

CHAPTER 1

International Labour Migration and Sri Lankan Female Domestic Workers

Introduction

Migrant labour has been an important factor in labour force growth in host countries. Labour migration in the nineteenth century was mainly temporary or circular. People migrated to regions such as the United States and Southeast Asia which were associated with industrialisation and production of raw materials. In Asia, migrant workers initially migrated under indentured labour conditions to the least populated areas mainly for agricultural and mining work. A large number permanently settled in the countries in Southeast Asia where they went for work. Contemporary migration patterns are different from these older migration flows in terms of the nature and composition. Current labour migration flows are characterised by temporary guest worker programmes/short-term contracts and are also gendered (Castles & Miller, 2003; Morokvasic, 1984; Zlotnik, 2003). The demand for guest workers comprises largely low-skilled workers category who take up 3-D jobs (dirty, dangerous and demeaning) that local populations normally refuse to engage in. West Asian countries, including Saudi Arabia, are classic examples of this pattern. These low-skilled jobs exist in West Asia in two main sectors: construction and domestic work. Large numbers of workers, mainly women from lower socio-economic backgrounds in developing countries, including Sri Lanka, make up the domestic labour force in West Asia and other countries. These women are often underpaid and/or unpaid, face systematic exploitation and are deprived of protections.

Consequently, the protection of migrant workers' rights has become a major concern of the International Labour Organisation (ILO) and the United Nations (UN) and these organisations have adopted several international conventions to safeguard migrant workers' rights and to look after their wellbeing. Over time, governments in both labour origin and destination countries have developed governance structures and policy instruments to deal with the increasing numbers of men and women who migrate for work on a temporary basis. Some countries have ratified international conventions to protect migrant workers and have entered into memoranda of understanding with destination countries. Simultaneously, there have been attempts in labour sending countries to mainstream labour migration into national development planning. Nonetheless, reports of

labour abuses and denial of human rights in the destination countries have risen. Various migrant labour advocacy groups and human rights organisations continue to demand better conditions, rights and guarantees through labour laws, standards, protections and policy reforms for vulnerable migrant groups, especially female domestic workers.

There are various research studies and policy reviews conducted by multilateral agencies on the topic of labour migration, especially of domestic workers. These studies reveal widespread abuse and irregularities in the process of labour migration from countries of origin to destination countries. Importantly, throughout the migration process the vulnerability of migrant domestic workers has been a matter of concern for many groups. These concerns range from charging exorbitant fees to physical and sexual abuse and even homicide of workers. The increase in malpractices, ill-treatment, exploitation and abuse of migrant domestic workers seriously bring into question the potency of the prevailing protective measures, policies and procedures of both the countries of labour origin and destination. While identifying some policy gaps, researchers, practitioners and various organisations stress the need for changes in policies and governance structures to protect migrant domestic workers' rights and to ensure their wellbeing and safety, for example by changing gender-neutral policies to gender-sensitive ones for the reduction of inequalities.

1.1 Background to the study

Asia is the largest source of temporary migrant workers worldwide, including large intra-regional flows (IOM, 2008). Labour migration in Asia has two important dimensions: the westward and eastward direction of labour movements and the feminisation of labour migration. First, the westward direction of labour flow is more prominent than the eastward flow. The westward flow is to the Gulf Cooperation Council (GCC) countries, which include Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. The GCC is a hub for thousands of labour migrants from neighbouring Asian countries and the destination countries permit only temporary migrants, both skilled and unskilled, for jobs on fixed term contracts. Second, gender segregated employment niches in the GCC countries have promoted the feminisation of labour migration, resulting in the demand for low-skilled women domestic workers.

The cross border migration of Sri Lankan workers has been on the rise for the last four decades. The Sri Lankan Government regards overseas employment as a safety valve for the high level of unemployment in Sri Lanka and also as a solution to excessive trade deficits. The migrant workers' remittances are seen as a vital source of development funds for the government. In 2009, the total value of remittances recorded as private transfers was Rs.302,801 million (approximately US\$2,422 million), with West Asian countries contributing nearly 60 percent of the total amount (Central Bank of Sri Lanka, 2010). Inward remittances have become the largest income source in the country. In 2009, 22.68 percent of the total labour force, approximately 1.7 million Sri Lankans, were employed overseas (SLBFE, 2010). West Asian countries dominate the foreign employment market for Sri Lanka, accounting for more than 90 percent. In 2009, the main destinations for Sri Lankan workers were Saudi Arabia (31.5 %), Qatar (17.7 %), Kuwait (17 %), the United Arab Emirates (16 %) and Jordan (3.6 %). In 2009, 163, 935 people (65 percent of the total) migrated for unskilled jobs, including domestic work. The domestic workers' share of total migration is about 90 percent, showing a high concentration.

As Sri Lanka is a major labour exporting country in Asia, the Sri Lankan Government has taken several proactive measures to enhance this valuable market. It has introduced policies, procedures and regulatory measures to manage the Sri Lankan migrant workers overseas. These include the establishment of the Sri Lanka Bureau of Foreign Employment (SLBFE), regulation of private recruitment agencies, expansion of foreign missions in major destination countries, introduction of pre-departure training courses, model employment contracts and mandatory registration with the SLBFE. However, migrant domestic workers continue to face many challenges including violations of employment contracts by employers and in some cases even loss of life. In 2009, the SLBFE received 12,061 complaints, of which 73 percent (8,811 complaints) were from domestic workers (SLBFE, 2010). One shocking example of abuse in recent years was the nail torture of a 49 year old Sri Lankan domestic worker in Saudi Arabia.¹

¹ Saudi Arabia: domestic worker brutalized (see <http://www.hrw.org/news/2010/09/02/saudi-arabia-domestic-worker-brutalized>)

Feminisation of labour migration² and migrant domestic workers

Decades ago, labour migration was considered a male dominated movement and women were associate migrants. Since the 1960s global migration rates for women have remained high both in terms of the total number of women migrants and their share of the world migration stock (Zlotnik, 2003, pp. 17-19). Women migrants outnumber their counterparts in developed regions which is estimated at 51.6 percent of all migrants in 2010 whereas the corresponding figure for the developing world estimated to be 44.6 percent (ILO, 2010b, p. 26). Moreover, since the mid 1980s, researchers (Campani, 1995; Heyzer & Wee, 1994; Hune, 1991) have shown that women workers predominate in migration streams compared to young, economically motivated males. The feminisation of migrant labour is concentrated in the service sector (Asis, 2004; Cheng, 1999) which includes unskilled and semi-skilled, so-called 'feminine' occupations (Bandarage, 1998; Giles & Arat-Koc, 1994). Domestic work is one of these niche areas.

These migrant domestic workers are labelled as 'housemaids', 'domestic helpers', 'household service workers', 'servants', 'nannies', 'housekeepers', 'cooks' or 'cleaners'. This employment trend has been classified as part of 'global care chain' or 'globalising reproduction' in different contexts. Care chains are comprised of households which transfer providing of caring tasks from one person to another on the basis of power axes such as gender, ethnicity, social class and place of origin (INSTRAW, 2007, p. 1). Migration of women is part of a global care chain link between people based on paid or unpaid caring work. The 'crisis of the domestic sphere' (Giles & Arat-Koc, 1994), or 'care gap' (Parreñas, 2001) or 'care deficit' (Ehrenreich & Hochschild, 2003) in wealthy countries has been filled with migrant labour from poor countries. The chain of care stretches from developing countries to developed industrialised countries.

The plight of migrant domestic workers is well documented worldwide as one of the most vulnerable groups that are subjected to abuse and exploitation both in their home country and in destination countries. Since they have no legal status in the destination countries of West Asia due to the precarious nature of labour laws and the informal and unregulated nature of their workplaces in the domestic sphere the level of vulnerability increases and

² The feminisation of migration is defined as the growing participation of women in migration. Women now move around more independently and no longer in relation to their family position or under a man's authority (IOM, 2004, p. 24)

it takes many shapes and forms. They face multiple forms of discrimination and disadvantage and are vulnerable to exploitation and abuse at each stage of the international migration process (ILO, 2003c; United Nations, 2006). These include violation of labour rights from poor working conditions to forced labour and human rights violations ranging from insults with derogatory remarks to sexual harassment and even rape. Migrant women tend to face more obstacles and discrimination than male migrants due to the modes of entry open to them and the nature of jobs they perform (Piper, 2006, p. 146).

Researchers, practitioners and various organisations stress the need for changes in policies to protect migrant domestic workers from the above mentioned issues (Grant, 2005; HRW, 2010b; Manseau, 2006; P. Martin, 2006; Wickramasekara, 2004). Further, some researchers contend that gender is a missing element in migration policy approaches (Carling, 2005; Donato et al., 2006; Fitzpatrick & Kelly, 1998; Piper, 2005, 2006). Others relate shortcomings in policies to cultural politics (Moors, 2003; Silvey, 2006), gender politics (Diebert, 2000; Kottegoda, 2006; Silvey, 2004) and gendered political economy (Chang, 2000; Chin, 1998; Constable, 1997; Gamburd, 2002; Parreñas, 2001). Piper (2006, p. 133) argues that politics and policies underline the whole process of migration. These authors call for gender-sensitive migration and labour policies because gender-relevant national policies can influence migration through prohibitive, selective, permissive, promotional or expulsive rules of exit that may affect men and women migrants differently (Boyd & Grieco, 2003).

International instruments and protection of migrant workers

Multilateral agencies such as the UN and ILO have produced human rights treaties, conventions and guidelines to protect migrant workers. The specific ILO conventions related to migrant workers are Migration for Employment Convention (Revised) (No.97) 1949, and Migrant Workers (Supplementary Provisions) (No.143) 1975, and the recently adopted Domestic Workers Convention (No.189) 2011. The 1990 UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICMW) is a comprehensive instrument regulating international migration. However, the level of ratification of these conventions is low and also very slow (see Table 2.2 for details).

1.2 Research problem

This study examines the governance structures, policies, procedures and practices that have been operating in Sri Lanka in its role as a labour brokerage state and in Saudi Arabia as a destination country, and to assess how the institutional frameworks and measures contribute/do not contribute to make migration more equitable in providing protection and decent working conditions for Sri Lankan domestic workers. Sri Lanka as a labour origin country is engaged in the global marketing of workers in cooperation with private capital, thus creating an international labour migration industry (Tyner, 1998, cited in Leitner, 2002) or a labour brokerage (Rodriguez, 2010). ‘Labour export’ denotes that labour is considered as a commodity or export product. In such a context, state involvement is vital in regulating and promoting labour migration and ensuring rights, working conditions and protections. Yet, there are reported weaknesses in the governance, policy frameworks and operations of migration process, labour laws, employer-employee relations and outcomes of migration. Thus it is essential to review and examine existing governance structures, policies and procedures from the perspective of those in charge of the labour migration process in labour origin and destination countries, as well as from the perspective of migrant workers who experience the effectiveness or otherwise of such frameworks. This is especially necessary when culturally, politically and economically different norms and practices prevail in the labour origin and destination countries, offering advantages to some segments of society and disadvantages to others.

The thesis revolves around the effectiveness of labour management regimes in both Sri Lanka and Saudi Arabia, workers’ access to information, wellbeing and inequality issues, and the level of protection offered by the two countries to migrant workers in comparison to the standards set by multilateral agencies such as the ILO, and countries such as the Philippines that have set up elaborate mechanisms for Filipino migrant workers. The thesis thus focuses on the role of Sri Lanka as a labour brokerage state, the role of Saudi Arabia as a labour importing country and the role of the institutions and frameworks of both governments in making labour migration a fair, secure and equitable process from the perspective of migrant workers. The thesis examines Sri Lankan governance structures, laws and policies relating to the migrant domestic workers’ needs and problems faced, the strengths and weaknesses of migration structures and employment

structures in Saudi Arabia in addressing female domestic workers needs and issues faced, access to information, their wellbeing and working conditions and equity issues in terms of labour rights and human rights protections.

1.3 Conceptual framework

Managing labour migration is complex. International labour migration is organised through either bilateral agreements or institutions of both countries of origin and destination, employers, recruiting agents, non-governmental organisations and migrant workers. The policies and mechanisms of labour management have also evolved over time due to a range of political, economic, commercial, strategic, and welfare interests of states. As a totality, these changes affect different groups on the move in different ways. That is, some interpret such changes as equitable and others as inequitable. The perspective of government can be biased toward labour regulation, promotion and increasing the remittances, where labour protection and rights take a lower priority. This research aims to uncover these inequalities and gaps in the related governance structures, policies, procedures, laws and regulatory frameworks and compare them to the legitimate expectations of migrant workers and international standards. This study in particular, examines the work of female domestic workers in the context of competing interests and needs of a labour origin country, Sri Lanka, and a labour destination country, Saudi Arabia, with a focus on governance structures, labour laws, migration policies and mechanisms and how far they address issues faced by Sri Lankan domestic workers adequately, for example, access to information and support, protection and equity concerns.

The conceptual framework of this study is located within the areas of inequality and gender. In any study of migration, particularly those involving vulnerable females such as those from lower socio-economic, educational, racial/ethnic groups or those from rural backgrounds, the topic of inequality assumes significance. Generally speaking, cross border movements of people for work is considered by the state as a means of reducing poverty and economic inequality through migrant remittances. However, some researchers argue that international borders serve to maintain global inequality (Black et al., 2006; Castles, 2007; Ellerman, 2005; Zolberg, 1981). According to Black et al. (2006, p. 1), 'international migration is a powerful symbol of global inequality, whether

in terms of wages, labour market opportunities or lifestyles'. These inequalities are context-specific and need to be defined in broader terms of gender and power for example, rather than economic terms. The gender perspective on international migration recognises gender as a core organising principle of social relations that shapes the migration experiences of men and women (United Nations, 2006, p. 15). The International Organization for Migration (IOM) (2009) emphasises the importance of gender as a useful analytical tool for understanding the migration process. However, it has been neglected as a topic in migration research (Boyd & Grieco, 2003; Mahler & Pessar, 2006; Sharpe, 2001) and much labour migration research has failed to recognise the gendered aspects of migration (Willis & Yeoh, 2000, p. xiv). As a result, related research remains gender-blind. As Jolly and Reeves (2005, p. 9) point out gender roles, relations and inequalities affect who migrates and why, how the decision is made, the impacts on migrants themselves and on labour origin and destination countries. However, analytical frameworks 'either ignored the participation of women in international migration and their contributions or assumed that the causes and consequences of international migration were similar for migrant women and migrant men, thus avoiding an investigation of how migration and its outcomes differ by sex' (United Nations, 2006).

In addition, by and large, gender remains a neglected concept in the policy making process in many labour origin countries. Jolly and Reeves (2005) emphasise the need for links between gender, migration and development in research that help to convince policymakers about the centrality of gender equality concerns. In this context, gender investigation and gender analysis need to be used more widely in labour migration research. First, gender investigation looks at the differences between men and women in a given socio-economic context so that policies and programmes can be targeted to identify and meet gender-specific needs. Second, gender analysis helps to understand how the whole migration process and its relationship with development is gender-specific. It can focus on the access to information about migration, the costs and opportunities of migration, the access to support services during emigration and the return experience (IOM, 2009, p. 10). This analysis should not be limited to statistics broken down by sex, but raise awareness about broader social factors that influence women's and men's roles and their access to resources, facilities and services (Piper, 2006, p. 140). As IOM (2009, p. 10) stresses gender investigation and analysis are necessary in the formulation of migration policy and relevant programmes.

Power or politics is another non-economic aspect that has to be used to define inequality in migration. Many dimensions of politics affect migration: the procedural or distributional dimension (who gets, what, when and how), the legal or statistical dimension (involves sovereignty and legitimacy) and the ethical or normative dimension (involves citizenship, justice and participation) (Hollifield, 2008, p. 189). Policies control migration and they deal with questions such as ‘who is making decisions and in whose interest’, ‘are policies being made in the interest of migrants, workers, employers, or some other group’, ‘are these policies contributing to national interest and security of the state and are they just’ etc. (Hollifield, 2008, p. 190). While observing political aspects of gendered migration, Piper notes that migrant women face more discrimination compared to men and official policies are gender-biased and largely neglect women workers (Piper, 2006, p. 142).

Furthermore, the role of social institutions such as family, community and networks and the nature of recruiting agencies and government institutions are critical factors in influencing an increase or decrease in inequality (Black et al., 2006). Access to information for prospective migrant women can be limited due to several reasons. They could be due to low-literacy levels of prospective migrant women, distance, lack of resources and unfamiliarity with bureaucratic procedures. Available opportunities in the international labour market for women are also limited to a narrow range in the bottom of the employment sphere. Institutional structures facilitate migrant domestic workers by providing information and training before departure. However, exclusion from labour laws, discriminatory practices and lack of protective mechanisms within the institutional framework and the domestic work sphere in destination countries result in a vulnerable situation for women.

It seems that labour migration does not provide gender equity with fairness and equal justice to migrant women workers in many situations. Migrant women workers are at risk of exploitation, violence and abuse throughout the migration process: before leaving home country, while in transit, at the destination and upon return to home country. There are disparities in employment conditions and treatment of female migrant workers by employers and their family members in destination countries. In addition to the employers, the main source of exploitation of female migrant workers is the legal and

illegal intermediaries or recruiters and agents in the countries of labour origin and destination (Chammartin, 2001, p. 41).

Gender-based disparities include job insecurity and less advantageous working conditions such as disparities in wages, rest days, freedom of movement and discriminatory attitudes, policies and practices. There is discrimination and unjustified differential treatment in many destinations and they help to maintain stratification and segmentation in the labour market while reinforcing attitudes that confine certain identifiable groups to subordinate roles and a lower stratum in the workforce (ILO, 2010b, p. 81). Those who are victims of discrimination are intimidated by official complaint procedures. Migrant women's subordinate status both as migrants and as women has been characterised as 'double marginalisation' (Grant, 2005, p. 12). As a result, both trafficked³ women and voluntary migrant women may end up in similar situations of exploitation, violence and abuse.

The above discussion shows, as Poster and Wilson (2008) emphasise, the necessity of a broader perspective in order to understand transnational labour market inequality. In this sense, the researcher finds utility in the 'intersectionality approach' that focuses on multiple dimensions of inequality. Intersectionality has become an influential theoretical approach that contributes to conceptualising the intersections of gender with other differences and inequalities in individual, interpersonal and social structural levels such as race, ethnicity, class, sexuality, religion, age and other dimensions of subordination (Shields, 2008; Siim, 2009). There are three different understandings/typologies in this approach: group-centred, process-centred and system-centred (Choo & Ferree, 2010). The group-centred approach focuses on multiply-marginalised groups whereas the process-centred perspective pays more attention to contextual inequalities. The system-centred approach looks at the way systems generate intersectional effects along with gender inequality.

³ Trafficking in persons is defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat, or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of the position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of the person having control over another person, for the purpose of exploitation (UN Trafficking Protocol, 2000 Article 3(a))

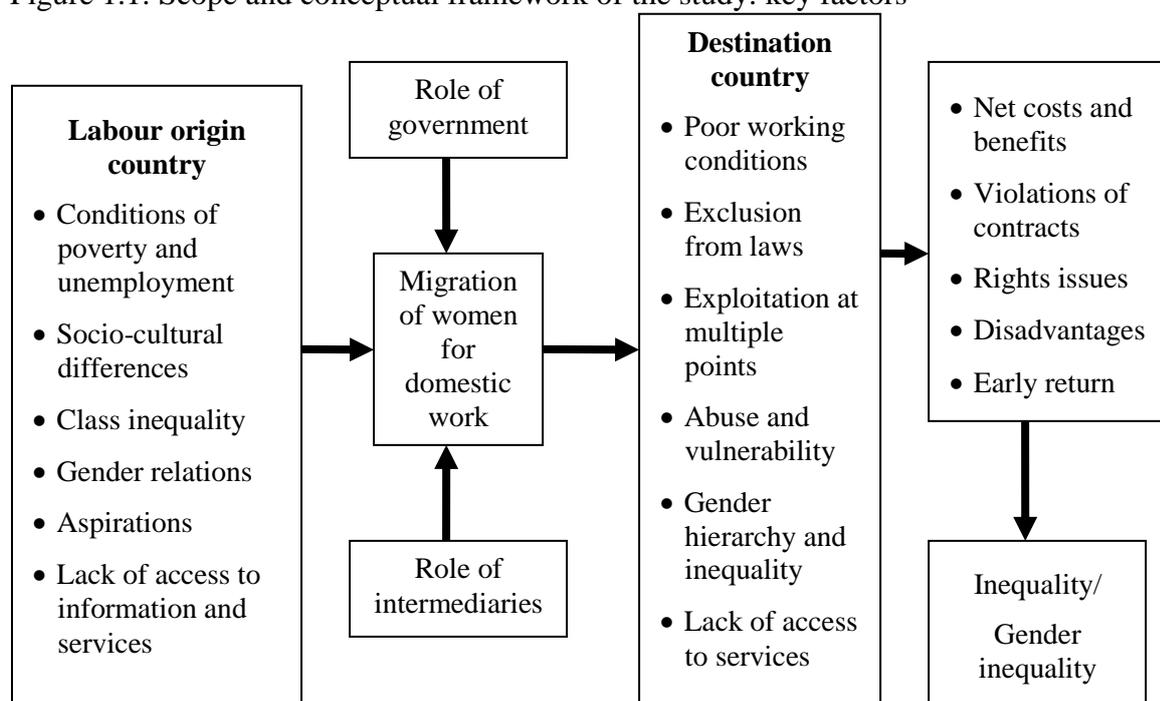
This study adopts a gender based approach because as discussed earlier, the concepts of migration and gender are closely interconnected. Further, the study investigates the ways in which the socio-political environment influences the migration process and attempts to identify obstacles to better management of policies and procedures for each stage of the female domestic worker migration process. Consequently, the conceptual framework relates to key concepts such as feminisation of labour migration, social reproduction, gender inequality, race/ethnicity, social class, religion, politics, vulnerability, exploitation, discrimination and marginalisation in the context of labour origin and destination countries. In migration research, inequality in terms of gender, class, race/ethnicity, etc. are considered to be causes for the migration of women. Many women from less developed countries are attracted to migration for work due to feminised nature of the labour market and the availability of work opportunities for women rather than men in the domestic sphere. This feminisation of labour migration began and increased due to economic restructuring (Campani, 1995; Fitzpatrick & Kelly, 1998; Giles & Arat-Koc, 1994; Heyzer & Wee, 1995), social policies (Ehrenreich & Hochschild, 2003), changing division of labour (Yeoh et al., 1999) and emergence of highly gendered niches along with shifting the labour demand from industrial sector to service sector (Cheng, 1999). Incorporation of women into unskilled and semi-skilled, so-called 'feminine' occupations is a characteristic feature of the globalisation process (Bandarage, 1998, p. 5) because it is based in part on the availability of a cheap, mainly female, labour force for multinational corporations (Giles & Arat-Koc, 1994, p. 9).

Even though one would expect these women to move out of their poverty conditions at least temporarily and acquire some autonomy and independence when they are away, the stories reported by working women often go counter to this expectation. Moreover, it is possible to assume that their roles in the destination countries contribute to the perpetuation of patriarchal relations and the gendered nature of work. The income earned by the way of wages is often unsatisfactory and working conditions of women are also not ideal. The remittances are an important contributor to the national economies of the labour origin countries (Agunias, 2006; de Hass, 2007; Jha et al., 2009; Ratha, 2007). Nonetheless, the governance structures and policies of many labour exporting countries of Asia fall short of the standards formulated by international organisations such as the ILO (Grant, 2005; Varia, 2011; Wickramasekara & Abella, 2003). Generally, migrant domestic workers have high expectations before departure but many get frustrated and

even despondent once they experience the actual conditions in the destination countries because they are well documented worldwide as one of the most vulnerable groups to abuse and exploitation (Anderson, 2000; Constable, 1997; Ehrenreich & Hochchild, 2003; Gamburd, 2002; Huang & Yeoh, 1996; Jureidini, 2002; Jureidini, 2010; Momsen, 1999; Oishi, 2005; Parreñas, 2001; Silvey, 2006; Wong, 1996).

In such a context, it is important to conduct further research about the way that conditions of poverty, gender inequality, socio-economic status, aspirations for a better life, etc. function as push factors for female migration. Furthermore, it is important to investigate their working conditions and experiences in the labour importing or destination countries as well as the monetary and other rewards the women can obtain in the context of relevant governance structures, policies and laws in both the countries of labour origin and destination. This study investigates the ‘marginalisation of domestic workers’ from the start to the finish by using a case study and analysing a sample of returned migrant women’s experiences, concerns and views. This can provide useful insights to better understand the nature of inequalities, oppressions, exploitations and abuses as well as what can be done to address these issues by the relevant authorities. The scope and the conceptual framework involved in the research can be further explained in Figure 1.1.

Figure 1.1: Scope and conceptual framework of the study: key factors



These are some of the theoretical and policy related factors and arguments that provide the conceptual foundations for this research. While the research is not designed as a hypothesis testing the researcher is conscious of the value of these arguments emanating from such research and their applicability to the case at hand. However, this research is designed to generate insights into the phenomenon of female domestic workers, their experiences and views in the context of relevant macro policies, laws and governance structures existing at the international and national levels as well as their applicability to Sri Lanka's case. After analysing the empirical data on the experience and views of both the female migrant workers who were interviewed for the research and the government officials in Sri Lanka, it is hoped that the research is able to make some statements that contribute to the efficient functioning of governance and regulation structures and processes on one hand and the academic discourses on inequality and migration with a focus on the female domestic worker phenomenon on the other.

1.4 Significance of the research

Labour migration is considered as an essential, inevitable and beneficial component of the global economy in the context of globalisation and economic restructuring in different parts of the world. As evident from various international and national concerns emerging from policy discourses, the effective regulation of the migration process and the protection of migrant workers' rights have become important considerations.

This study focuses on female domestic worker migration and its significance for several reasons. Firstly, the study contributes to a better understanding of issues related to the protection of migrant domestic workers' rights while highlighting the weaknesses of governance structures, regulation policies, procedures and practices in two main labour origin and destination countries in Asia.

Secondly, as an academic research study it is unique in its objectives, design and prosecution as there are gaps in the academic and policy related literature on the subject. The prevailing studies are mainly baseline studies done by different organisations for specific purposes with strictly defined narrow objectives. The present study brings to bear social science methodology, that is, concepts, theoretical approaches, and methods for investigating a concrete phenomenon like feminisation of labour migration in the

context of policy and governance frameworks existing in two countries which are culturally, politically and economically different from each other.

Thirdly, Mexican-American labour activist Cesar Estrada Chavez (1927-1993) states, ‘history will judge societies and governments – and their institutions – not by how big they are or how well they serve the rich and the powerful, but by how effectively they respond to the needs of the poor and the helpless’. This statement demonstrates the responsibility of the state regarding marginalised and vulnerable workers. This thesis contributes to the understanding of the responsibility of both labour origin and destination countries in the protection of marginalised female workers’ rights, working conditions and wellbeing rather than considering them as just another ‘export commodity’ where the human dimension is absent.

Fourthly, studying the Saudi Arabian governance and policy-legal framework as well as the nature of labour protection regimes is crucial as Saudi Arabia is the main destination for Sri Lankan migrant workers. However, it is in this country where most abuses and violations of migrant workers’ rights are reported. The country’s labour laws exclude selected migrant workers and the framework of labour governance and management put in place by the government tends to create considerable inequalities, vulnerabilities and disadvantages for migrant workers, leading to avoidable abuses and exploitations (Silvey, 2004; HRW, 2004a; HRW, 2007).

1.5 Objectives of the study and research questions

The main objective of the study is to look into the inequalities, vulnerabilities and disadvantages created by the labour migration policies, procedures, laws and governance structures in labour origin and destination countries in relation to female migrant workers.

Related to this are several other objectives as described below:

- to ascertain the economic, political and other factors that influenced Sri Lanka to become a labour brokerage state;
- to examine the effectiveness of governance structures and labour migration policy and procedures in Sri Lanka put in place to regulate and protect Sri Lankan migrant workers, in particular, female domestic workers in Saudi Arabia;

- to examine the working conditions, labour protection measures and experiences of Sri Lankan female domestic workers in Saudi Arabia;
- to identify the way in which the existing migration structures, policies and procedures, as well as their gaps, in Sri Lanka and Saudi Arabia marginalise Sri Lankan domestic workers in comparison to international standards and best practice models such as that implemented by the Philippines; and
- to analyse the underlying factors that prevent equitable provision of labour rights and human rights protection for migrant domestic workers and their implications.

These objectives correspond to three research questions that have guided the research process. They are:

1. In what ways and why has Sri Lanka transformed itself into a labour brokerage state, preparing workers for foreign jobs, developing a bureaucracy to send them abroad, and regulating them for work abroad?
2. As a labour importing country what measures has the Saudi Arabian Government put in place for migrant workers and how does it regulate the working conditions and labour protections for the migrant domestic workers?
3. What are the experiences of Sri Lankan domestic workers in Saudi Arabia with respect to labour migration procedures, working conditions and labour protections?

1.6 Structure of the thesis

This thesis consists of eight chapters. Chapter One sets out the background to the study. It explores the role of international labour migration in the global economy, and provides an introduction to the main concepts, aims and objectives of the study.

Chapter Two is the literature review chapter. This chapter sets out the key issues in the debate on international labour migration, its development potential and protection aspects. It includes a discussion of push-pull theories, migration and development, the role of international organisations in promoting and facilitating migrant workers, migration and inequality perspective and the rights-based gender perspective.

Chapter Three outlines the main methods used in the research and explains why the particular methods were used.

Chapter Four provides an analysis of economic and social transformation in Sri Lanka against the background of political changes. Further, it provides a background to the growth of international labour migration and why Sri Lanka adopted labour migration as a development strategy. In addition, the chapter presents details of trends and patterns of Sri Lankan labour migration.

Chapter Five presents one of the core findings of the thesis. It details the role of the Sri Lankan Government as a labour brokerage state, preparing its citizens for employment abroad, and detailing the policies and mechanisms utilised.

Chapter Six provides a discussion of Saudi Arabia's status in the global economy and its political and socio-economic context. Moreover, it provides a detailed account of the labour recruiting system and shows how the country's legal, cultural and recruitment practices marginalise migrant domestic workers.

Chapter Seven presents the findings of interviews with returned domestic workers to ascertain their migration experiences in the context of gender and inequality. The chapter is organised according to three themes: access to information, working conditions and wellbeing, and unequal treatment in terms of labour rights and human rights violations.

Chapter Eight brings together the findings of the research in relation to the objectives of the research, key focus and main research questions. It provides some reflections on the experiences of Sri Lankan domestic workers in the context of the international debate on the poor experiences of domestic workers.

CHAPTER 2

International Labour Migration: Literature Review on theoretical perspectives and International Instruments relating to Migrant Workers

Introduction

The migrant domestic worker phenomenon is an aspect of contemporary labour migration. It relates to several theoretical perspectives and concerns such as the push-pull theory of migration, migration and development, how international organisations facilitate labour migration, migration and inequality perspective, and the rights-based gender perspective. The aim of this chapter is to review the academic and policy literature relating to these perspectives and dimensions in order to provide a context for the research and to provide a sense of the current concerns, issues and discussions.

Although migration goes back to early history, theoretical perspectives on international migration are relatively new. The earliest systematic approaches to migration have derived from the nineteenth century work of Ravenstein, who advocated the formation of statistical laws of migration and mechanical models, namely the existing relationship between migration and distance, the process of stage migration, rural and urban differences, development of technology and modes of transportation, and individual rational decisions based on cost-benefit analysis (Velazquez, 2000, p. 138). According to conventional theories, economic factors, poverty in particular, were considered as the main causal factors. Later theories advocated the merits of non-economic concepts such as gender and social capital. Also, theories expanded from an emphasis on the macro perspective to micro perspectives. Accordingly, contemporary migration theories can be classified into three categories in terms of level of analysis: micro, meso and macro (Hagen-Zanker, 2008). The study of migration is widespread across disciplines such as sociology, economics, history, demography, political science, anthropology, psychology, international relations and cultural studies (Cohen, 1995, p. ix). These disciplines present different approaches and methodologies employing different arguments, assumptions and concepts (Brettell & Hollifield, 2000; Castles & Miller, 1993; Massey et al., 1993).

2.1 Push-pull theory of migration

The push-pull approach is considered to be the oldest approach to migration. Based on Ravenstein's theory, the main argument of this theory is that most disadvantaged people move from the poor countries to richer areas. Economic backwardness or a combination of 'push factors', force people in poor developing countries to leave their areas of origin and 'pull factors' attract them to migrant receiving countries. Push factors include high population growth, poverty, slow economic growth, economic stagnation, low living standards, high unemployment and under-employment and political repression. Pull factors are the employment opportunities, better wages and other benefits, and political freedom. This supply-push and demand-pull theory can be applied to cost-benefit analysis for individuals, societies and countries. Moreover, the mere existence of economic disparities between various areas, personal factors such as education, friends and family networks would be sufficient to generate the flows of migration.

There are several variations of the push-pull theory such as the neoclassical economic theory, the dual labour market theory, the world systems theory and the relative deprivation theory. Neoclassical economic theories assume that the main reason for international migration is geographical differences in the supply and demand of labour. Wage differences between capital high-labour shortage countries/areas and capital dearth-labour surplus countries/areas encourage labour migration. Other differences include the disparity in demographic growth, living standards, economic opportunities and political freedom (Castles & Miller, 1993). These theorists believe that individual liberty is one of the great moral achievements of capitalism, and they describe the capitalist economic system as being based on free markets. Therefore, international migration is portrayed as a market phenomenon in which workers make the free choice to move to an area where they will receive the highest wages or the best return on their human capital. Thus they emphasise the individual decision that is based on rational choice about wage differences, labour equilibrium and income maximisation (Massey et al., 1993). However, the holistic approach of free choice often fails to match the reality because it does not take into consideration underlying structural processes including the social and political aspects of migration (Goss & Lindquist, 1995; Massey et al., 1993).

According to the segmented or dual labour market theory of Piore, labour migration is largely determined by a constant demand for migrant labour that is inherent in the segmented labour markets of advanced industrial economies. It explains migration as the result of the temporary pull factor of the strong structural labour demand in developed countries. This theory suggests that the labour market is dualistic: characterised by a capital intensive primary sector and a labour intensive secondary sector which are differentiated in terms of skills, wages, working conditions and job security. Jobs in the primary sector are characterised by high wages, good working conditions, employment stability, opportunity for career advancement, equity and due process in the administration of work rules. In contrast, jobs in the secondary sector tend to have low wages and fringe benefits, poor working conditions, high labour turnover, little chance of advancement, and often arbitrary and capricious supervision (Piore, 1979, p. 165). This is not purely economic as this economic dualism reflects status and prestige (Hagen-Zanker, 2008, p. 7). For example, unskilled jobs in the secondary sector that native workers refuse to work in are filled by migrant workers because they are not considered to be part of the destination society. However, the focus is narrow because only one pull factor is being analysed without examining migrant decision making (Hagen-Zanker, 2008, p. 7).

The world systems theory of Wallerstein assumes that international migration is a by-product of historical socio-economic transformation which demonstrates the exploitative political economic relationship between the centre and the periphery (Massey et al., 1993). The migration flows are associated with push-pull factors from the periphery (poor nations) to the core (industrial rich nations). For example, this theory argues that many former colonies are still economically dependent on mother countries. It follows an historic structural approach of Marxist theories and brings the structural factors that other theorists neglect into consideration. Although this theory follows the dynamics of market creation and the structure of the global economy, individual motivations are not considered.

Relative deprivation theory suggests people migrate due to interpersonal income comparison within their reference group (Stark, 1991, p. 24). Accordingly, households aim to increase their income in order to come out of absolute poverty and relative poverty. Migration helps them to increase their income in the short term as a solution to income inequality and to invest in human capital formation in the long run. Thus

migration helps them to increase their relative satisfaction compared to their reference group (Massey et al., 1993; Stark, 1991).

However, Velazquez (2000) questions one of the central propositions of these economic models of migration which is that wage and income differentials between countries of labour origin and destination account for labour geographical mobility and that these differentials may be useful in predicting the direction of international labour migration. Velazquez argues that these analytical categories are poor predictors of labour migration. Firstly, this explanation implies that the poorest countries provide the highest differentials but, in fact, the main labour origin countries in the world are middle-income countries. Secondly, there is no clear evidence that unemployment is directly and significantly related to labour migration. Examining the Sri Lankan context, Wickramasekera (2010b) also proves this fact. Thirdly, instead of slow economic growth, unequal distribution of the benefits of economic growth of the labour origin countries leads to out-migration. Moreover, these economic theories focus on a limited part of the society, such as structures and labour market segmentation with no attention to gender or cultural specific differences (Phizacklea, 2004).

Push-pull theory and Sri Lankan labour migration

As stipulated by the push-pull theory, Sri Lanka can be considered as a relatively under-developed country with considerable poverty levels in urban, rural and plantation sectors and a high population of disadvantaged people, even though it has reached the middle-income country status. Slow economic growth and high unemployment have been its characteristics along with persistent poverty affecting low-income families. In 2010, the poverty headcount ratio in Sri Lanka was 8.9 percent and percentage of poor households was 7.0 (Department of Census and Statistics, 2011a). The decades of civil war with the Liberation Tigers of Tamil Eelam (LTTE) destroyed the country's infrastructure, utilities and services. Many families and young people moved to Colombo and other urban centres or migrated overseas during these decades. Unemployment and poverty are key push factors that compelled Sri Lankans to seek employment overseas (see Sections 4.2.3 and 4.2.4).

Though such push factors are equally applicable to female labour migration (except that married women in the higher age brackets are usually housewives or engage in unskilled,

manual labour-intensive work at home), one may assume that the pull factors are also attractive to them, for example, availability of gender-related jobs, relatively high wages, and encouragement from friends and family networks abroad and returnee migrants. To many researchers, economic survival is the main determinant of migration for many Sri Lankans (Athukorala, 1993; Dias & Jayasundere, 2004; Eelens et al., 1992; Gamburd, 2002; Kottegoda, 2006; Mahawewa, 1993; Shaw, 2008; Yapa, 1995). The situation is also related to relative poverty among affluent groups experiencing relative deprivation (Bandarage, 1998; Patrick, 1997). Further, relatively low recruitment fees involved for women compared to men (Mahawewa, 1993) and the fact that migration is a convenient mechanism to escape from domestic problems (Dias & Jayasundere, 2004; Gamburd, 2002) are other push factors.

Initially, female migrants were mostly from disadvantaged urban communities with low levels of education, but later poor rural women started to migrate as domestic workers (Dias & Jayasundere, 2002; Hettige, 1997). Hettige (1997) explains that urban women decided to migrate due to the absence of socio-cultural constraints, unlike rural women who had faced socio-cultural pressures that operate against overseas migration such as the demeaning practices of labelling, name calling and even rejection by affluent villagers. Typically, a majority of women migrant workers from the rural poor category are married, have one or more children, have had a primary school education and have entered the overseas job market in order to supplement their household income, particularly as their husbands are usually unemployed or underemployed (Dias & Weerakoon-Goonewardene, 1991; Gamburd, 2002). As United Nations Common Country Assessment for Sri Lanka (UNCCA) (2006, p. 9) observes, poverty is closely associated with the level of educational attainment and employment status of household members.

2.2 Migration and development approach

Despite the previous focus in the literature on the negative impact of migration on development, for example, brain drain, the current approach emphasises the development of countries through migration, focusing on labour migration and diaspora. There are macro economic benefits for countries of labour origin such as reducing unemployment, easing labour market pressures and the positive impacts of remittances on foreign

reserves and balance of payments. Destination countries enjoy a positive economic impact including the contribution to Gross National Product (GNP), the labour market, local consumption and human capital. In this section, the migration and development nexus is explored at a conceptual and policy level.

The migration and development approach is directly linked with globalisation and the South-North discourse.⁴ Globalisation has vital implications for international labour migration and development because it shapes international, national and local levels of social behaviour in various ways. As Stalker (2000) argues, in a world of winners and losers, the losers do not simply disappear, they seek to go somewhere else. Globalisation promotes the development of multinational companies, the expansion of international trade, new labour demands within countries, and the international division of labour. Since the 1970s, global restructuring of production and investment have taken place with new corporate strategies increasing profits by moving capital to countries with cheaper labour and flexible employment policies. Multinational companies expand their operations through decentralising and subcontracting strategies in the Free Trade Zones (FTZ) or Export Processing Zones (EPZ) in developing countries using cheap local labour. The other result is increase of labour mobility across the world. In this process, globalisation promotes disparities in employment opportunities, living standards and human security across the world (ILO, 2004, p. 9). There has been a large increase in movement of people from the South to the North since the end of World War II and decolonisation; however, it is believed that more than a third of migrants now move between countries of the South. Researchers identify a trend for South-South migration, which is simply migration between developing countries (Castles & Delgado Wise, 2008; Ratha & Shaw, 2007). However, the main challenges facing researchers and policy makers are lack of reliable data on contemporary South-South migration and interlinks between migration systems, as it is impossible to separate migration movements sharply as South-South, South-North or North-North.⁵

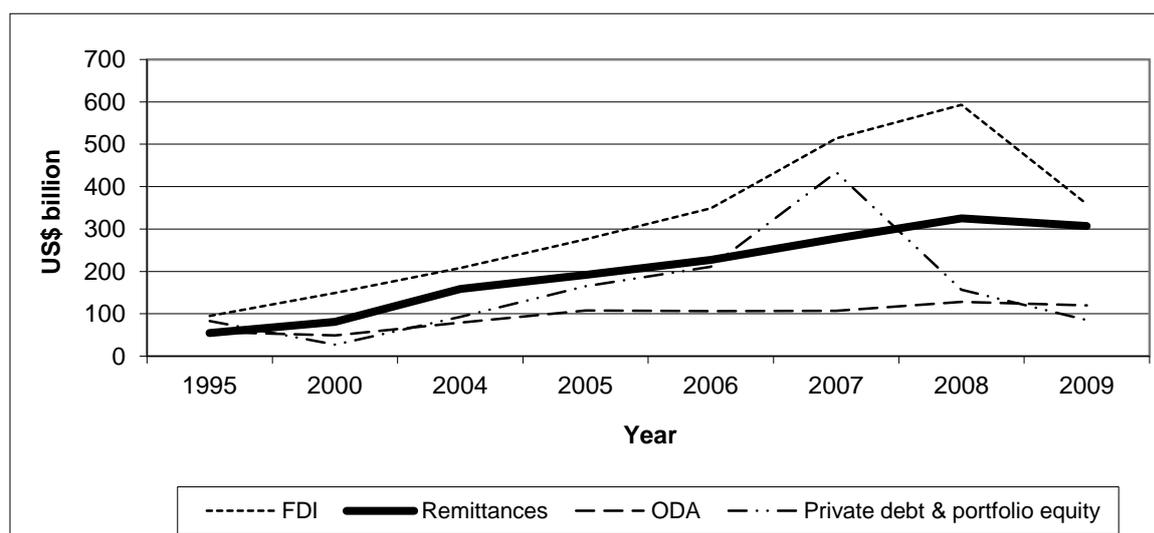
⁴ The terms, North and South remain problematic for a number of reasons, mainly relating to discrepancies in definitions. South-South migration is defined here simply as migration between developing countries. Lack of employment opportunities and prevalence of economic and social tensions are the major push factors for international migration in both South-South and South-North directions.

⁵ For example, 'patterns of migration span the world. A journey started in rural Ethiopia to find work in Libya may end up with a move to the tomato fields of Italy or domestic service in Berlin' (Bakewell, 2009, p. 7).

Martin (2004) analyses the migration and development nexus focusing on its three components, or '3-Rs' namely recruitment, remittances and return. *Recruitment* is about who recruits and who goes abroad for work, for what type of jobs, and how they go abroad (under bilateral agreements, memoranda of understanding (MOUs) or informal means). *Remittance* is about the significant component of foreign exchange flowing to countries of labour origin showing how much they earn and how they use their earnings. *Return* is about who returns and what they do when they are back in their home countries. There is increasing international recognition of the link between migration and development in countries of labour origin which is partly triggered by the phenomenal rise in migrant remittances and the volume of social capital and skills being returned to the home country (Black & Sward, 2009; Shaw, 2010; Vargas-Silva et al., 2009). This link is multidimensional in terms of motives, consequences and impact of migration on countries of origin and destination. Whether they are efficiently and sufficiently utilised in the local economies is another issue. In this context, the ILO (2007, p. 3) emphasises the need for policies for proper integration of migrants in societies and the labour market, especially measures to make productive use of savings, acquired skills and networks of returning migrants.

Remittances are important for countries because they are direct national income, a source of foreign exchange and a source of national savings as migrants send the bulk of their earnings to families in origin countries. They have a positive impact on the welfare of the population of migrants' home countries. As Ratha (2007) observes, while migration has economic, social and cultural implications for the origin and destination societies, the remittances that the migrants send home are the most tangible and least controversial link between migration and development. Remittances received by developing countries increased from US\$31.1 billion in 1990 to US\$76 billion in 2000, and to nearly US\$167.0 billion in 2005 (de Hass, 2007, p. 1). This has dramatically increased to US\$325 billion in 2010 (World Bank, 2011b). Maximising the inflows of remittances and mobilising remittances to enhance development should be the policy concerns of labour origin countries (Hugo, 2007). Figure 2.1 illustrates the inflow of financial resources to developing countries.

Figure 2.1: Resource flows to developing countries, 1995-2009



Source: (World Bank, 2011b)

According to Figure 2.1, remittances that flow to developing countries show a steady increase from 1995 to 2009. From 1997 to 2007, remittances to these countries registered an average annual growth rate of about 15 percent (Jha et al., 2009). The correct figures of remittances through informal channels are likely to be higher. Remittances are more important for those economies than other resources such as foreign direct investments (FDI), as remittance flows are more resilient in times of tough economic downturns.

Remittances fill the foreign exchange gap in some countries when other sources of foreign exchange are not available. The World Bank has described remittances as ‘an important and stable source of development finance’ (ILO, 2007, p. 5). The rise in remittance transfers has been more evident in Asia with three of the four main remittance recipients in the world being located in the region. In the last two decades remittances have risen from about US\$9 billion in 1988 to about US\$170 billion in 2008 (Jha et al., 2009, p. 3). Table 2.1 shows the volume of remittances received and the growth rate of the flows from 2000 to 2008 for selected remittance recipient countries of South and Southeast Asia.

Table 2.1: Remittances in Asia (in US\$m, percent year-on-year)

Economy		2001	2002	2003	2004	2005	2006	2007	2008
India	Level	14273	15736	20999	18750	22125	28334	37217	51581
	Growth rate (%)	10.7	10.3	33.4	-10.7	18.0	28.1	31.4	38.6
Philippines	Level	6164	9735	10243	11471	13566	15251	16301	18643
	Growth rate (%)	-0.8	57.9	5.2	12.0	18.3	12.4	6.9	14.4
Bangladesh	Level	2105	2858	3192	3584	4314	5428	6562	8995
	Growth rate (%)	7.0	35.8	11.7	12.3	20.4	25.8	20.9	37.1
Pakistan	Level	1461	3554	3964	3945	4280	5121	5998	7039
	Growth rate (%)	35.9	143.3	11.5	-0.5	8.5	19.6	17.1	17.4
Indonesia	Level	1046	1259	1489	1866	5420	5722	6174	6795
	Growth rate (%)	-12.1	20.4	18.3	25.3	190.4	5.6	7.9	10.1
Vietnam	Level	2000	2714	2700	3200	4000	4800	5500	7200
	Growth rate (%)		35.7	-0.5	18.5	25.0	20.0	14.6	30.9
Sri Lanka	Level	1185	1309	1438	1590	1991	2185	2527	2947
	Growth rate (%)	1.6	10.5	9.9	10.5	25.2	9.7	15.7	16.7
Nepal	Level	147	678	771	823	1212	1453	1734	2727
	Growth rate (%)	32.4	361.2	13.7	6.7	47.3	19.9	19.3	57.3
Malaysia	Level	792	959	987	1128	1281	1550	1803	1920
	Growth rate (%)	-19.3	21.1	2.9	14.3	13.6	21.0	16.3	6.5
Thailand	Level	1252	1380	1607	1622	1187	1333	1635	1898
	Growth rate (%)	-26.2	10.2	16.4	0.9	-26.8	12.3	22.6	16.1

Source: (Jha et al., 2009)

According to Table 2.1, despite there being some fluctuations in some countries, remittance flows have been increasing. All South Asian countries, including Sri Lanka have recorded increases in remittances from 2000 to 2008. However, in terms of the magnitude of remittances in 2008, Sri Lanka ranked among the lowest four countries along with Nepal, Malaysia and Thailand. India recorded the highest. In 2010, the top remittance recipients were India (US\$55 billion), the Philippines (21.3 billion), Bangladesh (11.1 billion), Pakistan (9.4 billion), Vietnam (7.2 billion) and Indonesia (7.1 billion) (World Bank, 2011b). On the other hand, unlike other regions, demand for migrant labour is stable in West Asia, where a majority of the migrants are from Asia.

However, some authors (Delgado-Wise & Marquez 2006; Delgado-Wise & Guarnizo 2007 cited in Ratha et al., 2011, p. 16) observe that the dependence on migration can create a ‘remittance-based development model’ where remittances become increasingly critical for maintaining socio-economic stability in labour origin countries. They emphasise that remittances should not be viewed as a substitute for official development aid. Further, it has been observed that remittances do not solve structural development problems due to an unattractive investment environment (Agunias, 2006; de Hass, 2007).

Policy approaches

The nexus between migration and development is two sided: underdevelopment affects migration and migration affects development (Martin, 2007, p. 6). Until the end of the 1990s, migration had occurred due to poverty and/or a lack of development in labour origin countries. Since 2000, there has been a paradigm shift by governments who now see migration as an opportunity to promote development (Black & Sward, 2009, pp. 2-3). Governments have started mainstreaming labour migration by incorporating it into development policy agendas and increasing the recognition of remittances as an important and stable source of external development finance (Ratha, 2003). Migration is considered as one tool to be included in Poverty Reduction Strategy Papers (PRSPs) and other national development strategies to achieve Millennium Development Goals (MDGs) (IOM, 2005b).

Migration management is an important strategy in migration and development approach. Intra-governmental policy coherence and coherence among governments and stakeholders are essential parts of this strategy. Identifying stakeholders such as local agencies dealing with aspects of migration and development, governments, local authorities both home and abroad, civil society, local and international non-governmental organisations (NGOs), the business and finance sector and migrants is the first step of effective migration management. Furthermore, exploring the roles and possible contributions of various stakeholders through collaborative effort is important. Strengthening capacity building to include all relevant stakeholders is highly important in migration and development policy approach for partnership (IOM, 2005b, p. 4).

Migration is considered to be a strategy in poverty alleviation policies and programmes. Some donor governments, the World Bank and the International Monetary Fund (IMF) recommend that developing countries mainstream migration in their national development planning (Black & Sward, 2009).⁶ In this process labour origin countries have to focus on specific policy approaches, both proactive/facilitative and regulation/control. Proactive policies include engaging diaspora, exporting labour, facilitating remittances, signing bilateral agreements, improving labour conditions abroad, providing pre-departure training, importing skills, developing consular services,

⁶ Low income-countries are required to submit PRSPs to receive foreign aid

encouraging legal remittance channels,⁷ regulating the recruitment industry, and encouraging female migration (Black & Sward, 2009, p. 21).

In the case of Sri Lanka, although the country is well ahead in its level of social development, the major problem that the government faced after independence was providing employment for an increasing population and reducing growing external debts. Different political regimes brought their own policies and solutions to overcome these problems. The export of labour has been spelled out as a main development strategy that the government would pursue, as this would result in a high volume of remittances, bringing in much needed foreign exchange to the country.

Labour migration has a positive development impact on Sri Lanka in terms of increasing remittance flows, reducing population pressure and unemployment, and the provision of employment opportunities. Migrant remittances are vital for Sri Lanka's national development because as a source of foreign exchange remittances help to improve the economic growth of the country by saving and investing. However, many micro studies show that earnings are spent mostly on consumption and only a few migrant workers have invested in productive activities or in entrepreneurial activities (Athukorala, 1993; Dias & Weerakoon-Goonewardene, 1991; Hettige, 1997). Sri Lankan governments started to use international migration as a development strategy relatively recently. The Government has established a separate ministry and a separate institutional framework for migration related matters while facilitating and regulating labour migration through several proactive measures (Chapter 5 discusses this in detail).

2.3 How international organisations promote/facilitate labour migration

Labour protection is also a major concern of international migration and multilateral organisations such as the ILO, United Nations and IOM promote international labour migration by introducing standards for the wellbeing and protection of migrant workers and encouraging and facilitating governments to introduce better labour migration

⁷ These channels emerged mainly due to high transaction costs involved in official channels. They are known as 'alternative remittance systems', 'underground banking', 'ethnic banking' and 'informal value transfer system' and also *fei-ch'ien* (China), *hundi* (Pakistan and Bangladesh), *hawala* (India and the Middle East), *padala* (Philippines), *hui kuan* (Hong Kong) and *phei kwan* (Thailand) (Khatri, 2007). They are popular among migrant workers because those money brokers and service networks make it much easier for people not accustomed to using banks to receive money (ILO, 2010b).

policies. Rights of migrant workers are covered in major international human rights conventions. In this sense, migrants' rights can be considered as human rights (Bustamante, 2002; Grant, 2005; Ruhs, 2009). In broader terms, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) recognise the rights of all. The UDHR stipulates that everyone has the right to equality, freedom from discrimination, freedom from slavery, freedom from torture and degrading treatment, the right to recognition as a person before the law, freedom from interference in privacy, family, home and correspondence, the right to free movement, freedom of belief and religion, the right to desirable work, rest and leisure, and adequate living standards to ensure an existence worthy of human dignity.⁸ The ICESCR standards are designed to protect the right to the highest possible standard of physical and mental health and to just and favourable conditions of work,⁹ whereas the ICCPR sets out equality before the courts and tribunals.¹⁰

There are several UN conventions, ILO conventions and recommendations¹¹ specifically concerned with migrant workers and their rights. As the peak organisation with a long history concerning migrant labour issues, the ILO sets standards and assists member states to formulate relevant policies.¹² The ILO's role is building a knowledge base that provides data on migrant labour flows, enhancing good governance of international labour migration, and advancing human rights and decent work for migrants by promoting the adoption of these conventions relating to migrant workers and implementation of their recommendations: No.97 Migration for Employment Convention (Revised) of 1949, No.143 Migrant Workers (Supplementary Provisions) Convention of 1975 and recently adopted No.189 Domestic Workers Convention of 2011.

⁸ Articles 1,2,4,5,6,12,13,18,23,24 and 25 of the UDHR

⁹ Articles 7, 8 and 9 of the ICESCR

¹⁰ Article 14 of the ICCPR

¹¹ All the ILO conventions and recommendations cover general workers irrespective of their nationality and whether they are migrants or not. It has adopted 185 conventions and 195 recommendations. Conventions are binding instruments and when ratified by a member state involve a formal commitment to apply its provisions. But recommendations provide more specific guidelines and are not subject to ratification therefore no formal binding.

¹² Apart from the ILO, the IOM is the main organisation engaged in a wide range of activities in migration management, especially in the facilitation of the development of migration policies and norms.

The main aim of Convention No.97 is to protect regular migrant workers from discrimination and exploitation while they are employed in a foreign country. It sets out the rights of migrants in terms of remuneration, social security, taxation, access to trade unions and transfer of personal belongings. This convention deals with recruitment, placement and employment conditions for workers recruited by non-governmental sources (Annex I), recruitment, placement and working conditions of those who are recruited under government-sponsored arrangements for group transfer (Annex II), and regulations on the importation of personal effects, tools and equipment of migrant workers (Annex III). The provisions of the convention are (i) regulations regarding the conditions under which migration occurs; (ii) general protection provisions such as the maintenance of appropriate medical facilities (Article 5), permission for migrants for employment to transfer their earnings and savings (Article 9) and prohibition of expulsion of migrant workers admitted on a permanent basis in the event of incapacity for work; and (iii) equality of treatment between migrant workers and nationals regarding laws and administrative practices on living and working conditions, social security, employment taxes and access to justice.

Recommendation No.86 of Convention No.97 suggests several measures regarding the welfare of migrant workers. Some of these measures are to ensure adequate accommodation, food and clothing on arrival in the country of destination; ensuring vocational training, where necessary, to enable migrants to acquire the qualifications required in the country of destination; providing access to schools for migrants and members of their families; simplifying administrative formalities relating to departure, travel, entry, residence and settlement of migrants; and equality of treatment, in terms of working and living conditions, access to trades and occupations and acquisition of property as well.

Convention No.143 which provides supplementary provisions to Convention No.97 required states to ensure equality of treatment of migrant workers with respect to employment, social security, trade union activity and cultural rights. It sets out the right to equal treatment with nationals and rights of irregular migrants. Part I of the convention deals with irregular migrant workers and is aimed at protecting the basic human rights of both regular and irregular migrant workers. It affirms that each member for which this convention is in force undertakes to respect the basic human rights of all migrant workers

(Article 1). The recommendation to this, Recommendation No.151, advocates protective provisions in equality of opportunity and treatment, adaptation into the society of the country of immigration, occupational safety and health, and reunification of families.

The Domestic Workers Convention No.189 of 2011 is a result of the long term concerns of the ILO and activists. Before that, the ILO adopted resolutions concerning the conditions of employment of domestic workers in 1948 and 1965. More specifically, standards setting to promote decent work for domestic workers represents all four pillars of the Decent Work Agenda of the ILO from 2002 (ILO, 2010a, p. 14). These strategic pillars are the creation of employment for unemployed, rights at work of national and migrant workers working in all sectors, social protection for national and migrant workers including women and social dialogue with tripartism¹³. Some governments (GCC countries, the UK, Bangladesh, Indonesia and India) were initially opposed to a legally binding convention on domestic work. This is because of the impracticality of monitoring work in private households and their reluctance to add to a growing body of labour standards (Varia & Becker, 2012). However, GCC countries supported the Convention in the final vote. To date, the only country that has ratified this convention is Uruguay and it is still not in force. When ratified by the countries this convention provides for the adoption of laws that recognise the right of domestic workers to organise and collectively defend their interests through trade unions, the right to a minimum wage in countries where such a wage exists, a monthly payment, access to social security, one day off per week and the regulation of working hours and leave days.

The United Nations is responsible for legal, normative and human rights with regard to international migration through its affiliated organisations including the ILO.¹⁴ These two systems which protect workers' rights under ILO labour standards and which protect human rights under the UN and regional treaties, are complementary and mutually reinforcing (Grant, 2005, p. 18). The ICMW Convention paved the way for widening

¹³ Institutionalise the tripartite partnership to include preparation, designing and monitoring of labour policies

¹⁴ The United Nations High Commissioner for Refugees (UNHCR) is involved with the protection of refugees and asylum seekers while United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Population Fund (UNFPA) have specific interests in the international migration sphere. The UN Special Rapporteurs on Human Rights of Migrants and Persons in Trafficking deal with the ways and means of overcoming obstacles existing to the full and effective protection of the human rights of most vulnerable migrants such as women, children and the smuggled and trafficked.

legal frameworks for migration, managing migration and prevention of exploitation of migrant workers including irregular migrants. The convention emphasises six points: recognition of migrant workers as more than economic entities; the United Nation's responsibility of providing measures for protection of migrant workers and their families; provision of international standards of treatment through the elaboration of particular human rights for those who are covered; recognition of irregular migrant workers; preventing and eliminating of exploitation of all migrant workers; and establishing a universally acknowledged minimum standard for migrant workers and members of their families. It recognises the right to life (Article 9), protection from torture, inhuman or degrading treatment or punishment (Article 10), freedom from slavery, servitude or forced or compulsory labour (Article 11), freedom of thought, conscience and religion (Article 12), the right to liberty and protection against arbitrary detention (Article 16) and the right to procedural guarantees (Article 18). These are important standards and provisions especially as they provide an important benchmark for those states that do not meet the expected high standards.

The UN Convention on the Elimination of all forms of Discrimination Against Women, 1999 (CEDAW) is the most comprehensive treaty on women. It defines discrimination against women as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'.

The ILO encourages member states to follow the principles of fundamental rights such as freedom of association and effective recognition of the right to collective bargaining, elimination of all forms of forced and compulsory labour, effective abolition of child labour and elimination of discrimination in respect of employment and occupation by its Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998.¹⁵ These instruments are designed to regulate the conditions under which the migration process takes place and to provide specific protection to vulnerable categories of workers.

¹⁵ The Preamble to this declaration states: Give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilise and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation.

However, ratification by states is low. The conventions No.97 and No.143 have been ratified by only 43 and 18 states respectively. Table 2.2 shows the response of the main labour origin and destination countries in Asia to the ILO fundamental conventions and conventions related to migrant workers.

Table 2.2: Signature/ratification of major international instruments by selected countries of labour origin and destinations in Asia, as of 30 March 2012

Country	C29	C87	C97	C98	C105	C111	C143	CEDAW	ICMW	TP
Labour origin countries										
Bangladesh	√	√		√	√	√		√	√	
India	√				√	√		√		√
Indonesia	√	√		√	√	√		√	√	√
Malaysia	√			√	*			√		√
Nepal	√			√	√	√		√		
Philippines	√	√	√	√	√	√	√	√	√	√
Singapore	√			√	*	√				
Sri Lanka	√	√		√	√	√		√	√	#
Thailand	√				√			√		#
Destination countries										
Bahrain	√				√	√		√		√
Kuwait	√	√		√	√	√		√		√
Oman	√				√			√		√
Qatar	√				√	√		√		√
Saudi Arabia	√				√	√		√		√
UAE	√				√	√		√		√

Only a signatory

* Denunciated

Source: (United Nations Treaty Collection; Database of International Labour Standards; United Nations Office on Drugs and Crime (UNODC))

Index:

C29= Forced Labour Convention, 1930

C87= Freedom of Association and Protection of the Rights to Organise Convention, 1948

C97= Migration for Employment Convention (Revised), 1949

C98= Right to Organise and Collective Bargaining Convention, 1949

C105= Abolition of Forced Labour Convention, 1957

C111=Discrimination (Employment and Occupation) Convention, 1958

C143= Migrant Workers (Supplementary Provisions) Convention, 1975

CEDAW= Convention on the Elimination of all Forms of Discrimination against Women, 1979

ICMW= Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990

TP= Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, 2003

According to Table 2.2, the Philippines is the only Asian labour exporter that has ratified all key conventions relating to migrant workers. Together with other labour origin countries Sri Lanka has not ratified the main ILO Conventions No.97 and No.143 on migrant workers and is only a signatory to the Trafficking Protocol. Table 2.2 shows the way in which international legal instruments are largely ineffective in GCC countries, Saudi Arabia in particular. ILO Conventions No.97 and No.143 have not been ratified by

any GCC country nor has the ICMW. The ICMW is the only instrument that includes temporary migrant workers, who make up a large proportion of the labour forces of GCC countries.

