promotion of workers' rights, has the ability to mobilize workers on common issues as it has collectivity in demanding. They are a partner organization of the umbrella trade-union collective 'Alarm Network', and is considered an organization representing the workers (mostly women) of the FTZ.

What is important about these unions are not just the fact that they are challenging the traditional unionism structure, but also that they are at the same time creating a space to address the issues of women workers such as gender based discrimination and facilitates worker mobilisation against such issues.

The special nature of the two unions mentioned above is that they place themselves within the larger rights based discourse and democratization, identifying themselves as civil society actors: where their trade unionism can be identified as Social Movement Unionisms. This concept has made it possible for women's unionism to take place beyond the four-corners of the workplace by bringing their grievances within the larger rights based dialogue, enabling the possible articulation of gender issues; and thus to generate a social space for the sustenance of women's trade unionism and agency.

Buddhima Padmasiri

5 Ashila Mapalagama, personal communication - 26 October 2013

PANAMA REVISITED....

"Our houses in the village were set on fire and we were chased away on 17 July 2010¹. Many villagers – at least over fifty persons - went to the police and lodged complaints against this arson attack. But to date the police has not carried out an inquiry into it despite our many requests. In fact, we cannot proceed with any legal redress as we have been unable to acquire the necessary B report from the police about the incident," said Mr. G. Somasiri, a villager from Ragamwela as well as the local leader of the Organisation for the Protection of Panam Paththuwa (OPPP).

The crux of the matter is that the government of Sri Lanka, in its bid to transform Sri Lanka as the ultimate tourist destination has encompassed the land of Panama area (Ampara district, Eastern Province) belonging to the villagers, for the purpose of developing the Arugam Bay Tourism Economic

1 Mr. Somasiri mentions that the arson attack coincided with the signing up of the 'Sustainable Tourism Development Protest Project' of \$18million between the World Bank and the Government of Sri Lanka in 2010, Peasant Groups Hit World Bank for Grabbing Ancestral Land in Panama' by April Porteria, *ESCR Newsletter*, Issue 7, September 2012.

1 Biyanwila, *The Labour Movement in the Global South: Trade Unions in Sri Lanka* (2011), pp12
2 *ibid*
3 Global Fund for Women. Red Flag Movement. <https://grants.globalfundforwomen.org/GFWSearch/index.php?id=27734> (accessed September 17, 2013).
4 Hivos. Red Flag Women's Movement. <http://www.hivos.nl/dut/community/partner/10009952> (accessed September 17, 2013)

Zone². Consequently, the Navy has encroached on a portion of land including the lagoon and the Samudragiri Naga Vihara Buddhist Temple³ and located their South-Eastern head quarters and started building permanent structures in the lagoon. Thus the Navy has prevented villagers from engaging in their livelihood of fishing and related activities like prawn farming in the lagoon. This is in addition to denying them access to their houses and land in the village to carry on with their lives and livelihood of farming. The Buddhist priest of the temple is denied access to the temple as well. This resistance against the villagers is taking place despite a Magistrate's Court decision stipulating that the villagers are the rightful owners of the land in Panama.

Due to the fact that only one villager and his family has been allowed access to the village land because of his influential contacts, the villagers of Panama held a protest against the injustices they were being subject to. They were able to meet the Ampara District Secretary Mr. Neel De Alwis as a result of this protest action. Upon his request, the villagers had submitted legal documents as evidence of their ownership to the land. However, to date no solution has come forth from the local administrative body. The villagers had also met the Senior Superintendent of Police (SSP) Ajith Rohana prior to his transfer as the Police Spokesman, requesting him to precipitate the inquiry into the arson attack the response has been negative so far from the said SSP and his successor.

This ongoing situation can be cited as a deliberate deprivation by the state of the right to work and livelihood, right to land, right to traditions and culture, way of life of the villagers of Ragamwela, Shastrawela, Ulla, Ulpassa, Egodayaya and Horewkanda, in the name of 'development'. This is wholly against provisions and spirit of the UN Convention on Economic, Social and Cultural Rights which Sri Lanka has ratified. The Secretariat of the Asian Peasant Coalition (APC) in a media communiqué disclosed that they submitted the report of the International Fact Finding Mission on Panama to the office of Mr. Olivier de Schutter, UN Special Rapporteur on Right to Food, on 11th October 2013 in Geneva⁴. It also revealed that Ms. Sylvia Mallari, APC senior researcher, met with Mr. Ulrik Halsteen, the Human Rights Officer of the Special Procedures Branch, the Office of the United Nations High Commissioner for Human Rights.