Ratification of a convention means a government's commitment to integrating international standards into the national legal system and thus showing a serious attitude to worker rights. Factors in the non-ratification of conventions generally include the lack of importance that governments place on the rights of migrant workers, lack of experts in international law, and alleged conspiracy between government officials and labour recruiting agencies (Iredale et al., 2005). For example, Convention No.97 restricts the right to engage in the operations of recruitment, introduction and placing to public employment offices or other public bodies of the territory in which the operations take place; public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by agreement between the governments concerned; and any institution established in accordance with the terms of an international instrument (ILO, 1949, Annex I, Article 3(2)). As a result, private sector labour brokering for profit has become an important institution in the market for foreign labour (Abella, 2004; Curran & Saguy, 2001) where social networks are not yet sufficiently established to facilitate migration or where countries of labour origin and destinations have not agreed on exclusive systems for recruiting labour. The UN Special Rapporteur has observed the implications of this situation:

The lack of watchdog mechanisms, and inadequate monitoring by the government in the country of destination, the recruiting agencies and even consulates, mean that migrant domestic workers are cut off and abuses remain unseen. Consequently, many migrant's rights are violated and they end up working in abusive or even inhuman and degrading conditions, without protection or the possibility of obtaining an effective remedy.

(United Nations High Commissioner for Human Rights, 2001)

Sri Lanka is reluctant to ratify the main conventions as several existing domestic policy initiatives and procedures are not on par with the conventions. They include requirements such as pre-departure training free of charge, delivery of a copy of the contract to the migrant worker before departure, measures to suppress irregular migration, illegal employment and systematic exchange of information. Further, the government sees limited scope for working through multilateral frameworks.

Promoting bilateral agreements and MOUs

Multilateral or regional agreements are formalised when states are not interested in ratifying international instruments and when they need regional cooperation regarding different forms of migratory movements. Martin (2008, p. 8) observes that instead of a top-down international regime that establishes global rules on migration, the future may see more regional agreements governing labour migration. In most cases, initiatives are taken by the countries of labour origin with the view to protecting its workers overseas. Colombo Process and ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers are some examples of these agreements. The Colombo Process is a Regional Consultative Process concerning the management of overseas employment and contractual labour for labour origin countries in Asia. It promotes its member states¹⁶ to engage in dialogues on issues related to labour migration. The consultations are on three themes: protection and provision of services to migrant workers, optimisation of the benefits of organised labour migration, and capacity building, data collection and inter-state cooperation. The second initiative, ASEAN Declaration is a non-binding declaration that came as a result of years of struggle and active lobbying by civil society organisations. In 2007, ASEAN countries adopted this declaration at their twelfth summit. The main objectives are to promote decent, humane, productive, dignified and remunerative employment for migrant workers; to establish and implement human resource development programmes and reintegration programmes for migrant workers; and to take concrete measures to prevent or curb the smuggling and trafficking of people.

Both bilateral agreements and the MOUs are established modes of resolving and managing labour migration flows between two particular countries, thus providing for better protection for migrant workers. Here, the difference is that a bilateral agreement is more formal and specific and action oriented while the MOU is a softer alternative providing a broad framework to address common concerns (Wickramasekara, 2006). Asian countries seem to prefer MOUs over bilateral agreements because they are easier to negotiate and implement and are more flexible to modify with changing economic and labour market conditions (Wickramasekara, 2006, p. 4). Although the prevalence of bilateral agreements demonstrates the weakness of the relevant conventions, some recommendations of these conventions can be facilitated within the framework of a

¹⁶ Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Viet Nam

bilateral agreement or MOU (Waddington, 2003). However, the evidence shows that the lack of bilateral agreements can lead to violations of labour rights. Countries that have signed bilateral agreements are reported to be providing better protection to migrant workers.

Assistance to develop migration policy in countries

The ILO has developed guidelines for the formulation of migration policies for both labour origin and destination countries. *Employing foreign workers: A manual on policies and procedures of special interest to middle and low-income countries* (1996) and *Sending workers abroad: A manual for low and middle-income countries* (1997) are such guidelines. In addition, the IOM advocates and facilitates having better migration policies that balance ‘promotion’ and ‘protection’ aspects as some states emphasise promotion of export labour over protection.

Labour migration policies of countries of labour origin deal with three major objectives: employment promotion, protection of migrant workers and gaining development. There are eight broad functional areas which fit into these objectives namely, developing the foreign market, managing the supply of human resources, setting and enforcing standards, supervising private recruiters, providing support services for migrants and their families, facilitating or reducing the cost of remittances, encouraging migrants’ savings and investments, and encouraging return, especially of the skilled and talented (ILO, 2004, p. 124). Destination countries basically focus on meeting a temporary demand for workers, supporting strategic industries, building a global workforce and on avoiding inflation. De Haan (2000, cited in Waddington, 2003, p. 3) notes that the migration process needs to be managed properly, and policies need to be put in place to support migration. Functions of a state or a state-managed foreign employment agency should be to develop marketing and promotional activities, regulation, placement, operation of complaint procedures and the provision of specialised support for particular skills. Table 2.3 shows the specific measures that are being followed by selected labour origin countries in Asia.

Table 2.3: Areas of government intervention and specific measures taken by countries

	Bangladesh	India	Sri Lanka	Philippines
Standard setting and enforcement				
Minimum standards for work contract	x	x	x	x
Pre-employment briefing				x
Pre-deployment briefing	x		x	x
Restriction on passport issue	x	x	x	
Emigration clearance to leave country	x	x	x	x
Trade test requirement		x	x	x
State subsidised skill training	x	x	x	x
Negotiation of supply agreements	x	x	x	x
Social security arrangements			x	x
Performance bond from worker		x	x	x
Repatriation bond or fund		x	x	x
Supervision of private recruitment				
Licensing/regulation of private recruiters	x	x	x	x
Ban/restriction on direct hiring	x	x	x	x
State operation of recruitment agency	x	x	x	x
Periodic inspection of recruitment agency	x	x	x	x
Limit recruitment fee charged to worker	x	x	x	x
Cash/security bond requirement	x	x	x	x
Regulation of job advertising	x	x	x	x
Renewal of contract clearance				x
Joint and solitary liability			x	x
Client referral service				x
Regulation of advertising and promotion	x	x	x	x
Settlement of claims/disputes				
Conciliation on site/upon return	x	x	x	x
Adjudication system				x
Fund to cover unpaid claims/benefits		x	x	x
Welfare services				
Contribution to welfare fund	x		x	x
Labour Attaché assistance	x	x	x	x
Welfare centres			x	x
Welfare officers			x	x
Low-cost insurance	x		x	x
Legal aid to worker in distress on site	x	x	x	x
Repatriation assistance	x	x	x	x
Social welfare services	x		x	x
Education facilities	x		x	x
Scholarship for children of workers			x	x
Health/medical facilities				x
Livelihood programmes for family				x
Financial loan programme			x	x
Employment assistance for returnee				x
Returnee training programme				x
Trauma care centre for returnees			x	
Duty-free privileges	x	x	x	x

Source: (Achacoso, 2002)

According to Table 2.3, similarities in policies and procedural interventions can be observed among labour exporting countries in terms of various functions. The real issue is what happens in real life situations when these functions are accessed by migrant workers before departure in particular.

2.4 Migration and inequality approach

The migration and development perspective suggests that labour migration is an instrument for reducing economic inequality in origin countries, for example, by expanding employment opportunities and reducing poverty. However, the United Nations (2005, p. 6) observes that the gap between the rich and poor has not yet narrowed and in some cases, economic disparities are widened. The recent discourse on migration and inequality focuses on the way migration reproduces inequality for countries, societies and migrant workers. While observing polarisation of the migration and development approach from the central phenomenon 'migration', de Haan (2006, p. 2) points out that 'increased income is not increased development'. Lipton (1980, cited in Black et al., 2006) argues that inequality is not only a cause for migration but also an effect of migration that increase inequality in different levels. Emphasising the risks and costs involved in migration, Black et al. (2006, p. 1) see international migration as a powerful symbol of global inequality in terms of wages, labour market opportunities or lifestyles. This approach suggests that migration and inequality exert mutual influences, the relationship depends strongly on the type of migration (as well as type of inequality) and a hierarchy of migration possibilities and opportunities and 'migration humps' exist (de Haan, 2006, p. 2).

International labour migration is a result of global economic inequalities and political power differences between origin and destination countries. Neo-liberal theorists argue that globalisation together with migration leads poor countries to achieve rapid economic growth and, as a result, reduce global inequality. However, others (Castles, 2007; Milanovic, 2011) argue that globalisation increases inequality by widening gaps between the countries in terms of income and wage. Ellerman (2005, p. 627) describes temporary migration as a development trap for the workers from developing countries (South) because it is an unfair deal between North and South. This '3-D deal' is about many jobs

that native workers are reluctant to engage in. Wages for unskilled migrant workers are many times more than what they could make in their home country.

If migration increases global inequality in this way what is the situation with regional or local level inequality? According to Black et al. (2006), these inequalities are context specific, to be defined in broader terms, and depend on the role played by political, economic and socio-cultural institutions. First, migration-related inequalities vary among countries and societies. Therefore, we need to look at the specific context of migration at any given point in time. Secondly, inequalities cannot be simply defined using income or wealth. They have to be defined in broader terms such as power and gender. Finally, as the *World Development Report 2006* (World Bank, 2005b) emphasises, institutions are crucial in this regard as they distribute wealth, power and opportunity within societies. In relation to migration, institutions decide the main aspects of migration, that is access and opportunity.

Access and opportunities are unequal in terms of country of origin, occupational categories, race and gender and even in terms of the treatment received from the employers. For example, Rodriguez (2010, p. 30) observes the way in which visa regimes reflect and reproduce the global hierarchy among nation states. Unequal treatment of different nationalities becomes an issue in destination countries. First, selected employment categories are excluded from labour laws and second, migrant workers have unequal access to information and rights compared to local workers. Further, there is a difference among migrant workers themselves with regard to skill level, gender and occupational concentration (ILO, 2010b, p. 72). For female migrant workers, class relations and racial/ethnic dimensions further increase their vulnerability to exploitation and abuse. As Giles and Arat-Koc (1994, p. 2) observe, 3-D jobs are usually performed by working class women and women of subordinate ethnic and racial groups.

Gender plays a significant role in understanding inequalities throughout the migration process. A gender perspective 'goes beyond the differences between men and women in relation to migration behaviour - such as the likelihood of migrating or type of migration - and focuses explicitly on the inequalities that also exist' (United Nations, 2006, p. 15). Feminisation of migration emerges as a phenomenon which is not neutral but linked to the violation of human, women's labour and social rights (Piper, 2006, p. 151).

According to Siim (2009, p. 7), feminists analyse the gendered effects of globalisation by employing two approaches. One addresses the implications of globalisation on women's position in the labour market, emphasising convergent trends and negative effects of neo-liberal policies leading to the marginalisation of female migrant workers. The other approach focuses on political globalisation and the barriers and potentials of global processes for gender inequality. The following section examines the existence of gender inequality and gender equity in labour migration.

Gender inequality in labour migration

Increasingly, women migrate by themselves for employment in foreign countries but there is a dearth of data on female labour migration. Data on international migration are lacking in terms of availability, quality and comparability (United Nations, 2006, p. 11). However, demand for migrant labour is mainly around gender-specific niches. The available opportunities for women are low-skilled and are easily controllable (Chammartin, 2001, p. 41) as available jobs for women often reflect their traditional role and stereotypes. This is a historical phenomenon, because historians of the industrial revolution documented the early recruitment of women (particularly young unmarried women) as a highly flexible, inexpensive and easily disciplined source of labour (Dublin, 1979; Tilly & Scott, 1978; Tsurumi, 1990, cited in Mills, 2003). This preference for female labour is still the same, as industrial employers still prefer 'nimble-fingered' youthful and deferential female workers (Asis, 2006, p. 2). For example, male migrants respond to the shortage of workers in plantation, construction and manufacturing sectors which are unattractive to the local labour force while female migrants respond to a very specific labour shortage in social reproduction. Labour exporters promote stereotypical representations of gendered labour. For instance, in the Philippines, promotional material designed to attract potential employees depicts men in professional and construction occupations while women are portrayed as nurses and domestic workers (Leitner, 2002, p. 453). Chang and Ling (2000, cited in Rodriguez 2010, p. 37) identify this as 'masculinized globalization', the global restructuring that concentrates on the low-wage, low-skilled menial services provided by mostly women migrant workers. To them, it is a result of valorising all the norms and practices usually associated with Western capitalist masculinity.

The most of the jobs available for migrant women are as domestic workers or ‘maids’, sex workers or entertainers, manufacturing workers and service workers such as nurses and other health service workers. Most of them migrate as domestic workers and as sex workers, work which is exclusively meant for women and is characterised by a high degree of isolation. This shows that structurally migrant women are confined to so-called ‘feminine’, less-paid, insecure and low-level occupational categories where there is no career development opportunity available. Since women have less of a chance to migrate legally than men¹⁷, they are relatively more vulnerable to discrimination, abuse and violence (Chammartin, 2001, p. 41). Cheng (1999, p. 222) observes several reasons for this situation. First, generalisation of gender stereotypes in the division of labour across national borders which match women with ‘feminine jobs’ overseas. Secondly, because of the high rate of participation of local women in the local labour force there is a demand for migrant women to fill traditional reproductive jobs such as housekeeping and caregiving. Thirdly, development of tourism and new service industries has created certain employment opportunities for women overseas. The fourth aspect is the emergence of a pool of potential migrant workers due to uneven economic development which has resulted in an increasing gap between rich and poor countries in the region. When high growth economies are faced with a serious shortage of labour and a large capital surplus they seek to invest abroad and to import labour from their poor neighbours. This leads to uneven development and to polarised intra-country differences, such as rural/urban and class differences, by creating a pool of potential migrant workers including women. Finally, labour supply and demand facilitate a transnational network of organisations that profit from human trafficking, especially of women.

Labour migration and gender equity

Labour migration does not provide gender equity with fairness and equal justice to migrant women workers in many cases. There are disparities in conditions and treatment for female migrant workers in destination countries. Migrant women workers are at risk of exploitation, violence and abuse throughout the migration process: before leaving the home country, while in transit, at the destination and upon return to the home country. In addition to the employers, the main source of exploitation of female migrant workers is

¹⁷ Many labour origin countries in Asia have set out restrictions on female migration. Many destination countries including the USA, Switzerland and Germany follow male-biased labour migration policies (Chammartin, 2001, p. 39). This is the reason for increasing female illegal migrant workers.

the legal and illegal intermediaries or recruiters and agents in the countries of labour origin and destination (Chammartin, 2001, p. 41). Mills notices (2003, p. 42) that gendered and ethnically segmented labour pools upon which capitalist accumulation depends now encompass every corner of the globe. As a result, gender hierarchies are produced and maintained in transnational circuits of labour mobilisation and capital accumulation.

Gender-based disparities include job insecurity and less advantageous working conditions such as disparities in wages, rest days, freedom of movement and discriminatory attitudes, policies and practices. There are different forms of discrimination and unjustified differential treatment in many destinations and it serves to maintain stratification and segmentation in the labour market, and reinforces attitudes that regulate certain identifiable groups to subordinate roles and lower stratum in the workforce (ILO, 2010b, p. 81). Grant (2005, p. 12) observes that because of migrant women's subordinate status both as migrants and as women, that are characterised as 'double marginalisation', they are vulnerable to exploitation and ill treatment.

In such a context, Kofman and Raghuram (2009, p. 297) state that any analysis of the different incorporation of women migrating as workers, wives and mothers into the new global economy must encompass the multiple sites and spheres of reproductive labour¹⁸. Research needs to 'take into social reproduction needs to span micro and macro contexts, public and private sites and gender, ethnic, race and class divisions'. Boyd and Grieco (2003) argue that what is needed is 'a general theoretical framework that guides research and helps explain the unique experiences of both males and females at all stages of the migration process'. They identify three stages where gender relations, roles and hierarchies influence the migration process and produce differential outcomes for women:

¹⁸ The term 'reproductive labour' or 'social reproduction' refers to four main work processes that ensure the survival of individuals and households: the reproduction of labour power of the wage earner and the domestic worker, childbearing and rearing, housework and the transformation of wages into goods and services (Luxton, 1980 cited in Giles & Arat-Koc, 1994, p. 94). Some social reproductive roles overlap between paid and unpaid labour. Differences between these two are: first, the paid domestic work is not regarded as a 'labour of love' that is part of the worker's familial responsibility; second, paid housework is characterised by a significant social distance, involving class and ethnic or racial differences between the worker and those consuming her services; and third, employer-employee relationships may be personal and paternalistic when paid domestic work that performed by domestic workers and nannies (Giles & Arat-Koc, 1994, p. 7).

the pre-migration stage, the transition across state boundaries, and the experiences of migrants in the receiving country.

2.5 Rights-based gender perspective

It was mentioned earlier that cross border migration poses specific challenges and issues despite several international standards and measures of labour origin and destination countries. These include exploitative working conditions, human rights violations and lack of labour rights. Low-skilled workers, irregular migrants, women and children are mostly vulnerable to exploitation and abuse. However, Martin (2007) states that migration is an empowering experience for women.

In the process of international migration, women often move away from traditional, patriarchal authority to situations in which they can exercise greater autonomy over their own lives. If they take outside employment, they may have access to financial resources that had never before compensated their labor.

Martin (2007, p. 5)

Both these are theoretical possibilities in specific contexts.

The rights-based gender perspective is a variation of the rights-based approach in migration. The rights-based approach argues firstly, that labour migrants are at risk of lack of protection in the host countries though there are different types of laws and regulations to protect migrants' rights such as international law, human rights law, labour standards, criminal law and various diplomatic protections. As strangers to the host country and without a support network these workers are unfamiliar with, or unaware of the language used, laws and practices, their status and rights, and accessible services. Secondly, the gender-specific approach to international migration advocates broader initiatives for gender equality and the empowerment of women in all societies. Gender relations influence both the causes and consequences of migration. Therefore this approach looks at whether the expectations, relationships and hierarchies associated with being male or female affect the potential for migration process; how do gender inequalities in destination countries affect the experiences of male and female migrants; to what extent and in what ways migration benefits or disadvantages male and female migrant workers; and what steps must be taken to ensure equal opportunities and outcomes for migrant men and women (United Nations, 2006, p. 16). Gender inequalities

in the migration flows and interventions to address these have to be conceptualised by addressing these questions.

The rights-based gender perspective is based on three factors: low skilled workers, both men and women, are highly vulnerable to abuse and exploitation; female migrant workers are at greater risk of discrimination, exploitation and abuse; and female migrant workers face multiple forms of discrimination and disadvantage and are vulnerable to exploitation and abuse at each stage of the international migration process (ILO, 2003c). This approach recognises the similarities and differences in the migration experiences of different categories of women and men in relation to vulnerabilities, violations and consequences; relates these differences to gender by distinguishing the biological sex and socially determined gender,¹⁹ addresses the differentials and discriminatory impacts of legislation, policies and programmes on different groups of women and men; considers the interaction between gender and other categories such as origin, ethnicity, age and class; gives particular attention to vulnerable groups; approaches the issues of female migrant workers holistically; emphasises the need for policies addressing the perspectives of supply and demand and also gender discrimination and inequalities; holds that the elimination of gender inequality and discrimination is a human right and central to efforts to address the issues of women migrant workers; and aims to empower, not just to protect, women and where appropriate men, to claim their rights and make informed decisions about their lives (ILO, 2003c, p. 1).

Given the abovementioned features of a rights-based gender perspective, it is appropriate to study the female migrant worker phenomenon in labour origin and destination countries, especially the manifold vulnerabilities faced by migrant women. Table 2.4 shows the vulnerabilities faced by women in each stage of the migration process.

¹⁹ Division of labour, access to and control over resources, decision making and constraints, and gender needs (identified as gender relations)

Table 2.4: Vulnerabilities at different stages of the migration process

Migration Stage	Vulnerabilities faced by female migrant workers
Recruitment and pre-departure	<ul style="list-style-type: none"> • Illegal recruitment and trafficking • Excessive fees for placement and documents • Cheating and extortion by agencies and brokers • Non-existent jobs • Inappropriate and expensive training programmes • Being locked up by recruiters, abuses in training centres • Not being sent abroad at all • Falsification of worker's identity • Lack of information on terms and conditions of employment
Journey	<ul style="list-style-type: none"> • Expensive fares • Unofficial transportation/smuggling • Hazardous travel • Victimization in transit
Working and living abroad	<ul style="list-style-type: none"> • Contract substitution or contract violations • Dependent employment relationship • Withholding of papers/documents • Poor working and living conditions • Health and safety risks and lack of social protection • Non-payment of or unauthorized deductions from wages • Physical, psychological or sexual abuse or violence • Limited freedom of movement • Lack/absence of information, access to services and redress mechanisms • No embassy or inadequate services provided by embassy
Termination of contract	<ul style="list-style-type: none"> • Illegal termination • Sudden, unjust termination • No place to stay before being sent home • Absence of complaint and redress procedure
Return and Reintegration	<ul style="list-style-type: none"> • No alternative source of income, difficulties of finding employment • Extortion and overpricing of services by airport and customs personnel, moneychangers, etc. • Bankruptcy • Family problems, adjustment • Social reintegration difficulties, particularly for survivors of violence abroad • Danger of being re-trafficked

Source:(ILO, 2003a)

Furthermore, some researchers (Anderson, 2000; Constable, 1997; Ehrenreich & Hochchild, 2003; Gamburd, 2002; HRW, 2004a, 2004b, 2005, 2006a, 2007, 2008, 2010b, 2010c; Huang & Yeoh, 1996; Jureidini, 2002, 2010; Momsen, 1999; Oishi, 2005; Parreñas, 2001; Silvey, 2006) have commented on the extent of labour rights and human rights violations of migrant domestic workers. These include the labour rights violations such as poor working conditions, long and excessive working hours, forced labour, low

wages, non-payment or delayed payment of wages, and inadequate health insurance coverage, and the human rights violations of psychological abuse (harsh insults and threats), restrictions on freedom of movement, confinement, deprivation of food (providing leftovers or rotten food), physical aggression (slaps, pulling or cutting hair, scalding with iron or hot water), sexual harassment and rape. This situation is prevalent mainly because of the exclusion of domestic work from labour laws due to formalisation of social biases and gender stereotypes into law (HRW, 2004a, p. 77), resistance of employers to the regulation of domestic work (D'Souza, 2010, p. 17), and being in a disadvantageous position due to traditional allocation of social reproductive tasks (Fitzpatrick & Kelly, 1998, p. 67).

Even if domestic workers are protected by legislation, it is often difficult for women to benefit from available protections, resulting in widespread violation of labour laws (Grant, 2005, p. 12). Since domestic labour is often excluded from the scope of national labour laws in many countries there are no legal norms for their treatment, or offices and inspectors to enforce them. Research studies by Human Rights Watch follow rights-based approaches and thereby contribute to the policy and law development process.

Summary

This chapter has reviewed literature relating to the main approaches to international labour migration: the push-pull theory of migration, migration and development, migration and inequality and the rights-based gender perspective. Furthermore, the chapter reviewed international conventions that provide standards for labour and human rights of migrant workers. The relevance of these to Sri Lanka as a labour origin country was also discussed in brief.

The supply-push and demand-pull theories are mainly based on economic factors. Neo-classical theory assumes migration to be a result of wage differences between capital high-labour shortage countries and capital poor-labour surplus countries. Dual labour market theory suggests that the labour market is characterised by a capital intensive primary sector and a labour intensive secondary sector which differentiate skills, wages, working conditions, employment stability, and chances of advancement, equity and due process in the administration of work rules. The main focus of the world system theory is

exploitative political economic relationship between the centre and the periphery. This chapter shows the usefulness and validity of these push-pull theories and their limitations in obtaining insights about the complex phenomenon of Sri Lankan female labour migration.

Further, the chapter presented how the migration and development approach elaborates the importance of migration management, including remittance management. The risks of depending on a remittance based development model were also emphasised. How globalisation created a new international division of labour was discussed in the light of a need to address inequality. Elements of a better migration management tool were then discussed including intra-governmental policy coherence, the collaborative role of stakeholders and capacity building.

The standards developed by the ILO and UN for governments to implement and ensure worker conditions and rights were then discussed. The expectation is that these standards, if adopted, can lead to good governance and better protection of workers. The Domestic Workers Convention of 2011 is a specific example. Various conventions and their contents were reviewed to identify specific provisions relating to specific standards. It was mentioned that the rights specified under the ILO and UN conventions are complementary to each other. They are instruments that governments can use to manage migration and prevent exploitation and malpractices or servitude and forced labour. They are also useful in preventing gender discrimination. Providing protection to vulnerable categories of workers is paramount here. However, some countries have not ratified these conventions leaving workers open to abuse, exploitation and inequalities of treatment. Private sector labour brokering agencies both in labour origin and destination countries may not be subjected to rigorous regulation and oversight by governance structures of countries under such circumstances. Thus domestic labour and migration policies of some countries may not meet the standards and expectations set by the ILO and UN standards. Promoting bilateral agreements between labour origin and destination countries is considered to be a suitable legal avenue to protect migrant workers. However, many countries prefer to go with MOUs which are not legally enforceable tools for managing migrant workers.

Next, the chapter discussed the way migration can lead to various inequalities. It was stated that the relationship between migration and inequality depends on the type of migration and the hierarchy of migration possibilities. The role of globalisation in either reducing or increasing inequality is a debatable topic as it is dependent on the context involved. In the end, institutions established by countries to manage and promote migration have a crucial role in determining access (who gets to migrate where) and opportunity. In access and equity terms, there is a global hierarchy of labour origin and destination countries. A segmented labour force in the international division of labour has been created between skilled and unskilled men and women. Thus gender is an important perspective in understanding the nature of inequalities created by this new international division of labour. Feminisation of migration is a dominant theme in the reviewed literature along with the unequal nature of access and opportunities enjoyed by women compared to men. Added to this, labour exporters promote stereotypical representations of gendered labour.

The key factor that emerged from the literature is the need for a comprehensive approach to examine contemporary labour migration. This is essential when studying the phenomenon of increasing feminisation of migration and migrant domestic workers. There are several limitations in economic theories such as the push-pull theory due to their level of analysis. These theories explain migration at an individual level; therefore, it is difficult to understand the significance of the range of aspects embedded with migration. Using this approach the researcher can only ascertain push factors that determine women's migration. Furthermore, holistic approaches like historic-structural theories fail to explain important interrelated factors due to their extremely abstract ideological basis that is difficult to apply in specific contexts. The migration and development approach is more concentrated on the development aspect and addresses poverty reduction through remittances.

The review showed that migrant women are channelled into lower-paid, insecure and lower occupational categories compared to men. There are conditions in the labour origin and destination countries that produce inequalities. These can be structural, political, economic, legal or cultural. Differential treatment and its various forms were also described for example, double marginalisation. The rights-based gender perspective looked at two aspects: rights violations and exploitative working conditions leading to

inequality at work and in migration process, and empowering aspects for women and initiatives for gender equality.

The review showed the importance of adopting a gender-sensitive framework to analyse the complex phenomenon of the vulnerabilities and disadvantages of migrant domestic workers in the context of labour migration policies, procedures, governance structures, economic and socio-cultural factors and ideologies of both labour origin and destination countries.

The researcher will examine how Sri Lanka as a labour origin country and Saudi Arabia as a destination country have developed policy frameworks and governance structures to manage labour migration in the following chapters. Those chapters will present the way in which economic, socio-cultural and political factors affect relevant migration structures and employment structures and as a result, and the experiences faced by migrant domestic workers in Saudi Arabia.

CHAPTER 3

Methodology

Introduction

As shown in previous chapters, international labour migration is a multifaceted phenomenon. The problem investigated in this thesis is the effectiveness of labour management regimes in Sri Lanka and Saudi Arabia and the level of protection offered by the two countries to migrant workers in comparison to the standards set by multilateral agencies such as the ILO, and best examples such as the Philippines. This study aims to examine the phenomenon in the context of Sri Lankan labour migration. Linked with the objectives of the thesis described in Chapter 1, the study is guided by the following three research questions:

1. In what ways and why has Sri Lanka transformed itself into a labour brokerage state, preparing workers for foreign jobs, developing a bureaucracy to send them abroad, and regulating them for work abroad?
2. As a labour importing country what measures has the Saudi Arabian Government put in place for migrant workers and how does it regulate the working conditions and labour protections for the migrant domestic workers?
3. What are the experiences of Sri Lankan domestic workers in Saudi Arabia in terms of labour migration procedures, working conditions and labour protections?

The nature of the thesis topic and the research questions necessitate the design of the research process at macro and micro levels. Migration of female domestic workers involves a sending country, a destination country and governance structures, policies, laws, procedures, practices and intermediaries in both sending and receiving countries including NGOs and multinational organisations. Thus it is important to engage in macro level research to capture the essence of research findings and policy recommendations, as well as legal instruments that are applicable to the migrant worker phenomenon and its governance, regulations, availability of protection and equity in treatment by all parties involved. This chapter presents the methodology used for data collection to address the above research questions and to achieve the objectives of the study.

3.1 Methodology of the study

This is not a study designed for hypothesis testing by using quantitative procedures. The approach used is a mixed method based on documentary research and field research. The phenomenon studied is female migration for work, labour regulation and protection in relation to labour origin and destination countries. The researcher followed a cross-sectional perspective to collect data to provide a better understanding of the various dimensions of the phenomenon. Basically, explanatory studies are cross-sectional. As Babbie (2000) states, they are designed to study some phenomenon by studying a picture at one time. This study is also comparative because it examines migration structures in Sri Lanka and employment structures in Saudi Arabia in comparison with other selected countries such as the Philippines.

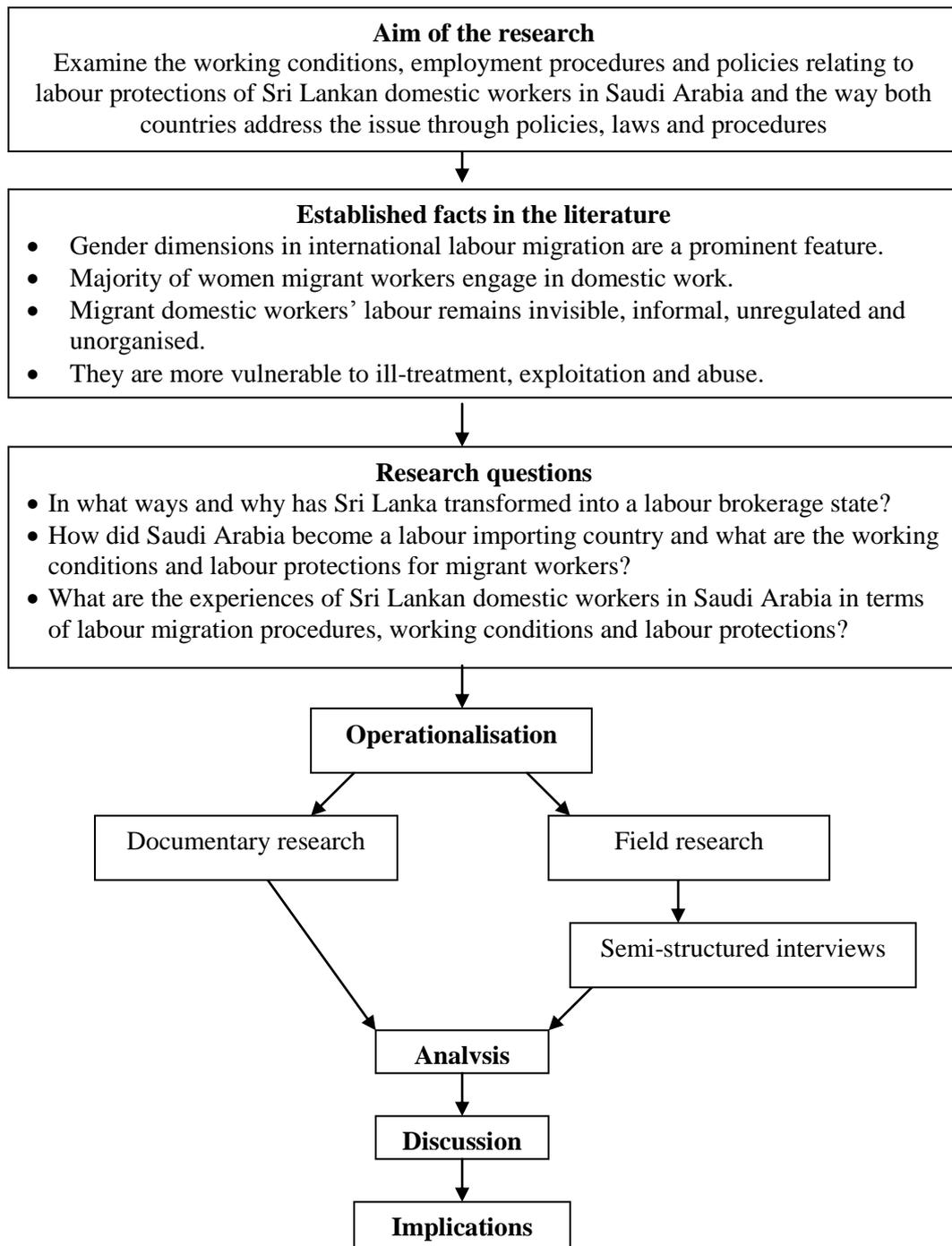
The analysis of policy documents, research reports and findings were used to identify the policy and governance structures relating to the female migrant worker phenomenon. The interview method was used to supplement this information from the perspective of relevant government officials and a sample of migrant women who returned from Saudi Arabia. Both generated sufficient quantitative and qualitative insights and materials for the systematic analysis of the phenomenon under study.

The approach used in the study is one of migrant labour regulation, protection of rights between labour origin and destination countries on the one hand, and the interests of different stakeholders on the other. Each has their own interests, costs and benefits anticipated and expectations, perceptions and understandings of the female migrant worker phenomenon, and the legal and cultural basis for these. Policies, laws and procedures are important and relevant while the actual behaviour, attitudes and experiences of these stakeholders are even more relevant to outcomes. Data collection instruments used in the study are designed to capture this complexity.

3.2 Key aspects of the research

The following diagram (Figure 3.1) provides the aim of the research, research questions and the manner in which the study was operationalised.

Figure 3.1: Key aspects of the research



3.3 Documentary research

Documentary research was a continuous process from the beginning of the research to the data analysis stage. As the chapters were being written and revised it was necessary to go back and forth between various documents to verify the information, cross-checking, etc. As the *Blackwell Encyclopaedia of Sociology* (2007) points out, the use of documents is

often subsumed under the broader category of ‘unobtrusive’ techniques. Analysing available policy documents, administrative records and reports of different government and non-governmental organisations is a prerequisite to the collection of empirical data and it also provides a firm foundation for the study because it helps to define, develop and establish the approach to the problem.

The study used two types of data sources in the documentary research namely published and unpublished sources. Published data sources involved primary sources such as policy documents and records at local and international levels. Secondary sources were academic literature such as books, journal articles and electronic sources, non-governmental organisations’ records and reports, and newspaper articles and narratives. Whereas theses and papers presented at conferences on migrant domestic workers and related themes were included in unpublished data sources.

Among the primary data sources were ILO and UN conventions, standards and guidelines relating to migrant workers. These international standards concerning the social security rights of migrant workers have considerable potential for improving national migration policies and protecting migrant workers. The Sri Lanka Bureau of Foreign Employment Act No.21 of 1985, amended by Act No.4 of 1994 and No.56 of 2009 is the law that applies to all categories of Sri Lankan migrant workers. The recently introduced national labour migration policy of Sri Lanka also provided information. Labour laws of Saudi Arabia and a few migration related documents of other GCC countries and of the Philippines were examined to obtain a clear picture of the legal and policy context pertaining to migrant workers in these countries.

Government records, primarily the work of the SLBFE, provided background sources for the different aspects of the migration process and about Sri Lankan migrant workers. The researcher obtained pertinent information from the annual statistical reports of the SLBFE, which provide a continuous review of the trends, patterns and development of the foreign employment industry in Sri Lanka. Furthermore, the researcher collected data from reports and other relevant documents from the SLBFE, Ministry of Foreign Employment Promotion and Welfare (MFEPW), Department of Census Statistics and the Central Bank of Sri Lanka.

Studies conducted by the international organisations and their reports present both historical and contemporary accounts of the migrant worker phenomenon, the migration process, issues and challenges faced in terms of protection and inequalities. The reports, working papers and media releases of the ILO, the IOM, the Global Commission on International Migration (GCIM), the World Bank, United Nations Development Programme (UNDP), United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), United Nations International Research and Training Institute for the Advancement of Women (INSTRAW), State Department of United States of America, Migration Policy Institute, Asian Development Bank (ADB), and Development Research Centre on Migration, Globalisation and Poverty provided quantitative and qualitative information. Moreover, records and reports of international non-governmental organisations working for the welfare of migrant workers, including Human Rights Watch (HRW), Migrant Information Source and local NGOs such as the Centre for Women's Research (CENWOR), Law and Society Trust, Migrant Services Centre, Action Network for Migrant Workers (ACTFORM) and Sri Lankan based international NGOs such as Caritas Sri Lanka were helpful sources of information. Finally, articles published in Sri Lankan printed media and websites provided current information related to the study. These data sources revealed information on exploitation and abuses faced by domestic workers in West Asia. Activism of these NGOs and recommendations made in their reports has led to some policy initiatives at local and international levels. Analyses of these reports were useful for finding out the value of their activities on behalf of migrant domestic workers.

In this study, the researcher attempts to understand the policy gaps which exist in Sri Lanka as a labour brokerage state compared with the 'best available model' of the Philippines (Agunias, 2008; ILO, 2005) and international standards and expectations, for example, the ILO and HRW. The researcher compared the Sri Lankan context with the Philippines, using various data sources such as policy documents, secondary sources and the first-hand interview data with SLBFE officials, because Sri Lanka is considered as more lenient in migration management and the 'Philippines model' is known as moderate. The researcher compared Sri Lanka with other GCC countries to ascertain prevalent migration inequalities and policy gaps. In this sense, documentary research provided a useful tool for the study.

3.4 Field study and interviews

In order to obtain first-hand understanding about the migration experiences of migrant domestic workers, the researcher undertook a field study in Sri Lanka. According to Babbie (2000, p. 275), field research is appropriate to explore topics and social studies that appear to defy simple quantification and fieldwork may recognise several nuances of attitudes and behaviour that might escape acknowledgement in other methods. Among other possible methods, the survey method is easy to manage with a larger sample but, as Tylor and Bogdon (1998) observe, such structured approaches do not deal with the differences between 'objects' and 'people' and therefore do not describe the social reality well. The survey method is not appropriate for the type of study as the researcher had to obtain some qualitative insights of the phenomenon within a stipulated time period. The interview method which is employed in this study is an excellent means of discovering people's perceptions, meanings, concerns, experiences, definitions of situations and constructions of reality (Punch, 2005, p. 168).

The majority of questions in the interview schedules were open-ended questions that sought extended responses to understand the phenomenon well because the phenomenon is relational, contextual, power-laden and also dynamic. Merton and Kendal (1946 cited in Frankfort-Nachmias & Nachmias, 2000) observe four characteristics in the semi-structured or focused interview: it takes place with respondents known to have been involved in a particular experience; it refers to situations that have been analysed prior to the interview; it proceeds on the basis of the interview guide specifying topics related to the research hypotheses; and it focuses on the subjects' experiences regarding the situations under study. These characteristics were reflected in this research. As Frankfort-Nachmias and Nachmias (2000, p. 215) stress, although the encounter between the interviewer and respondents is structured and the major aspects of the study are explained in focused interviews, respondents are given considerable liberty in expressing their definition of a situation that is presented to them. Minichiello et al. (1995, p. 65) also point out that semi-structured or focused interviews allow the researcher to focus on the subjective perceptions, meanings and understanding of the respondent because questioning and discussion allow for more flexibility. On the other hand, the interview is time consuming, especially when conducted for a relatively large sample of 100 migrant domestic workers.

The study consisted of data collection from two groups of participants namely, returned migrant domestic workers from Saudi Arabia and top and middle level officials from the SLBFE. The interview method used was semi-structured interviews. The first group, domestic workers, is a broadly homogenous group in terms of level of income and level of education. Conducting a survey is not productive for a semi-literate group as they have difficulties in understanding the questions by themselves. Although interview schedule was structured, the respondents were allowed to talk freely with the interviewer. This was helpful to probe their experiences further. Since the researcher and the main subjects of study were women it was easier to build up friendly environment and necessary rapport. The second group consisted of educated, experienced government officials involved in the migration decision making and policy implementation process. According to Walliman (2006, p. 92) conducting interviews provides direct, instant and more accurate responses from participants in all groups, irrespective of their level of education or occupation. Further, survey method would not have generated a reasonable return as the second sample is small.

As the study will show, the migrant worker women had a certain image and perception about the reality of experiences in Saudi Arabia. These were significantly challenged by the actual experience once they went to Saudi Arabia, to the extent that some had to return. Perceptions and attitudes of the employing Saudi families are also instrumental to the study; however, due to practical limitations it was not possible to interview them.

3.4.1 Instruments of field data collection

The first interview schedule was used for returned female domestic workers from Saudi Arabia with or without completing their stipulated contract period. The questions were on personal details, their prior work experience/employment, pre-departure preparation/training, facilities/support provided by the government (SLBFE), the employment contract, working conditions, about the employer and the relationship with employer and his/her family, the overall impression of their experience abroad, remittance behaviour, their experiences of labour rights violations and the nature of assistance received from Sri Lankan missions abroad and local authorities (see Appendix A).

The second interview schedule was designed to obtain the experiences, responsibilities, opinions and perceptions of SLBFE personnel who engage directly in the planning and implementation relating to labour out-migration. The questions were mainly open-ended and flexible in order to provide them with the opportunity to elaborate their views and opinions as needed (see Appendix B).

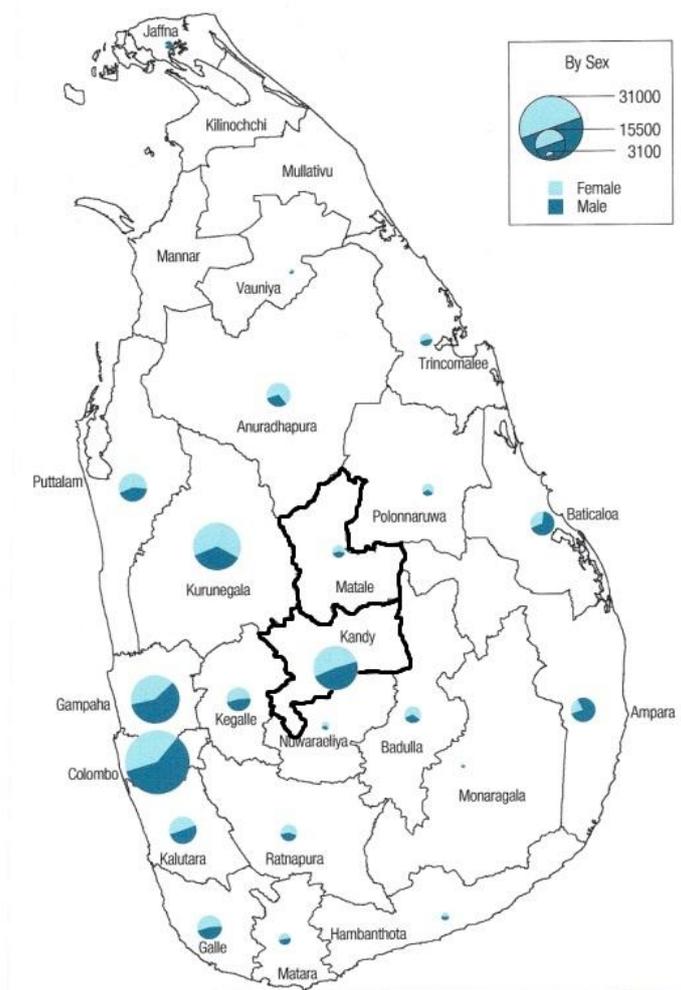
By employing a semi-structured questionnaire for both groups the researcher collected both quantitative and qualitative data. There were structured questions to collect basic demographic and socio-economic data and several Yes/No questions before asking the open-ended (probing) questions. Quantitative data are useful in getting a sense of the number of respondents who gave a certain kind of response to a question. Conversely, qualitative data produces rich, descriptive data about the human experience and realities that help us to understand the migrant domestic worker phenomenon in its various dimensions, that is, bureaucratic regulations, labour rights and human rights protection.

3.4.2 Sample selection

The sample for this study was selected by using a snowball sampling method. This was because the population of migrant domestic workers is very large and dispersed throughout the island and it is difficult to obtain the numbers of returned migrants and their addresses from the official sources. If the study was to use survey method, a probability or systematic sampling method would have been desirable.

Snowball sampling is a non-probability sampling design and a purposive sampling method. Babbie (2007, p. 193) indicates that this as an appropriate procedure when the members of a special population are difficult to locate, such as homeless individuals and migrant workers. Oishi (2005) confirms this in her study on migrant women. According to her ‘... it is extremely difficult to conduct a systematic survey of migrant workers based on random sampling, because in no country is there a list that comprehensively covers the entire migrant population, be it male or female’ (Oishi, 2005, p. 15) . Oishi selected the snowball sampling method for her study. The researcher selected the sample on this basis from Kandy and Matale districts where female migrants outnumbered male migrants (Figure 3.2) (marked in black).

Figure 3.2: Departure for foreign employment by district and sex, 2009



Source: (Sri Lanka Bureau of Foreign Employment, 2010)

Seventy women from Kandy District and thirty from Matale District were in the sample. The first set of twelve women was identified through key informants who were Grama Niladaris (the village level state official who coordinates local affairs with the government agencies), voluntary workers for NGOs and community workers. The next set of women was identified through the first set and their networks. The total sample was 100. All the women returned in 2008 or up to a maximum of one year earlier. Their demographic profile is presented in Table 3.1.

Table 3.1: Sample women by age, ethnicity, marital status, and by experience as domestic workers overseas

		18-24	25-34	35-44	45-54	55<	Total
By ethnicity	Sinhalese	6	20	34	19	1	80
	Tamil	1	2	1	1	--	5
	Muslim	--	3	6	5	1	15
	Total	7	25	41	25	2	100
By marital status	Never married	--	3	3	--	--	6
	Married	7	21	32	18	--	78
	Divorced/ Separated	--	1	5	2	--	8
	Widowed	--	--	1	5	2	8
	Total	7	25	41	25	2	100
By experience	<One year	--	3	--	1	--	4
	1-2 years	--	8	1	1	--	10
	3-5 years	5	5	17	4	--	31
	6-10 years	2	9	13	14	--	38
	10< years	--	--	10	5	2	17
	Total	7	25	41	25	2	10

Source: Interview data

As shown in Table 3.1, the women in the sample belonged to the main ethnic groups in Sri Lanka: Sinhalese, Tamil and Muslim.²⁰ The majority were Sinhalese (80). Forty one women were in the 35-44 years age cohort. Seventy eight women were married and 86 women had more than three years experience abroad as domestic workers.

The researcher selected a purposive sample of fifteen government officials for the second set of interviews. They were selected from the top and middle level officials in the SLBFE on the basis of their role and functions and the extent of direct involvement in the migration process. Departments such as finance were not considered due to their distant role. Table 3.2 summarises the selected officials' demographic data and management level.

As shown in Table 3.2, the researcher interviewed five top level and ten middle level SLBFE officials and there were eleven male and four female officers. A majority of them belonged to the 45-54 age group. All had more than five years experience in the field and three had more than twenty years experience.

²⁰ Although census reports categorised this group as Sri Lankan Moors, they are commonly referred to as Muslims. They are descendants of Arab traders settled in Sri Lanka between eighth and fifteenth centuries and considered themselves as an ethnic group.

Table 3.2: Sample officials by management level, sex, age and work experience

		Top level	Middle level	Total
By sex	Male	4	7	11
	Female	1	3	4
	Total	5	10	15
By age	35-44 years	1	4	5
	45-54 years	3	3	9
	55 & above	1	--	1
	Total	5	10	15
By experience	6-10 years	1	1	2
	11-15 years	--	5	5
	16-20 years	1	4	5
	20< years	3	--	3
	Total	5	10	15

Source: Interview data

3.4.3 Conducting field research

The field research was conducted from October 2008 to February 2009. The interviews were carried out in both English and Sinhalese; however, all interviews with returned domestic workers were conducted in Sinhalese only. Although there were Tamil and Muslim participants the need for an interpreter did not arise since they were bilingual and could communicate in Sinhalese fluently. Most of the returnee migrant women were quite willing to talk and share their experiences with the researcher because interviews were conducted while they engaged in their household or economic activities. Interviews took place in small boutiques, in family farms or chena²¹, in kitchens, etc. Interviews with policy makers were conducted in their offices in the language preferred by the respondents. The researcher is a Sri Lankan from a similar cultural background to the majority of the respondents and prior to this field research has had research experience as a sociologist doing several ethnographic studies. This prior experience assisted in conducting this research.

Interviews lasted between forty five minutes and one hour. As Minichiello et al. (1995) suggest, the interviewer/researcher was mentally alert at all times, more than listening, nodding and note-taking, and she did answer, comment and attend to the conversation sensitively. Many women were inquisitive about the formalities and procedures of the SLBFE and some discussed their future plans with the researcher, especially those who expected to re-migrate. Those who were victims of various abuses wanted to clarify their

²¹ A popular method of cultivation in the dry zone; farmers clear the lands of natural vegetation using slash and burn methods before monsoons.

situation or use the researcher's help to get their compensation funds from the SLBFE or the insurance company.

3.4.4 Data analysis

Babbie (2007, p. 384) states that the key process in the analysis of social research data is coding, which involves the categorising of individual pieces of data with a short title. The researcher started the data coding and categorisation in 2010 and the analysis continued until 2012 as the research and writing process evolved. The collected data were organised and analysed using SPSS software to provide both descriptive and inferential statistics. Some open-ended responses were coded and presented as ratios while many responses were presented in interviewees' own words.

The interview schedules were designed to collect both quantitative and qualitative data to generate new understandings about the research topic. This method was in turn related to the structural (policy and governance) and individual experiences and perspectives. The researcher sought to find out structural causalities and patterns underlying the domestic workers' experience overseas and views and opinions of the workers. Research questions were designed to explore the 'what', 'how' and 'why' of the functioning of the migrant domestic worker phenomenon. The collected data were related to information about structures and processes, meanings and mechanisms of inclusion or exclusion, protection of rights or their absence along with possible reasons and implications. The best possible way for achieving this was the application of different, interrelated and complementary qualitative methods (Hay, 2000; Limb & Dwyer, 2001; Robson, 2002, cited in Iosifides, 2003, p. 437). The data were used to examine the role of structures, policies and procedures through cross-sectional analysis. This analysis reduced the likelihood of misinterpretation of data. Thus a triangulation of qualitative and quantitative methods can be evidenced. According to Minichiello et al. (1995, p. 187), triangulation overcomes deficiencies of one method while enhancing the validity of the data.

3.4.5 Ethical considerations

Following ethical standards is an important aspect in conducting research involving humans, especially those in vulnerable situations. The researcher followed the procedures and guidelines provided by the University of New England Ethics Committee for conducting interviews. In accordance with the requirements of the Human Research

Ethics Committee of the UNE, no identification details were collected. Ethics approval was obtained on 29 October 2008 (Appendix C). The researcher obtained the approval of the Chairman of the SLBFE to carry out the interviews with the officials on 3 December 2008 (Appendix D). Personal consent to participate in the research was obtained from each interviewee before starting the interview. The researcher gave a form to the interviewees to read and sign. They were free to select any name or pseudonym for the consent form. They were also informed about their rights to contact the researcher again or to contact the University Research Office or a counsellor in case of stress caused by the questions asked. A few women who were victims of abuse became emotional during interviews but they shared difficulties they faced with the researcher freely.

The researcher conducted the interviews for both groups and at the beginning informed the participants of the method that was to be used, the time allocated and the fact she will write their responses in the interview schedule. The participants were told that they were free to discontinue participation at any time. Respondents were allocated code numbers so that their identity would not be known by anyone else except the researcher.

3.5 Limitations of the study

The researcher encountered some limitations in the data sources and data collection procedures. The study was constrained by the limited data resources available. First, the SLBFE database had some limitations. The SLBFE maintains a database of migrant workers who register with the Bureau prior to departure. However, a considerable number depart on their own. In 2009, 81,399 persons (32.9 %) had left the country on their own for employment (SLBFE, 2010). The Bureau does not maintain any data on returned migrants unless they have lodged a complaint on their return.

The difficulty in obtaining data resources relating to the destination country was another limitation. Saudi Arabia provides limited access to government data and information and some are in Arabic. In Saudi Arabia, lack of publicly available material with regard to labour regulations and procedures was the main limitation in the documentary research. Restrictions in obtaining documents related to the internal procedures of the SLBFE were also a significant limitation. The researcher used only publicly available documents from the SLBFE.

In the field research, during the interviews with women there were several incidents of interruptions from their family members, and in such cases they were reluctant to reveal some types of information. Interviews with the SLBFE officials took place mostly during office hours and around their appointments. A few officials were unhappy about lengthy interviews. Further, some officials selected only sections of the interview schedule that were relevant to their duties and responsibilities.

Limited time and funds also restricted the field research to a limited number of participants. The study would have been richer if the researcher had been able to also interview a sample of in-service migrant domestic workers (those working overseas at the time). The lack of opportunity, time and financial constraints prevented that avenue of research enquiry being followed. Future researchers may benefit if such studies are undertaken.

Summary

This chapter provided a description of the approach, research questions, methods of data collection and analysis, ethical considerations and limitations encountered by the researcher. It explained how the researcher used documentary research and interviews to study the migrant domestic worker phenomenon including governance and regulations, with a focus on labour rights and protection on the one hand and the perceptions and views of migrant workers and government officials in Sri Lanka on the other. Information collected by reviewing, comparing and analysing international and local policies and procedures are presented in separate chapters. They are used to supplement and strengthen micro level data obtained from the two types of respondents.

Micro level analysis generated valuable insights of the nature, dynamics, outcomes and aspirations of women domestic workers who returned from Saudi Arabia. It is hoped that the research will help to understand the female domestic worker phenomenon better in the context of migration and inequality discourse, gendered approaches to migrant domestic workers' human rights, the international labour protection frameworks and the processes in labour origin and destination countries.

CHAPTER 4

Sri Lanka: Economic and Social Transformations

Introduction

This chapter provides an overview of the Sri Lankan economy and society. It is important to present a broad contextual picture of the country, its economy and socio-political context in order to show how push factors compelled the Sri Lankan Government to adopt a strategy to export female workers to Middle Eastern countries. The chapter first discusses the transformations that occurred during the colonial period in the Sri Lankan economy and society, and then examines the country's economy and society after independence, showing how the transformations generated various pressures that made citizens to seek employment overseas. The chapter then examines the social and economic aspects of gender relations, highlighting the way in which prevailing systems and conditions support and maintain gender dimensions which led to inequalities in the employment sphere in particular. Next, the chapter focuses on why the Sri Lankan Government adopted migration as a development strategy and it analyses the impact of inward remittances on the country and on the migrants' households. Finally, the chapter reviews the trends and patterns of Sri Lankan labour migration flows.

Sri Lanka is a small island located at the southern tip of India with a land area of 65,610 sq km. It has a population of 20.3 million people who belong to different ethnic, linguistic and religious communities. The strategic location of the country and its geographical and climatic circumstances have been contributory factors to economic and social change throughout the country's history. Both geographically and culturally Sri Lanka belongs to the South Asian region. Figure 4.1 shows the location of the country.

Sri Lankan history goes back into prehistory. Although there were legends about the country's history going back to about the fifth century BC, there is ample archaeological evidence of human settlement and religious places (mainly Buddhist) from the third century BC. A wide range of material such as literary work, inscriptions and two chronicles, namely the *Chulawansa* and the *Mahawansa*, provide a picture of early Sri Lankan economy and society. The system of government was monarchy and the king was the supreme head. The economy was self-sufficient and mainly based on paddy

cultivation. A hydraulic civilisation based on irrigation existed in the fourth century BC. in the dry zone, which is today the North Central Province of the country (Figure 4.2). In addition to this reservoir-based agriculture, there was shifting cultivation or *chena* in other areas. Village settlements were organised according to three principles: land tenure, caste endogamy and labour sharing arrangements (Leach, 1967). This agriculture-based civilisation began to decline in the thirteenth century AD, the population moved and the kingdom's capital shifted from Anuradhapura and Polonnaruwa to the southwest (wet zone) due to dynastic conflicts, Indian invasions, epidemics and climate change. As a result, irrigated paddy cultivation changed to rain-fed cultivation and peasant agriculture.

Figure 4.1: Sri Lanka - Location in Asia



Source: <http://www.mapsofworld.com/asia/maps/map-of-asia.jpg>

Historically, Sri Lanka became an important meeting place for the eastern and western merchants and sailors. There is evidence that it has had direct commercial relationships with different foreign countries from the medieval period since the country was part of the Silk Route, the historic cross-continental logistic network which extended via land and sea from southern and eastern Europe to China. In addition, there were trade

relationships with Indian, Chinese and Arab merchants, mainly for spices and gems. The location of the country was one of the reasons why three Western nations: the Portuguese, the Dutch and the British later colonised Sri Lanka for nearly 450 years from 1505 until 1948. The Portuguese and the Dutch established their control mainly along coastal areas. The British, who came to Sri Lanka in 1795, occupied the coastal areas and took over the last remaining kingdom, Kandy, in 1815. They brought Sri Lanka under a single colonial administration and ruled the country until 1948 when Sri Lanka gained independence.

Figure 4.2: Sri Lanka - Provinces and administrative districts



Source: <http://www.nationsonline.org/maps/sri-lanka-admin-map.jpg>

4.1 The colonial period and transformations in economy and society

Colonial rule offered a new face to the existing social system and transformed the economic, political, social, educational, legal and administrative systems. The British influence was far greater than that of the other two Western powers. The Portuguese and

the Dutch were predominately involved in trade in spices, mainly cinnamon and pearls, rather than in cultivating crops like the British, who introduced large scale commercial agriculture to the country. With the introduction of the plantation economy and related infrastructure development under the British rule, the economy of Sri Lanka shifted from a domestic, self-sufficient agricultural economic system to a dual economic system (Snodgrass, 1966). Paddy cultivation went on for subsistence purposes while the plantation economy evinced newly-introduced export crops, first coffee and later tea, rubber and coconut for the overseas market. Labour requirements for the plantations were met with imported South Indian (Tamil) labour. There was a sparse population in the central highland where plantations were and there were no landless agricultural labouring castes there unlike in India (Bandarage, 1982, p. 9). Wenzlhuemer (2008, p. 112) observes importing Indian labour occurred because local people, mainly peasants, were reluctant to work under colonial administrators. There were 235,000 Indian 'resident' workers in the plantations by 1891 (De Silva, 1981, p. 294). Consequently, by the end of the nineteenth century a dual economy had developed and characterised by a predominantly subsistence-oriented, traditional peasant agriculture sector and an export-oriented plantation sector. The large scale plantation sector used comparatively modern technology in factories, whereas the peasant sector produced crops for domestic consumption using traditional techniques in use for generations. These more advanced and traditional sectors are isolated from each other and there is little information available on the nature and the extent of the economic link between the sectors (Karunatilake, 1971; p. 22). During this period, landlessness persisted as a serious problem among rural population in the wet zone. When the government-sponsored land alienation programme commenced in the late 1930s, migration of landless peasants from the densely populated wet zone districts became more systematic and orderly (Hettige, 2000b, p. 21).

Traditionally, there had been a rigid occupation-based caste system in Sri Lanka which was the basis of economic and social organisation as well as a value system (Leach, 1960). The liberalisation of the economy under the British encouraged the private sector to provide more opportunities for newly introduced avenues of agriculture and trade. This led to the emergence of local entrepreneurs from non-elite castes. They challenged the existing caste hierarchy with their newly gained power in the political and administrative system while traditional landed aristocracy converted their traditional privileges into modern forms of wealth, power and prestige, thereby joining the emerging

westernised elite (Roberts, 1982). This situation modified caste-based stratification more towards a system of social classes.

By utilising constitutional reforms the British introduced their political and administrative systems from time to time to reduce pressures arising from nationalist movements for freedom. People of Sri Lanka (then Ceylon) were introduced to the principle of electing their representatives in government subjected to various qualifying conditions in the 1910s during the early part of the colonial era (Lakshman & Tisdell, 2000, p. 6). This was gradually extended to the other groups and universal suffrage was granted on the recommendation made by the Donoughmore Commission in 1931, still during the colonial period. This stimulated the rise of different social welfare programmes and means of renovating irrigation systems in the dry zone and establishing farmer settlements. Such government welfare programmes continue to date in some form – even though the state has allowed privatisation of some of these services.

4.2 Sri Lankan economy and society after independence

After gaining independence, Sri Lanka experienced a variety of social, economic, political and cultural changes. The United National Party (UNP) and the Sri Lanka Freedom Party (SLFP) have dominated the political arena. Development policies since independence up until 1977 focused on equity through social welfare and the substitution of imports with local products. Social welfare policies and programmes achieved a measure of success in increasing life expectancy, better literacy rates and educational attainment while reducing population growth and mortality rates to levels found in developed countries as shown in Table 4.1.

However, the economy faced some transitions arising from changes in political regimes and external influences on economic policy such as globalisation and pressures from multinational bodies. Consequently, the social system in Sri Lanka changed. The economy and society after independence can be viewed in five phases in terms of economic policy regimes: 1948-1956, 1956-1965, 1965-70, 1970-1977 and since 1977. The following two sections examine the Sri Lankan economy before 1977 and after 1977. It explains why poverty and unemployment became problems in Sri Lanka and the measures taken by different governments to overcome these problems.

Table 4.1: Sri Lanka at a glance

Land area (sq km)	65,610
Population (millions), 2009	20.3
Ethnic composition (1981 Census) (thousands)	
Sinhalese	10,980
Tamil	2,706
Muslim	1,047
Malay	47
Burgher	39
Average annual population growth, 2000-2009 (%)	0.9
Life expectancy at birth (years)	74.4
Adult literacy rate, 2005-2008	90.6
Population with at least secondary education (%), 2010	44.9
Labour force (thousands) 2010	7,610
Labour force participation rate (%)	
-Male	67.3
-Female	32.1
Human Development Index, 2010	0.658
Gross Domestic Product (US\$ billions) 2008	40.6
-Per capita (US\$)	2013
Gender Inequality Index	
-Rank	72
-Value	0.599
Stock of emigrants (thousands), 2010	1,847.5
Internally displaced people (thousands), 2008	380*
Departures for foreign employment, 2009	247,119
-Females (%)	51.7
-Unskilled workers (%)	66.3
Inward remittance flow (US\$ millions), 2009	3,363
-% of GDP, 2008	7.3
-Per capita (US\$), 2008	146

* This number has reduced with resettlement programmes since the civil war ending in 2009

Sources: (Central Bank of Sri Lanka, 2010; Department of Census and Statistics, 2011c; SLBFE, 2010; UNDP, 2011; World Bank, 2011b)

4.2.1 Sri Lankan economy and society 1948-1977

During the period from 1948 to 1956, the governments attempted to change the economy to one that was development-oriented through land settlement policies and continuing reconstruction of ancient hydraulic systems. In the early 1950s, the government distributed land in the less-populated dry zone among farmers and rebuilt old irrigation systems for paddy cultivation under the Agricultural Colonisation Scheme. Between 1948 and 1953, 16 colonization schemes were inaugurated and 10,426 colonists settled (Farmer 1957 cited in Sandaratne, 2004, p.197). The introduction of new, more extensive methods of farming, with subsidies provided for fertiliser, led to increases in average rice production within the country. The plantation economy which continued as an export-oriented sector, accounted for 88 percent of export earnings, 37 percent of GDP and 27 percent of employment at the time of independence (Snodgrass, 1966). However, land

scarcity prevented the expansion of tea plantations in particular. The ownership of the plantations also gradually reverted to locals; by 1960, thus 60 percent of plantations were owned by local entrepreneurs. Economic growth during this period was 3.1 percent (Central Bank of Sri Lanka, 2010), but as the population growth rate was 2.6 percent, there was no real per capita income increase. The rise of the welfare state became another issue, therefore government attempted to eliminate the consumer subsidy on rice - a policy decision that led to political uproar.

The economy during the period from 1956 to 1965 took a more socialist approach by giving the central role of economic management to the state sector and expanding the welfare sector. Socialist ideology and nationalism of the government led to nationalisation of foreign assets and private enterprises, abolition of English as the official language, expansion of schools and university education, enactment of legislation to protect tenant farmers and establishment of close link with socialist countries. In the context of accepting the colonial pattern of development the government developed an industrial base in the country with technical assistance from a few socialist bloc countries (Hettige, 2000b, p. 24). Controls had been introduced on imports, trade, investment, finance and foreign exchange. Social welfare programmes such as schemes for aged pension, healthcare, nutrition, food and fuel subsidies were broadened during this period. Some other popular but economically unfeasible policies and programmes were promoted by the government including restrictions on foreign investment and nationalisation of critical industries. The government was unable to address basic economic problems such as an increasing trade deficit, the deterioration of external reserves and high inflation. GDP during the period between 1956 and 1965 was 4.3 percent achieved through development in agriculture (both plantation crops and rice), manufacturing and the service sectors (Snodgrass, 1998, p. 14). There were severe problems in the balance of payments during this period. Export trade deteriorated sharply, the price of export crops, especially tea, declined steadily from 3.3 percent in 1960 to 2.2 percent in 1967. Moreover, the new language policy later resulted in the segregation of youth into ethnic enclaves demarcated by language and geography (Hettige, 2000b, p. 23).

The new government of 1965 followed more liberal economic policies, relaxing import controls and introducing a quota system for imports. Agricultural development proposals of 1966-70 and the introduction of intensified agriculture paved the way for an increase in

rice production by 40 percent, from 50 million bushels in 1964 to 70 million bushels in 1970. This met 70 percent of the country's rice requirement. This is the period of fastest economic growth in Sri Lankan history with 7.8 GDP growth (Snodgrass, 1998, p. 15). Private enterprise also helped in the expansion of agricultural productivity.

The 1970 government adopted a policy of import-substitution and local food production. Imposed import restrictions were severe, cutting import volume in 1973-74 to forty one percent of the 1970-72 level which in turn had been only sixty percent of the average for the 1960s (Athukorala & Jayasuriya, 1994, p. 68). Slow economic growth, high unemployment and external deficits were the main characteristics of the economy during the period from 1970 to 1977. This situation led to a youth uprising in 1971. In 1972, the government attempted to address the abovementioned socio-economic issues through several policy initiatives such as the 1972-77 five-year plan, land reform, imposition of a ceiling on the ownership of housing property, private consumption control through a compulsory savings scheme and stringent taxation (Alailima, 2000, p. 44). Severe drought conditions and increase in international prices of food grain and petroleum led to stagnated economic growth and the cost of living rose due to high inflation. As a result, the government was compelled to reduce welfare measures such as food subsidies and forced people to consume domestic products aiming at self-sufficiency. Growth continued despite a steady decline in investment from 19 percent of GDP in 1970 to 14 percent by 1977 (Bruton et al., 1992, cited in Snodgrass, 1998, p. 17). GDP growth during this period was 4 percent mainly due to the growth of agriculture and manufacturing.

4.2.2 Sri Lankan economy and society after 1977

Economic policies introduced in 1977 were more radical than the policies of post-independence and transitioned the Sri Lankan economy from a controlled regime to a liberalised one. Snodgrass (1998, p. 18) notes that three lead projects were conceived and highly publicised: the Greater Colombo Economic Commission which would organise and operate export processing zones; the Accelerated Mahaweli Development Project which would aim to be completed within 5-6 years; and the public sector housing programme aimed to construct more than one million urban and rural dwellings.

The government of 1977 introduced a more open economy with its liberal economic policy aimed at increasing the role of the private sector in economic development. Activities related to export-oriented industrialisation were particularly targeted. Such policies worked towards achieving structural adjustments in the economy. There were two waves of economic liberalisation in Sri Lanka: between 1977 and 1988, and between 1989 and 1994. The government played a crucial role in the first period by changing economic policies, encouraging both local and international private entrepreneurs and privatising the semi-government bodies; whereas, in the latter period, the private sector took an upper hand in the control of the economy. The incumbent governments obtained support and advice from international financial institutions such as the World Bank, IMF and ADB in planning policy reforms. The 1998 Index of Freedom compiled by the Heritage Foundation and the Wall Street Journal categorised Sri Lanka as one of the 'Mostly Free' economies in the world and further, in trade and monetary policies, taxation, property rights, low levels of regulation, low wages etc., Sri Lanka provides virtually free movement for international capital (Bandarage, 1998, p. 1). Successive governments followed similar economic policies, applying little variation of them.

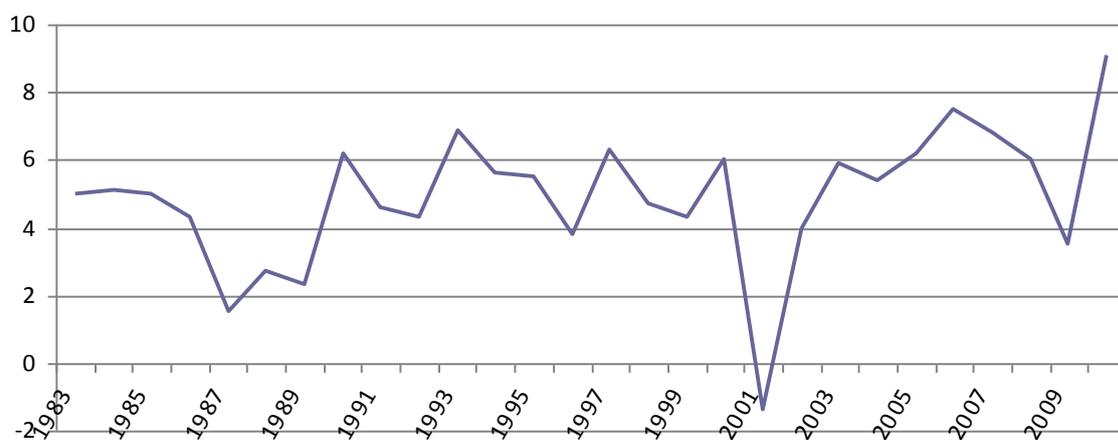
The most important industrial sector of this period was the export-oriented industries such as manufacturing apparel, textiles, ceramic products, rubber-based products and processed diamonds. Globalisation coupled with technological development, liberalisation and international competition encouraged FDI flows. In comparative terms, Sri Lanka had advantages for foreign investment such as geographical location, sea ports, access to international markets, and cheap labour. Furthermore, amendment of labour laws, incentives such as preferential tax rates, constitutional guarantees on investment agreements, exemptions from foreign exchange control and 100 percent repatriation of profits helped to improve flexibility in the labour market and paved the way for international entrepreneurs becoming involved in economic development. The global competition of low-cost manufacturing for the export market encouraged the country to depend on preferential trade agreements with international buyers to gain special concessions. However, comparatively, this sector generated low net returns to the economy.

Restrictions on imports, exports and restriction on foreign exchange were lifted but the quality of life for the majority deteriorated. Public debt shot up from fifteen billion

rupees at the end of 1976 to ninety-five billion at the end of 1984 (Snodgrass, 1998, p. 20). ‘Food subsidy for all’ was transformed into subsidy for a selective target group but did not balance with rising inflation, leading to further disparity. The proportion of the population living in poverty rose from 19 percent in 1978/79 to 27 percent in 1986/87 (Athukorala & Jayasuriya, 1994, p. 108). Real wages in agriculture and industry had also declined since 1977 (Sahn, 1987; Ponnambalan, 1980, cited in Eelens et al., 1992, p. 2) and the situation led to trade union activities and to a general strike in 1980. As a result, thousands of private and public sector employees is made jobless.

The abovementioned economic policy reforms opened up more employment opportunities in the expanding private sector in the FTZs and abroad. Total employment increased more rapidly than the total labour force from 1993 to 2007 (Wickramasekara, 2010b, p. 13). Simultaneously, female labour force participation and female employment growth rates were higher than that for men, mainly due to gender-segregated opportunities in both local and international labour markets. With the changing economic conditions during this period, income disparities and the urban-rural disparity widened. As a result, a new urban middle class emerged, causing gradual decrease of the status and power held by the traditional middle class. It paved the way for creating a new social class structure in Sri Lankan society (Hettige, 2000a). In the meantime, the economic sphere was challenged by civil riots, war and natural disasters including a tsunami (in 2004), all of which can be seen in the fluctuations of economic growth rates (Figure 4.3).

Figure 4.3: Economic growth rates, 1980-2010



Source: Central Bank of Sri Lanka, Annual Reports 1980-2010

As shown in Figure 4.3, before the start of civil war in 1983, the economic growth rate was 6.1 in 1981 and 5.1 in 1982. The period 1983-89 was most critical because two militant groups impacted on the economic growth rate mainly by destroying infrastructure of the country. The Liberation Tigers of Tamil Ealam (LTTE) commenced their military activities against the government on a large scale in 1983, mainly in the north and east of the country, while the Janatha Vimukthi Peramuna (JVP) initiated their rebellion against the government in 1987, mainly from the south of the country. Both these movements emerged against the established traditional political system of the country and in an economic background which failed to meet the aspiration of youth (Abeyratne, 2004, p.1303). Before 1983, economic growth in Sri Lanka was faster than in other South Asian countries (Snodgrass, 1998, p. 2), however, it fell below 2 percent during the civil riots and civil war. This was mainly because of a rise in defence expenditure and a decrease in capital expenditure including foreign investment (Alailima, 2000, p. 44). Sri Lanka approached the IMF in 1987 to obtain assistance to avoid a balance of payment crisis. There was further privatisation, tariff cuts and a reduction in the fiscal deficit after the IMF reforms. These reforms facilitated the Sri Lankan economy's return to an increased growth rate.

In the early 1990s, the government militarily defeated the JVP and started peace negotiations with the LTTE without success. Despite the new economic reforms and strong political leadership during the 1990 to mid-1993 period, the civil war and the resulting political disturbances reduced economic growth to an average of 4.8 percent during 1990-93 (Kelegama, 2006, p. 160) and lowered domestic and foreign investments throughout the war period (Pradhan, 2001, p. 383). The main reason for the fluctuations in economic growth was increasing defence expenditure, which accounted for more than 20 percent of government expenditure and nearly 6 percent of GDP. The global oil crisis in 2000 resulted in a downturn of foreign exchange reserves during a time of political instability. The worst growth rate Sri Lanka ever experienced after independence (-1.4 percent) was recorded in 2001. This changed the following year when the new UNP government restarted negotiations with the LTTE and a ceasefire agreement was signed in February 2002. The world, particularly multilateral bodies, welcomed the agreement and that led to higher economic growth through new economic policies, but defence expenses kept increasing, resulting in huge budget deficits. However, the economy of the country demonstrated its resilience in 2005 by showing a six percent growth, while poverty trends

underscored the need for faster and more balanced economic growth (UNCCA, 2006, p. 11). When the 30-year-old civil war came to an end in 2009 Sri Lanka achieved its top growth rate (9.1 percent) in 2010.

In addition, there have been fluctuations in microeconomic indicators due to the civil war and global economic downturns. Effects on the economy have been an expanding budget deficit, an increasing inflation and interest rates, and deflation of foreign exchange reserves. Table 4.2 illustrates how selected microeconomic indicators changed during 2001-2009.

Table 4.2: Selected microeconomic indicators 2001-2009

Indicator	2001	2002	2003	2004	2005	2006	2007	2008	2009
GDP growth (%)	-1.5	4.0	5.9	5.4	6.2	7.7	6.8	6.0	3.5
GDP per capita (US\$)	841	870	947	1053	1229	1409	1595	1988	2035
Inflation (%)	14.1	9.5	8.9	9.0	10.9	10.0	15.8	22.5	3.4
Unemployment rate (%)	7.9	8.8	8.4	8.3	7.2	6.5	6.0	5.4	5.8
BOP current as % of GDP	-1.4	-1.4	-0.4	-3.1	-2.7	-5.3	-4.3	-9.5	-0.5
Budget deficit	-9.3	-10.2	-8.2	-7.3	-7.5	-7	-7	-6.9	-7
Government debts (as % of GDP)	53.2	56.3	56.9	54.9	46.5	42.4	43.2	37.1	44.5
Trade balance (US\$ m)	-1157	-1406	-1539	-2243	-2516	-3370	-3657	-5981	-3122
Exchange rate (Rs/US\$)	89.3	95.6	96.5	101.1	100.5	103.9	110.6	108.3	114.9

Source: Central Bank of Sri Lanka (Annual Reports)

However, Sri Lanka remains a country characterised by medium human development²² and is now in a better socio-economic position in the Asian region compared to her neighbours (Table 4.3).

Table 4.3: Comparison of economic and social indicators of selected Asian countries

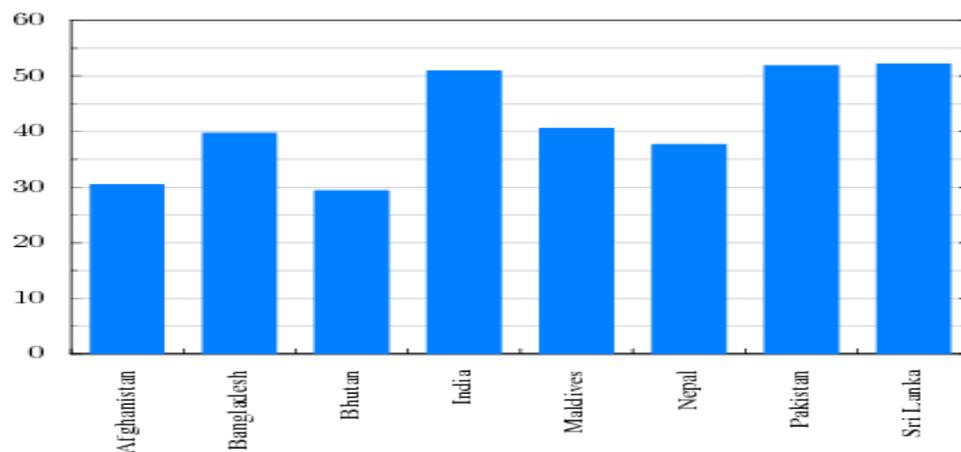
Country	HDI Rank 2010*	HDI value 2010*	GDP per capita* (US\$)	Annual pop. growth**	Unemployment rate % (est)*** 2009
Malaysia	57	0.744	8,209	1.6	3.7
Sri Lanka	91	0.658	2,013	0.9	4.9
Philippines	97	0.638	1,847	1.7	7.5
Indonesia	108	0.600	2,246	1.0	7.9
India	119	0.519	1,017	1.3	9.7
Bangladesh	129	0.469	497	1.1	5.1
Nepal	138	0.428	438	1.8	46.0

Source:*(UNDP, 2011); (World Bank, 2011a); ***(Central Intelligence Agency, 2010)

²² This is a classification related to Human Development Index (HDI) in UNDP Human Development Report. Medium human development group ranges from HDI 0.536 to 0.710.

Table 4.3 illustrates that the socio-economic conditions of Sri Lanka are relatively higher than her Asian neighbours. It shows a comparably higher human development index (HDI) on several social indicators. For example, Sri Lanka achieved life expectancy of 74.4 years, literacy rate of 90.6 percent and an infant mortality rate of 13 per 1,000 live births (UNDP, 2011). The KOF Globalization Index, which measures economic, social and political dimensions of globalisation, also demonstrates Sri Lanka as being the most globalised South Asian country (Figure 4.4).

Figure 4.4: Index of globalisation for South Asia 2008



Source: (ETH Zurich, 2010)

According to Figure 4.4, Sri Lanka has scored 52.25 (out of a maximum value 100) in 2008, with Pakistan (51.94) and India (51.0) closely behind. The index for the country has doubled between 1970 (24.89) and 2008 mainly due to economic reforms that were implemented by both government and the private sector.

The role of government is significant in shaping any country's economy and other social institutions. Table 4.4 summarises the features of the economy, social stratification, education and employment opportunities during different periods in Sri Lanka.

Table 4.4: Historical overview of socio-economic transformation in Sri Lanka

Period	Economy (main features)	Social stratification	Education	Employment opportunities
Colonial period up to 1948	<ul style="list-style-type: none"> - Dual economy - State bureaucracy - Urban service industries 	<ul style="list-style-type: none"> - Land owner - Peasants/ Plantation workers - Urban workers - Public servants 	<ul style="list-style-type: none"> Urban private (English) Rural vernacular 	<ul style="list-style-type: none"> Private sector Public sector Informal sector
1948 -56	No major changes			
1956-77	<ul style="list-style-type: none"> - Nationalisation of private business interests - Import substitution - Increased social expenditure 	<ul style="list-style-type: none"> - State sector industrial workers - Small holding - Peasants - White-collar workers - Urban indigenous capitalist class 	<ul style="list-style-type: none"> - Switch to Swabasha - Expansion of university education - Private schools nationalisation 	<ul style="list-style-type: none"> - State sector - Private sector - Informal sector
1977- up to date	<ul style="list-style-type: none"> - Peasant economy - Open economy - DFI/FTZs - Labour migration - Privatization - Contraction of state sector - Private sector-engine of growth 	<ul style="list-style-type: none"> - Rural peasants - Urban factory workers - Plantation workers - Urban capitalist class - White-collar workers - New urban middle class - Migrant workers 	<ul style="list-style-type: none"> - State system (Swabasha) - Private & transnational (English) 	<ul style="list-style-type: none"> - State sector - Informal sector - Private sector - Transnational sector

(Hettige, 2000a)

Table 4.4 shows the socio-economic transformation of Sri Lankan society over a period of more than sixty years. It demonstrates that the socio-political viewpoint of the government in power has played a crucial role in planning and implementation of policies and development projects and programmes. The direction of government view may lead to inequality, discrimination, frustration and vulnerability for specific social groups and end with conflict uprisings. For example, both the youth insurrections in 1971 and 1988-89 and the long standing ethnic issues that turned into a civil war challenged the socio-political foundation of economic development. The reasons for the uprising of the JVP, which mainly consisted of the country's majority Sinhala community, were extensive unemployment and socio-political negligence. The LTTE started with challenging language, education and electoral policies and later expanded to the question of political autonomy. Jayasuriya (2004) argues that 'social welfarism' and welfare politics which promoted new social stratification in Sri Lankan society led to a power struggle:

In the new post-colonial state, the nation has been enmeshed in 'two cultures' and 'two societies'. The 'two cultures' – that of the westernized versus the traditional or indigenous - with cross cutting linkages to all other social divisions, ethnic, cultural and regional, is probably one of the lasting legacies of British colonial rule. These 'two cultures' are now confounded with the 'two societies' – the haves and have nots. This is a legacy partly of neoliberalism and a declining welfare state, which has led to

a sharp differentiation between the haves and the have nots, the affluent rich and mendicant poor, capital and labour.

(Jayasuriya, 2004, p. 419)

Despite the extensive economic and social transformations which have improved the quality of life of the ordinary people, Sri Lanka as a country has had to face several downturns. Kelegama (2006) argues that a list of factors including welfare politics, absence of vision in planning and discontinuity in the planning process, uncertainties in the plantation economy, lack of openness, lack of external assistance, civil war, microeconomic instability, low investments and domestic saving, and governance-related problems have hindered development of the Sri Lankan economy since independence. Poverty and unemployment are the main outcomes of these unfavourable socio-economic and political contexts in Sri Lanka.

4.2.3 Poverty in Sri Lanka

Poverty has been a major problem in Sri Lanka since independence and has been a focus of much government policy planning. Therefore all successive governments have attempted to maintain the country as a social welfare state and undertaken substantial expenditure to provide for the basic needs of low-income groups. The following section focuses on poverty magnitude and poverty alleviation programmes in Sri Lanka.

The recent calculation of poverty indices for Sri Lanka shows that the country's poverty level is gradually declining. The poverty head count ratio dropped to 8.9 percent at the national level in 2009/10 from 15.2 percent in 2006/07 (Department of Census and Statistics, 2011b). Poverty in Sri Lanka is predominantly seen amongst the rural majority. More than two-thirds of the rural population are considered as poor in official statistics. Although poverty in estate sector²³ dropped to 11.4 percent from 32 percent in 32 years, poverty is still prevailing in the rural and estate sectors (Table 4.5).

²³ There are three sectors of the economy in Sri Lanka: urban, rural and estate. Estate sector means plantation areas having more than 20 acres (8 hectares) and more than 10 residential labourers under a single administration (Department of Census and Statistics, 2011).

Table 4.5: Poverty headcount ratio and percentage of poor households based on the official poverty line by sector

Sector	Poverty Headcount Ratio (%)				Percentage of Poor Households			
	1995/96 (a)	2002 (a)	2006/07 (b)	2009/10 (c)	1995/96 (a)	2002 (a)	2006/07 (b)	2009/10 (c)
All island	28.8	22.7	15.2	8.9	24.3	19.2	12.6	7.0
Urban	14.0	7.9	6.7	5.3	11.0	6.2	5.0	3.8
Rural	30.9	24.7	15.7	9.4	25.9	20.8	13.1	7.5
Estate	38.4	30.0	32.0	11.4	32.2	24.3	25.8	8.9

(a) Excluding Northern and Eastern Provinces

(b) Excluding Northern Province and Trincomalee District

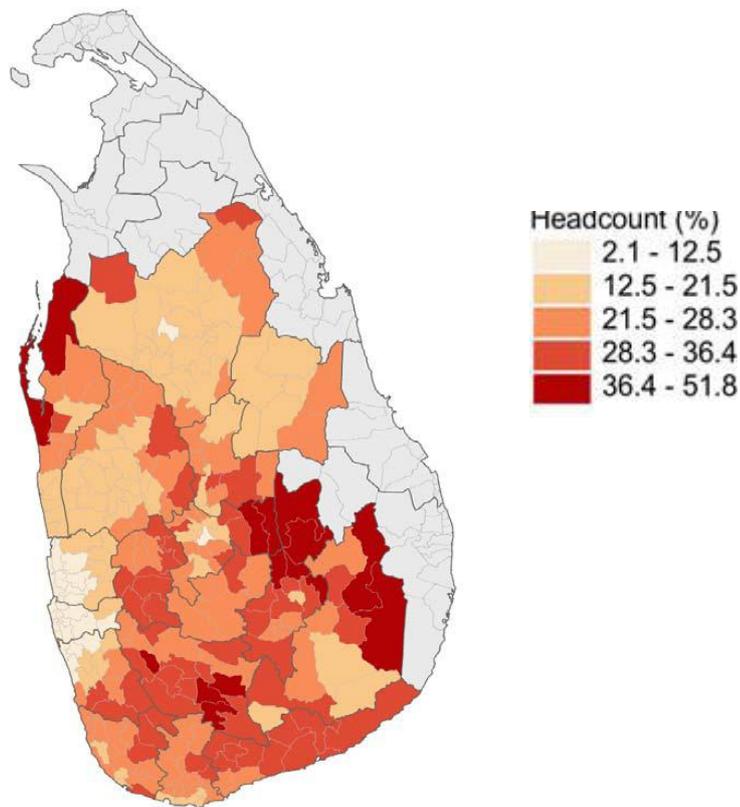
(c) Excluding Mannar, Killinochchi and Mullativu Districts

Source: (Department of Census and Statistics, 2011a)

Table 4.5 shows that the poverty headcount ratio is always nearly twofold in the rural and estate sectors when compared with the urban sector. There is a remarkable drop in the percentage of poor household in each sector between 2006/07 and 2009/10.

Poverty in Sri Lanka is multi-dimensional and closely associated with geographical isolation. The magnitude of poverty relates to accessibility to towns and markets and usage of electricity (World Bank, 2005a, p. 8), levels of educational attainment and the employment status of household members (UNCCA, 2006). The World Bank (2005a) observes that severe deprivation is more common in the southernmost areas of the country (Figure 4.5) and also pockets of high poverty exist in even relatively rich districts like Colombo.

Figure 4.5: Poverty map at DS Divisional level



Source: (World Bank, 2005a)

Figure 4.5 presents the poverty incidence in Divisional Secretariat Division level reflecting the magnitude well. Accordingly, the poverty headcount ratio in Colombo and suburbs is comparatively low whereas higher rates are more prevalent in the southeast and northwest of the country. In addition, it points out the existence of pockets of extreme poverty in almost all parts of the country. This study did not cover the Northern and Eastern Provinces due to security issues.

The Household Income and Expenditure Survey (HIES) 2009/10 covered some parts of these provinces excluding Mannar, Kilinochchi and Mullaithiu Districts due to massive mine clearance. According to the HIES, Batticaloa, Jaffna and Monaragala are the poorest districts (Table 4.6).

Table 4.6: Poverty headcount ratio by district and HIES survey period, 1991-2010

District	1990/91	1995/96	2002	2006/07	2009/10
Colombo	16.2	12.0	6.4	5.4	3.6
Gampaha	14.7	14.1	10.7	8.7	3.9
Kalutara	32.3	29.5	20.0	13.0	6.0
Kandy	35.9	36.7	24.9	17.0	10.3
Matale	28.7	41.9	29.6	18.9	11.5
Nuwara Eliya	20.1	32.1	22.6	33.8	7.6
Galle	29.7	31.6	25.8	13.7	10.3
Matara	29.2	35.0	27.5	14.7	11.2
Hambantota	32.4	31.0	32.2	12.7	6.9
Jaffna					16.1
Vavuniya					2.3
Batticaloa				10.7	20.3
Ampara				10.9	11.8
Trincomalee					11.7
Kurunegala	27.2	26.2	25.4	15.4	11.7
Puttalam	22.3	31.1	31.3	13.1	10.5
Anuradhapura	24.4	27.0	20.4	14.9	5.7
Polonnaruwa	24.9	20.1	23.7	12.7	5.8
Badulla	31.0	41.0	37.3	23.7	13.3
Monaragala	33.7	56.2	37.2	33.2	14.5
Ratnapura	30.8	46.4	34.4	26.6	10.5
Kegalle	31.2	36.3	32.5	21.1	10.8

Source: (Department of Census and Statistics, 2011c)

As illustrated in Table 4.6, all the districts except Batticaloa and Ampara show a reduction of poverty levels while Nuwara Eliya demonstrates the highest drop (three out of every four poor escaped from poverty). The World Bank (2005a, p. 15) observes that most of the tsunami affected areas in Hambantota were poor. However, the recent statistics showing the above table show that it is also gradually undergoing relief from poverty. The prevalence of poverty pockets in urbanised districts shows the magnitude of urban poverty. Inadequate shelter, slums and shanties, low access to urban services by the poor and non-viable income opportunities in the informal sector of the economy are characteristics of urban poverty in Sri Lanka. UNCCA (2006, p. 31) notes that in Colombo there are approximately 65,000 housing units that are inadequate for human habitation. However, when the whole country's poverty situation is compared with other countries in South Asia, Sri Lanka's overall position is better than most in the region (Table 4.7).

Table 4.7: Social indicators - Sri Lanka and other countries in South Asia

Indicator	Sri Lanka	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan
Population average annual growth rate	0.7	1.3	1.7	1.3	1.5	1.7	2.1
GNP per capita (US\$)	4886	1587	5607	3337	5408	1201	2678
Life expectancy at birth (years)	74.4	66.9	66.8	64.4	72.3	67.5	67.2
Infant mortality (per 1000 live births)	13	43	54	52	24	41	72
Access to safe water (% of population)	10	20	8	12	9	12	10
Access to sanitation (% of population)	9	47	35	69	2	69	55
Illiteracy (% of population age + 15)	9.4	45.0	47.2	37.2	1.6	42.1	46.3
Primary school enrolment ratio (% of primary school age population)	99.7	88.0	87.4	89.8	92.2	78.8	66.1
Child labour (% of children ages 5-14)	8	13	19	12	--	31	--
Expenditure on health (per capita US\$)	179	42	188	109	514	53	64

Source: (UNDP, 2011)

According to Table 4.7, Sri Lanka's vital demographic indicators are at a higher level than her Asian counterparts. However, relative poverty and a culture of poverty are still prevalent in Sri Lanka.

Governments since independence have launched various programmes aimed at the reduction of poverty and income inequality such as programmes aimed at providing general minimum needs, productivity raising programmes, institutional reforms and anti-poverty programmes. Programmes to provide general minimum needs were implemented together with a free health and education policy. In 1942, during World War II, a report of a committee chaired by Sir William Beveridge recommended the need for social services to be provided by the British Government. Needs included were provision of adequate income (want), health care (disease), education (ignorance), housing (squalor) and unemployment (idleness) for the people irrespective of socio-economic differences. After World War II, the British Government appointed three committees chaired by Dr C.W.W. Kannangara, Dr J.H.L. Cumpston and Sir Ivor Jennings, to recommend on social services and welfare of education, healthcare and poverty relief. These became the three

pillars of the Sri Lankan welfare state (Jayasuriya, 2000, p. 8). The Kannangara Report of 1943 recommended a system of universal and compulsory free education from primary education up to university level. The Education Act 1946, the National Health Services Act 1946 and the National Assistance Act 1946 had implemented the recommendations of the three committees and those minimum-needs programmes are still continuing. The main recommendation of the Cumpston Report of 1950 was provision for free health care for all citizens. The Jennings Report of 1947 suggested provision of a social insurance scheme for the aged, disabled and the poor.

Productivity raising programmes were twofold: the land settlement programme in the dry zone in the 1950s aimed at solving landlessness; and the agriculture modernisation programme in the 1960s. These were initiated to increase productivity in subsistence agriculture because it was believed that low productivity was the main reason for low incomes and poverty in the rural sector. Institutional reforms, such as tenancy reforms²⁴ and other land reforms were aimed at helping the poor. The 1970 government implemented land reforms as a solution to the high rates of landlessness, poverty and unemployment.

There have been a number of anti-poverty measures and programmes were introduced from independence until the present. Poverty alleviation measures for the Sri Lankan poor started with the recommendations of the Waddern Report of 1934. This report recognised poverty as a key social problem in the country and that it can be overcome by assistance from the government (Jayasuriya, 2000). As the first measure, a food subsidy started in 1942 and continued after independence until 1977, with some changes. The first subsidy was a ration of rice at subsidised price to every citizen as a universal social service. As a nutritional item, it presumed to alleviate poverty and it was a significant item of social development that was allocated a considerable amount of GDP. In the longer term, the rice subsidy became a political necessity because reducing subsidies often caused changes of governments.

In the early 1970s, each citizen was entitled to a free ration of two pounds of rice per week with an equal amount provided at a subsidized rate. By the end of 1973 the basic

²⁴ For example, the Paddy Lands Act in 1958

ration was reduced by 50 percent and the government decided to exclude income tax payers from the free rice entitlement (Edirisinghe, 1987, p. 13). It changed further in 1978 by reducing the quantity to four pounds per person per week and those eligible were the households earning less than Rs.300 per month. This impacted on the lower income groups. Later, the ration system was transformed into a food stamp scheme, a selective measure of welfare with benefits only available for selected households based on a needs assessment. The free food stamps were for those who were deemed to have a lower than stipulated standard income, household size and composition. The average value of food stamps for a household was about Rs.95 per month. Despite declining real purchasing power of food stamps due to price increases in the 1980s, the same amount was continued until children were included in the scheme in 1984. Nearly 50 percent of households received food stamp benefits in 1986 and 44 percent of the beneficiaries were from rural areas.

In 1989, the government introduced a new comprehensive poverty alleviation programme named '*Janasaviya*' (strength of the people). Jayasuriya (2000) observes the new changes as 'dismantling the welfare state and introducing a selectivity and target approach with a new vision'. That was because this programme was intended to reduce the problems of the under-privileged by providing benefits in a meaningful way to strengthen their economic and social conditions while addressing their unemployment problem. As a participatory development programme, it attempted to improve the skills of the poor, encourage saving and provide compulsory free labour for community work while providing essential items. In 1994, with the government change, the *Janasaviya* programme was replaced with a programme called '*Samurdhi*' with minor changes. It continues to the present. More savings, training, insurance, rural infrastructure development, and improvement of health and nutritional levels were the outcome; the ultimate objective was to promote self-reliance by nurturing the saving habit and income generating self-employment. Thus, linking poverty alleviation to growth, unlike previous programmes, the *Janasaviya/Samurdhi* programmes brought the poor into mainstream development (Gunatilleke, 2000, p. 150).

Sri Lankan governments since independence have allocated a considerable amount of the country's national income for poverty relief, other welfare programmes and social services, with amounts steadily increasing since 1950. Although there were some

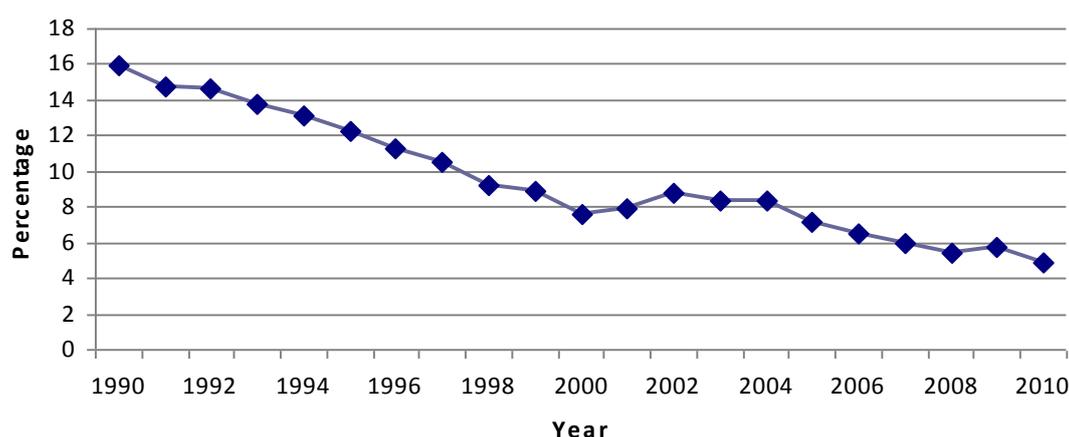
attempts to re-examine existing welfare policies in the context of population growth, increasing budget deficits and a scarcity of foreign exchange, these attempts failed mainly due to politically-backed campaigns and protests. The magnitude of poverty existing in various economically underdeveloped districts still create high unemployment levels which function as a push factor for outward migration by unskilled and semi-skilled men and women.

4.2.4 Unemployment in Sri Lanka

Unemployment is another key indicator of the economy and labour market of a country. The Corea Report (1935) during the British period first analysed the unemployment problem in Sri Lanka, recommending certain measures to overcome it. Later studies in post-independent Sri Lanka examined the relationship between revolutionary upheavals and substantial social, political and economic costs (Lakshman, 2004, p. 274). High population growth per annum (2.8 % during 1946-53 and 2.7 % during 1953-63) was a result of better health facilities and better social conditions in the context of landlessness, land fragmentation, poverty, unemployment and under-employment in rural areas (Hettige, 2000b, p. 23). An expanding education system led to an expansion of the labour force; however, slow economic growth, low level employment growth, limited investments and low foreign exchange earnings increased unemployment among Sri Lankans.

Apart from the slow growth economy and the rapid growth of population, the intolerable situation was a result of policy planning during the 1956-1965 period. For example, the ten-year plan of the government did not forecast the growing problem of employment generation (Gunatilleke, 2000, p. 142). During the 1965-1970 period, there was comparatively higher growth but the economy was unable to generate sufficient opportunities for those newly entering the workforce. The higher unemployment rates recorded were in 1971 (18.7 %), 1973 (18.3 %) and in 1975 (19.7 %) (Department of Census and Statistics, 2010). Despite the social and economic nature of unemployment it has become a major political issue affecting the democratic electoral process and spawning extra-parliamentary struggles for political power (Lakshman, 2004, p. 275). Total unemployment rates ranged from around 14.8 percent (1978), 17.9 percent (1981), 14.1 percent (1985) to 15.9 percent (1990). Figure 4.6 illustrates the unemployment rate from 1990 to 2010.

Figure 4.6: Unemployment rate (%) of Sri Lanka 1990-2010



Source: (Central Bank of Sri Lanka, 2010)

According to Figure 4.6, the unemployment rate dropped nearly 10 percent within two decades from its high rates in early 1990s. One may argue that this is partly due to international labour migration, particularly to West Asian countries. In 2010, the country's total labour force stood at 8,107,739 of which 401,146 (4.9 %) were unemployed: 185,568 male and 215,578 female (Department of Census and Statistics, 2011c). Unemployment is multi-dimensional and it can be seen as structural unemployment, social exclusion, youth unemployment and voluntary unemployment. Unemployment in the country is structural because of the sectoral distribution of investment and labour market segmentation (Kelegama, 2006; Lakshman, 2004). Investments and opportunities are available mainly within the urban sector therefore unemployment is higher in the rural and estate sectors. Changes shown in recent statistics demonstrate some narrowing of the gaps between sectors in percentage terms (Table 4.8).

Table 4.8: Unemployment rates by sector and sex, 2010

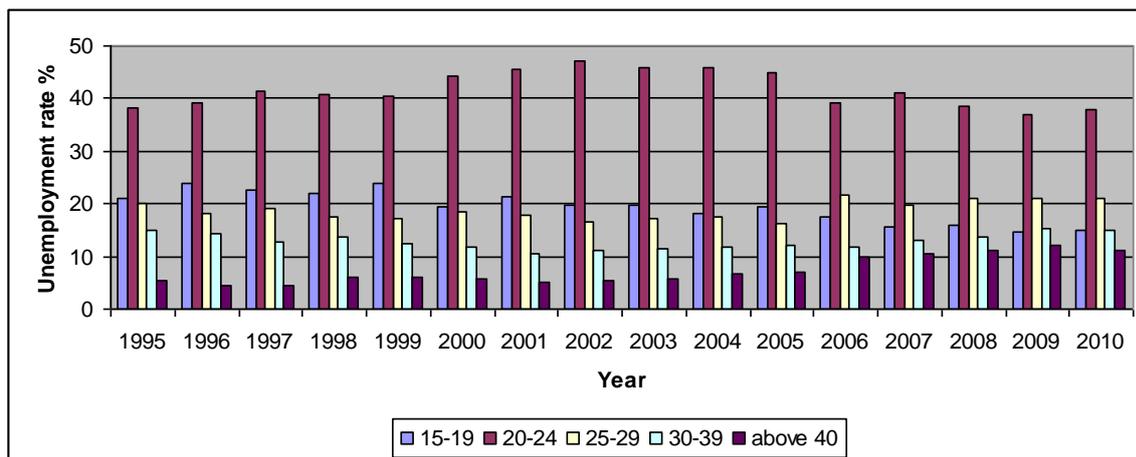
	Unemployment	Total	Sector	
			Urban	Rural
Total	Number	401,146	45,185	355,961
	Rate	4.9	4.9	5.0
Female	Number	215,578	21,289	194,289
	Rate	7.7	7.5	7.8
Male	Number	185,568	23,896	161,672
	Rate	3.5	3.7	3.5

Source: (Department of Census and Statistics, 2011c)

According to Table 4.8, rates for the urban and rural sectors are 4.9 and 5 percent respectively and rural female unemployment is much higher compared to the male unemployment rate. When district rates are considered, Kandy (9.6 %),²⁵ Matara (8.9 %) and Hambantota (8.9 %), show the highest unemployment rates. The implication is that unemployment is higher in districts where traditional economic activities like agriculture and fisheries are predominant. Often, the second generation of those engaged in traditional economic activities are reluctant to follow their forebears. This can be said for the estate sector. Furthermore, the available opportunities are more male-oriented and women have fewer opportunities compared to men in the local economy.

Youth unemployment is a burning issue in Sri Lankan society particularly among educated youth. Alailima (2000, p. 54) notes a poor absorption of youth into paid employment as a significant feature of the labour market. Youth between 15 and 29 years accounted for 79 percent of the total unemployed in 1995, even though 48 percent do not enter the labour force. In 2010, 28.6 percent in the same age group were not absorbed into the labour force (Figure 4.7). Female rates are much higher.

Figure 4.7: Unemployment rates by age group 1995-2010



Note: Northern and Eastern Provinces are excluded

Source: (Department of Census and Statistics, 2011c)

According to Figure 4.7, unemployment is more prevalent in the 20-24 age group but has declined since 2006. Other older age groups demonstrate an increasing trend. It shows

²⁵ Kandy is one district selected for this research.

that those above 25 years have experienced increasing unemployment rates of 10-12 percent. The majority who migrate belong to the 25-29 (around 22 %) and 20-24 (around 15 %) age groups in 2007, 2008 and also in 2009 (SLBFE, 2010). It shows the link between high unemployment of youth and migration for work. Chandrasiri (2008) explains the unemployment of educated youth using three hypotheses: mismatch, queuing and labour market regulations. The ILO (1971, cited in Lakshman, 2004, p. 282) emphasises structural mismatches in Sri Lankan economic policies as a causal factor for youth unemployment. Lack of coordination between labour market reforms and educational reforms have led to a serious mismatch between the job aspirations of those with a secondary education and the jobs available to them. Free education up to university level allows Sri Lanka to have a high percentage of educated youth, while there have been limited career opportunities for them in a slow growth economy. Table 4.9 illustrates how unemployment among educated youth has increased during the past two decades.

Table 4.9: Unemployment by level of education

Year	Grade 5 & below	Grades 6-10	GCE O/Level	GCE A/Level & above
1990	8.5	49.7	26.5	15.4
1991	9.0	45.7	30.3	15.1
1992	9.2	50.5	27.0	13.7
1993	8.3	44.9	28.7	18.0
1994	8.6	44.9	28.3	18.2
1995	5.5	47.1	29.1	18.4
1996	7.9	47.1	26.1	19.0
1997	5.7	44.7	28.2	21.4
1998	5.8	44.2	27.1	22.9
1999	4.4	41.9	29.2	24.5
2000	3.1	45.6	26.0	25.3
2001	3.6	40.7	27.3	28.4
2002	4.7	40.7	25.2	29.4
2003	4.8	40.2	26.1	28.9
2004	5.4	36.6	26.2	31.7
2005	4.5	37.2	28.6	29.7
2006	4.6	41.9	26.6	26.9
2007	4.4	41.0	22.0	32.6
2008	4.2	41.2	22.8	31.8
2009	4.4	40.3	22.7	32.6
2010	2.8	35.0	22.8	39.4

Note: Northern and Eastern Provinces are excluded

Source: (Department of Census and Statistics, 2011c)

The existing education system and curricula have not been made relevant to the country's present economy or employment in the private sector. The state can absorb only limited numbers of youth who graduate from higher educational institutions. With the widening mismatch between education and employment, Ginige (2002) identifies high academic bias and rigidity of curricula as priority issues that need to be addressed in educational reforms in the country. Although the Sri Lankan economy is based on agriculture and export-related industries, secondary and tertiary education systems promote arts, maths and bio-science streams instead of agriculture and veterinary science (see statistics of University Grants Commission-Sri Lanka, 2011). Expansion of facilities and student numbers in the arts stream have produced a surplus of university graduates who cannot be absorbed by the economy (Gunawardena 2003; Chandrasiri 2008). Those who are unskilled or semi-skilled face an even more uphill battle to find employment even though the Free Trade Zones where young males and females work in large numbers have opened up work opportunities for almost two decades or more.

The mismatch between employment opportunities and appropriately skilled available educated youth has been continued in the context of lack of action from the government. Although relatively more employment opportunities opened up with the expansion of FTZ/EPZs and available work in foreign countries, these were not attractive to educated youth. Skill mismatch (Hettige, 1988; Kelegama, 2006) and lack of skills that employers look for (Chandrasiri, 2008) are the main factors that prevented youth from finding suitable employment. Rural youth and youth belonging to the lower social classes encounter this situation as well. As Hettige (2000a, p. 332) argues, since the affluent social class continues to gain from the economic and educational reforms such as liberalisation, privatisation and commercialisation of education, youth from the lower social strata who possess conventional paper qualifications survive with limited white-collar jobs, mainly in the shrinking public sector. Further, social exclusion in the labour market is prevalent due to gender preferences and social and political connections of some segments. For example, employers prefer to recruit male workers for sectors such as construction and female workers for non-operational categories with less responsibility (Gamaathige & Abeysingha, 2004). The private sector workers should be groomed according to skills that are in demand; however, any non-relevance of education and curricula and poor career skills are barriers for many underprivileged youth. The private

sector, particularly in service-related enterprises, prefers to employ youth who graduate from city based so-called elite schools (Gamaathige & Abeysingha, 2004).

A major proportion of unemployment in Sri Lanka is accounted for by women. The female labour participation rate gradually increased from 14.2 percent in 1963 to 19.1 percent in 1971, 34.7 percent in 1990 and to 35.7 percent in 2006 (Central Bank of Sri Lanka, 2010). Unemployment among women remained high (7.7 %) in 2010. As stated earlier, this is a major push factor for women to look for work outside Sri Lanka. The next section on economic aspects of gender relations will discuss this in detail.

A high rate of unemployment among returned migrant workers is also noted. The main obstacles for finding new employment are higher wage expectations, inferior working conditions and inappropriate skills (Kelegama, 2006, p. 272). Migration makes for voluntary unemployment among migrant workers' family members also. Micro studies show a culture of dependence among migrant family members, particularly among spouses of women domestic workers, who stop work and rely on 'petro-dollar cheques' (Gamburd, 2002; Kottegoda, 2006).

This section has provided a review of the economic, social and political conditions in Sri Lanka since independence in relation to unemployment. It showed that there are sectoral and gender disparities in employment. The state sector has not been able to absorb educated youth sufficiently, and skills mismatches exist with the private sector. Slow growth and lack of reforms have been critical factors. Welfare goals clashed with development goals. Governments adopted different policies at the insistence of multilateral bodies such as the IMF and the World Bank. Institutional reforms are necessary to reduce the high cost of maintenance of bureaucracy, corruption, bureaucracy and national politics in administration to attain transparency and good governance.

Sri Lanka is currently working to achieve United Nations Millennium Development Goals (MDG) before its deadline of 2015. These goals aim to eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat HIV/AIDS and other diseases, ensure environmental sustainability and develop a global partnership for development. The country has already made achievements in specific areas such as

universal primary school enrolment, gender equality in primary and secondary school enrolment and health outcomes. However, challenges remain with regard to increasing equality and equitable access to services, reducing income poverty and malnutrition and consolidating peace (UNCCA, 2006).

4.3 Social and economic aspects of gender relations

This section focuses on the social and economic aspects of gender relations in Sri Lankan society and how these have been portrayed in development policies and programmes since independence in 1948. Examining gender relations in a society, or in other words, analysis of the situation of men and women in the socio-economic and political structures and relevant cultural practices, helps us to understand how men and women are represented differently in a country's economic, social and political spheres. Fifty one percent of the total population of Sri Lanka are female. In comparative terms, regionally, Sri Lankan women are in a better position in the context of the absence of extreme forms of female oppression such as *sati puja*, (self immolation on the death of husband) female circumcision, female infanticide, child marriage or foot binding. Furthermore, the first elected woman prime minister in the world (Mrs. Sirimavo Bandaranaike) was from Sri Lanka. However, studies on Sri Lanka demonstrate that gender differentials exist in Sri Lanka socially, culturally, economically and politically.

There are gender differentiations in social values, family relationships, and duties and obligations. For example, Sri Lankan women are largely expected to perform a role related to nurturing and caring for the young, aged and sick, whereas men are not expected to perform household chores but should exercise the breadwinner role. These cultural practices and stereotypes are manifested in terms of access to social and political power in society. Sri Lankan women over 21 year old have enjoyed the suffrage since 1931, and there have been women political leaders, including an elected woman president. Further, the educational system provides equal access and opportunities for men and women. However, gender discrimination is prevalent in politics and decision making in the public domain. Researchers (Jayaweera, 1997; Jayaweera et al., 2008) observe that education does not lead to the economic, social and political empowerment of Sri Lankan women due to restrictive gender ideologies and social and economic structural constraints. Recent country studies (ADB, 2004; USAID, 2004) identify

employment as a key area of gender-based inequality. Higher unemployment rates, wage gaps in certain occupations, and under-representation in top level, higher-paying and decision making jobs are significant.

The economic status of women affects access to opportunities and benefits for them in employment and income generating spheres. Female wage work has a long history in Sri Lanka. Sri Lankan women have always been engaged in productive economic activities in the 'private domain'. At the time of independence and afterwards, their contribution in the 'public domain' was possibly more significant, for example as agriculture and plantation workers. The use of women as a steady pool of wage labour was first introduced by British colonialists (Brochmann, 1992, p. 218). In 1953, female labour force participation was 18.9 percent and it increased up to 19.5 percent by 1968 (Central Bank of Sri Lanka, 2010). Jayaweera (1990, p. 32) observes how development policies and programmes since independence have extended women's role in response to changing demand for female labour. These opportunities have allowed them to make an equal or sometimes greater contribution to their family income.

The economic status of women in Sri Lanka was greatly enhanced by the availability of free education from school to university levels. The absorption of women into the state sector since independence until late seventies was a dominant feature. There has been a shift in areas of female employment from agriculture and the informal sectors to the industrial and service sectors (Rodrigo, 1988; ESCAP 1989(a); Rodrigo & Deraniyagala, 1990, cited in Patrick, 1997, p. 73). With that, the percentage of females in the labour force increased to 26.2 percent in 1978 and to 34.7 percent in 1990. Women who received an acceptable level of school or university education were drawn into the government bureaucracy for gender-stereotyped occupations such as teaching and clerical work. Urban centres attracted women for work. Later, enterprises such as banks and corporations also started to employ women. The most visible changes can be seen since 1979 as a response to the national economic policy based on liberalisation, privatisation and commercialisation, which led to the expansion of the private sector. Broader changes in the international division of labour based on gender are external factors that influenced government policy and opened up diverse work opportunities. With this diversification, a majority of production activities, for example the plantation economy, manufacturing and foreign employment, have become more dominated by women. Researchers (Gamburd,

2005; Kottegoda, 2006) argue that although women are segregated in so-called feminine occupations, they form the backbone of Sri Lanka's economic structure. According to the 2011 estimates, the female population in Sri Lanka (ages 15-64) was 7,313,440 and it was more than half (51.1 %) of the total labour force.

Gender equality in the labour market is reflected by the labour force participation of men and women. Table 4.10 shows the way in which men and women are positioned according to employment-related indicators in Sri Lanka and some selected Asian countries.

Table 4.10: Comparison of social and economic indicators related to women

Country	Female population (%)	Female-male secondary enrolment rate	Labour force participation rate (%)		Unemployment rate (%)	
			M	F	M	F
Malaysia	49.3	107	79.0	44.0	3.2	3.7
Sri Lanka	50.6	101	75.0	34.0	3.5	7.7
Philippines	48.8	109	79.0	49.0	7.5	7.4
Indonesia	50.1	99	86.0	52.0	7.5	8.5
India	48.3	88	81.0	33.0	n.a	n.a
Bangladesh	49.4	112	83.0	59.0	n.a	n.a
Nepal	50.4	89	80.0	63.0	n.a	n.a

Source:(World Bank, 2011a)

According to Table 4.10, the female population as a percentage is between 48 to 50 percent in the countries listed. Secondary school enrolment is higher for women; however, female labour force participation is significantly lower than that of men, and women's unemployment is also high. Thirty four percent labour force participation means under-utilisation of the human capital of the female population of the country. In contrast, countries like the Philippines, Indonesia, Bangladesh, Nepal and Malaysia have a higher female labour force participation rate. In Sri Lanka, from 1990 to 2010 women's labour force participation rates were stable around 30 percent with some changes in 1998 (36.4 %) (Department of Census and Statistics, 2010). Researchers point out that women's contribution is invisible in official statistics. Kottegoda (1991, 2006) and Jayaweera (1990) observe that official statistics have been biased because they undervalue and under-report women's paid and unpaid agricultural employment as well as domestic labour and other activities in the informal sector. A considerable number of

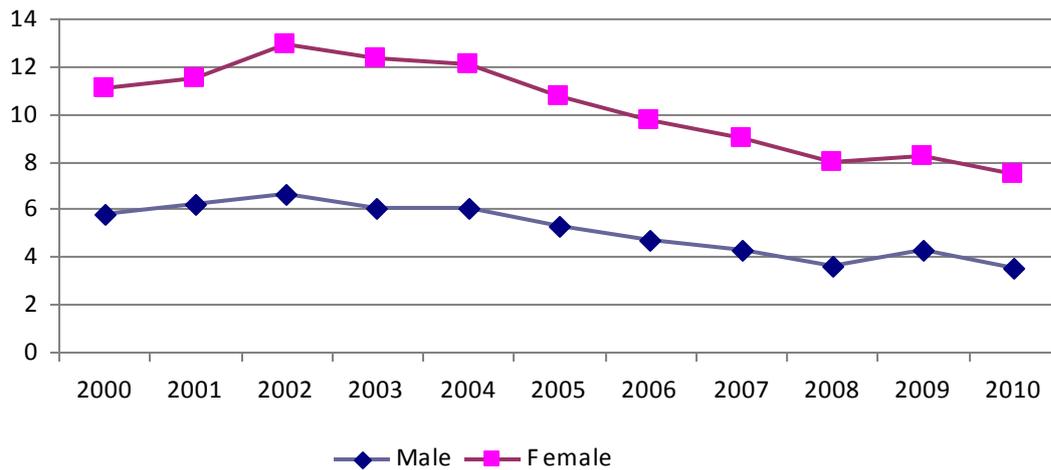
Sri Lankan women are engaged in the informal sector in home-based economic activities and as sub-contracted workers.

Gender inequalities in the economic sphere can be described in terms of the feminisation of poverty, higher unemployment, gender segregated employment opportunities, concentration in the lower rungs of the employment ladder and the glass ceiling for women.²⁶ Firstly, feminisation of poverty is a term used to describe the burden of poverty borne by women as a result of cultural prejudices, lack of access to education and healthcare, discrimination in the labour market and control of assets. Although Sri Lankan women enjoy equal access to education and healthcare, feminisation of poverty is apparent. Researchers (De Silva, 2008; Schokman, 2011) show feminisation of poverty to be associated with female-headed households in Sri Lanka. The civil war resulted in an increase in female-headed households, not only in war affected areas but across the whole country, because a large number of male security personnel and rebels died in the war front. In addition, 35 percent of households in slums are female-headed, the majority of whom have decreased opportunities to escape the poverty cycle (UNCCA, 2006, p. 31). According to the HIES 2009/2010, 23.2 percent of Sri Lankan households are female-headed. A majority of female household heads (80 percent) are aged 40 years or above and 64 percent are widowed or separated. The survey concluded that there is no gender inequality between male-headed and female-headed households. However, the definition used is questionable as this survey included separated, divorced and widowed women as female heads of households as well as women whose husbands were resident elsewhere for employment purposes.

Secondly, the unemployment rate is higher among Sri Lankan women, showing gender inequality in the labour market (Figure 4.8). In comparative terms the female unemployment rate has been higher between 2000 and 2010.

²⁶ An unacknowledged barrier to advancement in a profession, especially affecting women and members of minorities (*Oxford Dictionary online*)

Figure 4.8: Unemployment rates by sex, 2000-2010



Source: (Department of Census and Statistics, 2011c)

As shown in Figure 4.8, the unemployment rate for women is twice that of men throughout this period. In 2010, the unemployment rate for women was 7.7 percent. It was highest among rural women (8 %) and 7.5 percent and 4.1 percent in the urban and estate/plantation sectors respectively. As explained earlier, educational achievement is higher among women, in higher education in particular, however, they have been more vulnerable to unemployment. Apart from the gender preferences of employers, lack of social and political connections, and lack of qualifications and requisite skills, economic liberalisation policies systematically include and exclude certain social groups in employment (Hettige, 2000a; Lakshman, 2004). As Lakshman (2004, p. 280) points out, liberalisation models were biased towards female, low-skilled and urban segments while new employment avenues such as FTZs, overseas employment, self-employment and participatory development initiatives were given a highly female bias. As a result, women's participation in the labour force increased but limited growth led to a higher rate of unemployment for women of all age groups and at all educational levels.

Some researchers (Jayaweera, 2000) view the positive and negative impacts of liberalisation on women's employment while other researchers (Bandarage, 1998; Hewamanne, 2006) observe that these opportunities create new forms of social oppression for low-skilled women workers. With regard to educated women, Malhotra and DeGraff (1997, p. 390) argue that high education levels in Sri Lanka do not make women more marketable but contribute to the mismatch between their aspirations and the

jobs available. This is because some outside factors such as familial expectations, socio-economic status, family, school and political affiliations and cultural differences determine opportunities for educated young women's labour force entry and job acquisition. Less educated women and women from the lower socio-economic backgrounds tend to migrate for low-paid, less-secure, low-skilled occupations such as domestic work. This will be further explained in Chapter 7 on the basis of interviews with 100 women who returned from Saudi Arabia. It is important to observe that there have been two gendered migration trends that have propelled women's quest for work: international migration to the Middle East and elsewhere for domestic or factory employment, and internal migration of young unmarried women to factories in the Export Processing Zones (USAID, 2004, p. 12); their work here being classified as unskilled or semi-skilled.

Thirdly, gender segregation in the local labour market is another aspect of gender inequality in employment. There is a disproportionate division of employment between male and female workers. Women employed in the different economic spheres since independence show a greater concentration in agriculture related work. The figures in Table 4.11 demonstrate the proportion of women employed in different spheres of work.

Table 4.11: Employed population by occupational categories, 2010

Occupation	Male	Female	Total	Women as a %
Senior officials and managers	1.7	1.1	1.5	23.7
Professionals	3.2	10.4	5.6	61.9
Technical and associate professionals	5.2	4.9	5.1	32.0
Clerks	3.4	5.5	4.1	44.5
Proprietors and managers of enterprises	7.6	5.3	6.8	25.9
Sales and service workers	8.3	7.8	8.1	32.0
Skilled agriculture and fishery workers	21.1	24.5	22.3	36.7
Craft and related workers	15.6	15.8	15.7	33.6
Plant/machine operators and assemblers	9.9	2.0	7.3	9.0
Elementary occupations	22.5	22.7	22.6	33.6
Unidentified	1.3	0.2	1.0	7.6
Total	100.0	100.0	100.0	33.4

Source: (Department of Census and Statistics, 2011c)

According to Table 4.11, women are heavily concentrated (24.5 %) in the skilled agricultural and fisheries work compared with 21.1 percent of males. Furthermore, 10.4

percent of women are professionals compared with 3.2 percent of males. This is due to gender-stereotyped occupations such as teaching and nursing being included in this category. A sub-category of medical professions including dental, veterinary and related workers is one of the few high-status professions in which male and female employment rates are equal. The available jobs for Sri Lankan women in the international labour market are also concentrated in gender niches, mainly in care related work.

Fourthly, occupational segregation begins with and leads to further stereotyping and discrimination in employment sphere and creates a 'glass ceiling' and a 'sticky floor' for women workers. Apart from the stereotypical jobs, women workers in Sri Lanka tend to be concentrated in the lower rungs of the employment ladder and are stagnated at some levels. Researchers (Brochmann, 1992; Kiribamune, 1992) identify this concentration in the lower levels of the employment pyramid as a remarkable feature common to both the formal and informal sectors. As mentioned earlier, the major foreign exchange earning employment opportunities have been highly gendered with female low-skilled labour being used in the gender-segregated and labour intensive manufacturing sector in textile and garment factories in the FTZs as machine operators and as supervisors; in the plantations as tea pluckers, rubber tappers, etc.; and in West Asia as domestic workers. There are wage gaps between men and women, particularly in the plantation sector. Female workers are paid lower wages than men. Many of these low-skilled workers do not have opportunities for upward occupational mobility and job security and, in some cases, have poor living and working conditions. Among them, female migrant workers are more vulnerable to exploitation and abuse in destination countries as they have to operate in quite different legal and cultural contexts.

While female workers are concentrated in the lower occupational levels there is an under-representation of women in managerial and decision making positions in both the public and private sectors. Table 4.10 has shown a wide disparity between men and women in the administrative and managerial category. Further, at the top of the occupational categories that women dominate, women are managed by male counterparts. For example, Gunawardena (2003, p. 444) observes that although teaching is very much a 'feminised' occupation, the top strata are dominated by men (principals, directors, etc.). Similar situations are found in other sectors too.

Finally, the ‘glass ceiling’ which creates obstacles for women from moving upwards in the occupational ladder is prevalent in Sri Lanka. Women possess fewer opportunities for promotion and advancement in many work places (UNCCA, 2006, p. 21). Even though this is not the case across the board, this situation demonstrates gender-based discrimination in employment, mainly due to socio-cultural perceptions. The absence of support structures and state policies such as flexible working hours, crèches and part-time work prevent women from combining their dual responsibilities in family life and employment. Besides, lacunae in family and work oriented policies and services and monitoring mechanisms, negative attitudes and some behaviour of top management, need for adequate skills, and gender-blind perceptions and internalisation of gendered norms by both men and women are all apparent (Jayaweera et al., 2008, p. 19).