Anushaya Collure

2 The report of the International Fact Finding Mission (IFMM) The Rightful Owners: Peasants Defending Ancestral Lands against Tourism Zone in Panama, Southeast Sri Lanka (<http://www.asianpeasant.org/sites/default/files/Final%20Rightful%20Owners%20IFFM%20Sri%20Lanka%20report%20for%20UNCHR.pdf>)

3 This temple is of an archeological value as there are two stone inscriptions in its premises.

4 Letter IFMM to the Special Rapporteur on right to food <http://www.asianpeasant.org/sites/default/files/Letter%20to%20UN%20Special%20Rapporteurs%20Sri%20Lanka%20IFFM.pdf>

CRISES, VULNERABILITY & POVERTY IN SOUTH ASIA: PEOPLES' STRUGGLES FOR JUSTICE AND DIGNITY BY SOUTH ASIA ALLIANCE FOR POVERTY ERADICATION (SAAPE)

*Crises, Vulnerability & Poverty in South Asia: Peoples' Struggles for Justice and Dignity*¹ is the fourth report published by South Asia Alliance for Poverty Eradication (SAAPE). The report features the voices of people against the injustice and indignity caused by crisis-led vulnerability and poverty across the sub-continent – Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka - and proposes sustainable alternatives. Thus, this report provides a critical review of the broad economic policy regime adopted by the South Asian states, the actors and factors influencing or dictating them. The current report is the fourth in the series of SAAPE's publication on poverty analysis and alternative development paradigms.

The first report published in 2003 was an introduction to the status and nature of poverty in South Asian countries. The second, published in 2006, focused on five thematic areas; food sovereignty, gender justice, labour rights, peace, justice and demilitarization, as well as democratic and just governance in the region. The third report of 2010 analysed the poverty and vulnerability cycles, capturing the narratives of the survival and struggles of people in the region.

Enclosed is the status of Sri Lanka as included in the Report:

Sri Lanka is a multi-ethnic, multi-lingual and multireligious state. The main ethnic communities are the *Sinhalese* who speak Sinhala, comprising around 74.9 per cent of the population. The *Tamils* who historically settled in the Northern and Eastern provinces speak Tamil and comprise around 15.4 per cent of the population. Other ethno-religious communities are the *Moors* (that is, *Muslims* excluding *Malays*), originally Tamil-speaking but large numbers of whom are also now Sinhala speaking. They comprise around 9.2 per cent of the population. None of these ethnic, linguistic or religious communities are homogenous. Thus, there is caste differentiation within the *Sinhalese* and *Tamil* communities; regional cleavages within the *Sinhalese*, *Muslim* and *Tamil* communities, and there is differentiation based on sect and habitation within the *Muslim* community. Needless to say, class stratification exists in all these communities.

1 Download the full report at www.saape.org

SRI LANKA'S WOMEN MIGRANT DOMESTIC WORKERS: DISCRIMINATED HERE AND ABROAD

Sri Lanka's ethnic conflict arises out of the failure and inability of dominant political actors to reform the state; to accommodate the sharing of state power with national minorities, especially the *Tamils* of North-Eastern origin and the equality of ethnic and religious minorities with regard to access to higher education and public employment, as well as the protection of their linguistic and cultural rights.

Extra-judicial killings, enforced disappearances, custodial torture, detention without trial, impunity for abuses by state security forces and public officials, violence and intimidation against the media and human rights defenders have continued outside of the former conflict zone. The victimisation of *Sinhalese* as well as *Tamils* remains unabated even in the absence of war.

On the economic front, the growth of a neo-liberal economic system, particularly the export manufacturing sector provided relatively limited direct employment while economic liberalization drove many import-substituting industries to closure with the loss of employment among older male workers and thus, promoted growth at the expense of inequality². The most important source of foreign earnings for decades has been migrant workers' remittances, largely sent by women employed as domestic labour in the Middle East. The receipts from the export of tea are the second largest contributor of foreign exchange followed by industrial goods - largely, ready-made garments sold in the European Union and the USA. Thus, women's wage labour is the mainstay of Sri Lankan economy³.

The urban and rural poor may be of *Sinhalese*, *Tamil* or *Muslim* ethnicities. The estate-poor are Tamils of recent Indian origin. Members of marginalised and depressed social groups are over-represented amongst the poor in proportion to their percentage in the population. The incidence of poverty in male-headed vis-à-vis female-headed households averages the same in national aggregate; but, if differentiated by sector, there are more poor female-headed households as against male-headed in the urban sector, in comparison to the rural and estate sectors.