Female employment or labour force participation is an important component of the Gender Inequality Index (GII), the more recently seen measurement of quantifying gender inequality introduced by the *Human Development Report 2010*.²⁷ Sri Lanka’s achievements in reproductive health are on par with developed countries.²⁸ With regard to the labour force participation, gender disparities in education are directly linked with economic growth. Sri Lankan women have equal access to education through a non-discriminatory educational policy, and female students outnumber their counterparts in university entrance, but their representation in all scientific areas, including medicine, is low (University Grants Commission-Sri Lanka, 2011). Under-representation of women in professional and vocational streams tends to perpetuate stereotypical occupations in the labour market and also stereotyped perceptions. With regard to empowerment, political representation of females is far below as only 5.8 percent seats for females in the Sri Lankan parliament (UNDP, 2011).

The above discussion, together with Section 4.2, shows that the employment sphere is a core area of the country’s economy and development. It illustrated gender inequalities and obstacles for women’s advancement showing that female workers are concentrated in lower occupational levels. Though the unemployment level has been declining, some

²⁷ It measures gender disparities in three dimensions, namely, reproductive health, labour force participation and empowerment. Reproductive health is based on the indicators maternal mortality and adolescent fertility while empowerment is based on secondary and higher educational attainment and parliamentary representation. It tries to capture inequality between males and females and is sensitive between indicators.

²⁸ Maternal mortality ratio is 58 and adolescent fertility rate is 29.8.

districts have a higher unemployment rate. Poor absorption of educated youth into the labour market is a continuing issue and there is a mismatch between qualifications, expectations and job opportunities. Unemployment among women reached 7.7 percent in 2010, even though the labour force participation rate of women has been gradually increasing. Sectoral and gender disparities in employment function as push factors for women to look for lower-paid work either in industrial zones within the country or overseas as care workers. Under-representation of women in top level occupations and the segregation of certain occupations as feminine ones have led to a concentration of women in certain low-level occupational categories. Women's contribution to these occupations is invisible in the official statistics. There is also an apparent feminisation of poverty, especially with the increased number of female-headed households during the civil war. The female unemployment rate is higher compared to males (see Figure 4.6). The questions emerging from this are whether new forms of oppression for low-skilled women workers have emerged along with the changes in economy and society and whether gender inequality increases or decreases with international migration.

4.4 Migration as a development strategy in Sri Lanka

In this section, the aim is to examine how successive Sri Lankan governments have utilised international labour migration as a development strategy, not only to create benefit for the migrants but also for the government and the country. These benefits are looked at in this section.

Sri Lanka started to use international labour migration as a development strategy relatively recently. Although many other Asian neighbours began exporting labour with the Middle East oil boom in early 1970s the then Sri Lankan Government strongly discouraged international labour migration due to its 'closed economy' policies. With its liberalised economic policies, the new government of 1977 eased travel and foreign exchange restrictions and Sri Lankans were allowed to migrate for employment. Labour migration relieved the government from economic and political pressures while providing much needed foreign exchange. Sri Lanka was in a better position by 1983 although the country had entered into the international labour market relatively late (Table 4.12).

Table 4.12: Migration from Asian countries to the Middle East, 1983

Country	Population (million) (1)	Migrants (1000) (2)	Migrants as % of 2 (3)	Remittances (\$) migrant/year (4)	Remittances as % of exports (5)	Remittances as % of GNP (6)
India	746.7	930	0.12	2810	19.9	1.1
Pakistan	88.2	800	0.91	3610	69.9	8.8
Philippines	53.6	500	0.93	1880	13.5	3.1
Bangladesh	94.4	300	0.32	2090	50.0	3.4
South Korea	40.0	213	0.53	5127	7.0	2.3
Thailand	50.7	230	0.39	3380	7.2	1.2
Sri Lanka	15.2	200	1.32	1360	27.6	3.6

(Eelens et al., 1992)

Despite governments allowing citizens to work abroad for decades, Sri Lanka set up a coordination mechanism, the SLBFE in 1986. A systematic approach to mainstream migration and development, and incorporation labour migration to the development planning processes is still under way through the country's labour migration policy. Poverty Reduction Strategy Papers (PRSP) in 2002 stated promotion of overseas employment as a poverty reduction strategy (Black & Sward, 2009, p. 27). Further, the country's migration policy document in 2008 aimed to integrate and mainstream labour migration in national development, decent work, labour market and poverty reduction policies while recognising that foreign employment generated a substantial inflow of remittances and it acted as a safety valve for local unemployment (MFEPW, 2008).

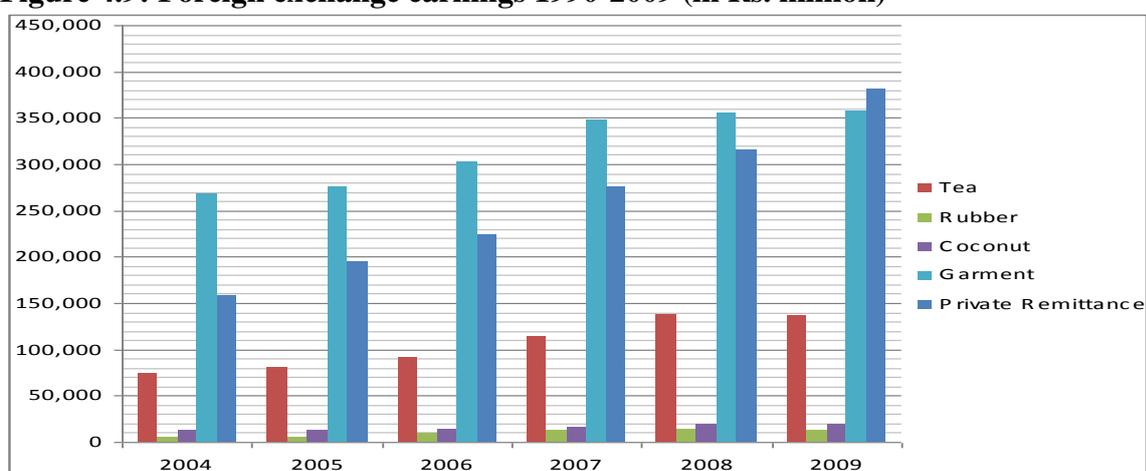
The country attempts to promote skilled worker migration to achieve a globally competitive workforce through provision of skills, networking to maximise training and recruitment benefits, language training and exchange programmes plus the protection of the rights and freedom of migrant workers. For example, Dilan Perera, Minister of Foreign Employment Promotion and Welfare, says that the government intends to send more skilled and professional workers in order to increase remittances and the goal is to receive US\$10 billion in remittances by 2015 (*Migration News*, 2012, p. 3). In 2009, the total value of remittances recorded as private transfers was Rs.302,801 million (approximately US\$2,422 million). West Asian countries have contributed more than the other destinations (nearly 60 percent). Table 4.13 shows that there is a steady trend in the amount of remittances received from destination regions.

Table 4.13: Workers remittances to Sri Lanka by region (US\$ million)

Origin	2005	2006	2007	2008	2009
Middle East	1,089	1,234	1,451	1,745	1,995
European Union	355	411	500	525	603
Far East Asia	86	110	135	175	203
Europe Other	125	132	125	117	137
North America	125	119	105	114	127
South East Asia	38	52	75	90	100
Australia and New Zealand	29	28	33	55	57
South Asia	19	22	25	32	40
South and Central America	19	22	20	23	28
Eastern Europe	10	11	10	12	12
Other	24	22	23	29	30
Total	1,918	2,161	2,502	2,918	3,330

Source: (Central Bank of Sri Lanka, 2010)

Firstly, migrant remittances are vital for Sri Lanka's national development because as a source of foreign exchange it helps to improve the economic growth of the country by saving and investing. Like many former colonies and developing countries, Sri Lanka carries a high debt burden. In this context, the increase in foreign employment has been a partial solution to excessive trade deficits and also a significant contribution to foreign exchange earnings. According to the World Bank (2011b), Sri Lanka was the twenty-eighth highest remittance receiving country in 2009, with remittances being eight percent of the GDP. Annual departures of Sri Lankan migrant workers increased by an average of six percent between 1991 and 2009 and, accordingly, the contribution of remittances to GDP grew from four to 9.7 percent. Figure 4.9 illustrates the gradual increase of private remittances and how vital they are to the Sri Lankan economy.

Figure 4.9: Foreign exchange earnings 1990-2009 (in Rs. million)

Source: Central Bank Annual Reports 2004-2009

According to Figure 4.9, migrant remittances became the country's prime source of foreign exchange earning in 2009, being Rs.382,801 million and 47.03 percent of total exports. The Sri Lankan Government has stated that overseas remittance '.. has become the backbone of the country's economy' (*Migration News* 2001 cited in Hugo, 2003, p. 15). Although migrant workers' remittances and savings are devalued due to inflationary trends, it helps to completely offset the deficit in the trade account.

Although the remittances are private household transfers, it is a reliable and stable source of foreign currency inflows and better distributed than foreign direct investment (FDI) and sometimes official development assistance (ODA). Table 4.14 shows the importance of migrant remittances compared with some macroeconomic indicators.

Table 4.14: Importance of migrant remittances - indicators

Year	Remit (US\$m)	Remit. as % of GDP	FDI as % of remit	ODI as % of remit	Remit. as % of exports	Remit. as % of imports	Remit. per capita (US\$)	Remit/ outgoing migrant (US\$)	Remit. per migrant stock (US\$)
1993	632	6.1	30.8	104.6	22.1	15.8	3582	489,634	137,391
1994	715	6.1	23.3	22.3	84.0	15.0	3996	549,886	143,000
1995	809	6.2	6.9	68.5	21.3	15.2	4461	469,015	147,091
1996	852	6.1	14.1	57.1	20.8	15.7	4647	524,063	142,000
1997	942	6.2	45.7	35.2	20.3	16.1	5073	626,817	132,676
1998	1023	6.5	18.9	41.5	21.3	17.4	5449	640,111	138,243
1999	1072	6.8	16.5	24.5	23.3	17.9	5629	596,434	136,561
2000	1166	7.1	14.8	23.6	21.1	15.9	6104	639,998	136,694
2001	1185	7.5	14.5	28.0	24.6	19.8	6304	643,997	127,078
2002	1309	7.7	15.0	26.3	27.9	21.4	6887	642,381	134,948
2003	1438	7.6	15.9	47.1	28.0	21.6	7469	685,264	143,284
2004	1590	7.7	14.6	32.0	27.6	19.9	8168	740,351	148,731
2005	1991	8.2	13.7	59.8	31.4	22.5	10122	860,694	162,937
2006	2185	7.7	22.0	36.2	31.7	21.3	10986	1,081,848	150,912
2007	2527	7.8	23.9	23.3	33.1	22.4	12627	1,162,738	153,818

Source: (Wickramasekara, 2010b)

Secondly, remittances create human capital because migrant workers use their remittances for their children's education and health and for better food. In addition, remittances as development funds result in economic development and reduced poverty (Gunatilleke, 1986, 1992; Rodrigo, 1991). However, it is difficult to generalise about how increased remittances affect economic development and reduce poverty because the use of remittances depends on migrant workers' socio-economic background and a range of other factors. The remittance contribution of professionals are lower since they tend to consume and invest abroad, unlike unskilled workers who remit 80 percent of their

income back home (Institute of Policy Studies of Sri Lanka, 2008). Conversely, many micro studies show that earnings are spent mostly on consumption with only a few investing in entrepreneurial or productive activities (Athukorala, 1993; Dias & Jayasundere, 2004; Dias & Weerakoon-Goonewardene, 1991; Hettige, 1997). For example, funds have been used for subsistence needs and to settle debts and such situations lead to further migration although remittances may improve human capital in the short term (Arnold & Shah, 1986; Gamburd, 2002; Licuanan, 1994). This is a result of unplanned migration where governments rely on remittance flows encouraging out-migration to resolve high unemployment rather than them creating adequate domestic employment opportunities (Skeldon, 2008, p. 7).

Thirdly, Sri Lanka considers labour migration as a development strategy because it reduces the country's unemployment pressures. Table 4.15 illustrates the significance of labour migration to the local population, the labour force, employment and Sri Lankan unemployment.

Table 4.15: Stock of migrants and labour market indicators

Year	Migrant stock overseas	Migrant stock as % of total population	Migrant stock as % of total labour force	Migrant stock as % of total employment	Migrant stock as % of total unemployment
1993	460,000	2.6	7.6	8.8	55.4
1994	500,000	2.8	8.2	9.5	62.7
1995	550,000	3.0	9.0	10.3	73.4
1996	600,000	3.3	9.6	10.8	85.2
1997	710,000	3.8	11.3	12.7	107.9
1998	740,000	3.9	11.1	12.2	121.1
1999	785,000	4.1	11.8	12.9	132.9
2000	853,000	4.5	12.5	13.6	164.9
2001	932,500	5.0	13.8	15.0	173.6
2002	970,000	5.1	13.6	14.9	155.0
2003	1,003,600	5.2	13.1	14.3	156.6
2004	1,068,776	5.5	13.3	14.5	160.2
2005	1,221,763	6.2	15.0	16.3	196.0
2006	1,447,707	7.3	19.1	20.4	293.4
2007	1,642,655	8.2	21.9	23.3	367.5

Source:(Wickramasekara, 2010b)

According to Table 4.15, Sri Lankan migrant stock increased nearly fourfold between 1993 and 2007. In 2007, the ratio of migrant stock to the labour force was 21.9 percent and 23.3 percent to employment. They do not show much difference. Further, the migrant stock accounts for more than 20 percent both of the labour force and

employment. This is a significant number. In addition to direct opportunities, migration generates employment opportunities in related areas such as recruiting agencies, travel services, banking, insurance, advocacy and other supporting services; however, available information is limited (Wickramasekara, 2010a, p. 23). Further, a relatively higher numbers of migrant workers are those who were already employed before migration and information on return migrants and re-hiring is not available to provide a comprehensive picture. Furthermore, a majority of the largest category of women domestic workers were considered as housewives before migration and it is not clear whether they have been recorded as 'unemployed' or engaged in 'unpaid family labour' in the statistics.

Finally, return migration contributes to development since returnee migrants bring financial and social capital and skills to their homes. The government considers return migration and circulation as key opportunities for skills transfer, productive employment and conflict-free social integration (MFEPW, 2008). To achieve this as the ILO (2007, p. 3) emphasises, the country needs better policies for proper integration in society and the labour market, especially regarding measures to make productive use of savings, acquired skills and networks of returning migrants.

4.5 Trends and patterns in international labour migration flows

In this section, an account of major migration trends from Sri Lanka is presented. Firstly, migration for temporary work or on a fixed term contract grew after the global demand for 'flexible labour' increased. Such opportunities for labour were available for Sri Lankans in a narrow range of destinations, mainly in West Asia, from the 1970s. In 1974, the oil price increase created a great demand for labour in the oil-rich, but sparsely populated states of the region. A wide range of industries such as agriculture, construction, manufacturing and domestic service attracted mainly male migrant workers of non-oil producing Arab states and Asian countries. In the early 1980s, the declining revenues from oil, policy incompatibilities and political and religious tensions between labour sending and destination countries led to a decline of these regional flows. As a result, a global process of labour recruitment from East and South Asia started. With the onset of globalisation, both Sri Lankan male and female workers responded to the increasing demand for unskilled and low-skilled labour in the global labour market

largely concentrated in West Asia. Table 4.16 compares the country's labour flows by region from 2005 to 2009.

Table 4.15: Labour migration outflows by region, 2005 - 2009

Region	2005	2006	2007	2008	2009
West Asia	216,891	185,363	203,436	233,921	233,797
East Asia	5,024	3,916	3,001	7,374	4,531
South Asia	2,763	3,545	3,761	4,378	4,136
Southeast Asia	2,190	4,547	1,986	2,386	2,107
Europe	2,362	3,989	3,106	181	233
Africa	259	620	299	1,988	1,860
Other	153	285	170	281	450
Total	231,290	201,948	217,306	250,499	247,119

Source: SLBFE Annual Statistical reports 2005-2009

Table 4.16 shows that the major outflow is to West Asia. In 2009, it was 94.6 percent of the total migration.

Secondly, Sri Lankan labour migration outflow is highly concentrated in low-skilled type jobs. Unskilled workers represent over 130,000 (65 %) of the total migrant workforce each year. This high concentration of low-skilled categories in migrant labour leads to problems related to protection, low remuneration and low remittances (Wickramasekara, 2010b, p. 11). These problems are discussed in detail in subsequent chapters in the thesis. There is an inconsistency in categorising occupational levels, for example, some professional jobs and clerical jobs are categorised as middle level. The demarcation between skilled and semi-skilled is also not clear in the available statistics. The SLBFE seems to use its own skills classification scheme which appears to be different from the ILO 1988 International Standard Classification of Occupations (ISCO 1988) (Wickramasekara, 2010b, p. 11). Further, highly skilled migrants who make their own arrangements to find employment abroad are not monitored by the SLBFE (Korale, 2004, p. 300). According to the available statistics, the country concentrated on exporting unskilled labour.

Thirdly, feminisation of labour has been a salient feature of the migrant workforce in Sri Lanka since the early 1990s. Sri Lanka was one of the first countries to export female labour to West Asia and, interestingly, the only country to export women with no

restrictions (Dias & Jayasundere, 2002, p. 3). Table 4.17 presents statistics on the number of workers who departed Sri Lanka by sex during the period between 1986 - 2007.

Table 4.16: Departures for foreign employment by sex, 1986-2007- Annual averages for sub-periods

Year	Male		Female		Total
	No	%	No	%	
1986 - 1989	9,665	51.0	9,269	49.0	18,934
1990 - 1994	25,051	25.5	73,190	74.5	98,241
1995 - 2000	50,678	30.2	117,170	69.8	167,848
2001 - 2008	87,632	40.9	126,731	59.1	214,363

Source: (Wickramasekara, 2010b)

According to Table 4.17, there is an increase in numbers of migrant workers, both male and female with fluctuating proportions during different sub-periods. The proportion of female migration is higher during the last sub-periods. Indonesia and the Philippines are the other countries where females account for more than half of the total migrant workers. Feminisation of labour migration in Sri Lanka is a response to several social, economic and policy factors: the high female unemployment rate and feminisation of poverty (Gamburd, 2002; Kottegoda, 2006; Shaw, 2008), escape from family problems including alcoholism of male members and domestic violence (Dias & Jayasundere, 2004; Gamburd, 2002), and lack of opportunities in government development programmes (Jayaweera et al., 2002). Demand for service sector jobs such as in the hospitality industry, maintenance and care work in West Asia functioned as pull factors. The growth in the demand for domestic workers took off after the completion of the infrastructure building in the Middle East and Sri Lanka was one of the first to benefit from the trend (Wickramasekara, 2010b, p. 6). During this time, some Asian countries such as India, Pakistan and Bangladesh restricted women from migration for domestic work. Sri Lankan recruitment agencies began actively hiring women to fill the niche (Oishi, 2005, p. 70). Table 4.18 presents longitudinal data on how women migrants are distributed in terms of level of workforce.

Table 4.17: Female migration flows from Sri Lanka by manpower level, 1994 - 2009

Year	Professional		Middle level		Clerical		Skilled & semi-skilled		Unskilled		Domestic Workers	
	No	%*	No	%*	No	%*	No	%*	No	%*	No	%*
1994	18	6.87	46	5.52	151	9.69	5453	43.33	2019	22.88	36,104	100.0
1995	41	4.67	421	16.87	506	11.01	7,734	28.47	3,906	16.64	113,860	100.0
1996	43	7.18	309	15.90	477	14.15	4,867	20.07	3,289	15.00	110,479	100.0
1997	39	6.81	249	15.23	571	15.95	8,670	35.38	3,773	18.35	99,429	100.0
1998	40	5.76	311	11.02	842	17.20	9,656	30.41	9,751	28.43	85,349	100.0
1999	78	6.23	423	13.38	940	15.14	12,852	34.48	13,659	31.21	88,063	100.0
2000	38	4.06	427	11.29	997	17.12	12,131	33.26	9,389	26.26	99,413	100.0
2001	93	7.64	571	15.12	1,384	23.01	11,501	31.28	7,801	23.37	102,850	100.0
2002	184	12.42	631	13.85	1,635	22.59	14,911	32.79	7,355	20.16	108,535	100.0
2003	131	8.50	2,226	29.65	1,437	21.20	16,106	33.73	13,427	30.33	102,011	100.0
2004	105	5.75	1,173	17.88	849	12.71	11,979	26.08	9,392	21.74	110,512	100.0
2005	97	6.83	892	11.09	754	9.74	6,806	14.58	3,352	8.00	125,493	100.0
2006	148	8.64	758	11.42	900	11.38	6,326	14.04	3,987	9.75	99,711	100.0
2007	68	4.11	529	13.35	607	13.34	6,269	11.66	5,155	9.88	102,355	100.0
2008	155	5.47	1,540	17.77	832	12.25	5,508	8.47	6,309	10.65	107,923	100.0
2009	133	4.72	985	15.41	837	12.48	5,744	8.54	6,367	12.69	113,777	100.0

Source: (SLBFE, 2010)

* Percentage of the total within the category

According to Table 4.18, professional females represent less than 10 percent of workers, whereas women who migrate for middle level and clerical employment fall between 10 and 15 percent each year. There was significant female representation in skilled and unskilled categories only until 2004. The only female dominated category is domestic work. The statistics do not show the types of unskilled jobs that women engage in. However, in 2009, 120,144 (93.9 %) of women migrants were in the unskilled category of labour when combined with domestic workers.

Migration is a survival strategy for these women and their families (Eelens & Schampers, 1992; Gamburd, 2002). Women elect overseas employment as a way of improving their livelihoods, getting out of debt, buying land and building a house, supporting family consumption needs, educating children and providing dowries for their daughters or for themselves (in the case of the unmarried). Initially, female migrant flows were composed of a high proportion of urban women from low-income families with low levels of education. At present, the majority of women working abroad are from rural areas. Researchers (Gamburd, 2005; Oishi, 2005) identify three profiles of Sri Lankan female migration by destinations. First, Cyprus, Greece and Italy attract women with high profiles, that is, those who have a higher educational level. The second is Singapore and Hong Kong where wages are higher and the working conditions are better. Recruitment agencies tend to select women with higher profiles for Hong Kong because Hong Kong employers prefer better-educated workers with a good command of English (Oishi, 2005,

p. 111). Third, easily available and low-paid Middle East jobs are the option for many poor and semi-educated women.

Sri Lankan labour migration is a response to economic and social disparities within the country as well as global inequalities. The main factors that motivate migrant workers are the search for economic wellbeing and lack of well-paid employment opportunities in the home country. The majority of women migrant workers elect to take jobs overseas as a survival strategy.

Summary

This chapter provided an overview of Sri Lanka by focusing on the economy, society and political background of the country in relation to poverty, unemployment and gender relations, and migration and development. It discussed the economic and socio-political contexts, factors and trends that shaped the contemporary Sri Lankan economy. The chapter revealed that at the time of independence, Sri Lanka had a relatively good and stable economy in Asia together with a system of government welfare. However, after 60 years of independence, the country is still facing several development-related setbacks, including a low economic growth rate, poverty and unemployment, coupled with heavy expenditure on welfare, the consequences of the civil war and the different interests of various political regimes. Through the liberalisation of the economy since the late 1970s, Sri Lanka has an expanded private sector, including industrial zones where foreign capital is invested, and a high stock of migrants working overseas. The remittances from migrant workers have become the number one foreign exchange earner.

Continuing problems of poverty and unemployment are outcomes of unfavourable socio-economic and political contexts which have emerged due to welfare politics, shortcomings of planning, the uncertainties of the plantation economy, lack of transparency in policy planning and implementation, civil war, civil unrest and the political economy. Governments since independence have launched various programmes such as food subsidies, target group poverty alleviation measures, free education, free healthcare, land reforms, rural development programmes and productivity raising programmes to reduce income poverty and social inequality. However, there has been a lack of employment opportunities for an increasing population due to slow growth of economy, lack of investments, and a mismatch between supply and demand coupled with

socio-economic and political constraints within the country. The affected population segments are the rural population, educated youth and women.

Theoretically and officially, women's access to free education and health services without discrimination and equality before the law and enjoyment of political rights are unique features in the Sri Lankan society. However, there are gender-based inequalities prevalent in employment spheres. A high unemployment rate, the feminisation of poverty, wage gaps in certain occupations, gender stereotypical employment niches and under-representation in top-level management are attributes of this inequality. Concentration of women in low-skilled and lower-paid occupations is another. Some of these adverse conditions paved the way for gendered migration trends. There are two trends: international migration mainly to West Asian countries as domestic workers and factory workers, and internal migration as factory workers in the FTZs. Both have the potential to be locations where either the feminisation of poverty, marginalisation and abuse take place or places where women are able to be liberated from conditions of poverty and develop social capital, skills and knowledge and earn a decent living. Only research can reveal which one is true.

Sri Lanka has promoted international labour migration to reduce poverty and unemployment and as a development strategy to ease severe debt problems, improve economic growth and create human capital. It has been recognised that the significance of remittances for the economy of Sri Lanka is that migrant remittances became the country's prime source of foreign exchange earning since 2009. Furthermore, it is a reliable and stable source of foreign exchange inflows and better distributed than FDI. However, the extent to which the women who generate such remittances are treated well by procedures set in place by Sri Lanka and labour destination countries is unclear. This will be examined in chapters 5, 6 and 7. The recently introduced country's migration policy document is aiming to integrate and mainstream labour migration in national development while recognising that foreign employment has generated substantial inflow of remittances.

Finally this chapter examined the trends and patterns of Sri Lankan labour migration outflows. There are prominent trends, such as predominantly temporary migration, migration for unskilled or semi-skilled occupations and feminisation of migration. The

available opportunities for Sri Lankans and the supply of Sri Lankan labour in the international labour market are mainly concentrated on unskilled categories. A smaller percentage of Sri Lankan women migrate as professionals and skilled workers. The most visible feature of the female migration pattern is the increasing number of female domestic workers migrating mainly to West Asian countries. In this context, the government policies, institutions and procedures have to be designed to strike a balance between 'promotion' and 'protection'.

The next chapter will discuss how Sri Lanka became a labour brokerage state with a particular focus on policies, institutions and regulation of labour migration.

CHAPTER 5

Sri Lanka as a Labour Brokerage State

Introduction

This chapter investigates Sri Lanka's role as a labour brokerage state and addresses the first research question, 'in what ways and why has Sri Lanka transformed itself into a labour brokerage state, preparing workers for foreign jobs, developing a bureaucracy to send them abroad, and regulating them for work abroad?'. It critically reviews Sri Lanka's labour migration policies, legislation, institutional frameworks and relevant procedures in order to identify the policy strengths and weaknesses. The chapter also discusses the way in which the state, the SLBFE, employment brokers (including private recruitment agencies and sub-agents) and informal groups cooperate in mobilising and facilitating Sri Lankan migrant workers. It compares Sri Lankan policies, procedures and institutional frameworks with those of the Philippines. The findings from semi-structured interviews with fifteen government officials involved in the labour migration and monitoring processes are presented.

Labour brokerage has been a lucrative business for private recruiters in Sri Lanka for several decades. However, government involvement in labour brokerage is a phenomenon of the 1980s. Although prospective migrants individually seek work opportunities overseas, the country they go to, the place where they will work and the job they apply for are largely determined by the state's labour brokerage strategy (Rodriguez, 2010, p. xiii). As a destination country, Sri Lanka is familiar with the state's role in migration during the colonial period (1505 - 1948) when the colonial British government imported foreign labour. Large numbers of South Indian immigrant labourers were brought to work in the tea plantations during the British period (1796-1948). The first wave of significant international migration from Sri Lanka occurred after independence in 1948. This was skilled emigration to Western countries and created a brain drain from the late 1960s. Following the advent of liberal economic policies in Sri Lanka and the oil boom in the GCC, there was a second wave of migrant outflows (semi-skilled and low-skilled workers) after 1977. Table 5.1 shows the expansion of foreign employment from 1992 to 2009.

Table 4.18: Foreign employment as a percentage of employment, 1992 - 2009

Year	Labour force ('000 persons)	Employed ('000 persons)	Foreign employment	Foreign employment as a % of total labour force	Foreign employment as a % of total employment
1992	5,808	4,962	425,000	7.32	8.57
1993	6,032	5,201	460,000	7.63	8.84
1994	6,079	5,281	500,000	8.23	9.47
1995	6,106	5,357	550,000	9.01	10.27
1996	6,242	5,537	600,000	9.61	10.84
1997	6,266	5,608	710,000	11.33	12.66
1998	6,660	6,049	740,000	11.11	12.23
1999	6,673	6,082	785,000	11.76	12.91
2000	6,827	6,310	853,000	12.49	13.52
2001	6,773	6,236	932,500	13.77	14.95
2002	7,145	6,519	970,000	13.58	14.88
2003	7,654	7,013	1,003,600	13.11	14.31
2004	8,061	7,394	1,068,776	13.26	14.45
2005	7,312	7,089	1,221,763	16.71	17.23
2006	7,599	7,105	1,447,707	19.05	20.38
2007	7,489	7,042	1,642,455	21.93	23.32
2008	8,082	7,648	1,792,368	22.18	23.44
2009	8,074	7,602	1,831,358	22.68	24.09

Source: Central Bank Annual Reports 1993 - 2010

As shown in Table 5.1, Sri Lankans employed overseas increased nearly five times within fifteen years. There are some discrepancies in statistics since they are based on the number of employed people registered with the SLBFE. The actual number of migrant workers is considerably more than the recorded number of workers due to departures through unauthorised avenues and personal contacts, and the non-identification of the large numbers who have secured employment prior to the formalisation of the registration procedures. However, the available data show a steady increase of migration outflows from Sri Lanka.

The government's view on overseas employment changed in response to various social, economic and political factors in the country. Labour deployment was seen as a way of addressing poverty and unemployment in Sri Lanka. The income potential from various fees and charges, as well as the increasing level of remittances from migrant workers were also seen as benefits of migration. Like the Philippines, the Sri Lankan Government established special government bodies to mobilise and facilitate labour for export. The government has also been looking at ways to improve its policies and labour migration management procedures with a view to addressing the concerns and issues faced by migrant workers as time went on.

5.1 Policy formulation, governance structures and their drawbacks

This section reviews policy measures taken by the Sri Lankan Government for mobilising, regulating and marketing labour for export and their drawbacks. These measures include formulation of labour migration policies, establishment of institutional structures, licensing of agents and diplomatic negotiations to secure decent work for the country's migrant workers.

5.1.1 Policy formulation and drawbacks

Since independence Sri Lanka's labour deployment policy has been framed in line with the political and economic interests of different governments. The country has pursued a liberal policy since independence, except during the period of 1972 to 1978 when there was a centre-left coalition government that advocated and implemented an import-substitution economic policy and a restricted migration policy. Also, some controls were imposed on the free movement of people outside the country during this period. In earlier periods, the government paid very little attention to international labour migration in the overall development strategy of the country, except from the balance of payments perspective (Rodrigo, 1991) and even to control malpractices of recruitment agencies (Dias, 1994; Raj-Hashim, 1994). As Patrick states, the highly unstable and dependency of the economy and ideological standpoints had significant impact on labour force planning (Patrick, 1997, p. 110). This can be observed during the periods of centre-left government (1970 - 1977) and centre-right government led by the UNP after 1977.

The researcher has identified three phases of Sri Lanka's labour migration policy. They are from 1956 to 1972, from 1972 to 1978, and the period after 1978. During the first period, the government's legislative and administrative arrangements relating to migrant labour focused on the Fee Charging Employment Agencies Act No. 33 of 1956 against the background of limited migration of workers. There were several restrictive measures on private sector recruitment and this law was directed primarily at local recruitment within the higher professional categories. The legislature allowed the government to monitor the recruitment agencies which volunteered to sign a memorandum of understanding with the government.

Since 1960s the migration of Sri Lankans for overseas employment has been noticeable with the increased demand for skilled labour in the international labour market. The removal of immigration barriers that had been operating against Asian immigration in the United States, United Kingdom, Australia, Canada and New Zealand attracted academically and professionally qualified people and people from wealthy backgrounds (Gamburd, 2002). Push factors such as the changeover of the national language from English to Sinhala and Tamil as the medium of instruction in schools and universities, pervasive state regulation of the economy, controls on the external sector including foreign exchange, imports and travel, political unrest, the sluggish economy, and the lack of career advancement contributed to the emigration of academics and professionals (Karunatilake 1987; Korale 2004 cited in Wickramasekara, 2010b, p. 5). The country was deprived of skilled professionals due to this brain drain. Emigration statistics are not disaggregated by occupations; therefore, it is not possible to derive the composition of these flows (Korale, 2004, p. 301).

During the second phase from 1972 to 1978, international labour migration was not seen as a significant policy tool. The SLFP Government (1970 - 1977) introduced measures to promote local production to address the country's unemployment problem. According to the Consumer Finance Surveys conducted by the Central Bank of Sri Lanka, there was a decline in unemployment from 24 percent in 1973 to 14.7 percent in 1978/79. The government did not actively encourage people, skilled or unskilled, to migrate for overseas employment during this period. Furthermore, there were significant barriers related to issuance of passports and foreign exchange. In 1971, the government passed the Passport and Exit Permit Act requiring professionals from the public sector to obtain an exit permit from the government to leave the country. Therefore, those who migrated overseas left the country on tourist visas and overstayed abroad, or a few migrated under sponsorship arrangements with employers or families. During the period of the SLFP government, only a small number of people migrated independently for work or utilised a few private recruiters with minimal governmental involvement (Patrick, 1997, p. 111). The limitations of this practice soon became obvious to the government and led to the formation of the Foreign Employment Unit within the Department of Labour. A substantial number of professionally qualified personnel (the largest single category of emigrants in the period from 1970 to 1976) comprised persons such as medical practitioners, engineers, accountants, academics and school teachers. It has been

estimated that emigration during this period accounted for more than 15 percent of the total number of doctors and engineers in the country (Gunatilleke, 1986).

In the third phase, after 1978, the UNP Government (1977-1994) promoted more liberalised measures that stimulated and facilitated international labour migration. It was a government that was less restricted by ideological considerations than the previous government. It sought to improve economic growth by any means and saw the liberalisation of international migration together with the liberalisation of the economy as desirable strategies. The profile of migrants also changed. Several economic, social and policy reforms of 1978 such as relaxation of foreign exchange controls, travel restrictions and issuance of passports, and elimination of exit permits contributed to the new wave of international labour migration. Further, promotion of the private sector in the recruitment of workers for overseas jobs and foreign business travel, increased tourist inflows, growth of diaspora networks, and contracts under economic liberalisation programmes also impacted on migration outflows (Wickramasekara, 2010b, p. 5). These changes coincided with the economic boom in the Middle East, which resulted in a variety of employment opportunities being opened to Asian neighbours including Sri Lanka. During this period, after the structural adjustment programmes were implemented many small and rural-based industries had to be closed down. As a result, 400,000 workers lost their jobs between 1977 and 1980 (Gunatilaka, 1997), thus increasing unemployment. These factors compelled Sri Lankans to seek employment abroad and the country to secure a regular and much needed avenue of foreign exchange earnings.

Under the government's liberal economic policies, private recruitment agencies mushroomed throughout the country. Exporting labour became a lucrative business resulting in some illegal and exploitative recruitment practices. With the increase in the volume of workers seeking employment overseas and foreign deployment labour agents, the government introduced measures to regulate the international labour migration process. The enactment of the Foreign Employment Agency Act No.32 of 1980 gave powers to the Commissioner of Labour to license all labour recruitment agencies and monitor their activities. The Act aimed to supervise and control recruitment agencies and to protect migrant workers' interests by fixing minimum wages (Raj-Hashim, 1994, p. 128). Furthermore, the Act stipulated that no person or institution could recruit labour for deployment overseas without the approval of the Department of Labour. This licensing

system was introduced to ensure the protection of workers from abuse and exploitation. Procedures and rules specified the conditions necessary to obtain a licence, methods of recruitment, and basic requirements such as the offer of reasonable wages and terms and conditions of service.

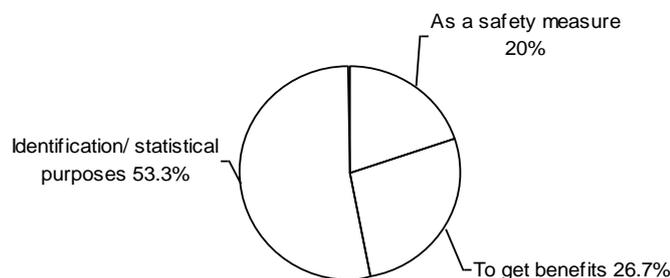
The Foreign Employment Unit also served as a recruitment agency but it could only recruit a limited number of workers due to the foreign employment policy at that time. In 1978, there were 125 registered agencies and the number dramatically increased to more than 525 by the end of 1980 (Eelens & Speckmann, 1992, p. 44). Numerous unregistered agencies and individuals were also operating during that time and they recruited labour mainly for West Asian market. With the growth of both legal and illegal migrant outflows and recruiting agents, and increasing complaints against recruiting malpractices, the government sought to regulate the process.

In 1982, the government decided to seek at least 100,000 employment positions in West Asia through the efforts of the Ministry of Labour. There was a need for an independent body to deal with the increasing number of Sri Lankan migrant workers abroad and their labour issues and to streamline the recruiting process. The government thus enacted the Sri Lanka Bureau of Foreign Employment Act in 1985. The establishment of the SLBFE (a semi-government body) in 1986 was a landmark in Sri Lankan labour migration policy initiatives. This institution recommended several policy initiatives to regulate labour migration, such as setting standards for employment contracts and entering into agreements with destination countries. Its objectives were focused on the promotion of foreign employment, regulation of recruitment agencies, and the welfare of migrant workers. The Act has had a major impact on the migration of women as domestic workers because previous policies prohibited the trade in domestic workers. The government recognised that prohibiting the trade of domestic workers was ineffective since employment arrangements through unofficial channels were commonplace (Shah, 1997; Diebert, 2000).

With the amendments to the SLBFE Act in 1994, in order to regulate labour export the government initiated mandatory registration of recruitment agencies with the SLBFE. Registration of migrant workers with the SLBFE was made compulsory from 1995. Migrant workers are required to sign an employment agreement with the agency and

other relevant parties (six-signatory agreement) in order to be registered with the Bureau prior to their departure. The registration is important in two ways: it prevents illegal recruitment, and it makes necessary services of the SLBFE available. These services include free insurance coverage (included in the registration fee), payment of embarkation tax, provision of scholarships and learning material for children and career guidance. This registration procedure allows the SLBFE to maintain details about the migrant worker, his/her family members, and the sponsor's details abroad. Such information becomes useful if the employer breaches the employment contract. The registration fee is levied according to the employment level/salary level. It was Rs.5700 (approximately US\$50) for unskilled workers, including domestic workers, in 2008. Dias and Jayasundere (2004, p. 164) observe that a certain number of workers leaving for employment abroad did not register with the SLBFE due to the fees charged; however, they gradually realised the benefits that come with registration, such as insurance cover etc. Seventy percent of this amount is turned over to the recruiting agency for processing of visas, air tickets, information, training and other related programmes and the remaining 30 percent is credited to the insurance fund of the SLBFE. The researcher inquired about this measure from the SLBFE officials interviewed. All respondents (15) stated that registering with the SLBFE is worthwhile and Figure 5.1 summarises the reasons for their response.

Figure 4.10: Mandatory registration with SLBFE - responses of interviewed officials



Source: Interview data

The registration is considered a protective measure as it aims to prevent illegal recruitment; however, officials expressed different opinions. As shown in Figure 5.1, a majority of officials (53.3 %) saw the mandatory registration as worthwhile for

identification and statistical purposes. Another 26.7 percent recognised its worth from the viewpoint of benefits for migrant workers. They mentioned that workers could only receive benefits if they were registered with the SLBFE. Only 20 percent considered registration to be a safety measure.

The draft national labour migration policy for Sri Lanka was validated in 2008 following cabinet approval in 2009. Key factors that influenced the formulation of the labour migration policy were to reduce the rate of growing unemployment, to increase the dollar remittances, to resolve the growing debt servicing ratio, to monitor illegal migration and trafficking, and to deal with the growing social consequences resulting from migration (MFEPW, 2008). According to the migration policy document mentioned above, an inter-ministerial committee was to be established to assist with better coordination between government agencies and NGO stakeholders. The government was to train prospective migrant workers to match the global skills demand. Existing governance structures, especially composition and functions of the SLBFE, were also to be reviewed. Other measures included setting up minimum requirements for international labour migration, framing model contracts to be included in MOUs and bilateral agreements, regulating sub-agents, country-specific training, and establishing a return and reintegration plan. However, these policy measures are yet to be implemented.

Comparatively speaking, there are several drawbacks relating to the international labour migration policies developed in the last few decades in Sri Lanka. These policies are shaped by a range of institutional, ideological, cultural and humanitarian or geo-political influences in the labour origin country (Patrick, 1997) and those policies must align with the various interests of the different parties involved. Therefore, the role of government in relation to the protection of migrant labour has to be clearly defined. For example, the Philippines Government continues to change its policies in response to the problems of migrant workers. Martin (2008) observes:

Israeli-Lebanon fighting in summer 2006 resulted in the return of migrant domestic helpers who complained of mistreatment. One result was the “Supermaid” program which provides additional training for women going abroad but also requires, beginning in January 2007, that Filipina domestic helpers be paid at least \$400 a month.

(Martin, 2008, p. 17)

In the Migrant Workers and Overseas Filipinos Act of 1995, the Philippines Government declares that the overseas employment programme rests completely on the assurance that the dignity and fundamental rights of the workers are not to be compromised at any time. The Philippine state undertakes recruitment, introduction, placement and assistance to migrant workers free of government fees and administrative costs. In addition, the government permits workers to be sent only to countries where the Filipino workers' rights are protected. However, Sri Lanka does not have such policies because of its focus on the labour export promotion aspect and the emphasis on regulation of recruitment agencies and welfare activities. Fifty three percent (8) of the officials interviewed accepted that Sri Lanka stands in a lower position when compared to policies and regulations of other countries. One officer said:

We have made some changes that are based on complaints, suggestions, and observations by officials of the SLBFE and other relevant institutions, policies of other labour origin countries and changes introduced by receiving countries but still there is more to do in order to be on a par with the Philippines.

- Officer 12-

Lack of policy coherence is another drawback in Sri Lanka's labour deployment policy. As a labour brokerage state, Sri Lanka lacks policy coherence between the country and destination countries, among the relevant government institutions, between the government and other stakeholders, and across the policy domains. Firstly, Sri Lanka has no bilateral agreements with destination countries in West Asia. Generally, there has been a general reluctance among labour receiving countries to sign any bilateral agreements or MOUs that are legally binding (Siddiqui, 2006, p. 73). Hence Sri Lanka has to rely on the goodwill of destination countries to sort out any emerging issues. The situation in the Philippines as a labour-exporting country is different. The country has paid equal attention to the promotion and protection aspects. For instance, in 1982 the Philippines imposed a ban on domestic worker migration to avoid exploitation. The country has since lifted the ban after bilateral agreements on the protection of domestic workers have been reached (Shah & Menon, 1997, p. 18).

Secondly, different ministries and government institutions related to labour export have conflicting interests. Division of related responsibilities between different ministries delay the process and also make for confusion. For example, the responsibility for

international migration has been transferred to the Ministry of FEPW from the Ministry of Labour, but the labour attaches in embassies are still working under the previous ministry. Furthermore, labour officers attached to the offices of District Secretariats have played an important role in the migration process. They maintained a database of migrant families and also, in some districts, for example in Kandy, they organised foreign employment fairs with licensed agents and for prospective migrant workers. However, currently they no longer performed that duty for the SLBFE. Thus the SLBFE has lost an important link in the labour mobilisation and reintegration process at the district level.

Thirdly, the government and other stakeholders, such as recruiting agents, NGOs working for the migrant workers, trade unions and migrant workers themselves work to their own agenda. There is no coordination among these stakeholders. Lack of coherence among these stakeholders prevents the SLBFE from obtaining opinions on their areas of expertise and interests and what changes or improvements are needed. One recommendation of the NGO Shadow Report on the ICMW of 2008 was that NGO representatives working on behalf of migrant workers should be represented on the Board of Directors of the SLBFE in order to ensure impartiality. This is yet to happen. In contrast, the Philippines Overseas Employment Administration (POEA) coordinates that country's migration industry with the cooperation of government departments and NGOs throughout the migratory process (Achacoso, 2002, p. 21). However, as Gamburd (2005, p. 18) points out, civil society in Sri Lanka does not have a critical mass of active migrant workers to affect changes to government policies on labour migration.

Fourthly, lack of coherence with other policy domains, such as employment, trade, health, and welfare of the family left behind lower the potential for achieving the development goals of migration. The Sri Lankan Government has recognised the link between migration and development through remittances, but experts notice that it is not seen in practical terms on the ground (see Wickramasekera, 2002). The country is confronted with a dilemma between 'promotion' and 'protection' since there are conflicting pressures on the government about losing labour market potential and remittances.

Migration policies and procedures in Sri Lanka lack gender sensitivity. Gender awareness requires those who manage policies and procedures to consider the fact that women have different needs from men, that women have special needs and that women

are disadvantaged as a group. Women’s welfare and wellbeing calls for gender equity in planning, implementing, monitoring and evaluating policies, procedures and programmes. Ideally, the legislation for labour deployment and related policies in Sri Lanka should reflect gender sensitivity and equality, yet the policies are gender-neutral. Women need to be covered by separate policies for two reasons: they predominate in the country’s labour migration outflows, and they face specific problems in the migration process due to their biological sex (being female) and their gender (assigned work). The SLBFE officials interviewed who were in top and middle level management, were asked about the meaning of gender awareness in policy planning. Their responses are given in Table 5.2.

Table 4.19: SLBFE officials’ level of gender awareness

Response	No of respondents	Percentage
Pay more attention to women’s issues	5	33.3
Awareness of women’s specific problems	2	13.3
Considering women’s issues separately	2	13.3
Giving recognition to women’s work	1	6.7
Considering male and female separately	1	6.7
No idea/ not relevant to migration	4	26.7
Total	15	100.0

Source: Interview data

As shown above, the majority of officials (33.3 %) stated that gender awareness means paying more attention to women’s issues while another 26.7 percent stated that it is not relevant to labour migration. Only 13.3 percent provided a response saying that it involves awareness of women’s specific problems. Gender awareness is the understanding that there are socially determined differences between men and women based on learned behaviour that affect access to and control of resources. Policy makers must consider how male and female labour is divided and valued, and use different approaches to address their practical and strategic needs in the process of migration and work. To have a situation of equality in employment and migration, gender awareness needs to be applied in policies, procedures and programmes. The researcher inquired into some related policy matters with the SLBFE officials and analysed their responses to see whether there are different opinions between male and female officials. Table 5.3 summarises their responses.

Table 4.20: SLBFE officials' opinion on selected policy matters

Question	Response	Male	Female	Total
Do both male and female migrant workers face common problems?	Yes	1	1	2
	No	7	3	10
	Some extent	3	--	3
	Total	11	4	15
Should the authorities pay more attention to migrant women and different policy aspects rather than have common blanket policies?	Yes	9	4	13
	No	2	--	2
	Total	11	4	15
Do you think gender imbalance at the policy making level has shaped the prevailing regulations?	Yes	--	3	3
	No	10	1	11
	Total	11	4	15

Source: Interview data

As shown in Table 5.3, a majority of officers (10 out of 15) accepted that women have specific problems. Also, a majority of 13 officials accepted that authorities should pay more attention to migrant women and introduce different policy strategies for them rather than having common blanket policies. The board of the SLBFE and the top level management consist of more male members than women. Therefore the researcher inquired whether this gender imbalance determined the direction of policies and regulations towards being gender-neutral. A majority of 11 officials rejected that, and interestingly only three women officials accepted the fact.

In contrast, gender-sensitive criteria form the basis for migration policies, programmes and composition of governance structures in the Philippines. This accords recognition to the economic contribution made by female migrant workers and the gender-specific problems they encounter. In Sri Lanka, women migrant workers are hardly visible within state marketing programmes, despite their economic contribution to the country; and they do not receive the benefits of official patronage because the majority are seen as low-skilled workers. Specifically, the gender-neutral policies undervalue gendered occupations, including domestic work that the majority of Sri Lankan migrant women are engaged in. Women are usually responsible for reproductive care; however, national laws and labour codes do not recognise domestic workers as 'workers', irrespective of their origin (migrant or local). Chammartin (2001) states that their employment situation is considered not to 'fit' with the general framework of existing labour laws. This is because most work done by them is generally invisible, done in houses (not considered as

workplaces) of private persons (not considered as employers). Goonesekere (1994) points out that domestic work is considered as slavery in South Asian countries:

Domestic service is perceived as slavery. This attitude to domestic service is also seen in some countries in South Asia. This accounts in part for the enormous abuse of authority. The domestic worker is seen as a low status member of the household who is not a worker, who has no human rights, who is there on the basis of patronage. If one is to change the ethos with regard to the migrant worker who comes from overseas – from Sri Lanka or the Philippines – then the attitude of that society to their own domestic worker has to change. The law should be used to create a change in attitude....

(Goonesekere, 1994, p. 183)

Vulnerability to exploitation and abuse of migrant workers due to lack of protection measures is another issue with labour migration policies. This issue is relevant to the prevailing legislative framework, international instruments and policy debates. The prevailing national legislation for Sri Lankan migrant workers (SLBFE Act and amendments) was originally formulated in a different context. Inadequate protection measures continue to exist with little consideration of migrant worker rights. Wickramasekara (2010b, p. 31) suggests a revision of the legislative framework in the light of new developments in labour migration, especially in the protection aspect. First, the Act and Amendments do not reflect compliance with the ICMW Convention. Secondly, the country's migration policy approved by the cabinet is yet to be implemented and incorporated into the Act. In this context, some argue that the current policies often lack a human element. For example, migrants' rights groups have referred to the Sri Lankan Government's approach as a 'commodity supply approach' characterised by the formula 'select, train, pack, insure and export' with absence of protection for workers (HRW, 2007, p. 3).

As mentioned in a previous chapter, Sri Lanka has not ratified the ILO conventions on migrant workers (C97 and C143) or Domestic Workers Convention, and has not fully implemented the recommendations of the ratified convention ICMW. This situation increases migrant workers' vulnerability. The researcher posed the question to officials 'What are the constraints in ratifying ILO conventions on migrant workers?' Table 5.4 illustrates their responses.

Table 4.21: Constraints in ratifying ILO conventions - responses of interviewed officials

Response	Management level		Total	%
	Top level	Middle level		
Terms in the conventions are not practical	4	3	7	46.6
Competition among sending countries	1	2	3	20.0
Destination countries have not signed	--	3	3	20.0
Politics	--	1	1	6.7
No constraints	--	1	1	6.7
Total	5	15	10	100.0

Source: Interview data

As shown in Table 5.4, a majority of 46.6 officials see the terms and conditions of the ILO conventions being not practical as the main constraint in ratifying them. Twenty percent mentioned that competition among labour origin countries prevents the country from ratifying them, while another 20 percent stated that there is no meaning in ratifying them as destination countries have not signed the conventions. One top level official mentioned two specific reasons for non-ratification:

Some terms and conditions of these conventions are not adoptable in Sri Lanka, for example, Convention 97 recommends recruiting migrant labour 100 percent free of charge. We cannot do that. Also, if we signed the conventions it takes a long time to implement due to gaps in practice. Therefore, these multilateral instruments should be looked at from the angle of the industry.

- Official 4 -

Goonesekere (1994, p. 180) observes that ratification of international standards and integrating them into the domestic legal system is not an easy task. For example, Sri Lanka ratified the CEDAW in 1993 and the ICMW in 1996. However, proper implementation of their recommendations is yet to proceed. Studies have shown the gap between theory and practice; the most important root cause of non-ratification or non-implementation is lack of political will. Even when a government ratifies a convention, some researchers (Iredale et al., 2005; Wickramasekara, 2010b) believe that the ratification of the convention is a formality, a routine act, not a serious commitment with obligations to modify legislation:

.....It is suspected by some NGOs that this was more routine ratification on the part of the Sri Lankan government rather than a political commitment to protect migrant workers (cf. Migrant Services Centre, interview January 2005). The electorate was definitely not aware of the Convention at that time. The fact that between 1996 and 2004, no action was taken to implement this Convention (cf. ILO Colombo, interview January 2005) supports the argument of a routine ratification. According to the chairperson of the OHCHR's migrant Committee, the gravity of commitments

was not fully understood by the Sri Lankan government at the point of ratification; and although welfare components of the Convention were seen as compatible, the implementation of the clause on overseas voting rights was not taken into consideration at that time (cf. Ministry of FA, interview January 2005).

(Iredale et al., 2005, p. 34)

Sri Lanka has not created any new law or regulation in relation to international labour migration since the ratification of the ICMW. Establishment of the SLBFE and introduction of a model employment contract occurred prior to the ratification of the ICMW. The government took an interest in their implementation in 2004 due to pressure from NGOs which advocate for, and support, the migrant workers' cause, backed by the IOM and the ILO. The IOM urges Sri Lanka to first ensure implementation within the country itself before accusing others and is pushing them for ratification (Iredale et al., 2005, p. 41). The relevant NGOs working on the issue are continually pressuring the government to operationalise the recommendations of the ratified conventions. The Sri Lanka NGO Shadow Report on the ICMW (ACTFORM & Women & Media Collective, 2008) urges the government to take measures, including amending the SLBFE Act, to comply with the ICMW.

In addition to policy formulation and diplomatic negotiations, the government directly participated in placement of labour before the establishment of the SLBFE in 1985. The first batch of officially recruited Sri Lankans for the Middle East market was dispatched in 1976 by the Department of Labour (Ruhunage, 2006, p. 55). The SLBFE carried out recruitment as a government body until the establishment of the Sri Lanka Foreign Employment Agency (Private) Limited (SLFEA), under the Ministry of Labour. In some cases, other government institutions also directly participated in recruitment. This included specific recruitment programmes such as nurses for Malaysia by the Ministry of Health and teachers for the Maldives and Mauritius by the Department of Education. Currently, the government engages in recruiting labour for the international market with very limited scope while private recruitment agencies dominate the industry.

The main challenge the Sri Lankan Government faces in mobilising labour is in reducing the mismatch between demand and supply. Sri Lanka has a huge supply gap in the international labour market due to the mismatch between demand in destination countries

and supply of labour by exporting countries. Table 5.5 illustrates the variance between demand and supply of Sri Lankan migrant labour in 2008 and 2009.

Table 4.22: Mismatch between demand and supply of labour, 2008 and 2009

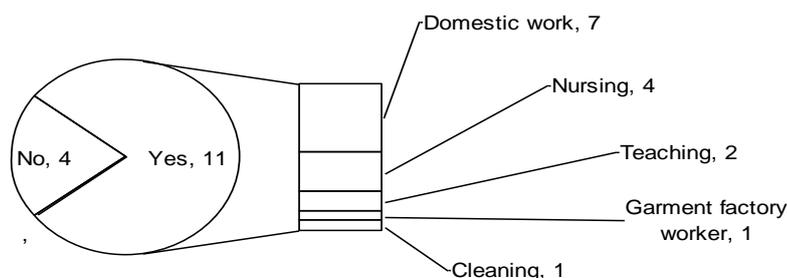
Manpower level	2008		Supply (%)	2009		Supply (%)
	Job orders	Departures		Job orders	Departures	
Professional	6,935	636	15.8	4,798	403	20.0
Middle level	11,466	1,333		7,043	849	
Clerical and related	25,361	2,502		16,237	2,331	
Skilled	343,349	37,537		265,453	37,241	
Semi-skilled	15,787	3,103		12,501	3,662	
Unskilled	154,223	32,723		120,034	24,715	
Domestic workers	457,489	83,139		356,157	87,519	
Total	1,014,610	160,973		782,223	156,720	

Source: (SLBFE, 2010)

According to Table 5.5, the largest supply gap is for domestic workers and the next is for skilled workers. The country was able to supply nearly 20 percent of the demand from the international market. The supply gap was 853,637 in 2008 and 625,503 in 2009. More than 80 percent of job offers were unutilised each year.

According to the above statistics, Sri Lanka exports more domestic workers. Domestic workers are mainly women. The researcher obtained the perceptions of the management level officials about gender-appropriate jobs. This was important because other researchers have shown that officials' perceptions are reflected in policies. Figure 5.2 shows officials' perceptions.

Figure 4.11: Gender appropriate jobs - responses of interviewed officials



Source: Interview data

Figure 5.2 shows that the common images about ‘feminine’ jobs are reflected in officials’ answers. A majority of 11 officials stated that there are gender-appropriate jobs in the labour market including domestic work, nursing, teaching, machine operators in garment factories and cleaning services. Domestic work was identified by nine officials. The researcher posed the question ‘whether there are alternative jobs for women in the international labour market other than domestic work?’ Officials’ answers were limited only to several niches or to a narrow range of occupations such as garment factory worker, nurse, nursing aid, housekeeper in hotels, beautician, sales girl, waitress, babysitter and cleaner. All the stated occupations are so called ‘feminine’ and service sector jobs.

In this context, it is necessary to ascertain the reasons for the government officials approving such gendered recruitments. The researcher asked several questions to obtain their ideas and perceptions and Table 5.6 demonstrates their responses.

Table 4.23: Gendered recruitments and issues - responses of interviewed officials

Question	Responses	No	%
What are the reasons for approving/encouraging gendered recruitments by the government?	1. Not encouraged	10	66.7
	2. They do not have other opportunities	3	20.0
	3. Government cannot control demand in the international labour market	2	13.3
Why does government not try to change this picture?	1. Trying to change by sending more skilled workers	14	94.3
	2. Trying to change by reducing women workers	1	6.7
Why are domestic workers excluded from labour laws and regulations?	1. No international acceptance	8	53.3
	2. Workplaces are private houses	4	26.7
	3. Work in lower rungs	2	13.3
	4. Reluctance to accept as work	1	6.7
Some argue that many issues occurred due to lack of rights consciousness among migrant women. How do you address this?	1. Pre-departure training addresses this issue	6	40.0
	2. This is situational	5	33.3
	3. Problem is with the grasp of knowledge	3	20.0
	4. Problem is with the destination countries and people there	1	6.7

Source: Interview data

As shown in Table 5.6, 66.7 percent of officials stated that the government does not approve or encourage gendered recruitment for the international labour market. Twenty percent said the government does not encourage, but approves, gendered recruitment

because these women do not have any other employment opportunity in Sri Lanka. Another 13.3 percent mentioned that the government cannot control the nature of labour demand and supply in the international labour market. However, all the officials stated that the government is in the process of changing this trend by sending more skilled workers (94.3 %) and by sending more male workers (6.7 %). Yet, one could argue that the categorisation of certain work types as being for women only, and government officials (33.3 percent) operating on this basis reflects how policy formulation and management of the migration process reinforces gender stereotypes and the inequalities resulting from them.

Officials had different views on the exclusion of migrant domestic workers from labour laws of the destination countries. 53.3 percent said it was due to absence of international definition or acceptance. For another 26.7 percent it was because the workplaces were private houses. Another 13.3 percent mentioned these women work in the lower rungs in the employment sphere, therefore the authorities are reluctant to include them in labour laws. Another 6.7 percent said this was because of reluctance to accept domestic work as work, both in Sri Lanka and in destination countries. The implications of this exclusion can be evidenced from what was revealed by migrant domestic workers about their predicaments (see Chapter 7).

If this is the case, it is important to educate women about their labour rights before departure, particularly through training programmes. When asked about this, 40 percent of officials responded that the pre-departure training programme properly addressed the 'rights consciousness issue' among domestic workers. One third saw this as a situational factor, twenty percent said it was a problem with the grasp of knowledge because many of these domestic workers are less-educated, and another 6.7 percent mentioned that the problem is lack of rights consciousness in the policies, officials and employers in the destination countries and not with Sri Lanka.

5.1.2 Institutional framework: Features and criticisms

In this section, the evolution of the institutional framework for the regulation, monitoring and promotion of migrant labour is considered. Initially, the Ministry of Labour was responsible for labour migration. In 2008, the government established the Ministry of Foreign Employment Promotion and Welfare (FEPW) under a special gazette

notification. The Ministry of FEPW and the SLBFE are the key institutions responsible for labour migration matters. Sri Lanka, as a labour brokerage state, has the responsibility of mobilising labour in an authorised manner through these governance structures and related policies, and of promoting and facilitating employment for the worker citizens on the international labour market. There are two significant features of this effort that have accompanied the notion of ‘mobilising labour for export’: state intervention and regularisation, and commercialisation through the activities of private recruitment agencies.

The Ministry of FEPW engages in the formulation of foreign employment policies, the welfare of Sri Lankan expatriate and migrant workers and regulation and supervision of recruitment agencies. The government manages the overall labour migration process by the regulation of recruitment agencies, including accreditation and licensing through the SLBFE. The SLBFE was established in 1985 under the Ministry of Labour to regulate foreign employment, including the licensing and monitoring of recruitment agencies. It is a self-financed public corporation and its main source of income is recruitment fees, facility fees and commissions generated from employment agents. The role of the SLBFE in mobilising and facilitating labour for export will be discussed in detail later (see Section 5.2).

The other state authorities and administrative bodies involved in facilitating international labour migration come under the Ministries of Labour, Foreign Affairs, Women’s Affairs, Vocational and Technical Training, and the Department of Immigration and Emigration and Department of Police. The Ministry of Foreign Affairs is the focal point for all bilateral and multilateral relations with foreign countries and international agencies, and it provides consular and other welfare services through the network of diplomatic missions and consulates in destination countries.

With the increasing volume of migration flows to West Asia in the 1980s, the Sri Lankan Government expanded its foreign missions to West Asia, not only to serve the interests of the existing workers, but also to promote further employment. Sri Lankan embassies have been established in Kuwait, Oman, Qatar, Saudi Arabia (in Riyadh), UAE (in Abu Dhabi) and Consulate General Offices in Jeddah (Saudi Arabia) and Dubai (UAE). In addition, on the recommendation of a Presidential Task Force in 1998, the government

appointed labour attaches in several foreign missions and welfare officers in all countries where there are more than 25,000 migrant workers. With these changes, the missions' responsibilities are divided into consular services and labour related services. The labour section deals with the welfare of Sri Lankan migrant workers, authentication of labour contracts, job orders and agreements, renewal of SLBFE registration and receipt of complaints from migrant workers. Since the appointment of Labour Welfare Officers to the missions, recruitment orders of domestic workers, female cleaners and garment factory workers have been subjected to the prior approval of the Sri Lanka mission concerned. No job order is accepted without such approval and this procedure applies exclusively to female workers (Ruhunage, 2006, p. 59). Through this policy foreign missions are empowered to evaluate the status of agents and employers and the job opportunities offered. There are six labour attaches and thirteen welfare officers in Saudi Arabia, Kuwait, Oman, Qatar, UAE, Lebanon, Jordan and in Singapore.

When the Sri Lankan institutional framework is compared to that of the Philippines, it can be seen that the Philippines previously followed a laissez-faire system but with the growth of labour migration outflows the country has shifted to a highly regulated system (Agunias, 2008, p. 4). The POEA has been the sole government body with the authority to manage labour migration outflows by regulating and maximising deployment without sacrificing workers' rights. It comes under the Department of Labour and Employment (DOLE). The DOLE has decentralised regulating, redress, training and welfare functions among four bodies. The POEA as a regulating body works with three other agencies within DOLE, namely the National Labour Relations Commission (NLRC), a quasi-judicial body that adjudicates compensation claims; the Technical Education and Skills Development Authority (TESDA), an agency in charge of developing labour skills and providing technical training to Filipino workers, including migrant workers; and the Overseas Workers Welfare Administration (OWWA), a financial agency that manages a welfare fund for migrant workers.

Conversely, the SLBFE has total responsibility for all the aspects of exporting labour. As Rosario (2008, p. 9) notes, this gives the Bureau a very broad set of powers and plenty of organisational leeway to undertake expenditures within the overall catch phrase 'all expenses in providing assistance to overseas workers'. Together with that, there are criticisms about the bureaucracy associated with the institutional framework of labour

deployment. The Law and Society Trust observes that the SLBFE Act is ‘almost wholly bureaucratic’ and ‘singularly devoid of provisions for sound, equitable, humane and lawful conditions for migrant workers and their families’ (2010, p. 22). This is because the SLBFE is managed by an eleven-member Board of Directors and it consists entirely of ministerial appointments. The Board includes only one female appointee (from the Ministry of Women’s Affairs) and no returnee migrants, representatives from activist organisations or trade unions. It does not mention the relevance of members’ experience and expertise as a relevant requirement to be appointed to the Board; thus it implies and provides opportunities to have political appointments not compatible with the vision and mission of the institution. The board structure is highly centralised and characterised by non-participatory organisational style (Patrick, 1997, p. 118). Eight of the eleven members represent licensed agencies. This imbalance in representation has an adverse impact on impartial and unbiased decision making and thus has the potential to contribute to partial, ill-considered policy making.

In the Philippines, the governing board, the POEA, has executive, legislative and judicial functions (Agunias, 2008). It prohibits any official/employee from recruiting labour. POEA shows a good governance model through representation of sea-based, land-based and female representatives. Unlike Sri Lanka, this arrangement reduces the layers in the hierarchy of authority the migrant workers have to deal with, facilitates communication and expedites decision making (Achacoso, 2002, p. 27). For example, the SLBFE Act states that no prosecution will be instituted without sanction of the Secretary to the Minister. This raises doubts about the actual and independent power of the SLBFE.

There are some criticisms about the role of Sri Lankan missions abroad. Missions have been criticised by researchers, NGOs and the media because of their bureaucratic ways, lack of interest and sensitivity in dealing with disputes, grievances of employees and lack of legal and other assistance to migrant workers. Missions are too understaffed to attend to increasing issues of migrant workers and the officials on duty are relatively unqualified or inexperienced. In the context of having staff who are familiar with and knowledgeable about the law of the destination country, particularly Arabic or Koranic/Sharia law in the countries where parties to disputes apply to the Sharia courts for settlement, assignment of unqualified and untrained political appointees for foreign missions has been highly problematic (Gamburd, 2005; Iredale, et al., 2005; US Department of State, 2011a).

Given the manner in which the country has been transformed to a labour brokerage state over the decades, this raises questions about the missions' capacity to handle migrant worker issues effectively. In interviews with the SLBFE officials, they stated that the number of officers in Saudi Arabia has been increased, but nothing was mentioned about the nature of their appointments and qualifications.

The Philippines government has established migrant worker resource centres in destination countries affiliated with the foreign missions to provide a wide range of services such as welfare, counselling, legal aid and health services, registration of undocumented workers, follow-up on migrant complaints, and mediation of worker disputes. The Sri Lanka NGO Shadow Report on the ICMW (ACTFORM & Women & Media Collective, 2008, p. 17) recommended that the Sri Lankan Government implement the ICMW recommendation on establishing such resource centres within Sri Lankan missions abroad. So far this has not materialised.

5.1.3 Bilateral agreements and MOUs

International labour migration is a bilateral process requiring cooperation and coordination between countries of labour origin and destination. The Sri Lankan Government has been engaged in diplomatic negotiations with a range of destination countries on labour market opportunities, working conditions, wages and protection aspects. As a result, the country has entered into bilateral agreements with Cyprus, Greece, Italy, Malaysia and Singapore. It is important for Sri Lanka to have bilateral agreements and/or memoranda of understanding with the West Asian countries because in these countries migrant workers are at the mercy of private employers and sponsors with little government intervention (Wickramasekara, 2010b, p. 31). However, there are no bilateral agreements signed with the governments of destination countries in West Asia.

As stated earlier, there is a large supply gap of Sri Lankan migrant workers. However, negotiations are heavily loaded in favour of the destination country as international labour transactions are mediated in a buyers' market where foreign principals always have an advantage (Dias & Jayasundere, 2002, p. 13). In Gulf States, migrant labour is used to exert political pressure on labour origin countries. For example:

.... when the Saudi Arabian government learned that Israeli instructors had been recruited by Sri Lanka to help train the army, it expressed its concern by expelling

several hundred Sri Lankan labourers. Around 1984, Saudi Arabia, also temporarily stopped issuing visas to Sri Lankan housemaids because officials believed too many problems had been created as a result of their importation.

(Eelens et al., 1992, p. 11)

The absence of bilateral agreements is related to the fact that Sri Lanka is an economically weak country with a high dependency on remittances. Sri Lanka has a fear that employers in West Asia will turn to labour from other countries if the country attempts to negotiate terms favourable to migrant workers through bilateral agreements. The Sri Lankan Government has not been serious in its approach to worker protection, taking the view that insistence on enforceable minimum standards with destination countries will compromise its competitive nature (Gamburd, 2009). This is partly due to Sri Lanka's disadvantaged situation in the international economy as a weak state:

As a debtor and a developing nation, Sri Lanka has little status and power in the international hierarchy of nations and its diplomats operate within these preexisting power relations when crafting intergovernmental arrangements and protecting its citizens abroad.

(Gamburd, 2009, p. 76)

However, the fear of losing labour market opportunity should not be a reason or an excuse for not entering into bilateral agreements. Shaw (2008) insists that Sri Lankan Government can do more to increase migrant worker wages:

Since 2005 the government has secured the agreement of most Middle East governments to increase the housemaid minimum wage to \$150 per month, although Saudi Arabia, the largest single employer of Sri Lankans abroad, has consistently refused to sign. The fact that Sri Lankan housemaids are still paid considerably less than comparable workers of other nationalities suggests scope for the GoSL to be more forceful in bilateral discussions.

(Shaw, 2008, p. 4)

In contrast, the Philippines has been the most successful country in the Asian region to negotiate bilateral agreements with destination countries, including countries in West Asia. The Philippines Government sees that the advantage of having bilateral agreements is to strengthen and enhance migrant workers' rights, because of their adaptability to the particular situations, conditions and circumstances of specific groups (Achacoso, 2002). Their bilateral agreements are of two types: labour recruitment and special hiring agreements, and labour, employment and manpower development agreements.

The researcher asked the SLBFE officials interviewed about the reasons for the absence of bilateral agreements with West Asian destination countries. Sixty percent of officials

mentioned that the destination countries do not like to have bilateral agreements because once signed these agreements are legally binding. Another 26.7 percent of officials said Sri Lanka cannot convince destination countries about migrant worker rights as Sri Lanka has no bargaining power in the competitive migrant labour market.

Instead of bilateral agreements, Sri Lanka has signed several MOUs that are ‘not legally binding’ with South Korea, Italy, Libya and West Asian countries such as Jordan, UAE, Bahrain and Qatar. The MOU with South Korea was signed with six other countries under the Employment Permit System which addressed the problems of irregular migrant workers. It has provisions for the implementation of a Korean language test, labour contracts, placement and employment and, sojourn management etc. (Lee, 2005). The MOU with Bahrain is mainly focused on provisions of health and accident insurance coverage, whereas the MOU with Qatar is about model contracts which include basic conditions of work relating to duties and rights that are consistent with Qatar labour law. The MOU with Jordan is an agreement on basic requirements (Appendix E). Many of these MOUs are contradictory to the ILO and UN conventions on migrant workers. For example, the MOU with Malaysia allows the employer to keep a worker’s passport and travel documents in their custody and for these to be handed over to the embassy in the event the employee absconds (ACTFORM & Women & Media Collective, 2008). These MOUs lack clear specifications for minimum labour standards or conditions of work and procedures for enforcement and dispute settlement (Go, 2007; Shaw, 2008). However, they address issues of common concern such as repatriation.

The absence of bilateral agreements with destination countries in West Asia and inadequate safeguards within the framework of MOUs may make migrant workers susceptible to abuse and exploitation by the employers/sponsors. Sri Lankan migrant women’s experiences of exploitation and abuse are discussed on the basis of interview responses in Chapter 7. The fact that Sri Lanka had a liberal policy towards female migration and the country depends on remittances to meet its economic objectives further complicates the matter. Oishi (2005, p. 73) observes that the government established a Presidential Task Force on Migrant Women in 1997 in response to growing concerns about the welfare of migrant women but the subsequent recommendations were scarcely implemented due to the absence of institutional will. The fact that the country has to compete with other labour exporting countries for relatively limited opportunities should

not be an excuse for this failure. This power imbalance in the labour market inevitably leads to unequal negotiating platforms between labour origin and destination countries. Competition between labour exporting countries in Asia limits the potential for like-minded governments to exert collective pressure on destinations (Shaw, 2008, p. 6). However, in 2003 the Philippines Government entered into a manpower corporation agreement with another labour origin country, Indonesia. According to Baruah (2003, p. 86), this agreement seeks to enhance the effective management of migration in order to promote and protect the welfare and rights of Filipino and Indonesian migrant workers. The priorities of this agreement are promotion and protection of the welfare and rights of migrant workers of both countries; training and certification of migrant workers; and provision of legal aid for the protection of the rights of migrant workers. Sri Lanka can follow these examples to enhance female migrant worker welfare in destination countries.

The perceptions carried by Sri Lankan officials sometimes prevent taking advantage of MOUs. For example, agreements between Sri Lanka and the UAE have provisions to take up labour issues with the officials of the destination country. In the context of increasing complaints, Sri Lankan officials suggest that the worker issues are taken up in other venues such as seminars, regional meetings or academic research, instead of through discussion with UAE officials (Gamburd, 2009, p. 77). Further, Gamburd (2009, p. 76) argues that Sri Lankan officials accommodate the wishes of more powerful GCC governments for fear of losing labour market, likewise, migrant workers agree to their harsh labour conditions.

In addition to the MOUs, Sri Lanka has set out some unilateral arrangements with some destination countries. For example, the SLBFE established a minimum recommended monthly wage of US\$150 for migrant workers with provision of healthcare facilities and free air passage with those countries listed in Table 5.7. For domestic workers, it includes food and accommodation. The minimum wage recommended for Saudi Arabia is on par with Malaysia, Mauritius and Oman but falls below countries such as Cyprus, Qatar, Kuwait, UAE, Bahrain and Singapore.

Table 4.24: Minimum salary scales for Sri Lankan migrant workers -Effective from 01.01.2008

Country	Proposed minimum salary		Country	Proposed minimum salary	
	US\$	Local		US\$	Local
Cyprus	375	CYP 150	Qatar	250	QR 900
Singapore	225	SGD 325	Kuwait	225	KWD 60
Malaysia	200	MYR 650	U.A.E	225	AED 825
Mauritius	200	US\$ 200	Bahrain	225	BHD 85
Seychelles	200	US\$ 200	Saudi Arabia	200	SAR 750
Lebanon	180	US\$ 180	Oman	200	OMR 75
Egypt	150	US\$ 150	Jordan	175	JOD 125
Maldives	150	US\$ 150			

Source: SLBFE

As the ILO (2004, p. 15) notes, contemporary migration policies are unilateral compared to earlier ones which took place under the aegis of bilateral agreements between governments. However, effectiveness of the unilateral arrangements is not certain. In 1999, the SLBFE increased the minimum wage from US\$100 to US\$130. Yet, Sri Lankan domestic workers continue to receive lower wages than domestic workers from other countries (Dias & Jayasundere, 2002, p. 17).

In sum, unskilled workers, domestic workers in particular, are generally considered as a commodity to be bought at the lowest price by the employers in destination countries and this attitude is partly reflected in the mindsets of government officials dealing with the officials of origin countries. In such a context, as the HRW (2007, p. 93) argues, Sri Lanka is in a weak position in obtaining agreements that adequately protect the rights of migrant workers. Structural impediments emanating from the international migrant labour market can only add to the disadvantages, inequalities, exploitation and abuse faced by migrant women unless the government takes the necessary steps to negotiate bilateral agreements on favourable terms.

5.1.4 Model employment contract

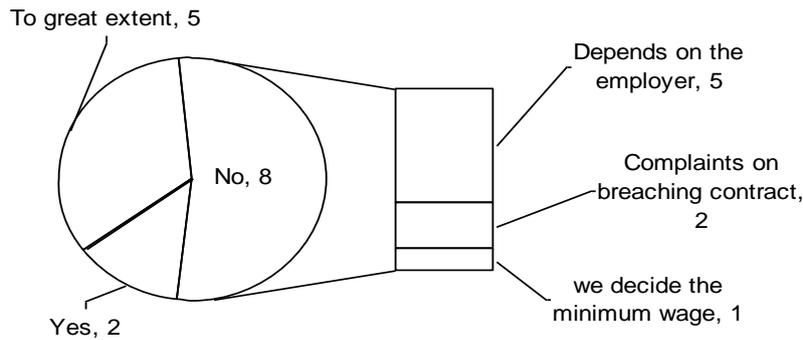
The SLBFE initiated a model contract for the MOUs signed with the recruiting agents in the Middle East, Singapore and Hong Kong. This standard service agreement/contract was developed in 1997 in response to the large number of complaints from domestic workers. When the contract was first announced, agents objected and its implementation was postponed due to protests (Mughal & Padilla, 2005, p. 59). Agents in Sri Lanka

argued that the procedures for registration of contracts were cumbersome and time consuming. However, signing a contract is currently mandatory for registration. Accordingly, employers who wish to hire Sri Lankan domestic workers should sign a contract which must be endorsed by the Sri Lankan embassy before the worker leaves the country (Appendix F). There are six signatories in this contract if the domestic worker goes through an agency. They are the employer, the worker, foreign agency, local agency, embassy official and the SLBFE official. If the worker goes through a personal network, the signatories will be the employer, the worker and the embassy official.

This agreement/contract is principally applicable to domestic workers. It contains information of the overseas sponsor and the prospective domestic worker, the conditions under which the contract is offered, the monthly wage, duties and hours of work, rest days and leave, details about food, lodging, medical care and transportation to the host country, termination of the contract and disputation procedure, insurance cover and provision in the event of the employee's death. The officials in the embassy are required to verify the credibility of the employer prior to registration. Theoretically, this agreement obliges the sponsors and the agents to accomplish what they have agreed to and also it assists in the monitoring of the process as well as in the settlement of grievances. This system of service contract is operative in ten countries: Saudi Arabia, Kuwait, Oman, Qatar, United Arab Emirates, Lebanon, Bahrain, Jordan, Cyprus and Singapore.

However, there are practical difficulties in the implementation of employment contracts in countries of destination. For example, the stipulated terms relating to work or wages and holidays are not legally binding on the employer. Therefore, it has little impact on preventing exploitation of the worker (Dias & Jayasundere, 2004, p. 165). Furthermore, domestic workers are excluded from social welfare provisions relating to healthcare services in the destination country. The researcher asked the officials interviewed whether the employment contracts operated according to the intent of the regulations. Officials' responses are presented in Figure 5.3:

Figure 4.12: Responses of interviewed officials about employment contract



Source: Interview data

According to Figure 5.3, on the question of whether the contract operates as intended, more than 50 percent of the officers agreed that the employment contract is not operating as stipulated. Five officials (33.3 %) said ultimately it depends on the employer. Two officials (13.3 %) said that many complaints received by the SLBFE are about breach of contract, and it seems contracts are not effective as expected. Another officer (6.7 %) said that the minimum wage for domestic workers is decided on by the SLBFE, not the employer. It is a weakness in the current contract system.

Further, there are instances where Sri Lankan migrant workers agitate against their employers in the destination countries for better work environments. The following discussion by Gamburd (2009) with Sri Lankan officials who studied a labour dispute of factory workers in the UAE illustrates the point:

Very recently, a large number of factory workers were sent to Sri Lanka as they struck work demanding the removal of certain officers attached to the management of the factory. We had a discussion with the management of the factory and informed them that the purpose of our visit was to study labour requirement [*sic*] of the factory and the *shortcomings of our labour*. The management was very satisfied with the labour provided by Sri Lanka. However, they had a reservation on the behaviour of some of our employees. Notwithstanding the problems they assured continuation of using our labour and *we gave an undertaking to send more disciplined workers in the future*.

(Gamburd, 2009, p. 76)

This shows that the Sri Lankan Government attempts to send ‘disciplined’ and ‘obedient’ workers since the government hesitates to take up many labour disputes of migrant workers with destination countries. It also reflects the apparent preference by West Asian

countries for docile, submissive and non-unionised migrant workers who will perform the duties as they are told.

The above discussion demonstrates the measures taken by the Sri Lankan Government in terms of policy formulation and contractual means, to mobilise, facilitate and regulate migrant labour exported to a range of destination countries and their weaknesses. At a formal level these government interventions and measures appear to be on par with other countries that export labour, such as the Philippines. However, when analysed, there are significant differences between the Sri Lankan measures and those adopted by other labour exporting countries in the region.

The establishment of institutional structures, the extension of the role of foreign missions, the signing of MOUs with foreign recruiting agents and the introduction of a model contract by the SLBFE have been intended to mobilise Sri Lankan labour for export in an orderly way and provide safeguards and protection to migrant workers. However, as a labour brokerage state, Sri Lanka faces practical issues pertaining to governance, monitoring and protection of migrant workers in the competitive labour market. As Wickramasekara (2010b, p. 35) points out, Sri Lanka has a major unfinished agenda in terms of governance, protection and policy development. All stakeholders have to address this and contribute to its further development in the medium to long term in order to provide safety and security for migrant workers. To achieve this goal, policies and strategies should be further refined and views of migrant workers and their representatives, such as NGOs need to be taken into serious consideration.

5.2 The SLBFE: Role and functions in labour regulation

This section looks at the SLBFE to provide a more detailed account of its role, objectives and functions in mobilising labour for export. As stated earlier, the SLBFE that was established under the Sri Lanka Bureau of Foreign Employment Act No.21 of 1985 is the government body responsible for labour deployment. Initially it was established as a public corporation initially under the Ministry of Labour and allowed to function with more autonomy and efficiency than other public institutions. With the establishment of the Ministry of FEPW in 2007, the Ministry took the Bureau under its administration.

The objectives of the SLBFE include the following provisions that are directly related to the concerns of migrant workers:

- setting standards for and negotiating contracts of employment;
- entering into agreements with relevant foreign authorities, employers and employment agencies in order to formalise recruitment agreements;
- formulating and implementing a model contract of employment that ensures fair wages and standards of employment;
- examining the authenticity of employment related documentation issued outside Sri Lanka;
- undertaking the welfare and protection of Sri Lankans employed overseas; and
- providing assistance to Sri Lankans going abroad for employment

The Bureau plays an important role in mobilising and facilitating migrant labour and in regulating recruitment agencies. The following sections explain the way in which the SLBFE functions as the official broker of the Sri Lankan labour brokerage state.

5.2.1 Mobilising labour to export

Labour brokerage states take measures to mobilise labour, including marketing missions to identify and meet potential clients, publishing information for job seekers and recruiters and facilitating state recruitment. As stated earlier, the SLBFE was directly recruiting labour until the SLFEA was established in 1996. During that time the SLBFE recruited only a small number of domestic workers for Singapore and Saudi Arabia on agreements signed with foreign recruitment agencies. Thereafter, the Bureau had a facilitating and regulating role.

Marketing via various methods is an important part of labour mobilisation and supply. Proper market research to identify trends and patterns of job opportunities or promotion of a trained labour force are necessary for sending countries. For example, in the Philippines, the POEA and the International Labour Affairs Service (ILAS) monitor global labour demand trends with close attention to immigration policies (Rodriguez, 2010, pp. 23-32). The marketing branch of the POEA has regional desk offices in Asia, the Americas, the Middle East, Europe and Africa while the ILAS has representatives in the Philippines foreign missions. The Philippines Government takes more proactive

measures to train prospective migrants according to the required and specified skills in the destinations. No such measures are evident in Sri Lanka.

The SLBFE functions as a job bank that provides information on foreign employment opportunities and the procedures to follow in order to secure employment. Those who are interested in migrating to work send their applications to the SLFEA, and it evaluates and matches these applications with available job orders. However, as stated earlier, demand and deployment is still largely in unskilled categories. Ideally, having a government agency of this kind can prevent illegal recruitment practices. The Bureau argued that a state agency, the SLFEA, offers migrant workers fixed standards for employment and better protection against exploitation. It has the advantage of levying the prescribed fee without extra charges (Mughal & Padilla, 2005, p. 40). However, private recruitment agencies recruit more workers for overseas employment compared to the government agency, because they are large in number. The SLFEA recruited only 309 workers in 2009 (SLBFE, 2010).

The SLBFE provides a social security programme for migrant workers as a promotional measure. Since 1994, a special insurance scheme for workers who legally migrate has been in operation. This free insurance coverage is for two years, the normal duration of contracts, for all registered migrants. The scheme provides compensation for repatriation, disability and death (Appendix G). There were 5,310 beneficiaries in 2009 and the amount paid as insurance compensation was Rs.254,939,179 and premiums paid were Rs.221,426,128 (SLBFE, 2010). In addition, there are several loan schemes in collaboration with state banks for migrant workers such as pre-departure loans, interest subsidised housing loans, basic amenity loans and low interest self-employment loans for returnee migrants. These measures encourage prospective migrant workers to utilise safer migration avenues and procedures.

There are several financial assistance programmes and incentives for migrants' children back home. The SLBFE provides scholarships to migrant workers' children who have passed Grade 5 scholarship examinations, and GCE ordinary level and advanced level examinations. In 2009, Rs.27,915,000 worth of scholarships were granted to 1,443 children of migrant workers, while school equipment (worth Rs.1,000,000) was distributed among children of migrant workers in 1000 schools in Batticaloa District

(SLBFE, 2010). The majority of migrant workers, women in particular, are parents and they leave their children in the care of the extended family as children are not allowed to accompany them. Their absence poses many challenges to themselves and their children. The government attempts to ease these challenges by providing incentives and financial assistance while using such provisions as a labour mobilisation strategy.

5.2.2 Pre-departure training

The SLBFE provides pre-departure training for prospective migrants in specific employment categories. Male workers are not bound to enrol in any training programme, and are expected to have only work experience, except for those who are preparing to go to South Korea as unskilled workers. A typical job advertisement for men would call for staff/personnel who have ‘on the job experience’ or ‘experienced hands’ (Dias & Jayasundere, 2002, p. 11). There are pre-departure training programmes for domestic workers and unskilled workers going to South Korea, and a basic literacy course in Sinhala and Tamil for domestic workers who are illiterate in their own language. These programmes are conducted in 23 SLBFE training centres scattered throughout the country. A few selected recruitment agencies also teach the same curriculum under the guidance of the SLBFE. In addition, a pilot project was started in 2009 in hospitality training for labour markets in Italy, Japan, Canada and Libya in collaboration with the Ministry of Vocational and Technical Training, and 135 people were trained in three SLBFE training centres (MFEPW, 2009). Table 5.8 illustrates the participation in different training programmes in 2009.

Table 4.25: Participation figures in SLBFE training programmes, 2009

Programme	Participants	%
Pre-departure training for domestic workers - Middle East	31,273	80.3
Pre-departure training for domestic workers - non Middle East	2,961	7.6
Basic literacy	2,991	7.7
Korean language	728	1.9
Hebrew language	801	2.1
Unskilled workers	169	0.4
Total	38,923	100.0

Source: (SLBFE, 2010)

Table 5.8 shows that SLBFE training programmes mainly concentrate on unskilled workers. Prospective domestic workers make up 89.3 percent of participants. Pre-departure training programme for domestic workers started in 1985. Since 1996, the

training certificate has become a mandatory requirement for first time migrant domestic workers registered with the SLBFE. The programme content is comprehensive and it covers key issues that the migrant might have to face at home and while abroad.

There are two separate programmes for prospective domestic workers: for West Asian (Middle Eastern) countries, and other destinations such as Singapore and Cyprus. The programme for the Middle Eastern countries is 15 days in length, while the other programme is 25 days. The training programme for the Middle Eastern countries costs Rs.1,155 (approximately US\$10) and the non-Middle Eastern programme costs Rs.2,200 (about US\$20). A participant of the Basic Literacy Course needs to pay Rs.1,600 (nearly US\$15).

The programme for domestic workers for West Asia (Appendix H) includes cooking and using modern household equipment, care giving, common competencies, a basic knowledge of Arabic, pre-migration arrangements, and personal financial management including information on banking and savings, as well as strategies to overcome emotional pressure, loneliness, culture shock, anxiety and psychological breakdown and re-integration. A health issue component was introduced since there is a trend for risk behaviour relating to HIV/AIDS among migrant workers. Weeramunda (2004) points out that in some incidents women are unable to refuse the sexual advances from their employers because of the fear of reprisal, violence or the loss of their job. Sessions related to banking, childcare and health are supposed to be conducted by subject specialists, while the rest is mainly conducted by SLBFE instructors and recruited returnee migrant women. On the last day of the training, husband or a close family member of trainees are invited to attend and address common problems that arise due to migration of wife, mother or a sister.

This training programme contributes to eliminating several problems encountered by migrant workers, such as lack of skills in handling modern household equipment, the inability to communicate with an employer and the family in their language, the inability to adapt to a new social and cultural environment, and poor income management. It also contributes to raising the status and image of Sri Lankan workers as a trained workforce. As Dias and Jayasundere (2002, p. 12) point out, increased awareness of the entire migratory process helps to build up the worker's self-confidence and they can thereby

become a capable individual with the potential to perform work expected by the employer. However, as will be shown later, the key concern is how far such training is helpful in changing the attitudes of employers and their families when they come into direct contact with female domestic workers (see Chapter 7).

There are several criticisms of the pre-departure training programme, especially regarding the content, approach or delivery method and the facilitators. Firstly, the overall quality of the pre-departure orientation programme is rather basic and inadequate (HRW, 2007; IOM, 2005a). Although the content of the programme seems comprehensive, in practice the correct message is not conveyed. It lacks provisions to address migrant domestic workers' special needs, support services and human rights. Some training centre officials and instructors do not take the migrant rights component seriously and they focus more on other components (personal observation by the researcher during a training session). The health issues component is often limited to a video. Further, a common training programme is conducted for all women who opt to go to countries in the West Asian region and this is not always appropriate. For instance, Arabic is not widely used in countries like Lebanon. Therefore the better option would be introducing country-specific training with relevant language skills.

Secondly, the delivery method of the available programme is through classroom type teaching. Since prospective migrants are adults with either some vocational skills or working experience, they are not very keen on the classroom environment (Ali, 2005, p. 124). Participatory training is more suitable for adult training. There can also be problems in grasping the knowledge provided due to participants' low education level. A considerable number of prospective migrants are illiterate and have poor writing and reading skills even in their mother tongue. In this context, the Sri Lanka NGO Shadow Report on the ICMW urges the government to improve the pre-departure course modules according to the needs of the workers, based on their competence and educational qualifications (ACTFORM & Women & Media Collective, 2008).

Thirdly, facilitators or instructors are mainly returnee domestic workers. The training programme relies heavily on these returned workers and their knowledge and experience may not be up-to-date. For example, they conduct the session on banking matters if the banking representative does not come for the session. Iredale et al. (2003, p. 41) has

observed the limited participation by local banking representatives in pre-departure training to raise awareness of remittance management options. This should be a concern for the SLBFE.

Given these weaknesses mentioned in the relevant literature, it was important to find out what the officials dealing with training had to say. The questions the researcher asked the SLBFE officials are shown below in Table 5.9.

Table 4.26: Responses of officials on the pre-departure training programme for domestic workers

Question	Response	No	%	If not, the reason
Is the content of the programme adequate?	Yes	15	100.0	--
Is the duration of the programme sufficient?	Yes	13	87.7	Many are from rural backgrounds, need more time
	No	2	13.3	
Are women sufficiently aware of the skills after the training?	Yes	11	73.3	Need more practicals and language training
	No	1	6.7	
	Some extent	3	20.0	
Are women sufficiently aware of their rights?	Yes	15	100.0	--
Do women grasp the knowledge and skills well?	Yes	5	33.3	It depends on their level of education
	No	10	66.7	

Source: Interview data

As shown in Table 5.9, all the officials said the content of the pre-departure programme is adequate, but they had different opinions about the duration of the programme. 13.3 percent said the duration is not sufficient because many women need more time as they are from rural backgrounds where electrical household appliances are not in regular use. Likewise 20 percent and another 6.7 percent of officials said prospective domestic workers need more practical sessions and language training. Although all of them mentioned that women are aware of their rights after participating in the training programme, 66 percent believed the grasp of knowledge and skills depends on the women's level of education.

Unlike in the Philippines, there is no standardisation or certification system for migrant workers when applying for overseas jobs. The Philippines Government ensures

possession of job appropriate skills and a degree of protection through skills standardisation, assessment and certification. The POEA currently requires skills certification in other occupations for vulnerable groups such as factory and domestic workers and entertainers in particular (Agunias, 2008, p. 11). In Sri Lanka, a pre-departure training certificate is mandatory for domestic workers. However, compared to the certification regime in operation in the Philippines and its utility, Sri Lanka must improve every aspect of its training programme.

5.2.3 Regulating recruitment agencies

Regulating recruitment agencies is another important role of the SLBFE. The system of regulation in operation was introduced in 1986. With some modifications, the system remains as the key mechanism for controlling exploitation in the recruitment and placement process. According to Kuptsch (2006, p. 1), there are three strategies that have been formulated to regulate recruiters: registration to make recruiters identify themselves to government agencies, which facilitates the enforcement of laws protecting migrants; issuing licences subject to recruitment agents passing a test that demonstrates their knowledge of protective labour laws; and bonding, a financial guarantee to compensate the migrant worker if s/he suffers losses due to recruiting malpractices. In Sri Lanka, the SLBFE Act sets out rules and regulations relating to these three strategies with some alterations.

Registration of the recruiting agency with the SLBFE is a mandatory requirement. Unauthorised recruitment for foreign employment and operating an unlicensed agency are punishable offences. In order to obtain a licence, the applicant should be a person of good repute, must post a bond of Rs. 250,000, furnish a bank guarantee of Rs. 250,000, pay a licence fee, and needs to be equipped with an office with communication facilities (Appendix I). Licences are valid for one year and they are subject to renewal annually after SLBFE inspection of the premises. All the licensed foreign employment agencies must obtain membership of the Association of Licensed Foreign Employment Agencies (ALFEA) and are subject to supervision by the SLBFE which monitors their activities. Later in 2009, amendments to the Act allowed licensees a choice of registering with the ALFEA. The Law and Society Trust (2010, p. 23) states that this option lessened the accountability of agencies. In 2009, there were 746 licensed foreign employment agencies registered with the Bureau (SLBFE, 2010). They are scattered throughout the

island and the highest number of agencies are located in the Colombo district (373 agencies), Kurunegala has 76, Gampaha has 46 and Kandy has 32 agencies.

Another regulatory measure is obtaining the prior approval from the SLBFE to advertise and begin the recruitment process. This measure was introduced due to complaints about recruiting for jobs unavailable in the destination. This step to restrict employment advertisements without approval from SLBFE is a welcome move. Recruiting agents must obtain the approval for job orders from the SLBFE by providing details of the nature, terms and conditions of the employment and details of the employer before taking any action regarding recruitment of workers (Appendix I). After obtaining this approval, agents advertise the vacancies in the media or contact applicants registered with them. The application process takes one to twelve weeks. Processing an application from the date the advertisement appears to the date on which the applicant is finally selected and informed can take between one week for unskilled workers, to sixteen weeks for professional and skilled jobs (Mughal & Padilla, 2005, p. 32). The agency is authorised to deploy the worker only after obtaining final clearance from the SLBFE for which prescribed fees have to be paid by the agency. The final approval is endorsed in the worker's passport by affixing a security stamp to prove the correct legal procedures have been followed by the agent (Ruhunage, 2006, p. 58). While these safeguards exist, eliminating malpractices in recruitment is still a challenge for the SLBFE. There are recommendations in the ICMW Convention for safe migration and local NGOs urge the government to implement them. ACTFORM (2008, p. 17) recommends that stringent conditions on safe migration procedures should be laid down in the Act for granting licences by the SLBFE to recruitment agencies and revocation of licences upon contravention.

As a regulatory measure, in 1995 the SLBFE opened a surveillance desk at the airport premises. This was to verify legal recruitment and to reduce malpractices by recruitment agencies. The 2009 Amendment to the SLBFE Act sets out more powers to authorised officers 'to examine any document in the possession of a person going abroad for employment, at any port of embarkation for the purpose of verifying whether registration has been obtained' (Parliament of the Democratic Socialist Republic of Sri Lanka, 2009). If anyone is caught without having registered with the SLBFE s/he is liable for imprisonment.

Despite the regulatory and accountability mechanisms, illegal recruitment agencies do continue to exist and succeed in duping would-be migrants. In 2009, 182 of such illegal recruitment agencies were raided by the police (SLBFE, 2010) and blacklisted by the SLBFE. Even if blacklisted, unscrupulous recruitment agencies see loopholes in the recruitment processes and work to the disadvantage of individual migrants (Iredale et al., 2005, p. 39). To address this, Iredale et al (2005) suggest having a duty check of contact agents in the destination countries by Sri Lankan authorities. This could minimise the risk of exploitation and trafficking of women migrants into forced labour. These issues will be discussed further in the next section.

5.3 Role of the intermediaries

In this section, the researcher explores the operations of intermediaries: recruitment agencies, sub-agents, informal networks and NGOs working for migrant workers. Sri Lankans find foreign employment through three channels namely, recruitment agencies (and their sub-agents), informal networks such as relatives and friends, and by direct contact with the employers. Professional and middle level workers migrate via direct contacts but this is only a relatively small number compared to other methods (Ruhunage, 2006, p. 57). Private brokers or ‘merchants of labour’ in migration include licensed agencies, informal unlicensed agents and informal networks.

The previous section looked at licensed agencies from the perspective of the SLBFE’s mandate and this section focuses on how they mobilise Sri Lankan labour for export. The following section discusses the Sri Lankan NGOs, which assist and advocate for and on behalf of migrant workers since migrant workers have limited opportunity to negotiate their own rights.

5.3.1 Licensed agencies

The first licensed recruitment agencies in Sri Lanka originated around 1975 and expanded rapidly as a result of increasing labour demand in the Middle East. These agencies now range from area-specific to national level with branches countrywide. They are linked to employment agencies in destination countries. These private agencies, by operating to make a profit, make explicit the direct costs of migration to potential customers. As discussed earlier, in Sri Lanka there are only a very few requirements to start a recruiting

agency. Private agencies recruit more labour than the government agency. They share over 70 percent of the country's foreign employment placements as shown in Table 5.10.

Table 4.27: Annual overseas job placements by licensed agencies, 1999 - 2009

Year	Number of recruiting agencies	Placements		
		Through agencies	% of agency share	Total
1999	431	120,627	67	179,735
2000	445	127,615	70	182,188
2001	528	132,467	72	184,007
2002	538	152,974	75	203,773
2003	524	154,693	74	208,803
2004	581	160,089	75	213,453
2005	582	165,707	71	231,290
2006	607	141,177	70	201,948
2007	691	146,515	67	218,459
2008	626	160,973	64	250,499
2009	746	165,720	66	249,199

Source: (SLBFE, 2010)

Table 5.10 shows the gradual increase of private recruitment agencies from 1999 to 2009. The figures demonstrate that the share of job placements by privately-owned licensed agencies has been declining since a peak in 2004. These figures include recruitment by the government recruiting agency (SLFEA) which recruited only 309 workers in 2009. This limited service of the state agency is not sufficient to meet the increasing demand for prospective migrant workers. The result is the proliferation of private recruitment agencies (ACTFORM & Women & Media Collective, 2008, p. 5).

Recruitment agencies are brokers between employers in destination countries and prospective migrant workers. They are involved in job matching in the international labour market where employers and workers are separated by national borders, communication gaps, cultural, linguistic and other factors. Overseas recruiting agents recruit workers in Sri Lanka by placing their advertisements in local newspapers through their sister agencies in Sri Lanka or through their existing business relations. However, Sri Lankan employment agencies are more focused on recruiting domestic workers. Most of these agencies are considered to be 'dead agencies' without viable business arrangements with foreign counterparts and a majority recruit only domestic workers, which does not require much business expertise or knowledge in marketing strategies

(Ruhunage, 2006, p. 60). As Mughal and Padilla (2005, p. 36) note, recruitment agencies in Sri Lanka have no bargaining power with their clients abroad 'since the wages offered were already at a comparatively high level and were being undercut by other local and foreign agencies, both licensed and unlicensed'. In comparison to Sri Lankan agents, the agents in the Philippines practice more advanced methods in labour mobilisation. For example, recruiting companies search out new markets for a vast range of Filipino workers using best practices including establishing strategic partnerships with global business organisations, niche marketing, setting up branch operations in mature markets and establishing professionalism in the business and delivering quality service (Averia, 2006, pp. 51-52).

As stated before, in addition to recruitment, the SLBFE Act has provisions for private recruitment agencies to be involved in pre-departure training. Only the domestic worker training programme is conducted by such agencies in the areas where SLBFE training centres are not available. The SLBFE supplies them with the curriculum and instructors, but agencies cannot issue certificates. The Bureau monitors such training programmes in order to check for fraudulent activities.

The recruitment agency is technically responsible for the welfare of recruited people from the point of departure from the home country to his/her return after completion of the contract. However, agencies have been responsible for various human rights malpractices (Wickramasekara & Abella, 2003, p. 55). Malpractices in recruitment such as charging unauthorised fees, contract substitution and incorrect or false documentation occur mainly because private recruiters have different priorities to the government in increasing outflows. The state is interested in the broader economic gains of the country while private recruiters have to maximise commercial benefits (Patrick, 1997, p. 101). Agencies charge money to recover commissions and fees paid to their counterpart agencies abroad. These amounts are at times inflated and excessive (Dias & Jayasundere, 2002, p. 15). Charging of unreasonable fees and commissions by employment agencies remains a serious issue, although such practices are prohibited by the legislation.

False documentation such as substitution of applicants and inter-changing of photographs, names, identity and travel documents is another aspect of malpractice in recruitment. There is a small proportion of women who continue to migrate with a certificate provided

by agents to which they have no entitlement. Dias and Jayasundere (2002, p. 12) point out that women who buy their certificates from unscrupulous job agents and by-pass the protective barriers imposed by the SLBFE are the most vulnerable group among migrant workers. The SLBFE reported that it filed 727 charges against such recruitment agencies in 2010 under Sections 398 (cheating) and 457 (forgery for the purpose of cheating), conducted 84 raids against recruiting agents, and fined those found guilty of fraudulent practices over US\$40,000 (US Department of State, 2011c).

5.3.2 Informal unlicensed sub-agents

Registered agents reach their clients in the outlying provinces by using unlicensed sub-agents who use word of mouth to contact potential clients. These intermediaries put potential migrants in contact with local and foreign recruiting agents for a fee. However, they are not recognised as licensed agents within the Sri Lankan law. Sub-agents are coordinators who bridge the gap between the prospective migrant workers in the villages and the recruiting agent in the cities. The role played by these sub-agents in the initial stage of recruitment is significant. Thus they form another level of institutional structure, an informal one, in the migration industry (Gamburd, 2002). They attend to various tasks associated with the process of migration at home ranging from filling in passport application forms to accompanying the migrant to the agency in the city and later to the airport. According to Ruhunage (2006, p. 60), sub-agents assist village women not only in finding a job abroad but by motivating them for such action in terms of giving advice, encouragement and confidence. As the majority of domestic workers are poorly educated, prospective migrant women rely on information provided by sub-agent and seek help in each and every step. However, these sub-agents frequently fail to provide all relevant information, such as job responsibilities, salary, or the rights of prospective domestic workers (HRW, 2007, pp. 31-36).

Since sub-agents are conversant with the administrative procedures they find loopholes in the recruitment process. They sometimes assist people who are not eligible to migrate to make falsified documents. Researchers (Gamburd, 2002; Law and Society Trust, 2010; Ruhunage, 2006) point out the involvement of sub-agents in migration matters as one reason for the exploitation of migrant workers. Dias and Jayasundere provide an example:

Mohammed (not his real name), a 45 year old male from an urban shanty community, is a sub-agent. Mohammed operates his business from a three-wheeler he parks on the main road by his house. His services range from filling passport application forms to providing false passports to women migrant workers. His fee from every migrant woman is one-month's salary and he is reluctant to disclose payments from his agent. His wife has been in Saudi Arabia for the past 15 years working as a housemaid and he supplies maids to her contacts separate from his regular sub-agency. The fee, once again, is one-month's wages and he lends money at exorbitant rates of interest to cover any prospective migrant worker's registration fees. He also buys original birth certificates and identity cards on the street to use in forging passports.

(Dias & Jayasundere, 2002, p. 15)

This example highlights the nature of illegal practices that reportedly exist in the country in relation to this process which can be labelled to a degree as an 'illegal trade'. These sub-agents are labelled as 'villains' or 'sharks' (Gamburd, 2002) but they remain the most 'sought-after person' for securing employment abroad.

In this context, as Shaw (2008) and ACTFORM (2008) suggest, sub-agents should be subjected to mandatory licensing requirements. Their activities should be brought under some kind of formal monitoring and regulation by government authorities in order to control the illegal aspects of the so-called trade.

5.3.3 Informal networks

This is the third avenue used by potential migrant workers to find employment overseas. Informal networks are based on close personal contacts that potential migrants have with friends, acquaintances, family members, or those from the same suburb or village. Statistics (SLBFE, 2010) show that about a quarter of the Sri Lankan migrant workers find their jobs abroad through personal contacts. It was 33 percent in 2009. This practice is more common at the village level, with participants seeking foreign jobs in the domestic and unskilled job categories (Ruhunage, 2006, p. 57). These ethnic, community and family ties reduce the costs and uncertainties involved in migration (Ratha & Shaw, 2007, p. 16). Therefore, migrant workers consider this as a cheaper and safer method.

Eelens and Speckmann (1992, p. 46) observe that this type of recruitment began at a later date and to a certain extent originated because results obtained through the intermediary of foreign labour agencies and/or sub-agents were disappointing. Returnees who used such informal channels were more satisfied with their employment abroad than those who

arranged employment through agents (Shah 2000 cited in Shaw, 2008, p. 6). This may be due to the existence of contacts in destination countries. Besides, this is the cheapest way to find work as there is no direct financial burden involved. It is also safer since the person arranging the job very often knows the foreign sponsor. The sponsor provides a pre-paid air ticket to the prospective migrant and in some cases these workers evade the compulsory registration with the SLBFE.

Informal networks can cross generations. They also lead to a 'culture of migration' where migration is deeply embedded in the values and behaviour of people. Oishi (2005) illustrates a case in point:

Indrani, a twenty-two-year-old Sri Lankan woman, had a grandmother, an aunt, and three cousins who were working as domestic workers in Hong Kong. She became interested in joining them after one of her cousins found a job for her. Her father did not like the idea of her moving to Hong Kong, but the presence of these relatives softened his opposition and he finally agreed to let her go.

(Oishi, 2005, p. 125)

Another informal network arrangement is providing a 'free visa' for the prospective migrant worker. GCC countries, except Saudi Arabia, have a free visa category for a specific time period that has to be organised by a relative/friend working in the destination country. The prospective workers leave the country on a visitor visa and search for a job on arrival. However, in many cases, they must settle the expenses incurred in arranging the private journey to their 'friends', 'relatives' and even siblings (Dias & Jayasundere, 2002, p. 16). This can be considered as a type of smuggling. As Ruhunage (2006, p. 60) observes, smuggling of people using visitor visas based on the promise of providing lucrative jobs has become a common complaint reported to foreign missions in West Asia where such victims seek assistance.

Through my research I found that the existence of informal networks cutting across boundaries, and the circulation and exchange of information relevant to work opportunities in West Asia, is a powerful means of arranging jobs in the case of Sri Lanka. Seventeen percent of women in the sample found their jobs in Saudi Arabia through their networks of friends and relatives.

5.3.4 NGOs and advocacy

There are several local NGOs that provide assistance in relation to migration in various stages. Many of them are interested in issues related to women domestic workers. These non-governmental and grass-root level organisations are working on different aspects and wide range of activities related to migrant labour such as providing information, awareness raising, training, counselling on children and the family left behind, training in personal skills to avoid and counter harassment and pressure for sexual activities, advocacy and lobbying with relevant authorities, encouraging alternatives for prospective and returnee migrants and monitoring self-employment projects, and skills development programmes.

Some are organised under the umbrella organisation called the Action Network for Migrant Workers (ACTFORM) with other interested individuals and representatives of selected government bodies including the SLBFE. The aims and objectives of the network are to collect and disseminate information, to monitor the implementation of state policy, to lobby and advocate on policy and policy reform, to offer counselling and outreach programmes to migrant workers, to conduct research and to offer legal assistance. The network publishes a trilingual newsletter *Tharani* among migrant women, helping to make them aware of their rights.

Further, the Migrant Services Centre (MSC) funded by the American Centre for International Labour Solidarity was established in 1994 headed by a former chairperson of the SLBFE, David Soysa, mainly to engage in advocacy, lobbying and campaigning on the treatment of domestic work as work, absentee voting rights for Sri Lankan migrant workers abroad and for social security rights of migrant workers.

Since many destination countries prevent migrant workers from organising under the banner of trade unions, women have opportunities in Sri Lanka to join existing trade unions and collaborate with some NGOs working on behalf of migrant workers. The National Workers' Congress (NWC), the National Congress of Women (NCW), the Jathika Sewaka Sangamaya (JSS) and the Lanka Jathika Estate Workers Union (LJEWU) have recognised migrant domestic workers as an active and important labour group. However, their activities for migrant women concentrate on providing welfare, support and training services for migrants and their families and there has been little attempt to

help or organise them. This is due to the temporary nature of migrant workers' occupations (they have no intention of being in the trade for a long period of time), the physical difficulty in organising workers located in many countries, the fact that many of them are satisfied with their work, despite its drawbacks, and women's reluctance and non-interest in involvement with union activities (Dias & Jayasundere, 2004, p. 181).

Furthermore, trade unions in the labour origin country have limited opportunities to intervene on behalf of migrant workers in destination countries. Within these limitations, the NWC and NCW played an important role in obtaining compensation in 1997 for migrant workers displaced during the war in Kuwait. The All Ceylon Federation of Free Trade Unions (ACFFTU) campaigned for voting rights for migrant workers and a pension scheme for returned workers. In addition, the MSC (established under the auspices of ACFFTU) works for migrant women's issues by providing information and awareness of potential problems, counselling services, distress loans for women returning before expiry of contracts, weekly radio programmes for prospective workers advising them on issues relating to migration procedures, information about alternative employment and a telephone hot-line for workers and their families. The NWC and NCW were launched as a project through MSC which aimed to set up grass-roots level migrant women associations. These associations are voluntary bodies and their objectives are to provide correct and valid information, to work with children and adolescent members of the migrant worker's family, to provide access to appropriate sources of finance, to handle problems relating to the powerlessness of migrants, to examine recruitment procedures offered by agents, to provide contracts of employment and advice, to assist in dispute settlement and provide psychological and social support, and to articulate grievances and undertake advocacy. However, compared to activism in the Philippines on behalf of migrant workers, Sri Lanka lags behind. As Gamburd (2009) observes, this is mainly due to the political and personal freedom that workers enjoy in the destination countries. The Philippines migrant workers in the European Union have more freedom to organise than Sri Lankan migrant workers in the Middle East. The size and the scale of migrant flows, history of migration, level of migrant workers' education and gender roles and norms are also influential factors that determine the extent of activism (Gamburd, 2009, pp. 78-84).

The above discussion shows the role of licensed agencies, sub-agents and informal networks in promoting and mobilising labour and the importance of activists working for

and on behalf of the migrant workers. It is clear that in a context where the government cannot meet the demands and needs of migrant workers, intermediaries play a crucial role in both the promotion and protection aspects.

Summary

This chapter provided an overview of Sri Lanka as a labour brokerage state. Labour brokerage in migration is where the government institutions in labour origin countries are involved in mobilising, facilitating and exporting labour to the international labour market. Even if prospective migrants seek opportunities to work overseas, the country they go to, the site where they work and the job they apply for are largely determined by the state policies and strategies on the one hand and the recruiting agents, sub-agents and informal networks on the other. This chapter discussed the way in which the Sri Lankan Government mobilises labour by formulating policies, establishing an institutional framework and undertaking diplomatic negotiations, the role of SLBFE as the official broker, the strengths and weaknesses of protective and regulative measures and the way in which recruiting agents and informal networks play a crucial role in mobilising labour for export.

Since independence, the labour migration policy of Sri Lanka has been framed according to the political and economic interests of different governments. The main weakness of migration policies in Sri Lanka is the emphasis on regulatory aspects rather than the welfare and wellbeing of workers and the protection of labour rights, entitlements and conditions. Lack of gender sensitivity is also an issue which emerged from the discussion. Women need to be covered by separate policies because they face specific problems from being female and from the nature of their work.

Sri Lanka has signed a few bilateral agreements with other destination countries. However, the country has not been able to go beyond non-binding MOUs with West Asian destinations as a result of a lenient policy towards female migration and weak bargaining power. These MOUs lack clear specifications for minimum labour standards and procedures for enforcement and dispute settlement and for addressing issues of common concern such as repatriation. In the context of excluding domestic workers from the labour laws and with no international, regional or bilateral cooperation to safeguard

migrant domestic workers' rights, the only available instrument is the employment contract. This chapter discussed the practical difficulties in their implementation in countries of destination because a contract is not legally binding on the employer. It has little impact on preventing exploitation of the worker. Absence of bilateral agreements with destination countries in West Asia and inadequate safeguards within the frameworks of MOUs or employment contracts have the risk of migrant workers being susceptible to abuse and exploitation. The government approach can be described more as a commodity supply approach characterised by the formula 'select, train, pack, insure and export'.

The SLBFE is the main government institution responsible for exporting Sri Lankan labour. It facilitates migrant labour mainly through pre-departure training and regulates recruitment agencies. A pre-departure training certificate is mandatory for domestic workers to be able to register with the Bureau. Although the existing pre-departure training contributes to eliminating several problems encountered by migrant workers, the content is rather basic and needs to further improve in order to market quality domestic workers. With increasing numbers of migrant workers, the 'maid trade' in particular, the government started regulating the industry to earn income and to prevent workers from being exploited. The chapter identified some structural impediments that the government of Sri Lanka and the SLBFE face in the competitive international labour market.

The chapter examined the role of intermediaries such as recruitment agencies, sub-agents, informal networks and NGO activism and how they participate in the Sri Lankan labour out-migration process. A government agency and hundreds of private recruitment agencies legally recruit prospective migrants to work abroad. Many of the private agencies do not have business expertise and only recruit domestic workers. The recruitment agency is technically responsible for the welfare of the recruited person from the point of departure from the home country to his/her return after completion of the contract. However, they have been responsible for various labour rights and human rights malpractices, including charging exorbitant fees, contract substitution and false documentation. The involvement of sub-agents in migration has increased the scope for exploitation and abuse because they are largely unlicensed and unregulated.

The main challenges Sri Lanka faces as a labour brokerage state are migration inequalities in terms of access, opportunities and protection of migrant workers.

Unskilled migrant workers, domestic workers in particular, are more vulnerable to exploitation and abuse. This is due to several domestic political and economic factors as well as external factors, including Sri Lanka's weak position in a 'buyers market' where destination countries have more bargaining power.

The next chapter examines the role of Saudi Arabia as a labour importer and the main destination country for Sri Lankan migrant workers.

CHAPTER 6

Saudi Arabia as a labour importer

Introduction

This chapter provides details of the migrant worker phenomenon in Saudi Arabia in relation to the political and socio-economic context and the legal framework for importing labour. It is important to provide an understanding about the context which generates factors for attracting migrant workers as well as the issues confronting them in terms of working conditions, employer-employee relationships and domestic worker welfare and wellbeing. As a responsible labour importer, Saudi Arabia needs to establish migration structures for the smooth functioning of labour inflows. The chapter firstly provides a macro picture of labour migration in the Persian Gulf, it then examines Saudi Arabia's status in the global economy and describes the political and socio-economic context of Saudi Arabia. The way Saudi Arabia has become a labour importer is discussed in the next section by examining reasons for labour importation and its trends. The chapter then looks at migration structures, including the legal framework, regulations, governance structures and their role. Next, the chapter focuses on the Saudi Arabian employment structure, the sponsorship system and the way this system binds migrant workers to the employer/sponsor. Finally, the chapter examines how the employment structures and sponsorship system, together with Islamic politics marginalise female migrant workers, migrant domestic workers in particular. The chapter is linked to research question two 'how did Saudi Arabia become a labour importing country and what are the working conditions and labour protections for migrant workers' and thesis objectives 3 and 4.

Migration is not a recent phenomenon in West Asia. Migration to and within the countries in West Asia persisted for centuries in the absence of clearly defined borders. Earlier, the migration flows to Arab countries had involved small numbers of seasonal workers for fishing and pearling (Baldwin-Edwards, 2005, p. 5). Later, large scale labour movements to this region were directly connected with the oil industry.²⁹ New labour market requirements which emerged from the oil boom could not be met with the less-

²⁹ The Middle East and North Africa (MENA) region possesses more than half of the world's proven oil reserves, and more than 40 percent of the world's proven natural gas reserves. The MENA region respectively produces more than 30 percent and 11 percent of world's crude oil and natural gas.

educated and low-skilled local population, therefore the industry had to import the required additional labour. Thus there was an influx of workers from capital-poor and labour-surplus Arab, African and Asian countries.

There have been five phases in Arab labour migration (ESCWA, 2007, p. 4). During the first phase of 1945-1973 there was an extensive migration of labour within the Arab region. It gradually increased in the 1960s with the industrial development initiatives. These workers were from neighbouring Arab countries, mainly from Egypt and Yemen. This Arab migrant flow constituted nearly 85 percent of all migrant labour in the early 1970s. Hassan (2010, p. 67) observes that linguistic, cultural and religious compatibilities with the local population made them more attractive. Mass labour mobility emerged in the second phase, 1974-1975, with the oil boom. Increased petroleum prices were sufficient to allow these countries to undertake massive infrastructure development. There was a sudden and rapid increase of Arab migrants to 1.8 million during this period (ESCWA, 2007, p. 5).

During the third phase, 1976-1979, a rapid increase in Asian migration occurred. Manpower requirements continued to expand in a range of occupations after the second round of oil price increases, as these countries had giant development plans and money but an inadequate workforce. Baldwin-Edwards (2005, p. 5) observes that each GCC country competed to attract the US, European, Arab and some Asian workers during this period. Within the 1975-1980 period the migrant worker population doubled. In 1981, there were about 2.5 million Asians working in the Middle East and since then about one million Asian workers have left their home countries for jobs there. It was an 'Asian labour pipeline' parallel to the oil flows of Arab countries (Arnold & Shah, 1986, p. 3).

In the fourth phase, 1980-1984, the construction and service sectors seemed more attractive to migrant workers. However, during this period, together with cost-cutting policies due to falling oil prices and for political reasons, destination countries in the GCC reduced and repatriated workers from the Arab countries. About two million Arab workers and their dependents lost their jobs during this period (Fergany, 2001, cited in

Baldwin-Edwards, 2005, p. 5). Their positions were substituted with less-skilled, more reliable and single³⁰ Asian workers who were paid low wages (Campani, 1995).

In the fifth period, 1990 to date, there has been an increasing trend of East and Southeast Asian migration to the GCC countries. These labour movements are highly organised as workers migrate for major construction projects that are undertaken by companies of the workers' own countries, for example, South Korea. The period between 1980 and 1995 was the peak period of labour migration in the GCC countries. Within thirty years, the expatriate workforce increased from 39 percent in 1975 to 70 percent of the labour force in 2005 (Hassan, 2010, p. 67). After 1995, there has been a gradual decrease in the share of migrant workers due to local unemployment pressures facing the governments and nationalisation of the workforce efforts.

There are several reasons for the high dependence of the GCC countries on migrant labour. According to McMurray, the reasons include low labour force participation, especially of women, relatively small population sizes, disinclination of nationals to work in the private sector, low literacy and educational levels, high degree of non-labour income for nationals, and growth of the *kafala* system³¹ for recruitment as an economic activity in itself (McMurray 1999, p. 18). At the same time, unemployment of the local population has increased. This is due to population growth, the external shocks of the two Gulf wars, low oil prices and reduced foreign assets. In this context, several GCC countries have been pursuing initiatives to increase native workforce while gradually reducing and eventually eliminating the foreign workforce. These strategies are known as Saudisation, Omanisation, Kuwaitisation etc. (see Section 6.2.2 for details).

The current status of labour migration in GCC countries is related to several variables: being the most important energy resource region to the world, increasing financial power, and possessing a critical strategic place both within military and political perspectives (Dito, 2008, p. 2). Foreign direct investment in the region rose from under US\$2 billion in 2001 to more than US\$20 billion in 2005. Roughly US\$1 trillion in infrastructure investments are currently in the pipeline, and by decade's end they could total US\$3

³⁰ The GCC countries needed workers 'who came without their families, made little use of public services, and did not put economic or political demands on employers or the state' (Weiner, 1982, p. 80).

³¹ In the *kafala* system, the sponsor, usually the employer is responsible for the visa and legal status of migrant workers.

trillion (Bore & Tuner, 2007, cited in Dito, 2008, p. 3). Parallel with this, foreign assets have also increased. Until recently, every GCC country received more than 50 percent of their workers from Asian countries, and among them Oman has had more than 90 percent of Asian workers. Table 6.1 gives the number of expatriate workers by their region and country of destination.

Table 5.1: Major communities of expatriate labour in GCC countries, 2005

GCC countries	Expatriate labour by communities						
	Expatriate workers	Arab		Asian		Others	
		No	%	No	%	No	%
Saudi Arabia	4,894,000	1,527,000	31.2	2,902,000	59.3	465,000	9.5
UAE	2,738,000	238,000	8.7	2,386,000	87.1	114,000	4.2
Kuwait	1,302,791	403,000	30.9	851,000	65.3	48,791	3.7
Oman	605,000	34,000	5.6	559,000	92.4	12,000	2.0
Qatar	315,034	126,013	40.0	144,915	46.0	44,106	14.0
Bahrain	306,000	38,000	12.4	245,000	80.1	23,000	7.5
Total	10,160,825	2,366,013	23.3	7,087,915	69.8	706,897	7.0

Source: (Hassan, 2010)

According to Table 6.1, Saudi Arabia is the most popular destination for both Arab and Asian migrant workers. It received 48.1 percent of the total migrant workers in GCC countries in 2005. It has been one of the popular destinations for migrant workers from the beginning.

6.1 Saudi Arabia in the global economy

Saudi Arabia has the strongest economy in West Asia based on petroleum and strong government control over major economic activities. Saudi Arabia is placed in an important position in the global economy as the primary exporter of petroleum, as a popular destination country for migrant workers and as one of the top remittance senders in the world. This section discusses the status of Saudi Arabia in the global economy in terms of these three aspects. Table 6.2 gives selected economic indicators for Saudi Arabia in comparison to some developed countries in the world.

Table 5.2: Economic indicators - Saudi Arabia with selected developed countries

Indicator	Australia	Canada	Germany	Japan	Saudi Arabia	USA	UK
Human Development Index	0.937	0.888	0.885	0.884	0.752	0.902	0.849
Total GDP (US\$ billion)	1,015.2	1,501.3	3,649.5	4,910.8	468.8	14,591	2,674.1
GDP per capita (US\$)	47,370	45,070	44,446	38,455	19,022	46,350	43,541
FDI as % of GDP	4.7	3.0	0.6	0.5	4.8	2.2	3.5
Labour force participation (M)	83.0	82.7	82.3	85.2	81.8	80.6	82.2
Labour force participation (F)	69.9	74.3	70.8	62.1	21.8	68.7	69.2
No. of immigrants (millions)	4.7	3.0	0.6	0.5	4.8	2.2	3.5
Remittance outflow (US\$ billions)	3.0	..	15.9	4.1	26.0	48.3	3.7

Source: (UNDP, 2011), (World Bank, 2011b)

According to Table 6.2, Saudi Arabia's total GDP per capita is well below the other countries mentioned. However, male labour force participation compares well with other countries. Female labour force participation falls well below that of other countries. The number of immigrants is parallel to the number in Australia. There was an upward movement of HDI from 0.556 in 1980 to 0.752 in 2010 in Saudi Arabia mainly due to improvements in education, healthcare and the social services sectors (UNDP, 2011). Saudi Arabia was also the second highest remittance sender in the world in 2010. These statistics show the value of labour migration to the country's economy and its functioning, infrastructure developments, oil industry and the domestic sector.

Saudi Arabia possesses the second largest proven petroleum reserves in the world, having 18 percent of the total (OPEC, 2010). These reserves are estimated to be 260 billion barrels. The country is also the leading oil producer and exporter of petroleum. Table 6.3 provides details of oil and natural gas production per day by the top ten countries.

According to Table 6.3, Saudi Arabia is the world's top producer of crude oil. More than 90 percent of the country's exports are crude oil. The country earns nearly 75 percent of government revenues through oil sales. Production of liquid natural gas has also increased from 1,460,000 b/d in 2005 to 1,550,000 b/d in 2010 (SAMBA, 2011). Other important industries include petroleum refining, basic petrochemicals, ammonia, industrial gases, sodium hydroxide (caustic soda), cement, fertiliser, plastics, metals,

construction, commercial ship repair and commercial aircraft repair. Saudi Arabia has a robust economy but it largely depends on oil and mineral products.