Circular 13/2013, Paragraph 2, of the Sri Lanka Bureau of Foreign Employment which came into effect on 15 July 2013 lays down a 'mandatory requirement of obtaining clearing certificates for domestic sector female workers preventing unqualified domestic housekeepers going abroad'. The stated purpose is to discourage women from migrating abroad for low skilled work. In 2011 the total number of women migrating was 127,090 or 48% of the total 262,960, of which 41% were domestic workers. They have been the highest contributors to foreign exchange earnings in the country with total migrant worker remittances amounting to US\$ 6 billion in 2012.

This policy decision is however absolutely discriminatory towards all women who wish to migrate abroad as domestic workers. It violates their fundamental constitutional rights to freedom of movement, to engage in an occupation of their choice and to equality, to not be discriminated against on grounds of gender. Male migrant workers irrespective of their family background have no such restrictions imposed upon them and place the burden of proof for familial responsibility and child care on the woman's shoulders creating further gender based social stigma and exclusion. It disallows due recognition of women as a valued component of the labour force and independent beings entitled to the all political and socio-economic rights. This is despite the unquestionable fact that in Sri Lanka, the three industries earning the highest amount of foreign exchange rely on a predominantly female labour force; international labour migration, the apparel industry and tea export industry.

The circular title itself is ambiguous and speaks of 'preventing unqualified domestic housekeepers going abroad'. This raises the question whether the Sri Lankan government is compulsorily and derogatorily labeling women as unqualified merely because they choose to migrate as domestic workers. The provisions of paragraph two lack clear definition of the 'actual state of affairs at home' which potential women migrants need to inform authorities of. The information gathered by recruitment agencies for this purpose includes: marital status, name of guardian of migrant worker, details of any children, guardian for the children and their relationship to the migrant worker, health of children's guardian and requires the signature of the children's guardian undertaking responsibility for them. The information requested of a guardian for the potential migrant worker highlights further discrepancies, as surely an adult woman of sound mind would hardly require a guardian. This information is certified by the relevant Grama Niladhari and later by a Development Officer

2 Gunatilaka, Ramani; Wan, Guanghua; and Shiladitya Chatterjee (2009), Poverty and Human Development in Sri Lanka, Asian Development Bank: Manila.

3 Institute of Policy Studies (2008), Development Strategies, Welfare Regime and Poverty Reduction in Sri Lanka, Country Paper for UNRISD Project on Poverty Reduction and Policy Regimes, United Nations Research Institute for Social Development: Geneva.

assigned by the Ministry of Foreign Employment Promotion and Welfare and attached to Divisional Secretariats.

The information requested which supposedly provides evidence of the actual state of affairs at home is wholly deficient in exposing issues of domestic violence and other forms of abuse, alcoholism of spouses, extreme poverty, lack of local livelihood opportunities, social stigmatization including caste and gender based discrimination and other issues or personal preferences which drive women to migrate abroad for work. The information is also not reflective of alternate but equally strong safety networks and social systems which may exist to support women workers with families. Analysis of such implications and backgrounds would depend on individual Development Officers and ergo subject to personal prejudices. This process also implies that if the husband/partner is unwilling to undertake signed legal responsibility for the children, the woman may not be allowed to migrate – negating the natural accountability of a husband or father for the family. Also, what solutions or relief is available to single mothers?

The entire certification policy places the onus upon the woman in a highly discriminatory and unfair manner. If she is unable to prove child/ family care arrangements, she may be disallowed from migrating. Further, the burden is directly upon the most marginalized and poverty stricken women as it is usually they who migrate as domestic workers. More skilled or professional women with similar home conditions have no such restrictions placed upon them; neither do men of any skills level even though they too are subjected to issues of trafficking, abusive working conditions and other irregularities within migration. The effectiveness of this scheme is also in doubt with nearly 100,000 women migrating each year for domestic work, the ability of the GN or Development Officers processing all such applicants' details seems practically improbable if not utterly impossible.

The responsibility to ensure safe outbound labour migration especially of women, is primarily upon the labour sending government in the protection its citizens and cannot and should not be transferred onto women migrant workers. The welfare of children left behind should be the natural responsibility of the spouses, partners and families of migrant workers, monitored by relevant local government authorities. The National Labour Migration Policy 2008 which provides for the welfare of the families of migrant workers should be implemented genuinely and effectively. If the government wishes to discourage women from migrating for low skilled work, the onus should be upon the government to provide them with alternative local livelihoods. Circular No. 13/2013 can only ever be considered discriminatory towards women and marginalize and penalize the low skilled and poverty stricken even further.