Table 5.3: World crude oil and natural gas liquids production – top countries

Country	Crude oil* 2010 (‘000 barrels per day)	Country	Natural gas liquids** 2009 (‘000 cubic metres)
Saudi Arabia	10,521	Russia	647,000,000
Russia	10,146	United states	619,000,000
United states	9,695	European union	182,300,000
China	4,306	Canada	152,300,000
Iran	4,252	Iran	138,500,000
Canada	3,486	Qatar	116,700,000
Mexico	2,978	Norway	106,300,000
UAE	2,813	China	102,500,000
Brazil	2,719	Netherlands	85,170,000
Nigeria	2,458	Algeria	85,140,000
Kuwait	2,450	Saudi Arabia	83,940,000

Source: *(US Energy Information Administration, 2011) **(Central Intelligence Agency, 2010)

As stated earlier, Saudi Arabia is a popular destination country in West Asia for migrant labour. The World Bank (2011b) estimates that migrant workers constitute more than 7.2 million or 27.8 percent of the total population of Saudi Arabia. Various other estimates suggest that foreigners comprise from 56 to 70 percent of the labour force of the country and 95 percent of the private sector workforce (Shah, 2008, p. 2). Saudi Arabia has become a top remittance sender in the world, second only to the United States (Table 6.4).

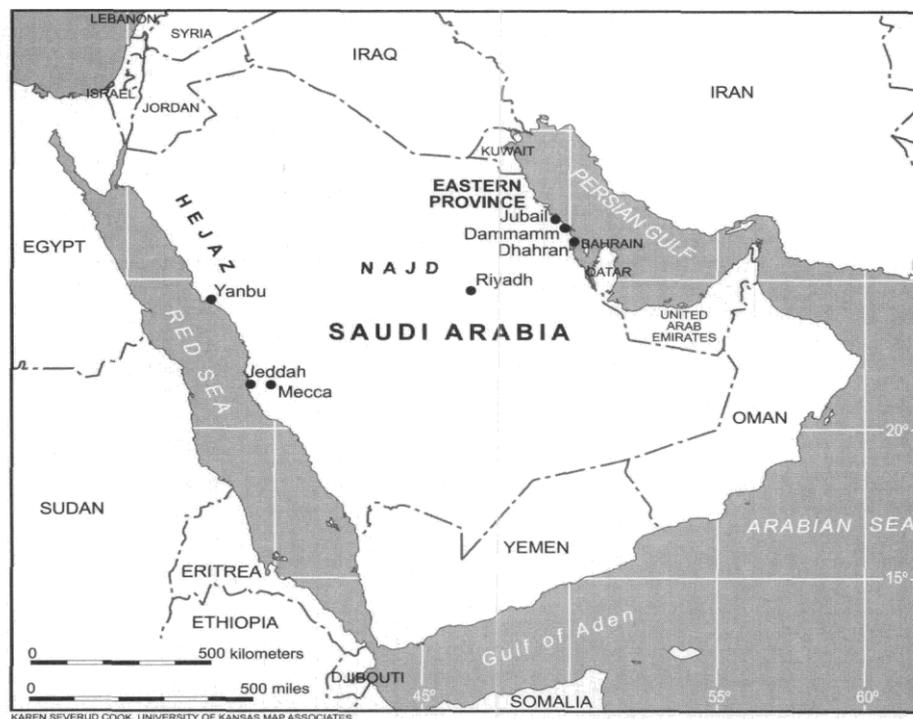
Table 5.4: Top ten remittance senders in 2009

Remittance flow		Remittance flow	
Country	US\$ billion	Country	% of GDP
United States	48.3	Luxembourg	20.1
Saudi Arabia	26.0	Lebanon	17.0
Switzerland	19.6	Oman	9.9
Russian Federation	18.6	Maldives	8.9
Germany	15.9	Kuwait	8.2
Italy	13.0	Bahrain	6.6
Spain	12.6	Saudi Arabia	6.5
Luxembourg	10.6	Guinea-Bissau	5.4
Kuwait	9.9	Guyana	5.2
Netherlands	8.1	Tonga	4.3

Source: (World Bank, 2011b)

Saudi Arabia is less integrated into the wider global economy compared with other Arab neighbouring countries. In April 2000, the country established the Saudi Arabian General Investment Authority to encourage foreign direct investment while maintaining a list of sectors in which foreign investment is prohibited. However, the government plans to open some closed sectors such as telecommunications, insurance, and power transmission/distribution to foreign investment over time. Since joining the World Trade Organisation in 2005, Saudi Arabia has become the largest destination for foreign direct investment in the Arab world. In 2008, FDI net inflows constituted 4.8 percent of GDP (UNDP, 2011). According to the International Finance Corporation (IFC)-*World Bank Annual Doing Business Report 2010*, Saudi Arabia has been rated as the thirteenth most economically competitive country in the world. The report highlighted the rapid rate of economic growth after the economic sector reforms.

Figure 5.1: Saudi Arabia



6.2 Political and socio-economic context

Labour migration to Saudi Arabia cannot be adequately explained without looking at the political structure and socio-economic context of the country. The demand for migrant labour and the nature of migration policies and governance structures are related to economic and socio-political needs and aspirations in the society. This section focuses on

the monarchy - the Saudi Arabian administrative institution - Islamic politics and the socio-economic context to ascertain how they shape the labour migration regime.

Saudi Arabia is the largest state in West Asia. Before the discovery of oil, the country's location in the Arabian Desert and the fact that arable land is only 1.67 percent with low rainfall determined the socio-economic context of Saudi Arabia. It was a semi-feudal, traditional, materially poor, desert dwelling and mainly nomadic society with subsistence agriculture. This situation changed drastically with the oil wealth, at a pace virtually unparalleled in the human experience (Wiley, 1999, p. 29).

Saudi Arabia is a relatively new country. The political state of Saudi Arabia was established only in 1926 when King Abdulaziz ibn Saud solidified control of his family following a long struggle against other clans over the land that belongs to the country today. The king granted concessions to an American oil company for oil exploration in 1933 and it was a significant landmark event in the recent history of the country. The first exploitable petroleum deposits were discovered in Dhahran in the Persian Gulf in 1938. Discovery of oil was the turning point that transformed Saudi Arabia into a rich, technologically advanced and urbanised country. Saudi Arabia has struggled to balance continuing economic progress while maintaining the country's traditional culture. The country encourages foreign investment; however, it is widely considered as a society 'closed' to the world, as the country restricts tourists and other visitors except business travellers, migrant workers and Islamic pilgrims.

6.2.1 The monarchy and Islamic politics

The monarchy is the central institution of the Saudi Arabian Government. Religious matters and interests play a significant role in governance. The head of the state and the head of the government is the king, who calls himself the custodian of the two Islamic holy mosques of Mecca and Medina. The monarch, being an unelected institution, combines legislative, executive and judicial functions and wields total power. The cabinet is appointed by the king and many of them are from the royal family. The Majlis al-Shoura, the Consultative Council or the Parliament, is the advisory body that consists of 150 members appointed by the king. There are no political parties in Saudi Arabia.

Saudi Arabian culture and governance structures have been developed exclusively around Islam. The Saudi monarchy frames its laws by using *Wahhabi* interpretation of *Sharia* (Islamic law), defines itself as an Islamic state and calls upon the Koran as its constitution (AlMunajjed, 1997, cited in Silvey, 2004, p. 15). The central legal framework is *Sharia* that has been ‘deduced by man from the Koran and the *Hadith*, narrations on the example (*Sunna*) of the Prophet Mohammed’ (Vlieger, 2010, p. 169). The powers of the king are theoretically limited by *Sharia* and traditions. Justice is administered according to the *Sharia* by a system of religious courts whose judges are appointed by the king on the recommendation of the Supreme Judicial Council. A *Sharia* based legal framework regulates the public and some private aspects of the life of the people living in the country. The king is the highest court of appeal and has the power of pardon. Capital punishment and corporal punishment, including amputation of hands and feet and flogging, are imposed and often carried out in public. No freedom of the press exists and critics of the government are not tolerated.

Islamic political fundamentalism or the notion of defence and protection of Islam and Islamic tradition is an important dimension of Saudi state power. The state policy is strongly influenced by the Council of the *Ulama* (religious bureaucracy), which is the most powerful religious political force in the country. The Council sets the tone and direction of national debates. Silvey (2004) elaborates on how the Council operates:

Indeed, the monarchy of the Saudi Kingdom rules in an informal but deeply entrenched partnership with the Council, engaging the ‘ulama’ in the formation of public policy. The Council offers *fatwas* (religious/legal opinions) that the ‘ulama’ see as necessary for societal well-being as well as ones to provide religious legitimacy to decisions that the monarchy’s rulers have already made.

(Silvey, 2004, p. 14)

The monarchy, the central authority plays an important role in the economic sphere in Saudi Arabia as the state is the owner and the manager of the country’s resources. Further, *Sharia* and Islamic politics impact on labour migration as issues of migrant workers are considered under the law of the country. In GCC countries, including Saudi Arabia, labour rights of migrant workers are poorly addressed by the law. For example, unionising is banned in all these countries. Migrant workers have very limited space to protest against or transmit ideas of democracy in the destination countries as change agents. Under these conditions of strict Islamic/Sharia law and the governance structures, it is questionable to what degree the migrant workers of different faiths will receive a fair

hearing for any of the problems they face during their working life in the country. For this we have to study the governance and regulation of migrant labour in the country along with practical experiences of migrant workers, especially female domestic workers.

6.2.2 Socio-economic context

In 2009, Saudi Arabia's population was 25.4 million with 2.4 percent average annual growth. Population density is very low. Further, the population consisted of more children as a result of high birth rates and high but declining death rates. Oil wealth has dramatically changed the Saudi Arabian economy and society leading to rapid urbanisation. Since the 1970s, Saudi Arabia has set up development plans to improve the economic and social conditions of the country. Consequently, there have been considerable improvements in the provision of public services such as education, health and social services. Table 6.5 shows selected socio-economic indicators for 2003 - 2008.

Table 5.5: Saudi Arabia - Main socio-economic indicators, 2003 - 2008

Indicator	2003	2004	2005	2006	2007	2008
Population growth (%)	3.27	3.27	2.44	2.31	2.18	2.06
Life expectancy at birth (years)	68.73	75.23	75.46	75.67	75.88	76.09
Infant mortality rate (1000 live births)	47.94	13.7	13.24	12.81	12.41	11.94
Labour force participation						
Male	..	..	..	..	74	74
Female	..	..	..	..	18	17
Unemployment rate (%)	25	25	25	13	13	11.8
GDP (% real growth)	7.7	5.3	5.6	3.0	3.5	4.2
GDP per capita (US\$)	11,880	12,000	13,100	13,600	19,800	20,500
Inflation	0.5	0.8	0.4	1.9	4.1	9.9
Exchange rate (per US\$)	3.75	3.75	3.75	3.75	3.75	3.75

Source: (Central Intelligence Agency, 2010), (World Bank, 2011a)

Table 6.5 shows the increasing trend of life expectancy at birth together with a declining trend of infant mortality. The UNDP (2011) welcomed the progress made in life expectancy, education and health services in Saudi Arabia.³² Statistics show an increasing trend of inflation within a six year period. Despite the oil income the country has had to face the challenges of the recent global financial crisis. The stagnating rate of GDP growth is evidence of this. The unemployment rate is also relatively higher. Lower female labour force participation in Saudi Arabia is a result of women being discouraged

³² Saudi Arabia has been categorised as a high human development country in the UNDP Human Development Report 2010.

to work outside the home due to cultural traditions. Despite more success in workforce nationalisation efforts in comparison to the other GCC countries, the local human capital of Saudi Arabia is quite weak. The World Bank observes that a large proportion of educated locals possess humanities and social science qualifications due to the public sector employment policy (2008, cited in Baldwin-Edwards, 2011, p. 50). This is one reason for the country's dependence on foreigners for skilled jobs. Table 6.6 shows migrant workers in Saudi Arabia during 1975-2008 compared with the national workforce.

Table 5.6: Saudi Arabia - Native and foreign components of labour force, 1975-2008 ('000)

	1975	1985	1990	1999	2008	% female in 2008
Nationals	1,027	1,440	1,934	3,173	4,173	16
Foreigners	773	2,662	2,878	4,003	4,282	14
Total	1,800	4,102	4,812	7,176	8,455	15
% foreigners	42.9	64.9	59.8	55.8	50.6	--

Source: (Baldwin-Edwards, 2011)

As shown in Table 6.6, there has been a declining trend in the migrant labour force (in percentage) from 1985. However, numbers have increased and migrant workers form more than half of the total labour force in 2008. Statistics on the male/female migrant workforce was previously not available; only 2008 data show that the proportion of the female migrant workforce is low. These figures are relatively high when compared with other GCC countries, but lower compared to Kuwait.

GCC countries including Saudi Arabia follow nationalisation strategies to reduce the dependency on migrant workers mainly due to higher rates of local unemployment especially among youth³³. Baldwin-Edwards (2011, p. 44) observes a series of strategies that Saudi Arabia follows in this regard. Firstly, there are some policies aimed at reducing the demand for migrant labour such as closing of employment in specific sectors or professions and imposing a ceiling for foreign workers in a given company. Secondly, there are policies aimed to reduce the supply of migrant labour such as health insurance paid by migrant workers, direct tax on migrant workers, restrictions on visa issuance and

³³ Balancing the national-migrant workforce imbalance and reducing the practice of visa trading are also objectives of the nationalisation effort. Visa trading is selling visas to unauthorised people by the nationals with business licences.

deportation of irregular migrants. Thirdly, state subsidy (up to 50 percent) of private sector pay for local worker, quotas for national workers in public and private employment, development of economic sectors for employment of nationals, directing new labour market entrants to the private sector and promoting study and training in technology and medicine are the measures that aimed at increase the demand for local labour. Fourthly, there are policy initiatives targeted to reduce the supply of local labour. Saudi Arabia follows measures to discourage female labour force participation. Finally, there are subsidies for hiring of national workers to reduce local/migrant wage disparities. According to Wall Street Journal (2004 cited in Shah 2008, p. 11), Saudi Arabia has been identified 25 occupations that designed for phasing out expatriates. These nationalisation or Saudisation policies aim to increase the national workforce by reducing large inflows from one selected country and by providing better educational facilities and changing perceptions towards employment.

Heavy dependency on migrant workers and under-utilisation of native labour due to non-wage income has contributed to the low economic productivity of the local population. Ibrahim (1982, p. 102) says that social organisation in Saudi Arabia does not promote and motivate local people to adjust to the real employment requirements of the modern sector either. Baldwin-Edwards (2005, p. 5) notes although the public sector absorbs local workforce, the private sector is reluctant to hire nationals with low skills and high wage expectations with no work experience. According to Kapiszewski (2001, cited in Baldwin-Edwards, 2011, p. 51), a missing work ethic among nationals,³⁴ comparatively low salaries in the private sector³⁵ the refusal of ‘foreigners’ jobs’ and the outdated education system contribute to this situation. This leads to an increase in the class gap between nationals and expatriates.

Oil wealth, together with urbanisation, education, technology, manpower, rapid economic development and geopolitics, has led to structural changes in Saudi Arabian society. This has created a new social order (Ibrahim, 1982) or a new social class structure (Champion, 2003). Oil wealth and unification as a kingdom helped to spread *Wahabi* teachings and to grow capitalism. A committee recommended national dress for men (*thoab* - ankle-length garment with long sleeves) and women (*abayah* - loose over-garment) to establish

³⁴ Absences, refusal to carry out tasks and quitting jobs

³⁵ Nationals are paid double the migrant wage but lower compared to the public sector

greater uniformity and as a means of eradicating non-Islamic practices. This national dress has become a symbol of cultural integrity and identity (Moghadam, 1994, cited in Al-Khateeb, 2008, p. 171).

Ibrahim (1982) identifies two lumpen capitalist images which emerged in this transition, namely the Saudi Entrepreneur and the *Kafeel* (sponsor). The entrepreneur class has evolved in the context of expanded economic opportunities in the international market. The Saudi Entrepreneur is an educated modern individual who deals with governments and multinational corporations, but differs from his Western counterpart in terms of business strategies. They are also cultural brokers that interpret the Saudi socio-political environment to the world and vice versa. They are mainly from traditional Hejazi trading families and their businesses flourish through their connections with the ruling family (Lackner, 1978, p. 202). Shrewdness and opportunism are the educated Saudi's responses to the glut of oil wealth (Ibrahim, 1982, p. 11). The other figure, the *kafeel*, is also a by-product of the changing subculture of the oil-rich Arab countries. Two factors causing the *kafeel* to emerge were that migrant workers needed to have a sponsor to enter the country, obtain a visa and a residence/work permit and that non-nationals needed a sponsor or a business partner if they wished to initiate a business, because initiating or owning a business for non-nationals is prohibited by law. *Kafeels* emerged as a result of inadequate local labour supply, labour demand for vast infrastructure projects and inflexible migration and labour laws, Arab countries, including Saudi Arabia, have a socio-political fear of being overwhelmed by outsiders. This is reflected in migration, labour, business and property laws that hugely favour nationals and discriminate against outsiders (Ibrahim, 1982, p. 13). A *kafeel*, who is a shrewd native with little or no formal education, uses his financial, human and legal environment to his advantage. Both these lumpen capitalist subcultures, the entrepreneur and the *kafeel*, are significant in all Arab countries.

The basic principles underpinning development plans in the country are protection of religious values and national security. These plans are aimed at diversifying the economy and reducing the dependence on oil, developing human resources, raising living standards and improving the quality of life, maintaining economic and social stability, strengthening the role of the private sector in the economy, broadening the linkages between the country and other nations and developing and completing physical

infrastructure (Alsahlawi & Gardener, 2004, p. 176). However, Champion (2003, p. 78) argues that Saudi Arabia has failed to address the basic problems in the economy and economic management due to political interference. Favouritism, mismanagement and widespread wastage are key challenges.

6.2.3 Women's status in Saudi Arabia

Gender inequality is a worldwide phenomenon and still remains a barrier to human development. The status of women in Saudi Arabia in comparison to the status of men is highly contentious by western and other standards. The gap between the rights of men and women in the Arab world is more visible and significant than in other parts of the world because religious interpretation of laws favours men over women. Women are considered as a separate category in Saudi Arabia. This section explains the way in which the country segregates women spatially and discriminates against them legally.

Gender segregation is prevalent in every spectrum of social life, within the households and outside, even in social gatherings. For example, women must wear the *abayah* and *hijab* when they leave the house to protect their modesty. Offices must have a separate entrance and exit for men and women, as well as segregation in the actual workplace (Al-Khateeb, 2008). In workplaces, women are physically separated from male workers and only written and telephone communications are available. Systematic discrimination against women denies them equal access to employment, healthcare, public administration, equality before the law and a range of other rights (HRW, 2008, p. 20). The law has always been most severe and has placed restrictions upon women (Goodwin, 1994, cited in Desphande, 2001, p. 194). The laws, together with related Islamic views and strict practices, treat women as secondary citizens and discriminate against them by imposing restrictions on freedom of movement, freedom of expression and by maintaining inequality in access to the justice system. For example, the law of the country requires all male citizens over 15 years of age to hold a national identification card, but it is optional for women. This reflects the government's view of females as second-class citizens (US Department of State, 2011a). The state restricts women's mobility legally and they are not allowed to go out alone. Laws prevent them from driving and boarding airplanes alone without permission from a male relative. The *mutawaa'in* (religious/morals police), the patrolmen for the State Committee for the Promotion of Virtue and the Prevention of Vice, detain women who are not obedient to

such actions. Further, women who wish to work are required to clarify their wishes within the jurisdiction of government regulation and to obtain the consent of the father/husband.

Low educational attainment and lower employment rates among women are common in many Arab countries. Although several government plans have aimed at female education, schooling is not compulsory for women in Saudi Arabia and laws and practices still limit a woman's role more to the household. Before 1960, the only schooling available for females was in private schools that catered for the daughters of the Hejazi merchant families (Lackner, 1978). Policy changes in 1960 promoted the importance of education for girls while convincing people that this was not a threat to family life. According to the statistics, there were no female students in schools in 1952 but their numbers increased dramatically from 5,224 in 1960 to 200,786 in 1973 (Lackner, 1978, p. 79). Similarly, the number of female students in Saudi colleges and universities doubled between 1983 and 1993, and the number more than doubled again by 2000 (Doumato, 2000, cited in Silvey, 2004, p. 13). However, women still lag far behind in terms of education levels and scope. For instance, there are restrictions on following some subjects for women and universities offer a narrow range of subjects for female students (Rawaf, 1990, p. 219). The available jobs for educated women are highly stereotypical in fields such as teaching, administration, social welfare and health services and opportunities for career advancement are still limited. These fields are assumed to suit women's domestic 'nature' (Al-Khateeb, 2008; Doumato, 1999).

With the decline in oil revenues in the early 1980s, the state reduced the provision of public sector employment and subsidies for education. This paved the way for women to enter private sector employment that was previously closed to them, for example, in professions such as journalism, advertising, broadcasting and architecture. However, women's labour force participation was a low 11.5 percent in 2008 (Baldwin-Edwards, 2011, p. 13). Interestingly, women who have benefited from education and employment are those of elite families who, because of their education and power, were able to send their daughters to study abroad. This situation is changing as women are able to acquire an institutional education through government scholarships.

Women face discrimination under family law and under *Sharia* inheritance law. In the court system of Islamic Jurisprudence, woman's testimony carries half the weight of the testimony of a man. *Sharia* law does not specify a minimum age of marriage but it suggests girls may marry after reaching puberty. Women's rights to property and divorce are also restricted. Victims of sexual violence have little prospect of holding the culprits to account (HRW, 2004a, p. 18). The major obstacle to women's access to justice is the lack of written laws governing private life (UN News Service, 2008). In 2008, the UN Special Rapporteur on Violence against Women, while acknowledging the improvements and opportunities in education, employment and in the public sphere, noted the lack of women's autonomy, freedom of movement and economic independence, discriminatory practices surrounding divorce and child custody, the absence of a law criminalising violence against women and difficulties preventing women from escaping abusive environments (US Department of State, 2011a, p. 34).

The Arab region is the region where the largest gender gap in access to employment is prevalent (Esim & Kerbage, 2011). Patriarchal power relations and attitudes towards women hinder women's career progress (Mostafa 2005; Jamali et al., 2005; Al-Lamki 2007; Omair 2008, cited in Elamin & Omair, 2010, p. 749). Women are confined to the domestic sphere and traditional family tasks through religious and cultural practices and through male dominance. As Sidani observes two discourses, Islamic and feminist, have shaped the contemporary situation (2005, cited in Elamin & Omair, 2010, p. 749). Firstly, traditional Islamic scholars preferred women to stay at home and, if need be, they could work in certain female jobs with restriction from male domains. Modern Islamic scholars encourage women to work and mix with males to a certain extent. In contrast, feminist scholars believe that women should have a choice between their private (family) and public (economic and political) roles in their life. This feminist view is popular in countries like Lebanon and Egypt and these countries adopted gender reforms and encouraged education and participation of women. Saudi Arabia was at the other extreme, strictly adhering to the traditional Islamic beliefs and cultural practices. However, there have been some discourses by educated women and intellectuals about the 'women's question' with the government taking some steps to reform Saudi society. The National Dialogues in 2004 that were initiated by Crown Prince Sultan bin Abdul-Aziz, had a session on women's rights and duties. Le Renard (2008) notes that 'the main effect of the dialogue was to make the category of "women" exist'. In December 2003,

liberal women academics, intellectuals and activists presented a petition called the ‘consensus petition’, urging authorities to implement reforms (Sager, 2005, p. 247). Their demands included recognising women’s rights as full citizens and discarding the need for a legal guardian, civil rights, general education for both sexes, launching new specialised university courses for women and the recruitment of women in all economic sectors following the establishment of trade unions. As a result, since 2004 the government has promoted employment of women by creating female sections and hiring for public administration and private firms. However, educational faculties and workplaces remain highly segregated in the absence of legislative efforts to establish women’s equal rights (HRW, 2010a). Under these circumstances, it is fair to say that specific groups of Saudi women have different opinions depending on their circumstances: some are contented and satisfied while others are highly concerned about discriminatory practices and domestic abuses. It is possible that the restrictions they face in their life from discriminatory laws and practices are in turn reflected in the way they treat female domestic workers from other countries.

What is significant about this gender status imbalance and discrimination sanctioned by religion, law and governance procedures as well as society and culture in general is that when female migrant workers from less developed countries arrive in Saudi Arabia they are thrown into a legal, political and bureaucratic context which is considerably different from the labour origin countries in terms of women’s status and rights. This has the potential to create a vast gap between the aspirations of female migrant workers before departure and on arrival. This aspect will be discussed further in Chapter 7 in relation to Sri Lankan domestic workers and their experiences in Saudi Arabia.

6.3 Demand for migrant workers from Asian countries

This section discusses the reasons for having a high demand for migrant workers in Saudi Arabia. Even before the country was unified as a state, the Saudi regime was dependent on foreign workers to some extent. Before 1953, the King’s advisers, doctors and the teachers in the few existing schools were foreigners from Syria and Egypt (Lackner, 1978, p. 191). In recent history, the increased demand for migrant workers occurred due to the needs of the oil industry and several demographic, socio-economic and political factors: a relatively small demographic base, labour shortages, the low skill levels of the

national workforce, the development of large infrastructure projects, a growing service sector and the reluctance of locals to engage in certain jobs. This situation enabled Saudi Arabia to invite migrant workers to meet the high demand for labour, first for infrastructure building and later for service sector employment.

The main reason for the demand for migrant labour was the skilled labour scarcity for new development projects when the country launched infrastructure and development projects with its increased oil revenue. Saudi Arabia earned US\$655 million in 1965, and this increased to US\$36,900 million in 1977. There was a dramatic increase in oil revenue after 1973. The five-year plan for 1975 - 1980 allocated Saudi Riyal 318,416.3 billion for development in areas such as economic resources, human resources, and social and physical infrastructure development projects (Lackner, 1978, p. 152). The labour intensive physical infrastructure development projects encouraged foreign labour as the educational infrastructure in the country was inadequate to supply the skilled labour necessary for growing industries and services, and the low educational levels and low skill levels of the native population did not match with the country's growing labour needs.

At the beginning, a wide range of industries, mainly mining and construction, attracted male migrant workers from non-oil producing neighbouring countries. In 1975, half of the native workforce (52 percent) engaged in agriculture and fishing but only 1.5 percent were in the oil and mining sector which generated 90 percent of government revenue (Ibrahim, 1982, p. 97). The non-national workforce in the country in 1975 was 773,400 making up 43 percent of the total population. More than 50 percent of them were in manufacturing, electricity, construction, trade and finance. With the completion of infrastructure and other projects the demand for construction workers gradually declined; however, new housing projects and buildings were required for the growing population making the demand for foreign labour persistent.

Saudi Arabia has shown that the country is willing to import labour for the jobs/sectors that local people are reluctant to participate in. Earlier, the local population, especially

those with well-known tribal status³⁶, were reluctant to enter certain manual jobs that were at one time performed by slaves. Construction work, sanitation and hotel services are some sectors that Saudi Arabians are unwilling to work in. Although there have been some changes in this attitude with new policies, education and globalisation, most Saudi graduates still prefer to undertake managerial administrative jobs rather than technical and vocational jobs (Mahdi, 2007). Table 6.7 shows the percentage of foreign employment by economic sector in 2009 and the extent of the country's dependency on migrant workers.

Table 5.7: Saudi Arabia - Foreign employment by economic sector, 2009

Economic sector	% of total employment	% of migrant workers	% female migrant workers
Agriculture and fishing	3.8	66.1	0.1
Mining and quarrying	1.3	8.5	0.1
Manufacturing	6.5	76.2	1.0
Electricity, gas and water	1.0	27.3	--
Construction	12.8	91.0	0.1
Wholesale and retail	16.6	79.8	0.5
Hotels and restaurants	2.8	89.0	0.3
Transport, storage etc.	4.4	38.9	--
Financial service	1.1	17.5	1.2
Real estate etc	3.8	58.4	0.6
Public administration/defence	18.7	1.9	0.1
Education	11.0	7.1	21.1
Health and social work	4.3	36.4	24.2
Other community/social services	2.0	60.0	5.7
Households with employed persons	9.8	99.6	66.8
Other economic activity	0.1	85.6	1.6
Total employment	8,017.3	4,260.6	
% of foreign workers (all sectors)		53.1	13.7

Source: (Baldwin-Edwards, 2011)

According to Table 6.7, the highest concentrations of migrant workers are in manufacturing, construction, hotels and restaurants, households as domestic workers and other economic activities. The next highest concentrations are in agriculture and fishing. As for female migrant workers, 66.8 percent are employed in households, 21.1 percent are in education and another 24.2 percent in health and social work. Table 6.7 shows that 3-D jobs have become associated with foreign workers. According to Jureidini (2003) this concentration is associated with 'racialisation of labour' or xenophobic practices.

³⁶ Before becoming a nation state, nomadic people in the peninsula were organised into tribal associations. Tribe remains a central focus of identity for those claiming a tribal affiliation. Tribal leader is known as 'Shaykh' (Source: http://www.mongabay.com/history/saudi_arabia/saudi_arabia-tribe_and_monarchy.html)

Jureidini (2003, p. 2) observes three aspects of xenophobic practices prevalent in the Middle East, namely, preference for temporary contract labour, preferential treatment to national workers by allocating menial jobs to foreigners and the attitude of disdain and abuse toward those who are visibly different, particularly Sri Lankans, Filipinos, Ethiopians and other Africans. Racialisation of labour in Saudi Arabia refers to the fact that such jobs are allocated to those coming from certain under-developed, culturally and racially different countries in Asia and Africa.

Until the Gulf War the main labour exporters to Saudi Arabia were Egypt, Tunisia, Yemen, Jordan, Lebanon and Sudan. Later, in the early 1980s, the declining revenues from oil, policy incompatibilities, and political and religious tensions between labour sending and destination countries led to a decline in these regional flows. These numbers reduced with repatriation, provision of a large quota for Asian workers and investment initiatives of Asian companies mainly from Japan and South Korea. The importation of 'cheap' labour from poor Asian and African countries has fulfilled the demand for unskilled workers in particular. Gulf countries prefer Asian workers because by and large they are less of a political threat and less inclined to involve themselves in the country's internal affairs (Arnold & Shah, 1986, p. 14), less expensive to employ, easier to lay off and thought to be more efficient (Hassan, 2010, p. 67) and cheaper, more obedient, more suitable for heavy work and are less liable to become a political nuisance (Shadid et al., 1992, p. 76).

Asian labour in Saudi Arabia has shown itself to be a growing phenomenon as a consequence. Moreover, Shadid et al. (1992) note an additional advantage of employing Asians is that they are better educated and more proficient in English compared to those coming from Arab or African countries. This is useful in international exchanges. However, due to lack of statistics, the exact numbers of migrant workers in Saudi Arabia is not known. According to 2004 estimates, the principal migrant communities in Saudi Arabia were Asians and Africans. Among them, there were 1,300,000 Indian workers followed by 900,000 Pakistanis, 500,000 Filipinos, 400,000 Bangladeshis, 350,000 Sri Lankans and 250,000 Indonesians (Kapiszewski 2006 cited in Baldwin-Edwards, 2011, p. 26).

Female migration to Saudi Arabia and domestic workers

Female migration to the Middle East has been noted from the 1950s. Since then, a large number of Palestinian, Syrian and Egyptian female teachers were hired to set up education systems for girls (Moors & de Regt, 2009, p. 152). Later, in the 1980s, female migration increased with the development of the service and manufacturing sectors. According to Nijeholt (1994), after 1987 female migrant labour became more visible in sectors such as services, manufacturing, public utilities and agriculture. Available opportunities for females ranged from domestic workers to medical professionals; those who migrated to Saudi Arabia included domestic workers, nurses, sales workers, maintenance workers, and hotel staff. This was a time when oil prices fell and the work on most infrastructure projects slowed down. According to Campani:

In 1985 oil prices fell rapidly, prompting a cutback in infrastructure development in the Gulf states, and migration from Asia dropped by almost one-third. As Abella (1995:420) points out, the “fall would have been more severe if not for the growth in employment in the service sector (from hotels to personal services) which absorbed ever-increasing numbers of workers, especially women from Sri Lanka, Bangladesh, Indonesia and the Philippines”. These women became a significant part of the feminization of international migration, travelling alone, rather than as appendages of their husbands, and in many cases becoming the major breadwinners of their households, many leaving husbands and children back home.

(Campani, 1995, cited in Jureidini, 2003, p. 2)

Although demand for skilled and unskilled labour decreased due to the decline of oil revenues and with the cutting down of many infrastructure projects, recruitment of workers continued in the service sectors, including the domestic sector. Initially, India, Pakistan, Bangladesh and the Philippines exported domestic workers to Saudi Arabia in small numbers. A few years later, India, Bangladesh and Pakistan banned migration of women as domestic workers due to frequent malpractices in the destination country. Sri Lanka took advantage of the void in the Middle East labour market by adopting a highly liberalised policy on movement of people and by fixing a relatively low minimum wage for domestic workers (US\$100) (Eelens et al., 1992, p. 6).

Having a domestic worker is not a new phenomenon in Saudi society. In the past, rich families used to have slaves and domestic helpers (Al-Eidan, 1985, cited in Al-Khateeb, 2008, p. 182). With the abolition of slavery in 1963, Saudi families tended to employ foreign workers from neighbouring Arab countries or poor local women. However, with the oil wealth being distributed among the lower strata of society, many local women

were reluctant to work as domestic helpers. They were replaced by poor women from Asian and African countries as live-in domestic workers. There are a considerable number of male domestic workers also in Saudi Arabia who are working as drivers, security guards and cooks. In 2009, there were 777,254 migrant domestic workers in the country and of them 65.2 percent (506,950) were women (Esim & Kerbage, 2011). Today, domestic work is the single most important category of employment among female migrants to West Asia (Manseau, 2006, p. 28).

Demand for female domestic workers in Saudi Arabia increased for two reasons: to fulfil the care gap and to maintain social status. As discussed earlier, several policy measures that specifically focused on local women, such as education and employment, underpinned the growing demand for female migrant workers, domestic workers in particular. The promotion of female education since the 1960s has encouraged Saudi women to be involved in secondary and higher education. This has enabled them to engage in activities in non-domestic spheres and newly opened up career opportunities in the public sector and later in the private sector. This situation, together with the non-availability of a social care infrastructure, created a significant service and care gap within the households that could only be filled by foreign labour.

Furthermore, the state has imposed legal barriers to abortion and birth control which has resulted in a high fertility rate.³⁷ These policies affecting women, together with cultural traditions and practices described earlier in the chapter, suggest that women's ideal role is still within the domestic sphere. Large families have a range of domestic needs that Saudi women are expected to meet, however difficult they may be. The Saudi family is a very conservative, segregated and typical traditional family. It is based on division of labour according to gender, age and women's subordination (Al-Khateeb, 2008, p. 168). Extended families live together in a closed community. Although the younger generation prefer to live as nuclear families rather than living with traditional extended families they tend to live closer to their extended families.

Moreover, oil wealth has changed their lifestyles. Large houses and workers to perform household duties have become not only a necessity but also a status symbol. The

³⁷ Average number of births in the Saudi family is 6.5 (Al-Khateeb, 2008).

affluence of the country led to a demand for foreign domestic workers since it is associated with the lifestyle goals of upwardly mobile households. Elite households began to employ domestic workers to follow royalty (Medel-Anonuevo, 1996, p. 2) and to demonstrate their social status (Asis, 2004; Momsen, 1999).

Thus the households that employ female domestic workers do so for more than one reason. Some do so as a status symbol and to meet the care gap in large extended families. Others do so because the woman in the household has found work outside the home. In other households, the emergence of the nuclear family where both the husband and wife work outside the home has created new needs for domestic help, particularly when they have children.

6.4 Legal framework, migrant workers and recruitment practices

The labour migration policy of a destination country reflects how the government approaches the need for foreign labour in different sections of the economy and society, the type of admission, working conditions, migrant worker rights, grievance procedures, redress mechanisms and ways of handling irregular migration. Despite the fact that there is no comprehensive migration policy in Saudi Arabia, this section focuses on how the available laws, regulations, recruitment practices and grievance mechanisms deal with migrant workers. This is important in order to understand the degree to which there is fair and equitable treatment between locals and migrant workers on the one hand and men and women on the other.

Immigration laws allow foreigners to travel to Saudi Arabia only for work, official business, family visits or pilgrimage.³⁸ Since ‘passports are not acceptable forms of identification in Saudi Arabia for foreign residents’ (HRW, 2004a, p. 29), those entering the country for work should obtain a temporary residence permit (*iqama*) and work licence through the sponsor. When the employer is the state, it acts as an impersonal organisational sponsor (Ibrahim, 1982, p. 11). Despite the Arab League economic agreements and labour charters, Saudi Arabia hires migrant labour under strict labour

³⁸ Some migrants come on a Hajj or *Umrah* visa which is valid for one month and those who overstay become illegal migrant workers in the informal sector.

laws that deliberately discriminate against non-nationals as do most of the oil-rich Arab countries.

The official measures and guidelines concerning entry, employment and repatriation of migrant workers to Saudi Arabia are largely shaped by economic and political considerations. Since the early 1970s, the country followed the GCC immigration policies which were based on four principles: preservation of the existing political structure and dominant position of the national population; strict laws and regulations pertaining to the entry and employment of foreigners; minimisation and rotation of the migrant workforce; and preference for Arab migrants and 'Arabisation/localisation' policies (Shadid et al., 1992). On the basis of these principles, the country has enforced strict citizenship and naturalisation laws. Citizenship is granted on the combined basis of the blood-bond principle and the territorial principle. However, South and Southeast Asians are excluded from this privilege.

6.4.1 National labour law and regulations

In principle, migrant workers' rights must be covered within the national labour laws of the destination country. The Saudi labour law pertaining to migrant workers was first introduced in 1969 consequent to labour unrest and pressure from the increasing number of migrant workers (Lackner, 1978, p. 189). These regulations addressed the labour protests and strikes demanding wage increases and better working conditions in 1956 and 1963. They were prepared under the guidance of the ILO and have made provisions for several groups who were previously restricted, including women's right to work, provisions for training, labour contracting and rules for recruiting and firing workers. However, there were no provisions for collective bargaining or strikes. These regulations applied equally to national and foreign workers 'bringing them all under the same legislation and improving the conditions of immigrant workers. All private companies, including foreign ones, must treat their workers in the same way and provide the same facilities, and some degree of job security' (Lackner, 1978, p. 190).

The current version of Saudi Arabia's labour laws and regulations has only been introduced recently. This updated version of the labour law came into force in April 2006. It applies to workers in the government, commercial corporations and the private sector. It recognises three types of employees: Saudis, Westerners (those who are citizens

of the USA, Canada, Western Europe and Australia) and Third Country Nationals (TCN) - those who are from elsewhere in the world. Very often a Westerner can be paid more than a Saudi for the same role, but not a TCN (Saudipedia, 2011). Wage disparity on the basis of a migrant worker's country of origin is a discriminatory and inequitable measure. Another significant feature is the exclusion of particular migrant groups, such as domestic workers, some agriculture workers and some seamen (Article 7) from the labour laws.

Provisions in the labour law relating to migrant workers

By and large, provisions and regulations in the labour law do not cover the domestic sector but other migrant workers have provisions under the Saudi labour law. There are eight hour normal working days for six days a week. Friday is the weekly day-off. The Saudi Government has set standard working hours (a 48-hour work-week) at regular pay and a weekly twenty-four hour rest period based on hours worked (Saudi Arabian Law Overview, 2011). In addition, there is premium pay for overtime work with a maximum of twelve additional hours or on the Minister's determination on the hours of compulsory overtime. Workers are eligible for paid sick leave for thirty days. All employees are subjected to a three month probationary period. Employers can dismiss the worker during this period without prior notice and with no benefits. The worker is entitled to paid annual leave of twenty-one days after completing one year of work. However, these standards are enforced on non-domestic sector workers.

The labour law implicitly prohibits forced labour with fines and a ban on future hiring on the sponsor violating labour law provisions, but it does not apply to domestic employees, the largest group of workers susceptible to forced labour conditions (US Department of State, 2011a, p. 45). Under the labour laws inspectors appointed by the Ministry of Labour work with the Ministry of Health on occupational health and safety by examining the materials used in industries. Labour law and policies restrict family reunification or admission of dependents and only highly qualified migrant workers can bring their dependents. This is another inequitable measure. The sponsor is required to provide accommodation and expenses for children's education. Accommodation,³⁹ transportation, health insurance and benefits are to be provided by the employer and he is responsible for any injury or occupational hazards.

³⁹ There are three types of accommodation, apartments, shared lodging and individual units for single workers based on their occupational status.

The labour law implemented in 2011 sets out that an employer must recruit not less than 75 percent Saudi workers, but the Labour Ministry has given provisions to decrease the rate in situations where there is unavailability of local workers with technical expertise or academic qualifications. However, the Ministry still follows 2004 regulations for the private sector (minimum of 30 percent of locals) and for the unskilled labour sector (minimum 10 percent) recruitment (Saudi Arabian Law Overview, 2011). With regard to female employment, the law permits recruitment of non-Saudi women for all sectors except health, education and air transport.

Iqama and work licence

The *iqama* regulation and administrative instructions issued by the Ministries of Labour and Interior can be considered as policy measures regarding migrant workers. They can affect migrant workers' conditions of work and how the employers interpret the employment contract, as well as employers' obligations to the workers. The worker has to satisfy several conditions such as legal entry, work contract with a licensed employer, possession of a valid passport, academic qualifications and/or professional competence and medical fitness.

Iqama must be renewed annually and when it is cancelled the residence permit also becomes invalid. It is renewable an unlimited number of times, but there are limited chances of obtaining permanent residency, even if the migrant worker has worked in the country for many years (Ruhs, 2009).

Work contract

Unlike some other GCC countries, migrant workers must have an employment contract in Saudi Arabia. It must be written in Arabic to be valid and signed by the sponsor and worker in order to issue *iqama*. It has to state wages and work conditions agreed upon, duration of the contract and other benefits. Working hours, holidays and rights of termination are not included in the contract as they are governed by the country's labour law. The worker should receive a copy of his/her employment contract. This contract identifies workers as 'workers by contract', not as immigrant workers (HRW, 2004a). The employer can terminate the contract without an advance notice or indemnity on an employee's misconduct. It includes assaulting the employer, failing to perform essential obligations of work, forgery, absence for work without a valid reason and if hired on

probation. Also, an employee has the right to terminate the contract if the employer fails to fulfil his contractual obligations or if ill-treated. However, an exit visa is not issued unless the employer submits evidence to prove that the worker has already received all his/her dues (Ministry of Labour - Saudi Arabia, 2006, p. 11).

As mentioned earlier, the contract must include the agreed-upon terms of employment, and “must be in writing, drawn up in Arabic and in duplicate, one copy to be retained by each of the two parties”. In many cases, workers sign their contracts before leaving their home country. These contracts are often confiscated when workers arrive in Saudi Arabia, and replaced by Arabic-language contracts with different terms (HRW, 2004a). Such practices put migrant workers in great difficulty, especially if they have to work long hours, often without pay. While observing the situation of stranded migrant workers in Saudi Arabia, Santolan (2011) points to one worker’s story:

Ignacio had signed a contract to work as a janitor in a mall for 1,000 Saudi Riyals (\$US279) a month. Upon his arrival his contract had been replaced with one designating him a street sweeper and paying him SR600 (\$US167) instead. On April 17 last year he quit his job, along with 22 other workers in similar circumstances. His former employer is charging SR3,000 (\$US835) for the return of his passport and permission to depart the country. Quitting his job meant leaving the company barracks. He is homeless.

(Santolan, 2011, p. 2)

Many migrant workers never see the employment contract in Arabic before they leave home or are forced to sign such documents when they reach Saudi Arabia. As a result, they find themselves subjected to conditions to which they had not agreed (US Department of State, 2007, p. 46). The US Embassy in Riyadh advised prospective American workers to obtain an independent English translation of the contract before signing the contract with the Saudi employer (HRW, 2004a, p. 20). A contract is generally valid for two years. If the worker loses his/her job, the *iqama* is cancelled. In such circumstances, obtaining or renewing a visa is difficult. If the worker breaks the contract he/she has to leave the country immediately at his/her own expense (Halabi, 2008, p. 43). If a worker runs away from the employer, he/she is rendered illegal and is subject to arrest and deportation. Thus many migrants work without documentation, making themselves vulnerable to exploitation.

Negotiations with labour exporting countries

Bilateral labour agreements with countries of labour origin stipulate conditions on minimum wages, housing and benefits, including leave and medical care. However, no major labour exporting country, including the Philippines, Indonesia and Sri Lanka, has been able to negotiate a bilateral agreement on domestic workers in Saudi Arabia. Therefore, enforcement of minimum standards becomes problematic for migrant workers of these countries. However, the bargaining power of a labour exporting country can be an informal mechanism to establish expected standards. For example, in 2006, the POEA regulated that Filipino domestic workers would not be authorised to migrate for work for less than US\$400 monthly wage. The Indonesian Government also stopped sending domestic workers to Saudi Arabia for a few months because of the low wages. Later, in 2007, the Saudi Government agreed upon a minimum wage of 800 Riyals (US\$208) per month for Indonesian domestic workers. This provision was not effective for Sri Lankan domestic workers in Saudi Arabia. Instead, in 2008, the Sri Lankan Government and the Saudi Chamber of Commerce increased the minimum wage for Sri Lankan domestic workers from 400 Riyals (US\$104) to 650 Riyals (US\$169) per month (HRW, 2008, p. 24). However, the actual wages paid vary from this (see Chapter 7).

Lack of policy coherence between labour migration measures and human rights is common to all GCC countries including Saudi Arabia. The political economy of these countries prevents migrant workers from doing decent work and having access to proper labour and human rights. Saudi Arabia is a state party to several international human rights treaties, including the Slavery Convention, the Vienna Convention on Consular Relations, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Racial Discrimination and the CEDAW. However, the country has done little to bring practical meaning to the treaties' guarantees (HRW, 2004a, p. 15). As mentioned previously, the country has not ratified any ILO conventions on migrant workers.

The important feature of the Saudi labour law is that it explicitly protects its citizen employees and it excludes the unskilled workers who form a greater part of the migrant worker population. The Saudi labour law, amended through Royal Decree No.M/52 in 2005, denied domestic workers the protections guaranteed to other workers. Furthermore,

the proposed regulations on domestic workers are still in draft form. In June 2010, Saudi Arabia voted against forming a binding international treaty of global labour standards resolution on domestic worker rights at the international labour conference in Geneva (HRW, 2010a, p. 44). In such a context, migrant domestic workers are not covered under any local labour law, social security law or any international protection measure. The only coverage is the employment contract signed with the employer, but it is not a legally binding document. Some other countries in the region, such as Jordan, Kuwait, Lebanon, Oman and UAE, have introduced a unified standard contract for domestic workers, but not so Saudi Arabia (Esim & Kerbage, 2011). As a result, unskilled workers, particularly domestic workers, are faced with ill-treatment and unsatisfactory working conditions and discrimination, including poor working and safety conditions in the workplace, poor accommodation and basic facilities, forced labour, forced daytime outdoor work during the extremely hot season, delay in payments or withholding wages (HRW, 2004a). With their workplace being a private sphere, the majority of female domestic workers have to perform their duties in a more stressful, demanding and vulnerable situation. The foregoing details show that Saudi Arabia's migration laws and policies are built on the state's concerns about the imbalance between the national and the migrant workforce and the goal of localisation that aims to substitute migrant workers with locals in the available jobs. These policies reflect the sensitivities in the political economy and ideology of the country.

6.4.2 Employment structure: *Kafala*, the binding principle

In this section a more in-depth look is taken at the labour recruitment system in the country in order to show how Saudi employers recruit migrant workers and, once recruited, what obligations exist on both parties.

The *kafala* system functions in all GCC countries except in Bahrain⁴⁰ and with some modifications in Kuwait. Since 1969 the *kafala* system has operated in Saudi Arabia as the migrant worker recruiting system. The labour law requires each foreign worker to come under contract with, and be guaranteed by, a *kafeel* or the sponsor/employer holding citizenship of the country. This system has been established to ensure control over foreign labour. It provides the legal foundation that binds a migrant worker to one *kafeel*.

⁴⁰ In Bahrain, the Labour Market Regulatory Authority has had the responsibility to sponsor visas for migrant workers since May 2009.

Thus it has become ‘one of the power-generators of migration politics in the Gulf’ (Sabban, 2004, p. 100).

Under the *kafala* system, employers sponsor workers through a local recruiting agency and migrant workers must obtain the *iqama* through a citizen, who then becomes their *kafeel* (sponsor). The *kafeel* (mostly the employer) is the person who has the financial and legal responsibility of the worker. He is liable for the conduct of the employee. He has ‘the power to alter the terms of the employment contract; transfer the *kafala* to another employer without the worker’s consent; repatriate the worker without prior notice; and ban the worker from re-entering the country’ (Migrant Rights, 2010). Through the *kafala* system and the *iqama* regulations the state restricts entry and the period of stay of migrant workers.

This sponsorship system binds the worker to the employer in many ways. It inherently limits freedom of movement and the right to change employers. The migrant worker cannot change his/her workplace without the *kafeel*’s permission and this forces the worker to remain with the *kafeel* until the end of the contract. Workers are required to surrender their passports and travel documents to their employers who possess the responsibility of processing the *iqama* on their behalf. Sponsors may disassociate from sponsorship responsibilities when a worker faces complaints or needs to return home (HRW, 2004a). Sometimes unscrupulous employers do not renew the *iqama* on purpose and falsely accuse the worker of theft in order to render the worker undocumented and avoid payment of tax and the worker’s airfare back home. According to Chammartin (2004b), the worker is usually jailed without the benefit of due process of law and is financially penalised for running away.

Under Saudi immigration laws and the *kafala* system, a migrant worker must obtain an ‘exit-visa’; in other words, the consent of the *kafeel* is needed for the worker to leave the country. Those who cannot obtain exit visa easily become illegal workers without another option and sometimes they are trafficked. If the worker is able to find a person who is willing to sponsor him/her, he/she must obtain the ‘no objection’ certificate (NOC) from the former *kafeel* for a new *iqama*. If the worker attempts to leave the country without an exit visa, the immigration and police fine him/her a large sum of money, send

them back to the *kafeel* or subject the worker to arrest, imprisonment, detention and deportation.

Moreover, the *kafala* system leads to debt bondage or bonded labour for migrant workers, domestic workers in particular. Some researchers identify this situation as ‘the new slavery’ (Juredini & Moukarbel, 2004; Young, 2000) or ‘contract enslavement’ (Halabi, 2008). Many domestic workers in the Gulf countries live and work under conditions of virtual enslavement in terms of their human rights. This new slavery is characterised by an avoidance of legal ownership, low purchase cost, high profits, a surplus of potential ‘slaves’, a short-term relationship between employer and ‘slave’, easy disposability relative lack of importance as regards ethnic differences and worker vulnerability (Bales, 2000, cited in Young, 2000, p. 19). Because slavery is illegal, slave-holders often use contracts as a means to legitimate and disguise the practice (Halabi, 2008, p. 43).

Furthermore, the *kafala* system works as an income generation opportunity for Saudi nationals. They trade *kafala* or the worker’s legal right to work. Some transfer *kafala* to buyers at a profit of US\$800 - 1900 and others make use of legally registered, non-existing businesses to sponsor migrant workers (Migrant Rights, 2010). Those who came for a non-existing job have to work for the *kafeel* as he chooses. This puts migrant workers under further strain.

Multilateral organisations, NGOs and activists pressure Saudi Arabia to revise the *kafala* system. The replacement of the sponsorship system was one suggestion made by the UN High Commissioner for Human Rights in 2009 to protect the rights of vulnerable migrant workers. There have been attempts to establish specific conditions for labour contracts with destination countries in West Asia, but these measures have met with little success (Abella, 1995). In this context, some Asian governments such as the Philippines, Bangladesh and Thailand have banned sending domestic workers to countries where the workers are ill-treated and abused while some countries, especially the Philippines, have tried to sort out the problems by implementing bilateral agreements with countries of destination. Currently, the *kafala* system in Saudi Arabia is under review and alternatives are being explored. Quoting the Saudi Minister of Labour, Human Rights Watch (2008, p. 27) notes that for easy regulative and monitoring purposes the Ministry proposed to recruit migrant workers through three big agencies with educated agents, instead of a

large number of recruiting agencies and *kafeels*. However, there is no clear timeline for adoption and implementation of these proposals.

6.4.3 Responsible institutions and labour grievances

In Saudi Arabia, the responsible government institutions for migrant labour are the Ministry of Labour and the Department of Passports under the Ministry of the Interior. The Ministry of Labour is the main governing body dealing with labour migration at a policy level. It regulates and facilitates the labour migration process by managing the recruiting system. The ministry may ban individuals and companies that are found to have mistreated workers. It maintains a database of abusive employers who are then prohibited from recruiting new workers. The ministry may indefinitely ban employers who have repeated violations, but reports show that the government does not effectively implement the blacklisting system. Statistics regarding this are not publicly available (US Department of State, 2011a). The Passport Department is the responsible authority for issuing the *iqama* for migrant workers. The work licence is issued by the Ministry of Labour and its regional offices. There are 37 labour offices located in all regions.

Employment agencies are the mediators that recruit migrant workers for local employers and companies. Similar to the recruiting agencies in Sri Lanka, Saudi Arabian agencies are also profit-oriented and involved in charging and collecting fees from workers. The latter have weak bargaining powers with these agencies. Esim and Kerbage (2011) observe that these agencies also charge and collect exorbitant fees from migrant domestic workers. However, there is no legislation in Saudi Arabia to regulate private employment agencies.

The Saudi Government maintains ‘welfare camps’ for abused and trafficked female workers once they are brought to the attention of authorities. When the religious police bring in runaway domestic workers, these shelters provide accommodation, food and medical care while law enforcement agencies investigate their cases (US Department of State, 2003, cited in HRW, 2004a, p. 69).

Transparent and accessible complaint processes and redress mechanisms should be an essential component of labour migration policy and procedures in destination countries. This is crucial in GCC countries where labour laws are biased in favour of employers,

enforcement of law is poor and attitudes towards migrant workers are unfavourable. These countries deal with migrant workers ‘as aliens who pose a security risk rather than as workers with rights’ (Esim & Kerbage, 2011, p. 32). Since there are no labour courts in Saudi Arabia, the only avenue that a worker has for complaining about employers or his conditions of work is the nearest labour office. If the labour office cannot settle the dispute the complaint will be forwarded to the Commissions for Settlement of Labour Disputes. These commissions act as private courts (Ministry of Labour - Saudi Arabia, 2006).

As stated earlier, in Saudi Arabia the labour law does not allow collective negotiations about the employment contract and conditions of work. Despite the provisions of Civil Service Regulations,⁴¹ provisions in the labour law allow employers to punish workers without an investigation (Mahdi, 2007). As these regulations do not cover migrant workers in the private sector, they are highly vulnerable in the context of the binding nature of the *kafala* system. Those who are not covered within the labour law, for example, migrant domestic workers, are more vulnerable to exploitation and abuse. As the visa is tied to the employers, they may take punitive measures against the worker in a situation of labour dispute. Sponsors involved in a commercial or labour dispute with migrant workers could also ask authorities to prohibit a worker from being deported until the dispute is resolved. The period pending a resolution can be a stressful time for the worker.

The dispute resolution system lacks transparency and accountability. Besides, the process poses barriers to many migrant workers accessing the system due to the language issue, unawareness of procedures and lack of access to their passport. The grievance procedures and processes are long and once judgement is given it is difficult to enforce. The US Department of State (2007) points out that labour courts in Saudi Arabia ‘while generally fair, may take months to reach a final appellate ruling, during which time the employer may prevent the foreign labourer from leaving the country. An employer also may delay a case until a worker’s funds are exhausted, and the worker is forced to return to his home country’. Given these circumstances, victims usually seek legal help from police and

⁴¹ Regulations applied to public sector workers. Although these regulations differentiate national and migrant workers in terms of wage and working privileges, they provide both with a large employment protection.

from embassies to obtain end-of-service benefits and exit visas and criminal charges against abusive employers are rarely filed (US Department of State, 2011b).

The above discussion shows that although Saudi Arabia is a popular destination country for migrant workers, the existing legal framework, governance structures, recruitment practices and dispute resolution processes favour national workers, employers and recruiting agencies. At the same time, the protections available for migrant workers are very limited and it is hoped that the government's explanations of alternatives to the *kafala* system will yield good results.

6.5 Marginalisation of migrant domestic workers

Labour migration has dominated the social and economic landscapes of Saudi Arabia for nearly fifty years. This section focuses on how Saudi Arabian labour laws, regulations and the *kafala* system, together with Islamic politics, create exploitative situations and marginalise female migrant workers, migrant domestic workers in particular.

Migrant domestic workers are the single most important category of migrant workers in Saudi Arabia. In 2009, there were 777,254 registered migrant domestic workers in Saudi Arabia and 506,950 among them were women (Esim & Kerbage, 2011, p. 4), mainly from Indonesia, Sri Lanka and the Philippines. They are nearly a quarter of the total migrant workforce in the country. Their home countries view them as 'modern day heroes' due to the foreign exchange they bring home, but they are exposed to labour rights and human rights abuses with little or no protection in Saudi Arabia (HRW, 2008) without the ability to enjoy decent work conditions. Decent work for migrant workers requires a decent wage, clearly defined working hours, decent accommodation, the right to resign from the job or to change work, freedom of movement, the right to have a balance between work and family, the right to leisure, social protection measures against vulnerability when the workers are out of work, protection of income and access to healthcare. As discussed earlier, domestic workers face exploitation and abuse, including non-payment of wages, forced confinement, excessive workload, food deprivation, forced labour, and psychological, physical and sexual abuse and trafficking. The laws prohibited forced or compulsory labour but some foreign workers were subjected to conditions that reflected involuntary servitude (US Department of State, 2007, p. 15). Although slavery

in Saudi Arabia was abolished in 1962 by King Faisal, unskilled workers, including domestic workers and minor employees, still work under slave-like conditions mainly due to the *kafala* system.

Firstly, exclusion from national labour laws is the main reason for the vulnerability of migrant domestic workers to exploitation and abuse. This is because domestic workers are not 'real workers' (Chammartin, 2004a, p. 3) for two reasons. The workplace of domestic workers, the household, is not considered as a workplace and they work for private people who are not considered as employers. Private homes are not usually supervised by labour inspectors since they are forbidden to visit private households. Further, the main labour exporters, the Philippines, Indonesia or Sri Lanka, have not been able to negotiate bilateral agreements on domestic workers with Saudi Arabia. This situation allows employers to exploit and abuse domestic workers without providing a safe and secure working environment. Although the government has repeatedly announced that it will amend the labour law to include domestic workers, it is yet to be made (HRW, 2008, p. 3). In such a context, the employment contract is the only mechanism available at present to advance both employers' and migrant domestic workers' rights and obligations. This contract specifies wages, working conditions and employers' responsibilities.

Secondly, the *kafala* system gives the sponsor/employers huge control over the migrant workers. This situation is extremely unsatisfactory to domestic workers, as in almost all cases, they are live-in workers residing with the employer. As shown earlier, several studies and reports have noted instances of withholding passports, working for the sponsor without an *iqama*, restriction of movements, detention at home, restriction of communication, and withholding/non-payment of wages. The exit visa requirement is another measure leading to unsatisfactory consequences. Domestic workers who work under abusive conditions are unable to return home if the employer refuses to provide consent to obtain an exit visa and the employees then become illegal workers. For example:

It is responsible for hundreds of foreign domestic workers being stranded - at any given day - inside their embassies or consulates in Riyadh and Jeddah, respectively, without diplomatic appeal or hope of returning home. It has also caused thousands of domestic workers, 19,000 in the year 2000 alone according to the International Labor Organization, to escape their employers'

homes and become part of a significant subgroup of the illegal migrant population.

(Migrant Rights, 2010)

Thirdly, recruitment practices in Saudi Arabia through the vast network of agents contribute to the existing vulnerabilities of domestic workers. The Saudi labour recruitment industry is a vast, profit-minded but poorly-monitored system. Recruiting agencies often ignore or reject domestic workers' requests for help. In some cases where the domestic workers wish to return home, agents transfer the workers to other employers instead of sending back to home countries to avoid repatriation costs (HRW, 2008, p. 3).

Fourthly, *Sharia* law and Islamic politics lead to a triple discrimination against domestic workers as foreigners, as unskilled workers and as women. Practices of sex segregation and discrimination against women in Saudi society contribute to further marginalisation and exploitation of domestic workers. The justice system is also rigid and as a result, migrant workers face an uphill battle in having to go through the system. Among the problems they face are:

uneven or severely delayed access to interpretation, legal aid, and access to their consulates; spurious counter charges of theft or witchcraft from their employers in efforts to mask mistreatment; and discriminatory and harsh morality laws that criminalize mingling with unrelated men and engaging in consensual sexual relationships.

(HRW, 2008, p. 7)

Furthermore,

Domestic workers who have been victims of rape or sexual harassment but who cannot prove it in accordance with strict *Sharia* evidential standards may also be subject to prosecution for immoral conduct or adultery. Punishment for this range of crimes includes imprisonment, whippings, and in some cases, the death penalty.

(HRW, 2008, p. 7)

There is also a lack of clarity about procedures at labour courts and other dispute mechanisms (Varia, 2011, p. 276). Victims of abuses receive little attention and redress mechanisms are inadequate. One recent example is the case of a Sri Lankan under-age domestic worker, Rizana Nafeek, who is facing the death penalty in Saudi Arabia. Her case has generated a high media interest in Sri Lanka and among migrant and human rights activists worldwide:

When Rizana was 17, she went to seek work with an employment agency in Sri Lanka. The agency exploited this opportunity and encouraged the underage girl to

alter her age on her passport. She arrived in Saudi Arabia and was set to work as a maid. She had no experience in child care and Saudi labour law apparently distinguishes between the job description of a maid and that of a nanny. However, she was given charge of the family's new-born baby. One day, when Rizana was left alone to bottle-feed tragically the baby choked to death. The baby's parents handed Rizana to police and, under interrogation, she 'confessed' to strangling the baby. On June 16th 2007, Rizana Nafeek was sentenced to death.

Rizana's death sentence shocked the world and hit the headlines. The President of Sri Lanka got involved and an appeal was filed on Rizana's behalf by human rights organisations. The Sri Lankan Embassy provided a lawyer, whose fees were paid by the human rights organisations, and also an interpreter.

Rizana retracted her confession and explained to the lawyer that she had been forced to confess under duress, following a physical assault. Moreover, the true date of birth on Rizana's passport meant that she was only 17 when the baby's death occurred, meaning that Rizana was a 'minor' under international law. Rizana is said to have had no access to lawyers during her pre-trial interrogation or during the trial. The 'translator' appears to have had no credentials for translating between Tamil and Arabic, and is rumoured to have been a sheep-herder.

Rizana's death sentence was set aside. The Supreme Court referred the case back to the original court at Dawadmi for further investigation. The original 'translator' has since left the country and witnesses called upon to verify his credentials have not turned up. The court also called for the person who originally took down Rizana's alleged confession. It is not clear if this is the same person but it appears the court has not been able to locate him.

The lawyer wrote in a letter to the Asian Human Rights Commission, "Now, this verdict will be sent to the higher authorities and the Council of Ministers for approval or it may be reviewed by the king. On the other hand, we want to assure you that we are still doing our best in this case and are not sparing any effort, and this is being done in coordination with the Sri Lankan Embassy in Saudi Arabia and with many concerned Saudi officials to get the parents of the dead infant to withdraw their claim. When blood relatives agree to withdraw their claim, then her punishment will be voided.

Source: Safe World for Women (2010)

This case shows the way the employers try to manipulate justice in their favour in situations of family tragedy.

Finally, it is important to note that contract labour migration is associated with labour market dualism. The highly segmented labour market in Saudi Arabia has particularly marginalised migrant domestic workers in terms of wages, working conditions and protection of rights. Saudi Arabia has no minimum wage for migrant workers. The wages vary according to nationality, religion and work experience (Migrant Rights, 2010). Table 6.8 illustrates the wage differences between the USA and West Asia.

Table 5.8: Occupations vs. wage estimates in USA and the Persian Gulf (Annual mean wage US\$)

Occupation title	US wage estimates	Gulf States wage estimates
Maids and housekeeping cleaners	20,290	2,184
Building cleaning workers	28,660	2,184
Ground maintenance workers	27,180	2,184
Financial managers	110,640	Same or higher
Human resource managers	103,920	Same or higher
Engineers	80,820	Same or higher
College social science teachers	74,720	Same or higher

Source: (Auwal, 2010)

According to Table 6.8, skilled workers in both the USA and the Gulf receive the same or more wages (with additional benefits) whereas unskilled workers in the Gulf receive 10 percent or less of their counterparts in the USA. An unskilled worker in the USA is paid nearly 30 percent of the salary of a skilled worker, but in the Gulf States it is nearly 2 percent. In comparative terms, unskilled workers are largely underpaid. There are wage differences within the categories in terms of race/ethnicity. For example, the monthly wage for a domestic worker ranges between US\$200 and US\$ 400 and women from the Philippines receive more than the other Asian and African women.

The Saudi Government has developed its economy through migrant labour mainly from poorer Asian countries. It has introduced policies which aim to protect the socio-cultural environment and political structure as well as privileged position of its own population. Researchers argue that one way that policies and procedures in GCC countries related to migrant workers strengthen political power is by allowing civil society members to hire domestic workers with flexibility: ‘the increasing dominance of domestic house workers is part of an unspoken “bargain” between the state and the emerging civil society, by which the state provides a leisure life in exchange for complete political control’ (Sabban, 2004, p. 90). Further, Bustamante (2002) identifies structural and cultural nature of vulnerability in a given country as a basic premise concerning migrants’ rights. This situation is prevalent in Saudi Arabia. The structural nature of vulnerability derives from the existence of power structure between nationals and migrants. The cultural nature derives from a set of cultural elements such as stereotypes, prejudice, racism, xenophobia, ignorance and institutional discrimination. Bustamante notes:

The combination of power differentials based on a power structure where immigrants are at a lower level than nationals with the set of cultural elements which justify it results in various degrees of impunity for the cases of violation of the human rights of migrants. This impunity becomes an empirical indication of the powerlessness of the migrant, which is equal to his or her vulnerability. Impunity here is understood as the absence of economic, social or political costs for the violator of the human rights of a migrant.

(Bustamante, 2002, p. 339)

This discussion shows the abovementioned structural and cultural conditions play a huge role in Saudi Arabia in enabling and maintaining abuse and exploitation of migrant workers.

While the abovementioned weaknesses continue to exist, Saudi Arabia and some GCC countries have taken steps to protect domestic workers' rights as a result of intensified pressure by international bodies and human rights groups. Saudi Arabia established the Human Rights Commission to address and examine human rights violations of migrant workers. The National Human Rights Association was established in 2004. Governments of Bahrain, Kuwait, UAE and Lebanon have taken some initiatives to reform existing labour migration policies. They have drafted, or announced intentions to draft, separate legislation on domestic workers. However, these processes have stagnated with little movement or no specific timelines for action (Varia, 2011, p. 274). As stated earlier, Saudi Arabia is in the process of considering alternatives to the *kafala* system and the protection of domestic workers' rights. A proposal has been developed to transfer sponsorship to large recruiting agencies. The Shoura Council passed an annex to the labour code on domestic workers in 2009 after years of discussion. The first proposal did not work out as expected and there were issues on regulating working hours in the bill. In the last round of discussion, a clause requiring employers to provide domestic workers with rest between 10.00 p.m. and 5.00 a.m. was deleted because it 'contradicted' the needs and traditions of Saudi families (*Khaleej Times Online*, 2009; Varia, 2011).⁴² The labour code mentioned above is yet to be approved by the parliament or signed into law by the king.

⁴² Domestic workers are required to perform their duties at night time during Ramadan.

Summary

This chapter has provided a macro picture of Saudi Arabia as a labour importer showing how the country struggles to balance economic progress with maintaining its traditional culture and political institutions. It discussed the economic, political and socio-cultural context of Saudi Arabia, demand for migrant workers, legal framework, recruitment practices and marginalisation of migrant domestic workers. The country is situated in a region which is a strategic focal point in world politics and economics. Saudi Arabia is a primary exporter of petroleum, a popular destination country for migrant workers and one of the top remittance senders in the world. Oil wealth brought Saudi Arabia to global attention. The fact that it is located in the heartland of Islam has shaped the country's socio-economic context. Oil wealth together with urbanisation, education, technology, manpower, rapid economic development and geopolitics led to structural changes in Saudi Arabian society. However, systematic discrimination against women is still in practice, denying them equal access to employment, healthcare, public administration, equality before the law and a range of other rights.

Saudi Arabia's labour migration is shaped mainly by two factors: the huge demand for migrant labour and its temporary nature. The oil-based economy was developed through migrant labour largely from the South while the state policies are aimed at protecting the socio-cultural environment and political structure and privileged position of the local population. Saudi Arabia became the most popular destination country for skilled and unskilled Asian workers. This is partly because Asian workers are perceived to be compliant, less expensive to employ, easier to lay off and efficient. The demand for migrant workers increased due to several demographic, socio-economic and political factors, such as a relatively small demographic base, labour shortages, the low skill levels of the national work force, the development of the infrastructure and service sectors, and reluctance of locals to engage in certain jobs. Available opportunities for women range from being domestic workers to medical professionals but the largest number work as domestic workers.

Saudi Arabia follows immigration laws and procedures that have been largely shaped by economic and political considerations. Reforms in the public administration system, immigration and labour laws based on *Sharia* in this context are bound to face challenges.

The other characteristics observed were dominant political structure, strict laws and regulations in recruitment system, minimisation and rotation of the migrant workforce, and preference for national workers. The Saudi labour law covers migrant workers but it excludes particular unskilled migrant groups such as migrant domestic workers.

It was revealed that the labour origin countries have little bargaining power to set minimum standards. The Saudi Arabian Government has not ratified any ILO or UN convention on migrant workers and not many labour origin countries have bilateral agreements with the country. Instead they rely on MOUs which are not legally binding. An increasing class gap between Saudi nationals and migrant workers has emerged in this context.

The chapter showed that the *kafala* is the sponsorship system which operates as the migrant worker recruiting system. This system was established to ensure control over foreign labour by providing a legal foundation that binds a migrant worker to one *kafeel*. It is manipulated by the employers leading to ill-treatment and exploitation of migrant workers. This system gives unreasonable powers to the *kafeel* and it binds workers to the employer. The need to surrender passports, lack of freedom to move, lack of collective bargaining powers, the ability of the employer to punish the worker, and the lack of transparency in complaint procedures are examples of the restrictions that migrant worker women have to work under. The workers often experience humiliation and xenophobic behaviour, as well as labour rights and human rights violations. They are caught in a trap due to lack of legal, economic and human rights on the one hand and the power accorded to employers in the informal domestic sector on the other hand. Forced labour, trafficking and slavery are some of the consequences.

The legal framework and discriminatory practices towards migrant workers, together with Islamic politics, marginalise unskilled workers, especially migrant domestic workers. Exclusion from the labour law, rigid practices in the *kafala* system, poorly monitored recruiting agencies, *Sharia* law and Islamic politics such as practices of sex segregation and discrimination against women are noteworthy. Female domestic workers face triple challenges by way of marginalisation, discrimination and exploitation as foreigners, as unskilled workers and as women. Even though the Saudi Arabian Government has taken some steps to address some of the issues facing migrant workers, marginalisation of

domestic workers in terms of wages, working conditions and protection of rights persist. This chapter described four areas of vulnerability of workers. Lack of transparency in the dispute resolution system and the undue power exercised by the employer in comparison to the migrant worker in the process, coupled with the inefficiencies in the labour governance and regulation structures and processes, make Saudi Arabia a country that does not meet the list of expectations on worker rights as outlined by the Human Rights Watch.

The protection of migrant workers' rights in Saudi Arabia has long been of interest to researchers, migration experts, NGOs, human rights organisations and the media. Although international bodies have called on the country to make changes in existing labour laws and to sign and ratify international treaties to reduce the vulnerability of migrant workers, tangible and effective steps are yet to be taken. The next chapter will present the findings of the empirical study examining Sri Lankan female domestic workers' experiences and challenges when they worked in Saudi Arabia.

CHAPTER 7

Overview of the Migration Experiences of Sri Lankan Domestic Workers in Saudi Arabia

Introduction

This chapter builds on Chapters 4, 5 and 6 to provide an overview of Sri Lankan domestic workers' migration experience in Saudi Arabia. The chapter addresses the research question three of this study, 'what are the experiences of Sri Lankan domestic workers in Saudi Arabia in terms of labour migration procedures, working conditions and labour protections', by presenting the researcher's findings on domestic workers access to relevant information, opportunities and benefits in overseas employment. It also assesses their wellbeing and work conditions to ascertain if these are fair and equitable against the procedures set in place by the governments in Sri Lanka and Saudi Arabia.

Domestic work represents the single most important category of employment for Asian women migrants. Importantly, Sri Lankan women form a significant percentage of workers in the GCC countries, especially in Saudi Arabia. In earlier chapters, the policy gaps contributing to marginalisation, vulnerability to malpractices, ill-treatment, exploitation and abuse of migrant domestic workers in Sri Lanka and in Saudi Arabia were identified. This chapter is based on an analysis of the responses of returned Sri Lankan domestic workers from Saudi Arabia in relation to their work conditions, protections and procedures. It highlights the inequalities experienced by these women workers in terms of access to accurate and adequate information on migration process and procedures, rights and obligations, working conditions, and protections.

7.1 Demographic profile and socio-cultural characteristics of the sample

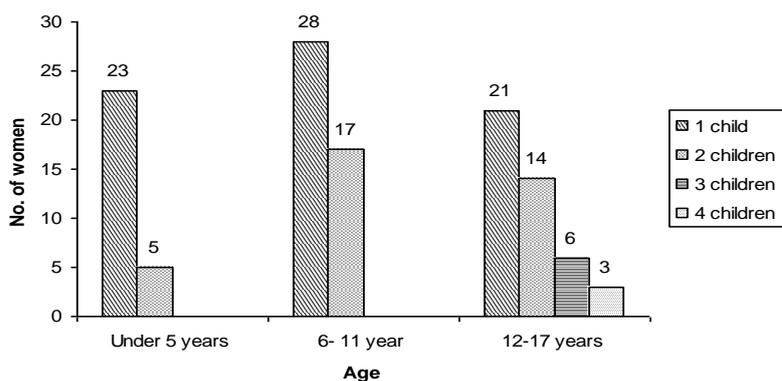
This sample study comprises 100 returned female migrant domestic workers. All the selected women returned from Saudi Arabia in 2008 with or without completing their contract period. The basic demographic data of the sample population refers to Table 3.1. Accordingly, a majority (41 women) were from age cohort 35-44. A quarter of the respondents were from a younger age group (25-34) and another quarter from a higher age group considered above middle-age by Sri Lankan standards (45-54). The last group may be considered as being experienced in domestic work along with those in the age

group 35-44. Inclusion of the sample of relatively young females for domestic work in Saudi Arabia is thus noteworthy.

Even though the sample was not selected using ethnicity or religion as criteria, it includes the main ethnic and religious groups in Sri Lanka; 80 percent of the women were Sinhalese; 15 were Muslims; and five were Tamils. In terms of religion, 70 women were Buddhist, 15 were Islamists, 10 were Christian and five women were Hindu.

The majority of women interviewed (78) were married. Another eight were widowed and seven were separated from their spouses. Marital status is an important marker because the female domestic worker occupation appeals to married women, and those either separated or widowed compared to those never married category (6 women). The migration of married women also poses various socio-cultural and marital problems for the families left behind even though there is an economic gain (increase in family income). This is particularly the case for women who have children. Mothers made up 93 of the sample and a majority (58) had between one to two children (Figure 7.1).

Figure 5.2: Migrant domestic workers’ children left behind and age details



Source: Interview data

As shown in Figure 7.1, 28 women had one or two children under age five years, and 45 women had children aged between ages 6-11 while 44 women had children aged between ages 12-17 years. This is not an unusual situation given the age range of the women interviewed. The total number of children of women in the sample was 117. In the sample, seven women did not have children, and among them only one was a married woman. The majority of children were of school-going age (6-17 years). This is a

significant indicator reflecting the income needed to send children to school. However, it should be noted that women have low education levels.

With regard to the level of formal education, only 11 women had received a secondary education. The majority of the women (80) had primary education only. When we add another nine to this figure of those who did not have any formal education, it is clear why married women form an important component of Sri Lankan domestic workers and are specifically poorly educated married women with children. Also, 12 women were not literate in their mother tongue (Sinhala or Tamil). In Sri Lanka, where educational achievement is highly regarded and is a key factor in obtaining local employment, these women may have had a difficult time in finding local employment. This finding is confirmed by Jayaweera and Dias (2009) and Oishi (2005) who state that most of the female migrant workers going to West Asia are from lower educational backgrounds.

These women require conversational skills in Arabic to work in Saudi Arabian homes. Although nearly eight percent of the population of Sri Lanka is Muslim, their mother tongue is Tamil and knowledge of Arabic is limited only to religious matters. The different language abilities of the women are presented in Table 7.1.

Table 5.9: Language ability of migrant domestic workers

Language	Speaking skills					Reading & writing skills				
	VG	G	F	No	Total	VG	G	F	No	Total
Mother tongue	100	--	--	--	100	19	51	18	12	100
Arabic	64	31	5	--	100	--	--	8	92	100
English	--	2	26	72	100	--	--	10	90	100
Other	--	1	8	91	100	--	--	--	--	100

Index: VG - Very Good, G - Good, F - Fair, No - No knowledge

Source: Interview data

As shown in Table 7.1, 12 women were unable either to read or write in their mother tongue while 64 women could speak Arabic fluently. Given the fact that 80 percent of women were Buddhists (by implication of Sinhalese ethnicity), this is a remarkable achievement on their part. Interestingly, nine women can speak in French and all of them worked in Lebanon previously. While the number of Arabic speaking women in the sample is high, we need to remember that these are 'returned women'. Therefore, they may have gained this language ability while being employed in Saudi Arabia. However,

21 women mentioned that lack of language skills was the main problem they faced during their first time in Saudi Arabia. Information presented in this section confirms the fact that these women did not have good educational opportunities or potential for employment within the home country so they had to look for work elsewhere (Brochmann, 1992; Eelens & Schampers, 1992; Gamburd, 2002).

7.2 Access to information on employment

Migrant domestic workers should have access to accurate and adequate information on the migration process, employment opportunities at home and abroad, the gains and pains of migration, the dangers and risks involved, and about workers' rights and obligations particularly at the beginning of the recruiting process in order to empower them to assert and defend their rights as migrants, as workers and as women (ILO, 2003d, 2003b), and to protect them from discrimination, exploitation and abuse. As discussed in Chapter 2 of this thesis, ILO Convention No.97 has provisions related to this, but neither Sri Lanka nor Saudi Arabia have ratified the convention yet; however, Sri Lanka has ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICMW). Articles 33, 37, 65⁴³ and 68 of this convention set out specific provisions for access to necessary information. By analysing the interviewed women's responses, this section examines whether Sri Lankan migrant domestic workers have access to accurate and adequate information on migration process and procedures including pre-departure training, registration with the SLBFE, employment contract, costs involved and information about their rights.

7.2.1 Access to information on the migration process

Ideally, as stated above, the prospective migrant workers should have adequate and accurate information on each and every stage of the migration process: recruitment, pre-departure, the journey, arrival and placement, work, termination and re-entry (ILO, 2003d, p. 17). ILO Convention No.97 sets out provisions to member states to take steps against 'misleading propaganda' relating to emigration and immigration. Receiving correct information about laws, regulations, procedures to follow, relevant institutions

⁴³ Functions of the state include 'provision of information and appropriate assistance to migrant workers and their families regarding requisite authorisations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations' Article 37(c)

and individuals during the decision making stage and before departure is important for them to be able to make informed decisions. This is even more the case for these women because of their low educational levels. Since female domestic workers are considered to be one of the most vulnerable group among migrant workers it is crucial to have access to necessary information to reduce such vulnerability (ILO, 2003c).

Access to information on job opportunities: qualifications, skills and training

The first step in the migration process is obtaining correct information about job opportunities and their details. Employment opportunities for domestic workers in Saudi Arabia are advertised in newspapers and on the television but, as Gamburd (2002) and Ruhunage (2006) have observed, the popular mode of information is word of mouth by sub-agents and personal networks. Table 7.2 shows the significance of these intermediaries in providing information to prospective migrant women.

Table 5.10: Reception of information about jobs overseas by migrant domestic workers

Source	Frequency	Percentage
From recruiting agent	28	28.0
From sub-agent	52	52.0
From relative/friend working there	17	17.0
Through a newspaper advertisement	1	1.0
Invitation from the previous employer abroad	2	2.0
Total	100	100.0

Source: Interview data

According to Table 7.2, for a majority of women (52 percent) the source of information of their job overseas was a sub-agent, while 28 percent contacted a recruitment agent directly, 17 percent migrated through their networks and only one found her job through a newspaper advertisement. However, whether these agents/sub-agents provide accurate information to the migrant workers is uncertain. Only 53 percent received the wage the agents told them they would be given and five percent had to do some other work. For example, one woman said:

I was told that there will be only two children in that house but there were six children.

-Respondent 50-

Another woman stated:

Although I was sent as a housemaid I had to work in a chicken run as well.

-Respondent 3-

Some 36 women mentioned that they selected Saudi Arabia as their destination country on the recommendation of the agent/sub-agent. One woman mentioned that she wanted to go to Kuwait and she also told her family that she was going to Kuwait. She learnt that she was going to Saudi Arabia only when she arrived at the airport with the sub-agent:

He told me at the airport that he will send me to Kuwait next time while giving my passport and the air ticket to Saudi Arabia.

-Respondent 94-

The Human Rights Watch (2008, p. 46) also observed this situation in Sri Lanka and this shows how some agencies take advantage of profit-making possibilities at the expense of domestic workers' safety and rights.

The Sri Lankan media regularly report on the issues faced by domestic workers⁴⁴ and the SLBFE receives the highest number of complaints about violations of labour rights and human rights in Saudi Arabia.⁴⁵ The wages for domestic workers are also lower in Saudi Arabia than in the other GCC countries (see Section 5.1.3), but still Saudi Arabia is the most popular destination country for Sri Lankan domestic workers. In 2009, 77,849 Sri Lankan women migrated to Saudi Arabia as domestic workers. This was 37.7 percent of the total domestic workers and 55.1 percent of the total Sri Lankan migrant workers to Saudi Arabia (SLBFE, 2010). Responses of the interviewed women about selecting Saudi Arabia as a destination country are summarised in Table 7.3.

⁴⁴ For example: 'Sri Lankan maid held captive for 16 years' (8 June 2011 *Daily Mirror*), Tortured Sri Lankan maid left disabled' (15 May 2011, *Ada Derana*)

⁴⁵ In 2009, 5,796 incidents were reported and 21.1 percent (1,232) were from female workers. Also, 333 deaths were reported from Saudi Arabia, which was 38.1 of the total in 2009 (90 males and 37 females) (SLBFE, 2010).

Table 5.11: Reason for migrant domestic workers to select Saudi Arabia as their destination country

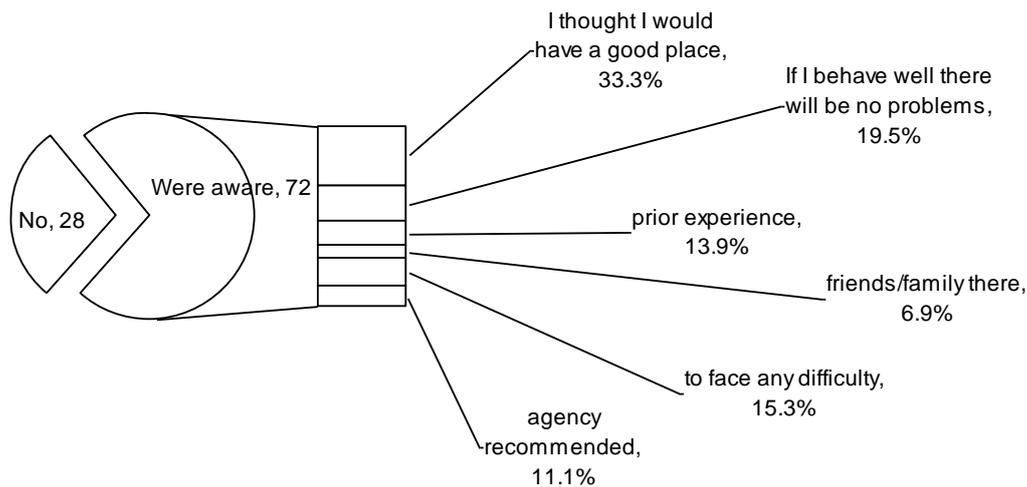
Reason	Frequency	Percentage
Agent/subagent's recommendation	36	36.0
Security reasons	16	16.0
Networks of friends/family	15	15.0
Due to age	10	10.0
Free of charge/need little money	8	8.0
To go to Mecca	6	6.0
Can go quickly	6	6.0
Prior experience	3	3.0
Total	100	100.0

Source: Interview data

Table 7.3 shows that the majority (36 percent) stated the reason as being the recommendation by the agent/sub-agent. Another 16 percent of women chose Saudi Arabia for security reasons. This is contrary to popular ideas about the insecurity of domestic workers in Saudi Arabia. These women explained that the strict laws, sex-based segregation within the house and outside, compulsory wearing of the *abayah* for all women, including foreigners, and limited mobility was good for their security. A further 15 percent selected Saudi Arabia on the basis of networks of friends and family. Another 10 percent gave the reason of age as the factor that determined their destination country, because women over 40 years of age are sent only to Saudi Arabia. Prospective domestic workers do not need to pay any fee for the agency, visa or air ticket, as the agency is paid for these by the employer. Eight women selected Saudi Arabia for this reason. Religious reasons were mentioned by only six percent of the women. This is understandable due to the significance of Mecca for Muslim women. This shows these women's reliance on agencies for information.

A question was asked about the knowledge that the women had or did not have about the ill-treatment of domestic workers in Saudi Arabia. Results revealed that 72 percent of women were aware of the ill-treatment in Saudi Arabia before their departure (Figure 7.2).

Figure 5.3: Migrant domestic workers’ awareness of ill-treatment in Saudi Arabia



Source: Interview data

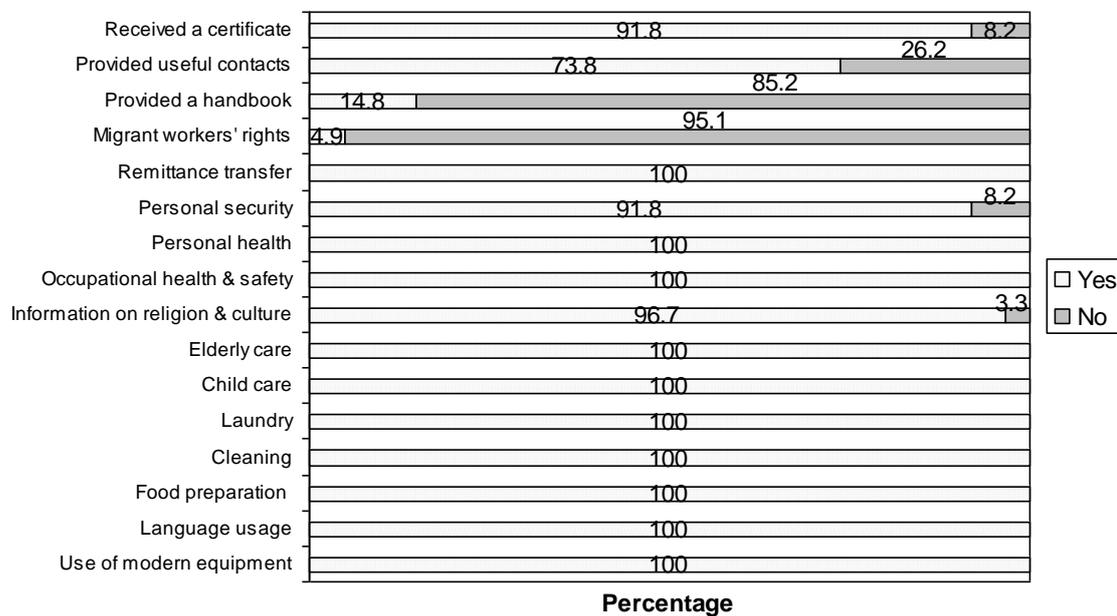
Figure 7.2 shows that 33.3 percent (24 women) of the 72 who were aware of the situation expected they would get a good place to work, and another 19.5 percent (14 women) believed that they would have no problem if they behaved well in the household. Some women had more confidence than the others about their future workplace due to prior experience (13.9 %) and the presence of family or friends in Saudi Arabia (6.9 %). Agency recommendation was also a source of confidence for 11.1 percent (8 women). Some 15.3 percent (11 women) were ready and willing to face any difficulty in their work place and country. Thus a significant number of women had high expectations that they would have a good place to work in Saudi Arabia for a variety of reasons. Although there is a component of personal security in the pre-departure training curriculum, it is doubtful whether the extent of violations of rights is discussed here. It mainly consists of the topic ‘how to protect yourself from violence’. The programme is designed as ‘pre-departure’ therefore it does not focus on the decision making stage.

As discussed in Chapters 5 and 6, unlike the Philippines, the Sri Lankan Government does not require any educational qualifications or professional experience of women to apply to be domestic workers abroad. Pre-departure training is the only pre-requisite. In addition, prospective migrant workers who cannot read and write their mother tongue participate in a basic literacy course. In 2009, participation was 8.8 percent (2,991 women) of the total domestic worker trainees (SLBFE, 2010). Pre-departure training is

also considered as a protective measure because it prepares prospective migrant workers for different aspects in overseas employment. This training programme is mandatory for first time migrants. Sixty-one percent of women interviewed had participated in the programme and five first time migrant women did not participate. Interestingly, three of these women who never had any experience or training mentioned that agents provided them with training certificates for the purpose of registration and the other two went through the networks. Another 34 percent had previous working experience in West Asia, therefore they did not want to participate. This shows that the information about training has been adequately received by the women.

The researcher asked several questions of those who participated in the programme. Figure 7.3 demonstrates the responses of women who attended the training about content.

Figure 5.4: Evaluation of the pre-departure training programme by Sri Lankan migrant domestic workers



Source: Interview data

According to Figure 7.3, all the women acquired knowledge and skills about the use of modern equipment, language usage, food preparation, cleaning, laundry, child care, elderly care, occupational health and safety, personal health and remittance transfer. However, 95.1 percent (58 women) of those who participated in the training mentioned that the training did not cover the component on rights of migrant workers. Fifty-two

women (85.2 percent) said that they did not receive a handbook with the necessary information, including useful contacts in the destination country to use when they needed them. There is a component on personal security in the pre-departure training programme which aims at preparing women to face critical challenges such as physical, verbal and sexual harassment. Five women (8.2 percent) were not aware of that component and four women among them received their training from private institutions. Another 8.2 percent mentioned that they did not receive their training certificates. This information shows that the training programme covered many useful aspects but there are areas that also need to be covered. A minority of women seemed to have not fully understood the importance of training or they were not properly informed.

The respondents of the study were asked to provide their opinion on pre-departure training. Women who attended the training had mixed opinions about the programme with regard to their later experiences. Table 7.4 illustrates the relationship between their perceptions and vulnerability to abuse.

Table 5.12: Migrant domestic workers perception of on the pre-departure training programme

Perception	No.	%
Very useful	20	32.8
Useful	15	24.6
Somewhat useful	6	5.8
Not that useful	20	32.8
Total	61	100.0

Source: Interview data

According to Table 7.4, 32.8 percent mentioned that the pre-departure training was very useful while another 32.8 percent stated it was not that useful. A majority of those who stated that the programme was not that useful (80 percent) faced problems during their work in Saudi Arabia. For example:

We should know to follow the training properly. When you go there burdened with your home problems you can't remember anything you learn. The training is fully worthwhile. Those who have got less education find this hard to understand. Those who are sent should have at least gone up to grade 5.

-Respondent 39-

Another woman said:

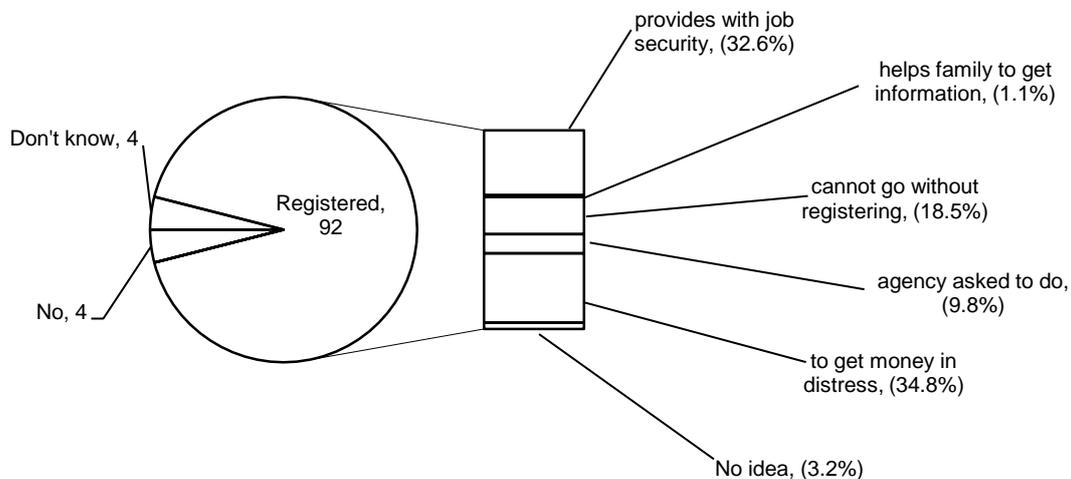
The training is insufficient. As you go there for the first time, your head starts spinning. We don't understand the language also. They told me in Arabic to put the trolley into the dickey (car boot). I put the 2 children into the trolley. The training should be at least three months.

- Respondent 64-

Access to information on procedures: Registration with the SLBFE

Mandatory registration with the SLBFE is another measure that aims to protect Sri Lankan migrant workers from ill-treatment and exploitation in the host country. The SLBFE maintains details about the workers and the registration provides insurance for the contract term (2 years in many cases) (see Section 5.1.1). The researcher sought to find out whether the interviewed women were adequately informed about the mandatory registration and its importance. Figure 7.4 presents their responses.

Figure 7.4: Reasons for migrant domestic workers to register with the SLBFE



Source: Interview data

According to Figure 7.4, a majority of 92 women registered with the SLBFE before their departure. Of those four women that chose not to register said they did not register and another four said they did not know about it. Five women of those who did not register had found their jobs through sub-agents whereas another two women migrated through their networks. A majority of 92 women among those who registered (76.1 percent) did not have a clear idea as to why they needed to register. As shown in the figure, 34.8 percent registered with the Bureau with the view of getting money back in a situation of distress. 18.5 percent said they could not leave the country without registration, 13

percent did not have any idea, and some 9.8 percent had registered because agents asked them to do so. Most of these women understood this procedure as a means of ‘getting insurance’. Only 32.6 percent (30) mentioned that registration provides job security. This implies that most women interviewed had registered and knew the value of it, that is, job security and assistance in distress. Only a minority did not know the purpose.

The researcher inquired the women about who asked them to get registered with the SLBFE. Seventy-four women (80.4 percent of those who registered) mentioned that agents or sub-agents asked them to do so, while another 10.9 percent said they received relevant information at the training. Four women registered at the SLBFE surveillance desk at the Colombo airport which has been established to check authenticity of migrant workers’ documents. It is noteworthy that the majority learned about the registration through sub-agents rather than from their training.

Access to information on procedures: Employment contract

As mentioned in the previous chapters, the employment contract is the only protection mechanism available to protect migrant domestic workers’ rights in Saudi Arabia. Signing of a contract with the SLBFE is mandatory. Without an employment contract the worker cannot obtain an *iqama* or resident permit in Saudi Arabia. Despite these regulations, only 67 women in the sample had signed a contract. 80.6 percent (54 women) said the contract was in Arabic but the rest (13 women) had no idea about the language. Only five women stated that they had asked for an interpretation. Moreover, the law sets out that the employee has to receive a signed copy of the employment contract but only 12 women received a copy. The fact that the contract is in Arabic can disadvantage migrant women from Sri Lanka because the language of the majority of them is Sinhalese or Tamil. As observed earlier, a majority in the sample had acquired fluency in speaking Arabic, but the issue is whether they can understand the meaning of a written document.⁴⁶ Furthermore, women who migrate for the first time may have difficulties in understanding the terms of the contract. According to Saudi law, if the worker breaks the contract he/she has to leave the country immediately at his/her own expense. If the worker runs away from the employer he/she is subject to arrest and

⁴⁶ Only 8 percent had fair ability to read and write Arabic after completion of the contract.

deportation (Halabi, 2008, p. 43). This information is provided to the women at the training.

Only 61 women had completed their contracts; 39 of the women, a significant part of the sample, stated that they terminated the contract due to reasons such as illness due to overwork, harassment, wage issues, personal health problems and because of problems at home. One woman who terminated the contract for personal reasons stated:

At the beginning I felt sad when I remembered my home. My child is 1½ years old. I still had milk, and cried when I saw it. I didn't do any work then. So the people took me to an office, I think it must be the agency. I was there for four days. Later the same Baba⁴⁷ with Mama⁴⁸ came and took me back. I was asked to stay with them for at least three months.

-Respondent 75-

Another woman stated:

As I kept falling ill, chest problems because of the hot weather and air conditioning, all the houses I went to brought me back and handed me over to the agency. Although I said I wanted to go back to Sri Lanka, the agency kept putting me into various houses, saying that it was a loss to them. One year later I came back.

-Respondent 47-

In Saudi Arabia it is difficult for the worker to change their employer under the *kafala* system even in abusive conditions (Halabi, 2008; HRW, 2004a; Sabban, 2004). Details of this system were provided in Chapter 6 (see Section 6.4.2). The researcher wanted to know whether the interviewed women worked for the same employer for the whole period. Results show that 80 percent of interviewed women worked for the same employer during their tenure in Saudi Arabia, while 20 percent changed their employer. Reasons for changing the employer varied: the agency changed the employer (9 %), the employer sent her to the agency/relative (6 %), and the woman herself changed the employer (5 %). This shows early termination of work as a significant feature among women interviewed. Hugo (2001) also observed premature termination among Indonesian domestic workers in West Asia. The researcher sought to find out whether there was any relationship between early termination and the experience of the worker. Table 7.5 shows the results.

⁴⁷ =boss/male employer

⁴⁸ = madam/female employer

Table 5.13: Relationship between early termination of migrant domestic workers and their experience

Nature of the worker	Terminated		Completed		Total	
	No	%	No	%	No	%
First time workers	12	85.7	2	14.3	14	100.0
Experienced workers	27	31.4	59	68.6	86	100.0
Total	39	39.0	61	61.0	100	100.0

Source: Interview data

Table 7.5 shows that the majority of first time workers (85.7 %) terminated their contracts early in comparison to experienced workers (31.4 %). Similar results to Hugo’s study (2001) on the factors that contributed to a higher rate of early termination were found in Sri Lanka. These include lack of information, inadequacy of training and unethical practices of the employers including wage issues.

Sources of information

Obtaining accurate and adequate information about the migration process including laws, regulations, procedures and their meaning is vital for the female migrant workers and their wellbeing. There are government and social actors such as NGOs, religious organisations, community-based associations and the media functioning as sources of information (ILO, 2003d). The main source of information on international labour migration in Sri Lanka is the SLBFE. The Bureau distributes a range of information through its website, regional offices and through leaflets, but access to many of these sources is limited for prospective domestic workers due to low literacy rates, distance and lack of resources. When the interviewed women were inquired whether they have visited the SLBFE or the regional office it was revealed that only 45 women had visited the SLBFE. Another 4 women said their family members visited while they were abroad to obtain information when they did not contact home. Of the 45 women, 35 women visited the SLBFE for administrative procedures such as signing the employment contract and for registration. Others visited to lodge complaints (6 women) and to collect their compensation (5 women to receive Kuwait Compensation and one woman to get compensation for injury in a previous contract). Thus, the SLBFE functioned as a main point of contact for not only the migrant workers but also their family members as well.

In spite of this institutional framework, researchers observe that because of low educational levels and being resident in rural areas prospective migrant women rely more

on sub-agents who come to the villages and networks of family and friends to receive information (Dias & Jayasundere, 2002; Gamburd, 2002; HRW, 2007). As previously shown, the findings of this study also confirm this. Accordingly, information about the job, selecting the destination country, information about pre-departure training, employment contract and registration with the SLBFE were mainly received from agents or sub-agents. One reason for relying on these intermediaries is that their assistance is available from the preparatory stage to departure. Table 7.6 shows this.

Table 5.14: Assistance obtained by migrant domestic workers at the preparatory stage

Activity	Herself	Networks	Agent	Subagent	Other	Total
Obtaining passport	29	22	23	25	1	100
Obtaining visa	--	18	55	27	--	100
Preparation of documents	--	13	61	26	--	100
Getting medical reports	--	27	34	39	--	100
Accompanying to airport	--	8	32	55	5	100

Source: Interview data

According to Table 7.6, recruiting agents and sub-agents assisted women in the preparatory stage more than informal networks and others. Recruiting agents assisted 55 women in obtaining visa and 61 women in the preparation of documents. Sub-agents assisted 25 women in obtaining passports, 39 women with medical examinations and accompanied 55 women to the airport on their departure. This information shows the important role that agents who are licensed private operators and unregistered sub-agents play in the crucial pre-departure stage, as revealed by some researchers (Gamburd, 2002; Ruhunage, 2006), in the context of the role of the SLBFE which is limited to regulating and monitoring labour recruitment. As Martin (2005) notes, the service of recruiting agents is understudied. However, their operations are not without problems. Often these women face a degree of exploitation, abuse and treatment as a commodity rather than as human beings, especially due to their lower educational, economic, regional and class contexts.

7.2.2 Access to information about costs and safe remittance transfer

Whether the prospective migrant workers have adequate access to information about gains and pains, and the dangers and risks of migration before their departure is an important question in terms of preventing exploitation and abuse by unscrupulous agents

and sub-agents. Migrant workers should also be informed before departure about the costs of migration and about safe transferring of their remittances.

Access to information about the costs of migration

The costs of migration include not only economic or financial costs such as recruitment fees, charges for passports and visas, and travel costs but also social costs (ILO, 2003d). Financial costs cannot be separated from social costs in the context of labour migration which is an export industry. There is a risk that migrant workers become commodities and recruiting agencies become merchants of labour.

It is important to examine the differences between officially recommended fees and the actual fees paid by the migrant workers. Since Saudi Arabia has a different practice in recruiting domestic workers compared to other migrant workers prospective domestic workers do not need to pay recruiting fees. In Saudi Arabia the employer is required to bear the cost of recruitment and transit of the domestic workers, which is approximately 5,000 - 9,000 Riyals per worker (HRW, 2008, p. 48). The researcher inquired whether the interviewed women had access to accurate information about the fees involved in their employment overseas. Table 7.7 illustrates the official costs and the amounts paid by domestic workers. The third column is quoted from a study by the Human Rights Watch and the last column is compiled by the researcher using the responses of women interviewed.

As shown in Table 7.7, despite these being official costs established by the government, findings of both the Human Rights Watch study and this research show that Sri Lankan domestic workers pay higher than officially recommended fees for their employment abroad, with the amounts being similar. Women in the researcher's sample paid up to Rs.20,000 for the agency and the sub-agent (46 %). Among them, 16 women mentioned that agents deducted up to three months wages as an agent fee. In addition to the agreed agent fee with the sub-agents, some women indicated that they had to bear all the expenses of sub-agents including bus fares and meals on their trips to Kandy (to the agency and for medical tests) and Colombo (to the SLBFE, embassy and for medical tests).

Table 5.15: Official and reported recruitment fees paid by domestic workers

Item	Official cost	Amounts paid to agencies as reported to Human Rights Watch	Amount paid by the women interviewed*
Agent or subagent's commission	0 rupees	UAE: Rs.10,000-16,000 (US\$89-142) to subagent; Rs.35,000 (US\$311) to agent Kuwait: Rs.7,500-16,000 (US\$67-142) to agent; Rs.13,500-20,500 (US\$120-182) to subagent Lebanon: Rs.10,000-20,000 (US\$89-178) to subagent; US\$100-\$300 (1-3 months' salary) to agent Saudi Arabia: Rs.0-22,000 (US\$0-195) to subagent; Rs.0-15,000 (US\$0-133) to agent	Rs.0-15,000 to subagent, Rs. 0-10,000 to agent
SLBFE registration fee	Rs.5,980 (US\$53) for salaries below US\$90; Rs.8,855 (US\$79) for salaries US\$90-\$180; Rs.11,730 (US\$104), for salaries above US\$180	Included in commission fee above	Rs.0-5,800
SLBFE insurance	Rs.2,500 (US\$22) included in SLBFE registration fee above	Rs.5,000-8,000 (US\$44-71)	Included in registration fee
Passport	Rs.2,500 (US\$22) or Rs.10,000 (US\$89) for replacement passport	Rs.2,500-10,000 (US\$22-89)	Rs.2,500-15,000
Visa	N/A	Kuwait: Rs.4,000 (US\$36-US\$40) Saudi Arabia: Rs.1,500 (US\$13)	Rs.0-10,000
Medical testing	Rs.500 (US\$4)	Rs.1,500-7,500 (US\$13-67)	Rs.1,000-5,000
Travel to Colombo for medical testing and appointments with agent	N/A	Rs.5,000-10,000 (US\$44-89)	Rs.1,000-20,000
Return plane ticket	0 in most cases	0-3 months' salary	0-3 month salary
Total	Rs.8,980-14,730 (US\$80-131)	UAE: Rs.16,000-35,000 (US\$142-311) Kuwait: Rs.12,000-20,500 (US\$107-182) Lebanon: Rs.10,000-33,255 (US\$89-\$295) Saudi Arabia: Rs.5,000-22,000 (US\$44-195)	Rs.1,500-30,500

Sources: (HRW, 2007), *interview data

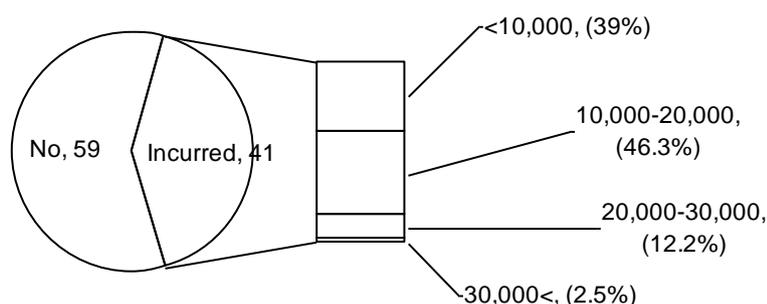
The standard passport fee for Middle Eastern countries is Rs.1000 and the fee for an ordinary passport to all countries is Rs.2500.⁴⁹ However, one woman said she had to pay Rs.15,000 to the agency to fraudulently alter her sister's passport in her name. Another woman mentioned that she paid Rs.10,000 as visa fee to the friend who helped her to find the job in Saudi Arabia. Thirty-two women who did not complete their employment contract for various reasons had to pay for the return air ticket to Sri Lanka. Accordingly, the average cost involved in migration to Saudi Arabia for the group studied is Rs.20,000.

As Human Rights Watch (2007, p. 23) observes, agents and sub-agents overcharge prospective domestic workers by inflating costs such as visa and SLBFE registration fees, or levy large fees when they change their placement service, in violation of the SLBFE Act. Under ILO Convention No 181 Private Employment Agencies Convention (1997), workers should not bear any costs associated with their recruitment. Specifically, the Domestic Workers Convention sets out provisions to take measures 'to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers'. However, these conventions have not yet been ratified by Sri Lanka and Saudi Arabia.

This situation is further complicated because many women do not know that the agents have already been paid for the recruitment charges and for their air tickets by the potential employer. In such a context, a key question is how these women find money to meet such costs as many of them come from financially disadvantaged families. The only option available to them is to borrow money. Figure 7.5 shows the amounts they borrowed.

⁴⁹ The Sri Lankan Government issues 3 types of passports to citizens: passport valid for all countries, passport valid for specified countries in South Asia and the Middle East, and emergency certificates for Buddhist pilgrims travelling to India and Nepal.

Figure 5.5: Debt incurred by migrant domestic workers for migration related matters (in Sri Lankan Rupees)



Source: Interview data

As shown in Figure 7.5, 41 percent mentioned that they had to borrow money to meet migration related costs. The amounts ranged from Rs.5,000 to Rs.50,000. Of these 41 percent, seven women had not settled their debts at the time of interviews. 16 of the interviewed women stated that their employers deducted their wages for up to three months in order to recover the agency fee they owed, and another eight women said that their employers had deducted one month wage for the agency. This shows that the majority of women were indebted either to the agency or to money lenders to meet the costs associated with migration because accurate and adequate information was not provided to them. Researchers (Gamburd, 2002; HRW, 2007) also provide evidence of this situation. The broader issue arising from this finding is whether the migrant women are caught up in a continuing ‘debt trap’, especially as a significant number borrow money and also return early.

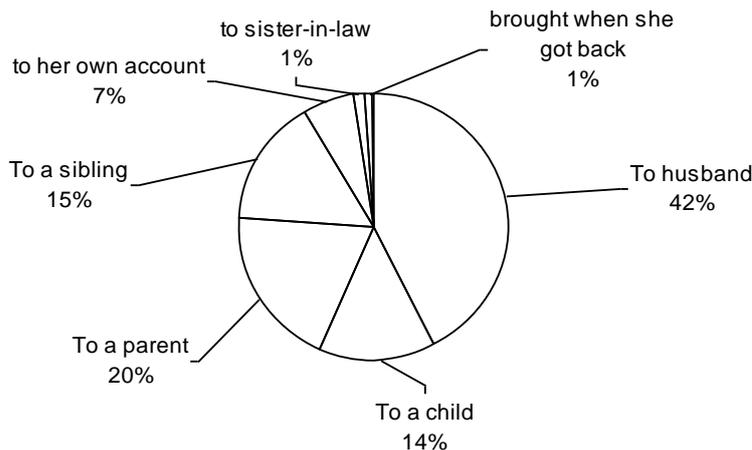
Access to information about safe remittance transfer

Migration is a survival strategy for many women however poor management of remittances is also observed among these women. Therefore it is necessary to provide information about safe transferring facilities and managing remittances responsibly (Shaw, 2008). The pre-departure training addresses this issue by delivering a component on financial management. It includes financial planning and savings, safe remittance transfer and use of remittances. The allocated time for the component is two hours. One interviewed woman mentioned that she brought all her overseas earnings home with her and eight women did not receive their wages from their employers. Others used regular

means (banks and authorised dealers) to transfer remittances as instructed in the training: post office (39 percent), bank (36 percent) and Western Union (16 percent). The findings show that the information is well received; however, as Shaw (2008, p. 9) points out, migrant workers bear high costs in remittance transferring due to inefficiencies in the Sri Lankan remittance market, for example it costs US\$13 to make a US\$100 transfer. These shortcomings include restriction of foreign exchange licences to commercial banks and the government postal service, the removal of incentives for competition and innovation and exclusion of credit unions and microfinance agencies, which in other countries have developed successful low-cost transfer services.

To have a responsible remittance management system, the person in Sri Lanka who receives money from these women is important. The researcher asked a question about to whom the women sent their remittances. The women’s responses to this question are summarised in Figure 7.6.

Figure 5.6: The person receiving the migrant domestic workers’ remittances



Source: Interview data

According to Figure 7.6, a majority of women (42 %) sent remittances to their husbands. This is not unusual given the fact that the majority of women in the sample were married. Those who sent remittances to their own bank account (7 %) were only those with a non-resident foreign currency (NRFC) account. One woman said she brought all her earnings with her when she came back home and until then her money was with the employer. It shows her trust in her employer but this is only one case out of 100. Interestingly, one

woman sent her remittances to her sister-in-law instead of the husband. Another woman said:

I sent the money to the bank in my name. That's what the bank told us during the training. They said to keep the money without spending it until we return. My husband agreed to that suggestion. He said he will take care of the children's expenses from his income until I come back.

-Respondent 41-

The fact that 20 percent sent money to a parent and another 14 percent to a child and seven percent sent money to a sibling is important in terms of family relations. This may imply a lack of trust in the husbands managing the money earned the hard way by migrant women. Seven women said their husbands or in-laws wasted money. Studies have shown that misuse of domestic workers' hard-earned money by husbands and family members is a common issue (Gamburd, 2002; Mook, 1992).

7.3 Working conditions for domestic workers

This section deals with returnee women's responses about their experiences at work overseas in terms of working conditions. It includes the provision of a compatible environment for work, working hours and the nature of the workload. ILO Convention No.97 makes provision for better working conditions for migrant workers: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holiday with pay and accommodation (Article 6 (1a). More specifically, Domestic Workers Recommendation No.201 ensures the living conditions: a separate private room that is furnished, adequately ventilated and equipped with a lock, with the key being provided to the domestic worker; access to suitable sanitary facilities, shared or private; adequate lighting, heating and air conditioning (as appropriate); and meals of good quality and sufficient quantity (Paragraph 17).

7.3.1 Provision of safe environment for work

Working conditions as defined in the study include the size of the family served, facilities provided for accommodation, food, healthcare, communication with family back home, practising religion, and recreational activities. A starting basis for examining the working conditions is identifying the type and the size of the households. According to the respondents, a majority of employer households were nuclear families (74), while 17 were extended families, and nine were joint families living in separate houses in one

compound. Since Arab families are relatively large, the researcher inquired about the number of people these women had to serve on a regular basis. Table 7.8 shows their responses.

Table 5.16: Number of people migrant domestic workers served on a regular basis

3 or less	4-6 people	7-10 people	11-14 people	15< people	Total
18.0	43.0	26.0	10.0	3.0	100.0

Source: Interview data

As shown in Table 7.8, 39 percent of women had to serve more than seven people regularly. The mean number of people served was 6.4. All the women in the sample were live-in domestic workers. Earlier it was revealed that 62 percent of the respondents had some knowledge of living conditions in Saudi Arabia before their departure, yet their actual experiences differ from such expectations.

Accommodation conditions

Table 7.9 illustrates the nature of accommodation that the women in the sample received.

Table 5.17: Nature of accommodation provided by the employers

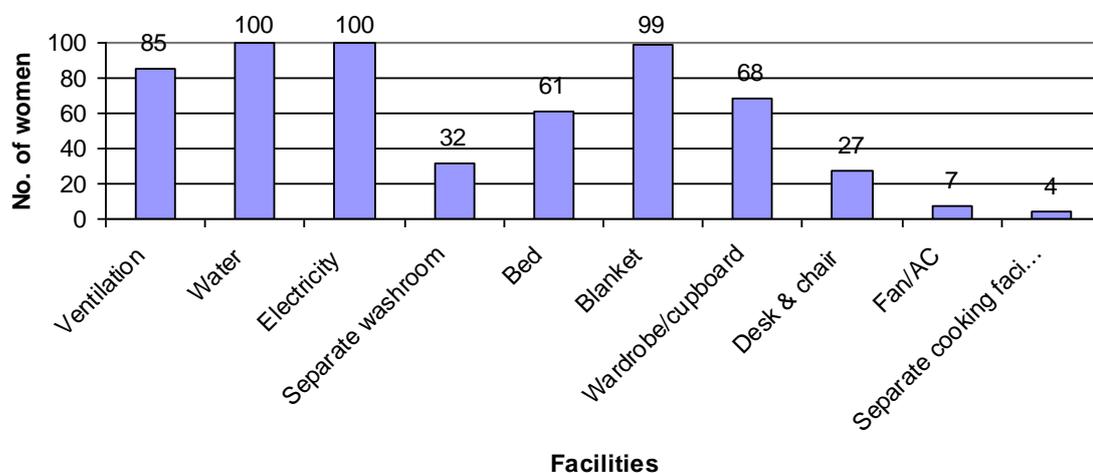
Nature of accommodation	Percentage
Separate room	47
Sharing with employer's family members	22
Sharing with co-workers	13
Sharing with husband	5
Open area	7
In the store room	6
Total	100

Source: Interview data

According to Table 7.9, 47 percent stayed in separate rooms, a further five percent were with their husbands working for the same employer and shared a room with their husband. Another 22 percent shared the room with the employer's children while seven percent women slept and kept their belongings in an open area. Three of these said their employers gave them the space under the staircase. These are similar to the accommodation arrangements for female domestic workers observed by the Human Rights Watch (2006b, 2008).

The facilities that employers provided are another aspect related to working conditions. In addition to the monetary reward, having good living facilities can make the life of the workers healthy, happy and contented. By the same token inadequate facilities can make their lives miserable. Figure 7.7 shows the women's responses on the topic.

Figure 5.7: Facilities provided for migrant domestic workers



Source: Interview data

Figure 7.7 shows that only 61 percent had a bed, meaning that 39 women said they did not have a bed to sleep in and 32 percent had no wardrobe or cupboard to keep their belongings in. They said that they kept their clothes in their travelling bag. Only seven percent were provided with a fan or air conditioning and they had to live and work in extremely hot climatic conditions. Four of the women who lived with their husbands were provided with separate cooking facilities. This information shows that the migrant workers have not been provided with adequate facilities by the employers. In this context, it is not difficult to understand these workers' sentiments about the treatment experienced, that is, treatment as slaves as observed by HRW (2008). Other studies also show similar problems with facilities provided by employers in West Asian countries (al-Najjar, 2004; Godfrey et al., 2004; Jureidini, 2004b; Sabban, 2004). This is an area deserving of further attention by authorities in labour origin and destination countries.

Condition of food received

According to the employment contract, the employer should provide meals for the domestic worker. There are differences in the food culture in Sri Lanka and Saudi

Arabia, and 79 percent stated that they were aware of Arabian food before their arrival. Even though all the women received free food, only 89 percent received three meals a day while 30 percent reported that they did not receive enough food, 37 percent mentioned that the quality and quantity of food they received was poor. Two women shared their experiences as follows:

They gave me the children's leftovers. That's yucky. But there's nothing I can do, can't help. Sometimes, the Sri Lankan maid in the neighbouring house put some food in a bag and secretly sent it to me.

-Respondent 25-

They gave very little food. The Indonesian maid next door gave me small portions of food whenever possible. One day when I was eating that food, the children cried. When I left the food and went the lady saw that. Thereafter she locked the fridge saying that I steal the food from the fridge.

-Respondent 80-

These details show that the employers and their families either did not understand their obligations to the workers in the food area or considered the needs of migrant workers as substantially different from their own. The women have to suffer in order to please the employing family and this is not a desirable situation. These women not only have to forego their customary food in the new work location but in addition have to face certain indignities.

Provision of healthcare facilities

According to the contract, the employer is responsible for providing free healthcare for the domestic workers during their tenure. It is designed in this way because of the importance of healthcare in the working life of migrant workers. When asked about healthcare facilities provided by the employer, 72 percent said that they received basic health and medical needs free of charge, nine percent mentioned that they had to pay for medicine and hospitalisation. Twenty percent stated that they had work-related illnesses. One woman explained:

The disinfectant they used for the toilets was Clorex. That affected my chest (maybe lungs). The disinfectants they use to clean the toilets and the carpets is very strong. I was hospitalised twice. I still have a shortness of breath, like asthma. They got me medicine from the government hospital. They deducted from my salary when I went out at night. They said those are private visits.

-Respondent 8-

Given the fact that these women do not earn substantial wages, having to spend money on medical expenses is an extra burden on them. Occupational safety and health of migrant workers is a major concern of the ILO as many migrant workers have to perform heavy physical labour for very long hours and consequently frequently suffer from poor general health and fatigue that leads to occupational injuries and work-related diseases (2010b, p. 106). This is against ILO Recommendation No.151 that covers occupational safety and health (Articles 20 and 22).

Provisions for communication with family back home

Another responsibility of the employer is providing communication facilities to a domestic worker to contact her family back home. According to the sample, telephone and post were the common avenues used (Table 7.10). Those who could not read or write said that they kept contact with family members through audio cassettes and telephone.

Table 5.18: Facilities provided for migrant domestic workers to maintain contact with family back home

How often	Mail		Telephone	
	No	%	No	%
Very often	1	1.1	2	2.0
Once a month	35	39.8	27	27.0
Once in 2 months	16	18.2	15	15.0
Hardly	7	8.0	22	22.0
Never	29	33.0	34	34.0
Total	88	100.0	100	100.0

Source: Interview data

As shown in Table 7.10, a majority of the women were allowed to contact home once a month using mail. Employers provided telephone facilities relatively less frequently. For 33 percent, the employer did not provide any avenue to contact home, 34 percent were never allowed to use a phone to contact home, and 26 percent said their employer did not post their letters home. One explained her disgust in the following terms:

While washing the car I came across my letters that I gave them to post; they were torn. They did not give me their address or the telephone number. Therefore I didn't know anything. My family had thought that I was dead.

-Respondent 80-

The Human Rights Watch (2004a, 2008) also observed the same situation in Saudi Arabia for Filipino, Indonesian and Sri Lankan domestic workers. Further, two percent said their

employer had opened their letters from home and 13 percent mentioned that although the employer provided them with phone cards to call home they had to pay for them. Table 7.10 shows that the employers' attitudes are not well disposed toward accommodating migrant workers' legitimate need to be in touch with their families back home. This is a right that the workers should have. Since these workers were not allowed to go out they had to be satisfied with what the employer provided.

Provisions for practising religion

The ability to practise one's own religion while abroad is a fundamental human right. It can provide much needed spiritual comfort for women workers who have to engage in continuous work in an alien environment without feeling isolated. However, some reports (US Department of State, 2011) state that Saudi Arabian employers do not allow migrant workers to follow their religion unless it is Islam. The researcher asked women whether they practised their religion in Saudi Arabia. Muslim women (15) mentioned that their employer allowed them to practice their religion, three of them saying that their employer allowed them to pray with female family members. However, 66 non-Muslim women (Buddhists, Hindus and Christians) mentioned they were not allowed to practise their religion. Another 19 said the employer did not question them about their religion. At the pre-departure training, 42 non-Muslim women were advised not to take any of their religious symbols to Saudi Arabia. Seven women said they were asked to convert to Islam. This information shows the hegemonic influence Islam plays in Saudi Arabia over foreign workers and the lack of religious freedom.

Provision of rest days and recreational activities

Not only is the freedom to practise one's own religion restricted, but also the rest days and recreation times are restricted in Saudi Arabia. The employer should provide the domestic workers with rest days and recreational activities as they are live-in workers, yet this was not the experience of the interviewed women. When analysing such information, it is necessary to be aware of the customs and practices in the country as far as the freedom given to Saudi women are concerned.

According to respondents, no women enjoyed rest days. For 25 percent of the women in the sample only limited recreational activities were allowed, for example watching television (15 %) and listening to the radio (10 %). The researcher inquired them how

often they met other Sri Lankans working in Saudi Arabia. Nineteen percent said they did meet with Sri Lankan workers very often while some 15 percent never met fellow Sri Lankans during their stay. Another 18 percent mentioned that although they met Sri Lankan workers in other households, for example at parties and in shopping malls, the employer did not allow them to talk to them. None of the women were allowed to go out alone, 27 percent were allowed to go out with somebody, particularly with a female member of the employer's family to their relatives' places or for shopping. Another four percent mentioned that they could go out to dispose of garbage with a co-worker. These restrictions would have made a considerable impact on the lives of female migrant workers from Sri Lanka as they would have enjoyed more freedom to interact with others outside home before going to Saudi Arabia. Thus the social and cultural as well as psychological costs of working in Saudi Arabia may outweigh the monetary returns received. This is an aspect that future researchers could study in more detail.

7.3.2 Working hours

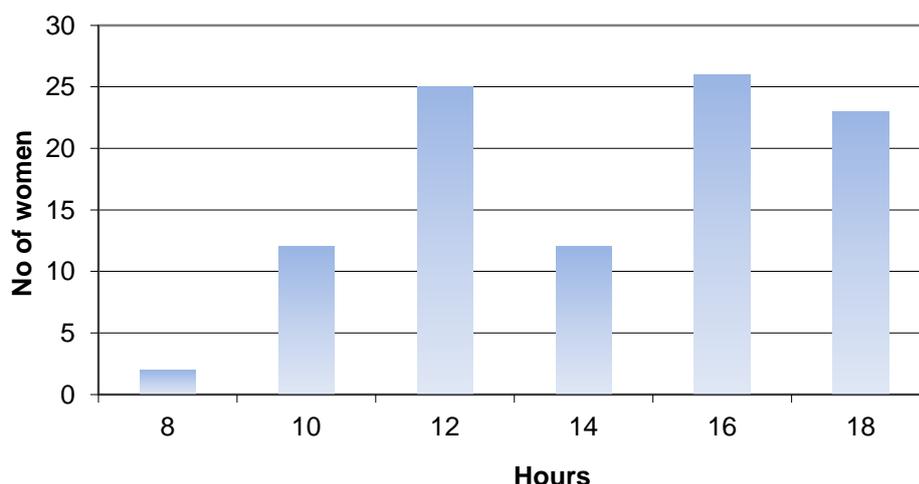
Working hours form an essential part of working conditions. The longer women work the more this can reduce the effectiveness of their work. Working hours beyond what is normally expected from a domestic worker can also cause physical and psychological injuries. Domestic Workers Convention sets out provisions in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave (Article 10). The weekly rest should be at least 24 consecutive hours. The employment contract of domestic workers also specifies the required number of hours of work per day. However, the participants of the study did not enjoy specific working hours. Their hours of work ranged from eight hours to 18 hours per day (Figure 7.8) indicating lack of regulation in this area and lack of adherence to the employment contract.