Miyuru Gunasinghe

LAWS IMPOSED FOR GOOD GOVERNANCE CREATE CRITICAL HEALTH ISSUES IN THE COUNTRY

Very recently the leading Human Rights activist Mrs. Nimalka Fernando was subjected to a harsh public smear campaign for her response that the government should legalise sex work in Sri Lanka, in which her life was also threatened through radio programme of the Commercial Channel of the Sri Lanka Broadcasting Corporation¹. This incident clearly indicates the crippling social stigma attached to the issue of sex work and sex workers. It is tragic in every way that the government authorities and the policy makers do not perceive the danger Mrs. Fernando alerts them on one of the critical health issues in the country – spreading of HIV/AIDS – and instead allows state media to vilify the ‘messenger’.

There are an estimated 41,000 female sex workers in Sri Lanka and an estimated 100,000 and 150,000 people use the services of female and male sex workers per day². The categories are divided according to the location in which they base their work: brothels; street walking; shanty and house based; lodges, inns and hotels; massage parlours; restaurants, night clubs and karaoke bars; and mobile or vehicle based. The sex workers are one of the key groups which belong to the most at risk category in terms of contracting HIV/AIDS, posing a grave threat to the population of the country.

In Sri Lanka, the two archaic laws that make sex work illegal in the country are; *an Ordinance to amend and consolidate the law relating to vagrancy* enacted in 1841³ and *Brothels Ordinance* enacted in 1889. Owing to the fact that the former law is not specifically on illegality of sex work but on vagrancy, its implementation has created many discriminatory issues towards female sex workers - especially the ones belonging to the non-affluent social class. Despite the illegality and social stigma regarding the profession, there is a considerable demand for sex work in the country and it seems to be a lucrative industry. On the other hand, due to the same reasons, sex workers are highly exploited and deprived of many rights entitled to them as human beings.

- 1 Maheesha Mudungamuwa, Call for legalizing prostitution, The Island, October 27 http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=91017 and Niranjala Ariyawansa, Protecting the Sex Workers, Ceylon Today, November 27, <http://www.ceylontoday.lk/59-46646-news-detail-protecting-the-sex-workers.html>
- 2 Feizal Samath, Archaic Laws Stymie HIV/AIDS Work in Sri Lanka, Inter Press News Agency, July 16, 2012 <http://www.ipsnews.net/2012/07/archaic-laws-stymie-hiv-aids-work-in-sri-lanka/>
- 3 The Police arrests are made based on the sections 3, 4, 7, 9 and 11. Although Section 3 (b) indicates that ‘every common prostitute’ wandering in the public street or highway is considered as a person who are deemed idle and disorderly persons. But the ordinance does not define ‘every common prostitute’ http://sangram.org/Download/Laws_in_south_asia.pdf

According to the statistics of the National Sexually Transmittable Diseases (STD)/AIDS Control Programme (NSACP) at present there are 4200 people who have contracted HIV and at the end of 2012, 1649 cases HIV cases had been reported. These people come from many walks of life. The Global HIV/AIDS Response: Progress Report 2011 by the UNAIDS mentions that in the Asian region ‘the links between use of/ injecting drugs and sex work (both people who inject/use drugs and who also buy sex, and sex workers who also inject drugs) eventually generate a more extensive epidemic among sex workers and their clients. The male clients then transmit HIV/AIDS to their wives and girlfriends⁴. Therefore, the time is appropriate for the government to engage effectively with the issue of sex workers and sex work as it is illogical to imagine that with punitive laws sex work as a profession will be eliminated from society. Instead, in reality the risk of HIV/AIDS turning to latent levels is possible with the social stigma which basically deprives the sex workers from accessing regular health checkups among other basic rights as a human being living in dignity.

In this context it is crucial that the government execute the relevant policy decisions to remedy the status with regard to sex workers in a manner that brings a concrete solution in controlling the prevalence of STDs and HIV/AIDS in society. The meager efforts taken with regard to prevention of STDs and HIV/AIDS by the Ministry of Health with the assistance of a few non-governmental organizations in selected areas at present could be only described as inadequate in terms of searching for effective solutions for the protection of the human rights of sex workers.

Sanjeewa Gamage

4 Global HIV/ AIDS Response : Progress Report 2011, pp 29, http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2011/201111130_ua_report_en.pdf



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