According to Figure 7.8, a quarter of the sample (25 women) had to work 12 hours a day and another quarter had to work 16 hours a day. The mean number of hours worked was 14.45. A majority had to start work around 5.30 a.m. and the finishing time was 12.15 a.m. 64 percent reported that they had less than six hours sleep a day. One woman shared her experience as follows:

I had no rest days or resting time in between work. Even when I go to the toilet she (mama) will check whether I am really doing that job or whether I am just seated on the toilet. All the time there is work. That woman never went out even.

-Respondent 97-

Figure 5.8: Hours of working of migrant domestic workers



Source: Interview data

These working hours are further increased during the Ramadan period due to extensive preparation for the breaking of fast, extra cooking and cleaning. The picture emerging from this finding is quite alarming because a vulnerable group of female workers who went to Saudi Arabia to earn a decent income by working a reasonable number of hours has been put into a situation by their employers where they are required to work very long hours as captive or bonded labour. Despite the fact that they did not enjoy rest days, 47 percent said they had breaks during work, especially in the day time during summer.⁵⁰ The fact that the majority of women did not say they had a break indicates the gravity of work conditions under which they had to work. This situation is common for other domestic workers in Saudi Arabia (HRW, 2008, pp. 78-81) and also the other GCC countries such as Bahrain (al-Najjar, 2004), Kuwait (Godfrey et al., 2004), Lebanon (Jureidini, 2004b) and the UAE (Sabban, 2004). Reviewing working time for live-in domestic workers worldwide, the ILO (2010a, pp. 46-51) states that these workers have to be available to work long periods or even continuously. This is an area that the Sri Lankan and Saudi Arabian authorities dealing with labour laws and work conditions need to pay serious attention to.

⁵⁰ The average summer temperature is 45°C but readings of up to 54°C are common.

7.3.3 Nature of the workload

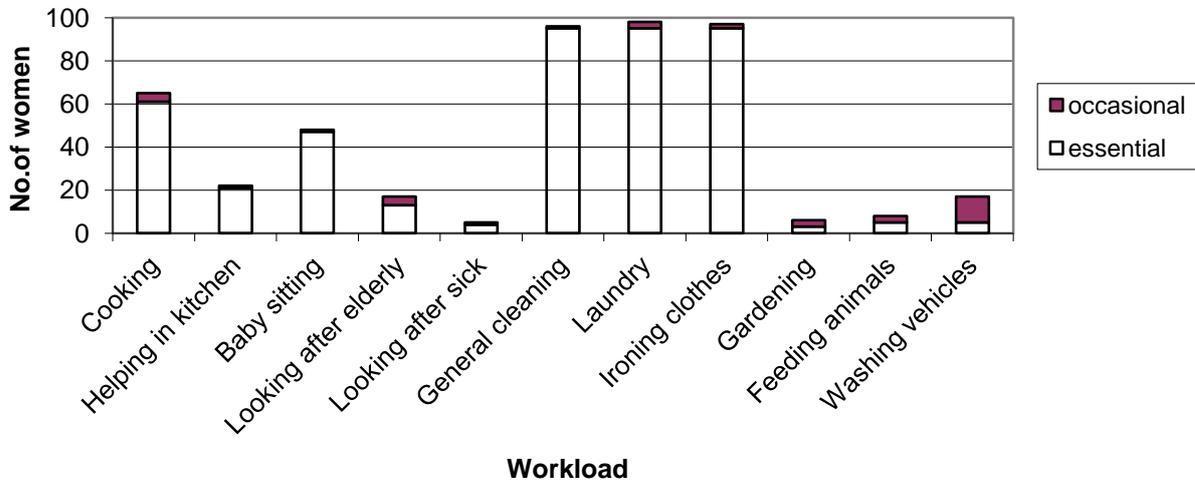
Along with the unregulated hours of work, the higher workload can be an added disadvantage that domestic workers face. Generally speaking, when it is unpaid family labour, domestic work consists of productive and social reproductive work but when it comes to paid work there should be a specified workload agreed upon in the employment contract. According to many studies, paid domestic work includes general cleaning of the house, washing clothes, washing dishes, cooking, washing cars, ironing, looking after children, playing with them and putting them to bed, giving children or elderly persons a bath, taking children for a walk, assisting children to get ready for school and taking them to school, assisting children with their homework, taking care of elderly persons, helping to carry bags during shopping time, accompanying the family during outings and helping with whatever is necessary, mending used clothes and sewing new clothes and waking up during the night to take care of sick and crying children or elderly persons (Chammartin, 2004b). This long list of work shows that domestic workers are 'on-call' 24 hours a day. Domestic Workers Recommendation No.201 sets out provisions for regulating the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, the ways they might be measured; and the remuneration rate (Paragraph 9(1)).

Pre-departure training informs women of the range of activities involved, such as cleaning, cooking, and babysitting. However, once the women go to the destination countries they can be overwhelmed by the workload they are asked to carry for the household. Furthermore, part of such work may be unpaid.

The nature of the workload of interviewed women is shown in Figure 7.9. The researcher categorised their work into two types: essential and occasional. According to Figure 7.9, general cleaning, laundry and ironing clothes were essential tasks that more than 90 percent had to perform. Cooking was essential work for 60 percent. In addition, 62 percent reported that they were asked to work outside their domestic chores, such as working in the houses of the employer's close family members (59 women) and helping with the employer's family business (4 women). Among them, only 14 women were paid for extra work and six of them stated they received extra payment for unspecified work, especially during the Ramadan period. Interestingly, only five women mentioned that they did this work willingly without expecting any payment, while 44 women stated that

they were forced to work. Female members of the households (Mama and her mother or sister) forced 81.8 percent of the women to work, while for 11.4 percent children forced them to do so.

Figure 5.9: Nature of the workload of migrant domestic workers



Source: Interview data

An important question is whether the working conditions experienced are different from what these women were told/thought they would be doing before migrating. A majority of 57 percent reported that the working conditions in Saudi Arabia were worse than they were told or thought before departure whereas 17 percent found it was better than what they were told or understood to be the case. This shows a significant information gap between the women’s understandings before departure and when they are in the destination country.

The above discussion reveals that a considerable number of interviewed women have not enjoyed good working conditions in Saudi Arabia in terms of the necessary environment for work, working hours or nature of the workload. While a significant number had adequate accommodation, food, healthcare and facilities to contact family back home, the rest enjoyed poor working conditions without basic facilities such as proper accommodation and food. Furthermore, nearly half the women in the sample were forced to work. This brings into question the validity of the provisions in the employment contract and the international conventions Saudi Arabia has signed.

7.4 Labour protections: Labour rights and human rights violations

As discussed in the previous chapters, abuse and exploitation of domestic workers contravene well-established international norms such as the right to physical integrity; the right to equal protection of the law and fair legal process; freedom of movement and protection against forced labour; and protection of labour rights such as collective bargaining, fair wages, decent conditions of work and security of earnings (Fitzpatrick & Kelly, 1998, p. 85). The recently adopted Domestic Workers Convention is intended to protect domestic workers' labour rights and human rights but it is still not in force. Also, national legislation of destination countries define migrant workers' rights mainly for highly skilled, professional and technical workers, and rights of 3-D workers are not protected (ILO, 2003d, p. 34). By and large, women domestic workers are not treated well by their employers' worldwide, particularly in West Asia. The ill-treatment ranged from inadequate facilities, non-payment of wages and various levels of abuse from verbal abuse to sexual harassment (Anderson, 2000; Constable, 1997; HRW, 2004a, 2004b, 2006a, 2006b, 2007; Jureidini, 2004a, 2004b). Why female domestic workers do not receive equitable treatment from the employers is a complex issue requiring research that includes the Saudi employers, though this research is not designed to collect such information. This section examines the level of women's awareness of labour rights and the violations of labour rights and human rights experienced by the interviewed women.

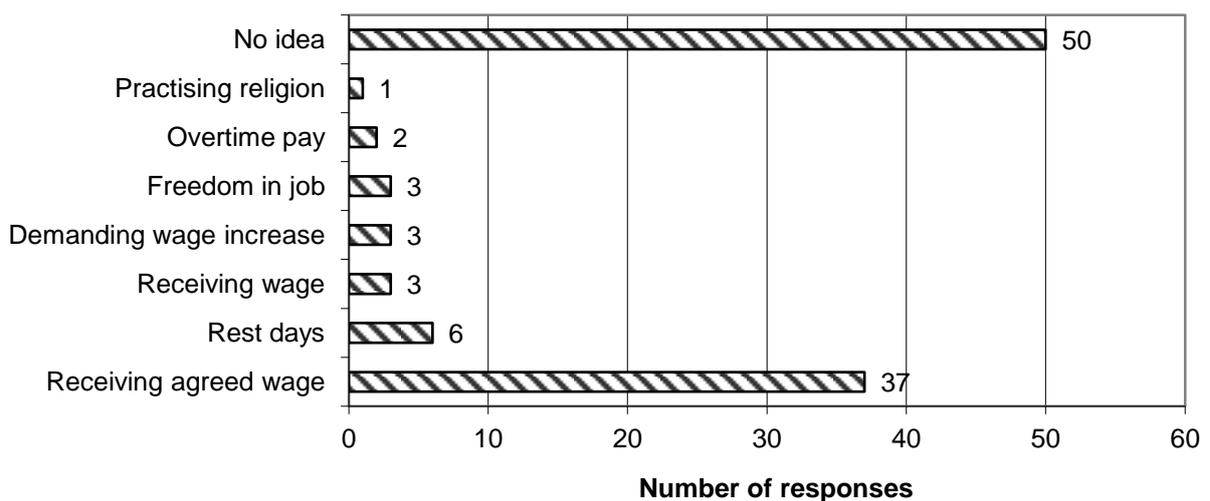
7.4.1 Women's awareness of labour rights

In terms of the second element of research question three, the researcher investigated the labour protections the interviewed women experienced in relation to labour rights. Theoretically, these women have to be made aware of their rights as migrant workers and the provisions of international, regional and national legal instruments that are relevant to their protection. As the ILO (2003d, p. 34) notes, potential and actual female migrant workers can be empowered only if they know about their rights and obligations under the relevant legal instruments, how to exercise their rights, how to articulate violations of the rights and how to claim redress through appropriate complaint procedures. As stated earlier, there is a half an hour component on 'rights as a migrant worker' in the pre-departure training programme in Sri Lanka. However, 95.1 percent of those who participated in the programme (58 women) stated that they did not learn about these rights

(see Table 7.3). Unlike the Philippines, Sri Lanka does not have a handbook or manual for domestic workers for their reference either.

The researcher asked several questions to identify the women’s awareness and understanding about labour rights, migrant workers’ rights and their opinion on any violation of their rights as domestic workers. Figure 7.10 illustrates the responses to the question ‘what do you mean by labour rights?’. The women’s responses are related to several aspects and the figure shows the number of times each aspect is mentioned.

Figure 5.10: Migrant domestic workers’ perceptions about labour rights

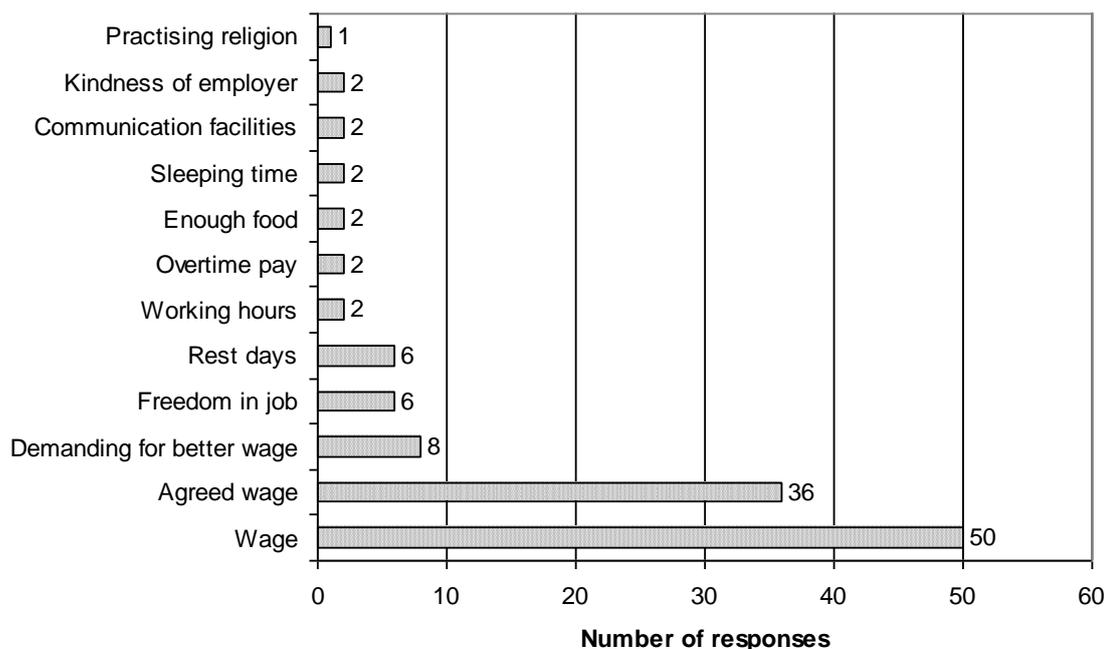


Source: Interview data

As shown in Figure 7.10, half of the women interviewed did not have any information on labour rights. A few women provided multiple responses. Thirty-seven women considered that receiving the agreed amount of wage was evidence of labour rights while another three considered receiving the wage was labour rights. Importantly, very few women considered personal freedom, the right to demand wage increases, right to rest days and overtime pay as their rights.

The respondents were asked to specify the rights of migrant workers in order to ascertain the level of their knowledge of the subject. Here too some women provided multiple responses. Their responses are summarised in Figure 7.11.

Figure 5.11: Perceptions of migrant domestic workers about their own rights as migrant workers



Source: Interview data

As shown in Figure 7.11, all the participants responded to the question posed and for a vast majority (94 responses) receipt of their wage was the most important aspect of labour rights. This shows not only the importance of wages to these workers but also reflects their anxieties about not receiving the agreed wage. This is also a reflection of the fact that the family members of migrant women depend heavily on their wages. Although they have faced ill-treatment and exploitation (see Sections 7.2.1 and 7.2.2) only a few respondents considered having rest days and stipulated working hours as rights. This level of low consciousness about rights is a disturbing finding because it shows the failure of either the training programme conducted by the SLBFE or the role of NGOs working for migrant workers. Other researchers have also pointed out this gap in the programmes (Ali, 2005; Dias & Jayasundere, 2002; HRW, 2007; Law and Society Trust, 2010).

7.4.2 Labour rights violations: wage related issues

This section looks at wage-related issues faced by the interviewed women. As stated earlier in Chapter 6, the most important procedure in the migration process in Saudi Arabia is obtaining the *iqama* and work permit/licence for the migrant worker. Without this residence permit and work licence the worker is ineligible for labour rights of any

kind (see Section 6.4.1). In addition, the *iqama* is linked to other procedures such as immigration matters, sending remittances, access to a bank account and holding a telephone. In this context, it is employer’s responsibility to make necessary arrangements to obtain the *iqama* for the worker. These arrangements include taking for health check-ups and finger prints, bearing relevant charges etc. However, the findings shows that five percent of the women interviewed have worked without adhering to this mandatory requirement. This means that they were employed illegally perhaps due to the ignorance of the employer or the failure to abide by the requirements. One woman described her experience:

After working for one year and three months even, they didn’t prepare my iqama. At the beginning I told them that in Kuwait after 15 days the boss prepared my iqama (she was previously in Kuwait). They said they never make the iqama. I got to know later, that the previous woman had worked for six years and not been paid a cent”

-Respondent 94-

Domestic workers’ wages in Saudi Arabia are based on the nationality of the domestic workers rather than their work experience, skills or the nature of work (HRW, 2008, p. 73). Research has shown that Sri Lankan female domestic workers receive the lowest wages compared to Filipino and Indonesians (see Table 6.8). The results of this study also showed that there are wage differences among Sri Lankan women as well. The agreed amount of wages for the respondents in this study ranged from Riyal 400 to 600. The researcher analysed the data to check whether this wage variation depended on their level of experience. The results are summarised in Table 7.11.

Table 5.19: Relationship between migrant domestic workers’ agreed wage and their experience

Wage Saudi Riyal	No experience		2-5 years		6-10 years		10< years		Total
	No	%	No	%	No	%	No	%	
400	9	64.3	17	54.8	16	42.1	4	23.5	52
450	2	14.3	4	12.9	9	23.7	2	11.8	17
500	2	14.3	9	29.0	8	21.1	6	35.3	26
550	--	--	--	--	--	--	2	11.8	1
600	1	7.1	1	3.2	5	13.2	3	17.6	4
Total	14	100.0	31	100.0	38	100.0	17	100.0	100

Source: Interview data

As shown in Table 7.11, there was no significant relationship between the issue of the agreed wage and the experience of women interviewed. A large number of women with

little experience (64.3 percent), together with a considerable number of women who had experience in the occupation for more than six years, had agreed to receive a lower wage, (SR400). These statistics show that the average amount generally agreed upon was SR500. Only 53 percent said they were paid the agreed wage. Twenty-six percent stated they received less than the agreed amount while eight percent received no wages and another three percent received wages only for few months. The women had limited access to make a complaint to authorities while they were employed. This represents a clear violation of labour rights. One woman revealed her experience:

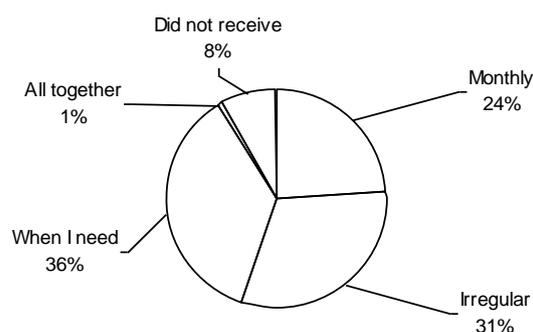
I asked for my salary in the first month. But I wasn't given it. They said they will give it in three months. After three months she (mama) told me to ask her sister. I told her I am asking for money to feed my two children. When I requested a cheque I was told the money will be put in the bank, and they can't issue a cheque because they didn't take iqama for me. When I asked again they said it was a bank holiday. They say various things. They said they will put it in tomorrow. Then they said they have given it to the son. One day I asked the son (he's about 20) and the lady scolded me saying I was talking to men. They had later put three months' salary in the bank. Altogether I only got nine months' salary.

-Respondent 97-

The fact that a quarter of the women received less than the agreed wage and eight percent received no wages is a matter of concern from the point of view of governance and equality in wages. As a result, a majority of these women who did not receive their full wages terminated their contracts early. On the issue of wage exploitation, Human Rights Watch (2006b, pp. 35-37) has noted that wage withholding and unpaid wages have become a regular experience for migrant domestic workers worldwide. These violations, when reported by the domestic workers, need to be taken seriously by both the origin and destination governments.

Salaries/wages in the GCC countries are paid on monthly basis. The researcher asked women on what basis they were paid by the employer. Their responses are presented in Figure 7.12.

Figure 5.12: Basis of paying wage for migrant domestic workers



Source: Interview data

As shown in Figure 7.12, 36 percent of the respondents reported that they received their wages when they requested money, 24 percent received their wages on a monthly basis, while 31 percent received their wages on an irregular basis. According to one woman:

The agency didn't tell me a figure (amount); neither did I ask how much I will be paid. I didn't get paid for six months. I was paid four months' salary at the rate of 400 riyals per month only after a telephone call came from my home. Thereafter they paid me only once in two months. I wasn't paid in the last two months. They said they will send it once I go to Sri Lanka, but they never did.

-Respondent 63-

The above narrative shows that some employers have been taking advantage of domestic workers' vulnerable position without giving regard to their personal and family needs. One woman said she had requested her employer to give her payment after she completed her contract and she received it as requested, but this is a rare example. Payment of wages on an irregular basis or non-payment of wages is contrary to the ILO standards.

The SLBFE receives complaints about withholding the wages of domestic workers by employers every year on a regular basis. Only 55 percent of the sample mentioned that they received their wages regularly. 31 women of those who did not receive their wages said the employer always withheld their wages. The researcher investigated whether employers showed favouritism towards Muslim domestic workers compared with other ethnic groups (see Table 7.12).

Table 5.20: Correlation between withholding domestic workers wage by employers and the workers ethno-religious background

Description	Muslim women		Non-Muslim women		Total	
	No	%	No	%	No	%
Wages received on regular basis	8	53.3	47	55.3	55	55.0
Employer withheld wages	7	46.7	38	44.7	45	45.0
Total	15	100.0	85	100.0	100	100.0

Source: Interview data

As shown in Table 7.12, there was no significant link indicating favouritism towards Muslim domestic workers. Even though responses to one question cannot be used to generalise this finding, this is a link in terms of racial/ethnic tolerance. However, the fact that a significant number of migrant women experienced variations in the wages received, withholding of wages by the employer and irregular payments or no payments, points to a high level of incidence of inequality and discrimination. On the one hand, these women are required to work additional hours under poor working conditions and inadequate food. On the other, their agreed wages are not paid on a regular basis. These experiences have resulted in 39 women returning home without completing their contracts.

The above discussion shows that a considerable number of Sri Lankan female domestic workers work under conditions akin to forced labour. This is a major concern. Both Sri Lanka and Saudi Arabia have ratified ILO Convention No.29 on Forced Labour (1930). However, forced labour among foreign workers is well documented in Saudi Arabia. The convention defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (Article 2). Grant (2005) elaborates further on the concept of forced labour according to the elements of forced labour as classified by the ILO. These include (i) threats or actual physical harm to the worker; (ii) restriction of movement and confinement to the workplace or to a limited area; (iii) debt bondage: where the worker works exclusively to pay off a debt to the employer or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt; (iv) withholding of payment or excessive wage restrictions; (v) retention of passports and identity documents, so that the worker cannot leave, or prove his/her identity and status; and (vi) threat of denunciation to the authorities, where the worker is in an irregular immigration status (Grant, 2005, p. 11).

Using this elaboration, we can see that the elements of forced labour are prevalent in Saudi Arabia and Sri Lankan migrant domestic workers are the victims.

7.4.3 Human rights violations

The objectives of this thesis and the research questions have relevance to the human rights of women who migrate for work. The review of the literature showed that the multilateral organisations and their legal and normative instruments such as treaties and conventions consider migrant rights as human rights. Equality and non-discrimination are key concepts integral to these instruments, especially as there are unequal and discriminatory practices towards migrant domestic workers reported worldwide both in countries of labour origin and destinations. Specifically, ILO Convention No.189 on domestic workers sets out provisions to ensure effective protection against all forms of abuse, harassment and violence (Article 5). Among the 100 participants of this study, 56 percent reported that they faced different kinds of ill-treatment, exploitation and abuse at least once during their stay in Saudi Arabia. Table 7.13 shows the extent to which their human rights have been violated at the destination country.

Table 5.21: Migrant domestic workers’ human rights violations by employers in Saudi Arabia

Description	Extent									
	Very often		Fairly often		Sometimes		Once		Total	
	No	%	No	%	No	%	No	%	No	%
Locked in a room	--	--	3	27.3	5	45.5	3	27.3	11	100.0
Restriction of food	6	24.1	13	44.8	5	17.2	4	13.8	24	100.0
Verbally abused/shouted at	28	51.9	10	18.5	15	27.8	1	1.9	54	100.0
Physically abused	1	3.7	7	25.9	6	22.2	14	48.1	28	100.0
Sexually abused/touched	1	6.2	1	6.2	4	25.0	10	62.5	16	100.0
Sexually harassed	--	--	--	--	1	100.0	--	--	1	100.0

Source: Interview data

As shown in Table 7.13, human rights violations of Sri Lankan domestic workers in Saudi Arabia can be observed through instances such as being locked in rooms as punishment, provided meagre food, subjected to verbal abuse, physical abuse, sexual abuse and sexual harassment. Verbal abuse was the most common form of abuse that 54 percent faced. Women who were verbally abused reported that the employer or a family member regularly scolded them (42 women), using words like ‘fool’ or ‘donkey’ (6 women) or filthy words (7 women). Verbal abuse is a common phenomenon reported by migrant domestic workers from other countries as well (see Godfrey et al., 2004; HRW, 2006b).

Twenty-eight percent were physically abused and they reported that the employer or a family member had slapped them (15 women) or pushed them (1 woman) or beaten/struck them with their feet (3 women), shoes (3 women), with a stick (4 women) or with a hot iron (1 woman). For instance one woman said:

I was pushed in the bathroom and fell. I knocked my stomach. When I was in Sri Lanka, I had to undergo a caesarean operation to get the baby. I had knocked that side. I got pains. When I went to the hospital they told me that I had to be operated as there was some "thread" inside. They gave me a form to sign. A Bengali girl there told me not to sign it. She said they would kill me. Thereafter I ran away and went to the agency.

-Respondent 19-

Another woman said:

One day they hit me with a big stick (cudgel) while I was carrying two children. I embraced both children strongly, fearing they would fall. On another occasion, when I was asked to come to collect my money, the woman was ironing and she burnt my hand. It was a big burn. Blisters came. I am still taking treatment for the burn.

-Respondent 80-

According to the responses, 16 percent of the sample was sexually abused by the employer (8 women) or employer's son (4 women) or a relative (4 women). Some of their experiences are illustrated bellow:

The Baba's younger brother is very bad. When there is no one at home he comes near me. I take a knife. He is scared of that. The lock on my room door was broken. I told it to the home people but they didn't take any notice.

-Respondent 50-

Another woman revealed:

The previous servant had slept (had sex) with Baba. She didn't tell me. After she went Baba expected the same thing from me. He pushed open the door and came in. He hit me because I didn't agree to sleep with him. I cried saying I will die. He brought me back to the agency asking me not to tell about this to the agency. But I told them. The agency sent me to another house.

-Respondent 70-

Another unmarried woman was sexually harassed by a relative (Mama's brother) and later the employer sent her back when she became pregnant. She explained:

One of Mama's brothers gave me trouble. He had sex with me many times, against my will of course. I told Mama. But she didn't take any notice. I cried. Those people are wicked. I came back to Sri Lanka because I got

scared. I didn't know I was pregnant. I got the ticket arranged with my salary. And I got the baby in five months.

-Respondent 51-

The psychological, physical and sexual abuse faced by Sri Lankan, Indonesian and Filipino domestic workers in Saudi Arabia has been reported by the Human Rights Watch in several reports (2004a, 2007, 2008). For example, HRW notes that the Indonesian Embassy handled 17 cases of pregnant domestic workers in 2007 and in several cases they became pregnant as a result of rape (HRW, 2008, p. 53). These kinds of interferences with the women's bodies and violation of their privacy are against the prevailing cultural and legal expectations in the labour origin country, Sri Lanka, especially if they involve married women. The examples provided indicate that the rights of men in Saudi Arabia override the rights of women, especially migrant women. Even though Saudi women may tolerate such instances, Sri Lankan women are not accustomed to do so by custom. Thus these events may have created a lot of pain among these women and also stigma. As the ILO (2003a, p. 27) states, these migrant domestic workers are much less likely to report abuses by their employers due to high dependency on the employer, lack of knowledge of the legal system, lack of freedom of movement, lack of trust in authorities, traditional attitudes, and the difficulty of reporting some abuses, for example sexual abuse.

The researcher wanted to see whether there is a correlation between the experiences of human rights violations and women's demographic characteristics such as age, marital status and being a Muslim. For this analysis, the researcher selected women who had faced any type of human rights violations (being locked in a room, restriction of food, verbal, physical and sexual abuse and harassment). Table 7.14 presents the results of this analysis.

Table 5.22: Correlation between human rights violations of women interviewed and their demographic characteristics

Characteristic	Description	Faced		Not faced		Total	
		No	%	No	%	No	%
Age	Young	23	71.9	9	28.1	32	100.0
	Middle aged	33	48.5	35	51.5	68	100.0
	Total	56	56.0	44	44.0	100	100.0
Ethnicity	Muslim	8	53.3	7	46.7	15	100.0
	Non-Muslim	48	56.5	37	43.5	85	100.0
	Total	56	56.0	44	44.0	100	100.0
Marital status	Married	54	57.4	40	42.6	94	100.0
	Unmarried	2	33.3	4	66.7	6	100.0
	Total	56	56.0	44	44.0	100	100.0

Source: Interview data

As shown in Table 7.14, although numbers are low, percentage-wise young women (aged between 18 and 34) have faced greater violation of their rights compared to middle-aged women (79.9% against 48.5%). Likewise, non-Muslim women were slightly more vulnerable than Muslim women to human rights violations. More married women (57.4%) faced abusive conditions than unmarried women (33.3%).

Next, the researcher examined whether the level of education and other background factors are related to these human rights violations. Table 7.15 shows the correlation between such violations of interviewed women and their level of education, fluency in Arabic and experiences as domestic workers abroad.

Table 5.23: Correlation between human rights violations of women interviewed and their socio-economic characteristics

Variable	Description	Faced		Not faced		Total	
		No	%	No	%	No	%
Level of education	No formal education	4	44.4	5	55.6	9	100.0
	Primary education	46	57.5	34	42.5	80	100.0
	Secondary education	6	54.5	5	45.5	11	100.0
	Total	56	56.0	44	44.0	100	100.0
Fluency in Arabic	Fluent	36	56.2	28	43.8	64	100.0
	Not fluent	20	55.6	16	44.4	36	100.0
	Total	56	56.0	44	44.0	100	100.0
Work experience (period)	First time worker	10	71.4	4	28.6	14	100.0
	2-5 years	14	45.2	17	54.8	31	100.0
	6-10 years	22	57.9	16	42.1	38	100.0
	More than 10 years	10	58.8	7	41.2	17	100.0
	Total	56	56.0	44	44.0	100	100.0

Source: Interview data

Table 7.15 shows that the level of education or fluency in Arabic among interviewed women did not have a significant relationship with their human rights violations. It is somewhat different from the common understandings where women's low education level and lack of communication ability are assumed to be major factors in their vulnerability to exploitation and abuse. However, the figures show that the first time workers to Saudi Arabia faced more problems (71.4 %) than the experienced workers. It is useful to examine whether these workers had attended the pre-departure training programme and followed the necessary administrative regulations (Table 7.16).

Table 5.24: Relationship between human rights violations of interviewed women and their adherence to government regulations

Variable	Description	Faced		Not faced		Total	
		No	%	No	%	No	%
Participation in pre-departure training	Participated	36	59.0	25	41.0	61	100.0
	Did not participate	20	51.3	19	48.7	39	100.0
	Total	56	56.0	44	44.0	100	100.0
Work contract	Signed	40	59.7	27	40.3	67	100.0
	Did not sign	16	48.5	17	51.5	33	100.0
	Total	56	56.0	44	44.0	100	100.0
Registration with the SLBFE	Registered	53	57.6	39	42.4	92	100.0
	Did not register/No idea	3	37.5	5	62.5	8	100.0
	Total	56	56.0	44	44.0	100	100.0

Source: Interview data

Table 7.16 is shows a rather different view of the victims of abuse. Those who participated in the pre-departure training programme faced more human rights violations (59 %) than those who did not participate (51.3 %). Women who signed the employment contract faced more violations (59.7 %) than those who did not. Likewise, those who migrated after registering with the SLBFE were the victims of violations (57.6 %) more than those who migrated without registration (37.5 %). Why the women who went through training, signing contracts and registration have faced more human rights violations is inexplicable at this stage.

The researcher obtained information about the victim women's (56 %) reactions to the abovementioned human rights violations. A majority reacted by keeping silent (16 women), crying (19 women) and taking preventative measures (3 women). Of the 56 who were victims, 30 women said they did not resist violations due to helplessness in a strange country. Many of them (57.1 %) revealed that no one was there to help them

when in a difficult situation. A significant number of women, however, mentioned that other members in the household (25 %), co-workers (7.1 %), and neighbours (7.1 %) were there to help them. Only 3.6 percent (2 women) stated that the agency and the embassy helped them. One woman said:

I went to work there. If you want to earn something you have to suffer. When you do servant's work for others you have to be prepared to get scolded. I offered everything up to God and kept quiet.

-Respondent 61-

Those who resisted violations were asked about the way they resisted. Fourteen women attempted to resist using methods such as complaining (4 women) and scolding/hitting back (10 women). For example:

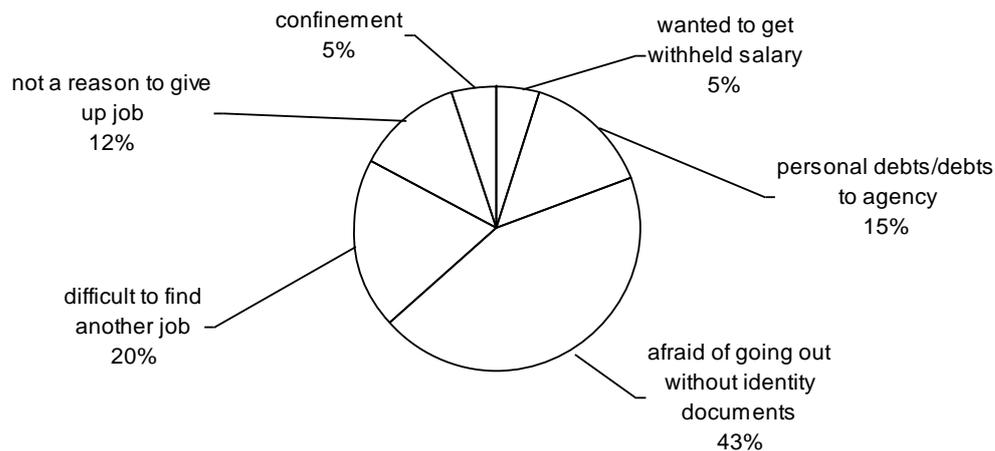
Mama hit me with a hose. At the beginning of course I bore it, thinking I was paying for sins committed in the past. But in the last few days when she came to burn me I got angry. I got scared thinking she will kill me, so I also hit her. Thereafter I ran away.

She scolds me every day. She slaps me when she speaks to me or when she gives orders about the work I have to do. On the day of this incident, she tried to burn me with the iron saying that I had not ironed the clothes properly. When I pushed the iron away, she hit me with a flower pot. I ducked (bent down) so it didn't strike me. Then she hit me with a big stick. I pushed her. She got up and tried to trample my neck. I pulled her by her leg and put her down. I got up and came to the road, in the clothes I was wearing.

-Respondent 86-

The number that complained is much less than those who hit back or used verbal abuse. This is not a desirable response as these women can end up in the Saudi legal system. Women in the sample used different methods to escape from abusive conditions. Nine women stated they had to run away from abusive employers, while another six women said they quit the job without completing the contract. For others, there were several reasons that prevented them from leaving the job (Figure 7.13).

Figure 5.13: Reasons that prevented ill-treated domestic workers from leaving the job



Source: Interview data

According to Figure 7.13, a majority (43 %) said they were afraid to go out without their identity documents as these were kept by the employers and 20 percent (8 women) did not depart as they would not find another job in Sri Lanka. Debts, including debts to the agency prevented another 15 percent from leaving the abusive employer. As Human Rights Watch (HRW, 2008, p. 44) observes, some employers in Saudi Arabia justify retaining domestic workers’ passports and restricting their freedom of movement on the basis of having paid a large amount of money in recruiting them and not wanting them to run away, thereby losing their ‘investment’. All this confirms the existence of bonded or forced labour in Saudi Arabia.

In addition to the above abusive conditions, 30 percent of interviewed women reported they had health problems during their stay in Saudi Arabia: some were work-related problems (22 women), accidents (4 women), problems related to physical abuse (2 women) and anaemia-like health conditions (2 women) as they were not provided with enough and nutritious food. These responses clearly demonstrate the vulnerability of these workers and the different choices they have had to make in the less than satisfactory conditions under which they have come to work.

The issue of human rights violations thus presents a major challenge for labour origin countries from a policy planning and implementation perspective. When cases are reported, they have to undertake diplomatic and legal procedures to address them and

seek adequate compensation. This situation has been identified by researchers (Halabi, 2008; Jureidini & Moukarbel, 2004; Jureidini, 2002) as ‘modern day slavery’ or ‘contract enslavement’.

7.4.4 Assistance from authorities at home and abroad

In this section, the focus is on the assistance available from migration related structures. Labour protection and assistance from relevant authorities go hand in hand. When migrant workers need to attend to administrative matters or when facing situations that violate their rights, the relevant migration structures should provide them with fair and equitable access, attention and justice. This section presents the women’s experience in relation to assistance that they received from Sri Lankan and Saudi Arabian migration governance structures. It includes the SLBFE, Sri Lankan foreign missions and local authorities in Saudi Arabia.

As stated earlier in this chapter, only 49 percent of interviewed women visited the SLBFE. They were asked about the quality of services provided by the SLBFE in relation to their work overseas and related matters (Table 7.17).

Table 5.25: Migrant domestic workers’ perception about services provided by the SLBFE

Excellent	Good	Neutral	Poor	Total
3	18	11	17	49
6.1	36.7	22.4	34.7	100.0

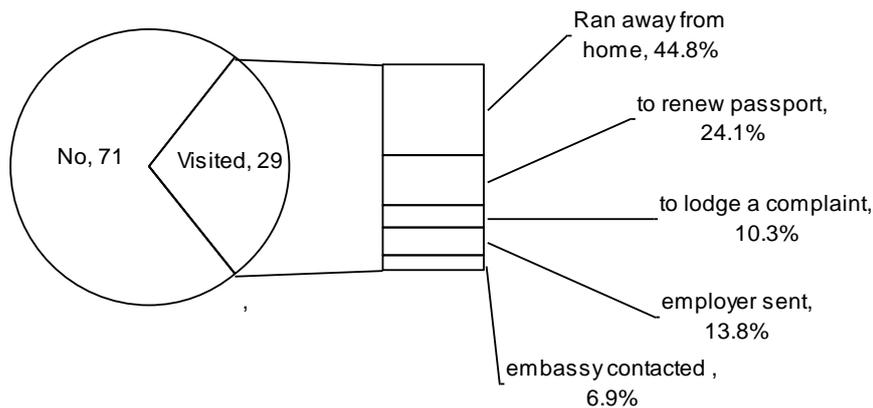
Note: 49 women who visited the SLBFE is equal to 100 percent.

Source: Interview data

As shown in Table 7.17, twenty-one women were satisfied with the services provided by the SLBFE, 11 women had a neutral view and 17 women said the services received were poor. This is roughly one third of the respondents who visited the SLBFE and it does not reflect well on the SLBFE.

During their stay in Saudi Arabia, 29 women had to contact the Sri Lankan Embassy for various needs (Figure 7.14).

Figure 5.14: Migrant domestic workers' perception about assistance received from the Sri Lankan foreign missions in Saudi Arabia



Note: 29 women who visited the embassy is equal to 100

Source: Interview data

According to Figure 7.14, thirteen women (44 %) of those who visited the embassy ran away from their abusive employers to escape from ongoing abuses. Another three women went to the embassy to lodge complaints. Employers sent women workers to the embassy in four cases. The number who did not visit the embassy far exceeds the number who visited. However, when added together, those who visited the embassy due to employment related matters, including abusive conditions, is significant. When they were asked about services provided by the mission, only eight women said they found the officials in the Sri Lankan Embassy helpful. Among them the following woman had a revealing story to tell:

It was a three storied house. I was the only one there and did all the work alone. There were 25 members in all, in the family. One day while sweeping the staircase I fell down the steps. There are no lights on the stairway. I have to sweep managing with the light that comes from the hall. It was at about 5.00 in the morning. My leg broke, the bones were broken and hanging. The skin wasn't damaged or broken. It swelled up. I couldn't walk. I went to the toilet with difficulty using my hands like legs, dragging myself. At about 11 in the morning they took me to doctors. They put a large bandage for about one month. I told them to send me to the embassy or inform my home that my leg was broken. They said that the embassy is there for people who don't work hard and run away from homes, not for people like you. I was asked to come to cut the bandage in one month's time, but they didn't take me. It was there for 3 ½ months.

In the meantime, the Mama's younger sister had a baby and came home. There was a Sri Lankan woman to take care of the baby. That woman got me a call on her cell phone, and told me to tell all the information to her kafeel. When I told him everything, he was surprised and asked whether

these things are possible and actually happen in “God’s Land”. During those days I had no life in my body, I was lifeless. I was given leftover food on a paper.

Through that sister’s (the Sri Lankan woman) kafeel I informed the embassy about my situation. She gave me her phone before she went away. When the embassy phoned me on her phone I told them everything. Then the embassy told me to tell the people in the house that there was a call. The Baba didn’t speak. He scolded me. The embassy heard that. Then they told me to give the phone to Mama who was downstairs. I found my way downstairs with difficulty and after about half an hour gave the phone to Mama. The gentleman from the embassy patiently held on till then. Mama said she’s (referring to me) a little injured, they are putting medicine and paying her salary as well. When I said that was a lie, they called the woman and scolded her, and threatened to send the Police. They told her to get my ticket ready and to send me back to Sri Lanka. I got the passport and 3 months’ salary on the day I was leaving. The embassy told me that they did not pay the previous servant they had been forbidden by law not to have another maid. That was the reason they had not prepared my iqama.

I got the bandage cut after 3 ½ months, after I returned home. By this time the leg was rotten. The bones inside could be seen. I am still doing treatment. I can’t walk properly. I didn’t get any compensation. No money to go to Colombo. My children’s father (refers to husband in this manner), is a labourer.

-Respondent 94-

This incident shows how the embassy officials are involved in cases of maltreatment. However, four women stated that the embassy officials were indifferent, while 17 women mentioned they did the bare minimum to help. One woman said:

There were a lot of children in that house. I had to work extra hard because she did not work hard. I ran away to the agency and from there came to the embassy. The embassy did not bring my bags and belongings from the agency, although they were informed that my things had been sent there. They don’t take any notice of us who are poor. They only take care about those people who have been there many years and have a lot of money.

-Respondent 22-

Some researchers (Gamburd, 2005; Iredale et al., 2005) have criticised the role of Sri Lankan foreign missions abroad. The government officials interviewed have blamed this situation to the limited resources provided in foreign missions (see Section 5.1.2).

Only seven percent in the sample indicated that they had to contact local authorities during their stay in Saudi Arabia. Of them, three women were in custody, two women

contacted the local authorities to lodge a complaint, and one woman visited the authorities on a complaint from the employer. All of them said the authorities did their duty. One woman revealed:

When I ran away, the Police arrested me. When I told them about the troubles I had there, they took me along with them to find the house. I didn't know the address or the telephone number of that place. It was very far. I couldn't remember the roads. As I could neither read English nor Arabic letters, I did not know the roads. I went very far, further than going to Colombo. When they could not find the place, the Police scolded me. Thereafter they put me into a camp. I waited there for five months and then came back with the help of a temporary pass that was issued. My family had got the ticket done and had sent it, by pawning my daughter's jewellery.

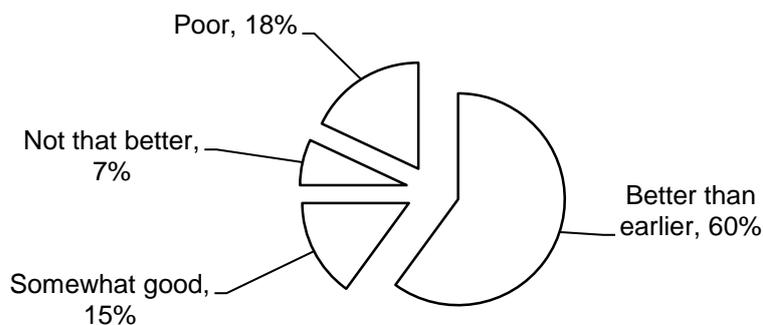
-Respondent 80-

On the matter of women's views about the services received the attitudes of embassy officials and dealings with Saudi authorities are revealing. It showed that 34.7 percent believed the services received from the embassy were poor. Nevertheless a significant number went to the embassy to seek help to escape from abusive conditions. Sri Lankan authorities dealing with female migrant workers ought to take note of these findings and make some necessary changes to their embassy staff and relevant procedures.

7.4.5 Migrant domestic workers' status after return and their future expectations

Interviewed women were asked about their present situation to see how they assess their status after calculating the costs and benefits of their migration. Figure 7.15 illustrates their responses.

Figure 5.15: Present status of returned domestic workers from Saudi Arabia



Source: Interview data

As shown in Figure 7.15, a majority of 60 percent mentioned that their situation was comparatively better. When this number is combined with 15 percent who said their situation is somewhat good it implies that the migration experience was positive for 75 percent. A considerable number, 18 percent said that their situation was poorer after returning.

It is also necessary to evaluate the overall costs and benefits of migration as perceived by the women. This will give us an idea about the net costs and benefits. The women interviewed were asked about the costs and benefits they received from remittances and their out-migration. 58 women had to bear different levels of economic and social costs (Table 7.18).

Table 5.26: Costs and benefits analysis of migration by migrant domestic workers

Costs			Benefits		
Details of the cost	No	%	Details of the benefit	No	%
Debts/unnecessary expenses	17	17.0	Completed house/built half way/got electricity & water	56	56.0
Not paid/half paid	14	14.0	Children/sibling's education	6	6.0
Got sick	9	9.0	Children/worker's marriage	6	6.0
Children's problems	6	6.0	Bought land	4	4.0
Husband/in-laws wasted money	7	7.0	Started a family business	2	2.0
Others borrowed & did not return	4	4.0	Settled debts	2	2.0
Being an unmarried mother	1	1.0	Saved money	2	2.0
No costs	46	46.0	No benefits	22	22.0
Total	100	100.0	Total	100	100.0

Source: Interview data

As shown in Table 7.18, interviewed women had both gains and pains from their migration. A majority of 78 women could enjoy benefits such as completing the house, educating children and siblings, marriage, etc., but 22 women indicated that there were no benefits to them. Among the costs women faced were unnecessary expenses (17), half paid wages (14), sickness (9) and wasted money by husband/in-laws (7). Most importantly, 58 women had faced with various kinds of costs that they considered to be a waste or an undue burden on them. This is very significant. Only 46 women stated that they did not face extra costs. This shows that there are significant costs involved in net terms for the migrant women even though a significant number reported various benefits. Thus the story is a mixed one.

The participants were asked to specify their future expectations in the mixed environment of positive and negative experiences abroad. Table 7.19 summarises their future expectations.

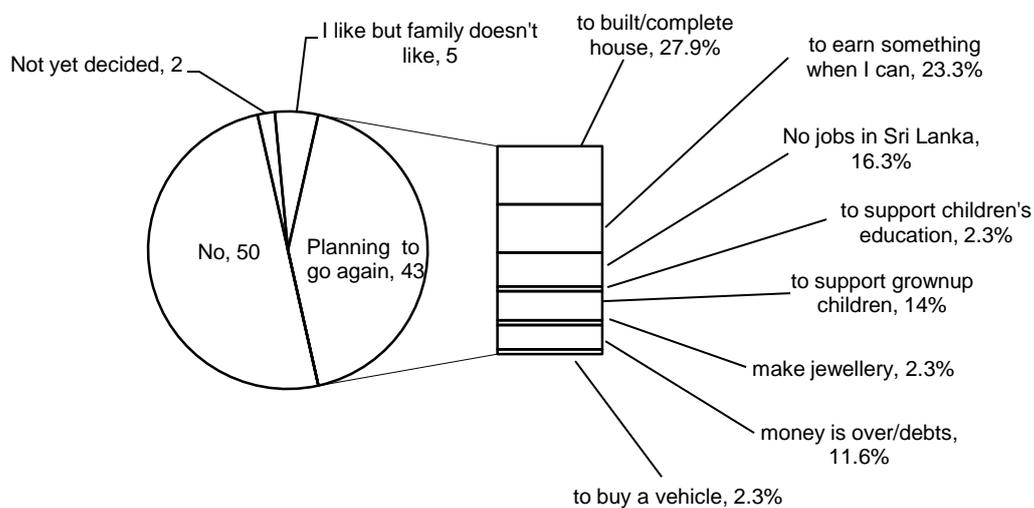
Table 5.27: Future expectations of the participants

Expectation	Frequency	Percentage
Look after the family	32	32.0
Go abroad again	23	23.0
Children's education and marriage	11	11.0
Built new house/complete the house	10	10.0
Get married/ have a baby	8	8.0
Find another job whatever	5	5.0
Start a self employment	5	5.0
Still thinking	5	5.0
God's wish	1	1.0
Total	100	100.0

Source: Interview data

According to Table 7.19, a majority of 51 percent had future expectations relating to their family life such as looking after the family (32%), children's education and marriage (11%) and getting married/having a baby (8%). Interestingly, 23 percent mentioned that they are planning to migrate again as domestic workers. The researcher inquired about their willingness to remigrate and the reasons for the intention. Figure 7.16 illustrates their responses.

Figure 5.16: Intention of returned migrant women to re-migration as domestic workers



Source: Interview data

Figure 7.16 shows that 48 women would like to re-migrate as domestic workers but five women among them said their husbands and families opposed their desire. Others provided several reasons that determined their re-migration. The main motive was to earn money to build or to complete their houses. However, the preference for the destination country has changed with their experience in Saudi Arabia, as only five women stated they intended to go to Saudi Arabia again. Those who were willing to go back to Saudi Arabia had positive working experience with their employers and their family members. Others preferred Kuwait (16), Qatar (9), Lebanon (6), and Dubai, Cyprus, Jordan, Oman and Hong Kong (5). Thirty-eight women out of 48 believed that their knowledge and skills were sufficient while only three women wished to learn English, how to handle remittances, how to use new household appliances and get more working experience.

7.4.6 Migrant domestic workers' views and opinions

When asked whether they learnt about labour rights after working abroad, 31 percent mentioned that they learnt more from their negative experiences. Their responses about what they learned include that migrant domestic workers have no labour rights (21 women); nobody takes care of migrant domestic workers (4 women), and domestic workers are like slaves in the host country (6 women). Further, 24 women said they learnt this from their own experience while seven women stated that they learnt from the experiences of co-workers.

Moreover, no women in the sample had ever heard of international conventions for migrant workers but 20 percent said they had heard about the UN and ILO when they were at school. Three percent said they had heard about organisations working for labour rights and another three percent stated that these organisations helped Sri Lanka in the post-tsunami rehabilitation work. However, no one mentioned that they had come across these at the pre-departure training. It shows the lower level of knowledge among domestic workers, a gap in information dissemination, as well as a lack of effective steps by the government, NGOs or any other advocacy organisations for the empowerment of these women by providing necessary information regarding labour migration and protection.

In order to probe more deeply into the issues faced by migrant domestic workers, participants were asked to provide their opinions on different issues facing the same category of workers. Table 7.20 illustrates their opinions.

Table 5.28: Opinions of migrant domestic workers

(Index: A: Strongly agree B: Agree C: disagree D: Strongly disagree E: Undecided)

Issue	Opinion					Total
	A	B	C	D	E	
Both male and female migrants face the same problems.	1	22	42	9	26	100
There should be minimum educational qualifications for domestic workers.	21	31	47	1	--	100
Domestic workers are not very good at handling modern equipment.	4	33	62	1	--	100
Domestic workers should sign a contract before departure.	13	52	10	1	24	100
Recruiting agents help domestic workers.	4	28	38	22	8	100
Many employers treat domestic workers like slaves.	22	47	23	2	6	100
Foreign missions should have a separate agenda for domestic workers.	14	28	2	1	55	100
Migrant domestic workers have no rights at all.	14	45	15	--	26	100
To minimise issues domestic workers must register with the SLBFE.	21	46	19	3	11	100
Sri Lankan Government should ban sending domestic workers abroad.	13	19	47	16	5	100

Source: Interview data

As shown in Table 7.20, more than half of the participants (51 %) did not believe that both male and female migrant workers face the same problems. A majority of the participants agreed with setting out minimum educational qualifications for domestic workers (52 %), signing the contract before departure (69 %) and mandatory registration with the Bureau to minimise issues (67 %). A majority (59 %) also agreed that migrant domestic workers have no rights at all; however, 63 percent did not agree with banning Sri Lankan domestic workers from going overseas for work. An issue faced by 37 percent was their inadequate knowledge in handling modern equipment, 69 percent reiterated that they were treated as slaves by their employers, 62 percent wanted contracts to be signed before departure, and 42 percent wanted Sri Lankan foreign missions to develop a distinct and separate agenda for them. These are important findings relating to labour rights, treatment by employers, issues with the signing of contracts, the role of embassies, the need for registration with the SLBFE, and the need for training in the handling of modern equipment.

The participants of the study were also asked about the issues they would like to discuss with the relevant authorities, if they had the chance to do so. Their answers are summarised in Table 7.21.

Table 5.29: Issues migrant domestic workers would like to discuss with the authorities

Issue	No	Percentage
Ill-treatment and abuse of workers	73	73.0
Language problems	12	12.0
Developing skills	11	11.0
Laws and practices in the host country	2	2.0
Health issues	2	2.0
Total	100	100.0

Source: Interview data

According to Table 7.21, nearly three-quarters of the participants wanted to discuss abusive conditions and ill treatment at work, and 12 percent said they wanted to discuss the language issue because they felt that what they had learnt at pre-departure training was inadequate.

Finally, the researcher asked the women two questions to ascertain whether they believed that the Sri Lankan Government and Saudi Arabian Government provided enough protections for them. Their responses are summarised in Table 7.22.

Table 5.30: Protection of domestic workers by home and host countries: Responses of interviewed women

Government	Protected		Not protected		No idea		Total
	No	%	No	%	No	%	
Sri Lanka	31	31.0	33	33.0	36.0	36.0	100.0
Saudi Arabia	41	41.0	20.0	20.0	39.0	39.0	100.0

Source: Interview data

As shown in Table 7.22, a majority of 41 percent thought that Saudi Arabia protected them more than Sri Lanka. However, more than one third of respondents did not have an idea about whether the home country or the host country protected them while they were working abroad. Regarding protection from the home country some of these women said:

If they had taken care of us, we don't get stranded like this

-Respondent 9-

What looking into? Even if we were killed and thrown away nobody would know, even if we telephone they (embassy) don't answer.

-Respondent 13-

There is no such taking care of as they claim. We have only ourselves to rely on.

-Respondent 39-

These opinions do not bode well for the services received from the Sri Lankan Embassy. As stated earlier, this is a significant matter of concern. Some women had different opinions about the Saudi Arabian Government. Together with that they had some suggestions also. Some of them are reproduced below:

Even the uneducated also go abroad. They earn and come back without any problems. But it's good if they are at least capable of writing a letter. They must make a law which states that you must at least pass your Ordinary Level exam to go abroad.

-Respondent 1-

If the training period is at least three months it would be good. Then we can work properly without fear. The language problem will also be less. Learning to use the household equipment cannot be done overnight. I learnt everything through my determination and need to learn these things, although I was born into a home which did not even have a broom, a small hut with a straw roof.

-Respondent 2-

Like the Philippines and Indonesia, Sri Lanka also should ask for a suitable fitting salary to be paid. For that to happen the Government must intervene and help.

-Respondent 7-

Either the Government or the Bureau must know where the worker has gone and is working, mainly because we also earn something for this country. It is good if this can be done at least when they are give new jobs.

-Respondent 9-

These narratives show the awareness of these women of migration policy and procedures through their journey and they attempted to articulate what they believe is best for the future of migrant domestic workers in Saudi Arabia.

Summary and conclusion

This chapter addressed research question three ‘what are the experiences of Sri Lankan domestic workers in Saudi Arabia in terms of labour migration procedures, working conditions and labour protections?’. It was examined under three headings, access to information, working conditions and wellbeing and labour protections.

Given the high response rates to relevant questions, it is evident that the information about the training requirements, purpose of the contract and the need to register with the SLBFE seem to have been effectively communicated to the women. However, several problem areas emerged from the analysis which has policy implications. These problems are that the information flow is heavily dependent on intermediaries such as sub-agents; there is inadequate coverage of migrant workers’ rights in the pre-departure training; there is a need for a translated copy of the contract; and there is a need for increasing the rate of signing contracts. Since the majority of those who terminated their contract early were those who went to Saudi Arabia for the first time, the reasons need to be examined. Because 20 percent of the women changed their employer after their arrival in Saudi Arabia, reasons for this trend also need to be investigated by the Sri Lankan Government.

Working conditions and employee wellbeing were examined by using work environment, work hours and the workload. On all three criteria the analysis shows that the employee expectations were not met in their workplaces. Fifty-seven percent said their working conditions were worse than they thought would be the case. The conditions these women had to work amounted to forced or captive labour with significant violations of rights and freedoms. The domestic workers had to serve families with an average of six members, 29 percent had to sleep in shared accommodation or in an open place and 39 percent did not have a bed. Deprivation of food, lack of religious freedom, highly restrictive communication facilities, and lack of rest and recreation are among other discriminatory practices that do not address the basic human needs of migrant workers. Moreover, these restrictions on rights and freedoms have the potential to cause serious psychological harm.

Long work hours, some of which are unpaid, lack of sleep, work related illness, and employer demands to work at relatives’ homes or businesses are other important issues.

The fact that 44 percent were forced to work at places outside the employer's home is quite a significant fact that should draw the attention of authorities. Some of these practices go beyond the contractual terms and international labour standards.

Analysis shows that there was low awareness of rights other than about receiving wages. Women's knowledge of rights did not extend significantly to freedom in the job, practice of religion, capacity to demand wage increases, rest days or overtime pay.

It was found that there was significant wage exploitation by withholding, variations, and irregular payments. Only 53 percent said they received the agreed wage, 26 percent received less than the agreed wages, 8 percent received no wages, and 3 percent received wages only for few months. According to Grant's definition (2005, p. 11), when combined with the restrictions of rights and freedoms mentioned earlier, these instances amount to forced labour. It was noted that this goes against the ILO Forced Labour Convention.

It is noteworthy that 56 percent confirmed that they faced ill-treatment, exploitation and abuse at least once. Verbal abuse was the most common (56 %). In a small sample of 100 women the fact that 15 women faced sexual abuse is a matter of serious concern. This is contrary to several international conventions and standards. The pain these women experienced could have been the reason for a high percentage of them returning home without completing the contract. This also reflects their powerlessness in the context of Saudi Arabia whose legal system affords more powers to the employer than the migrant worker. Fifty-seven percent said that no one was there to help them. Use of verbal or physical responses by the women rather than complaining emerged as another trend. The fact that young women faced rights violations more than the middle-aged, Muslim and non-Muslim women is also of significance. Women who went to Saudi Arabia for the first time faced such violations more. The bonded nature of labour is evident from the fact that under conditions of rights violations domestic workers could not leave the job due to various reasons, such as non-possession of their passport, debts to the agency, and the inability to find another job.

In terms of Sri Lankan governance structures, the views expressed by the women in the sample are not very positive as 34 percent said the services provided by the SLBFE were poor. Only 49 percent visited the SLBFE to obtain services or for administrative matters.

Women under duress resulting from difficult work conditions, abuses or violation of the terms of contract and rights sought assistance from the Sri Lankan Embassy in Saudi Arabia. However, only eight women out of 29 were satisfied with the services received. Most women did not visit the embassy. Forty-two percent preferred that the embassy develop a distinctive and separate agenda for female domestic workers.

The migration experiences for a majority of the women (75%) were positive. They completed or half built their houses and obtained electricity and water facilities (56%), spent money on their children's or siblings' education (6%), paid for their children's or their own marriage (6%) and bought land (4%). However, 58 percent (58 women) had negative experiences such as debt/unnecessary expenses (17), unpaid wages (14), sickness (9), husband/in-laws wasting money (7), children's problems (6) and being an unmarried mother (1). The cost-benefit analysis of these women indicates the need for providing better information on responsible migration, in relation to remittance management and the social cost, especially on children left behind.

In response to a question on what they learned out of their working experience in Saudi Arabia, 31 percent reported that the lessons they learned were from negative experiences. Their opinions indicated the lack of labour rights and the fact that they had to work as slaves without much support from anybody. Nearly a quarter based such views on their own experience. What is astonishing is the fact that most women in the sample had not heard about international conventions on migrant workers.

The fact that 59 percent believed migrant workers have no rights at all is also noteworthy. Sixty-nine percent thought they were treated as slaves by their employers. Although three quarters of the women wanted to discuss their abusive conditions at work with authorities, they appeared to have been reluctant to do so. Only seven women contacted local authorities in Saudi Arabia, two women to lodge a complaint, three women while in custody and one woman due to the employer's complaint. Out of 43 women who wanted to go overseas again for work, only five wanted to go back to Saudi Arabia.

The above analysis of the sample of women interviewed shows that a significant percentage of Sri Lankan domestic workers are subjected to exploitative, abusive and forced labour conditions in Saudi Arabia, including sexual abuse. The migration process makes them powerless in a political and legal system and migration governance structure where the employers of women have the upper hand. Even if the women wanted to discuss their abusive conditions with authorities many felt reluctant to take this action. One third of the women did not know which government to turn to protect them in their circumstances. The analysis thus shows there is gender, class and nationality based discrimination, disadvantage and inequalities that have emerged as a result of female domestic workers' migration to Saudi Arabia, implying that these disadvantages and inequalities are 'intersectional' and deep seated. The governance structures, the policies and procedures of both countries require significant reforms to address the weaknesses, inequalities and injustices identified, especially in comparison with international standards and expectations. Since the ILO Domestic Workers Convention addresses these aspects, it is necessary to pressure the governments to ratify the convention.

Even though the findings from a sample of 100 female domestic workers is not representative in order to make generalised statements, the analysis in this chapter provides some useful and critical insights on the topic that may be helpful for policy formulation, governance reforms and rights protection.

CHAPTER 8

Conclusion

South-South migration has now become a major feature of contemporary migration patterns involving low-skilled workers, especially domestic workers. This study primarily examined the governance structures, policies and procedures of Sri Lanka as a sending country and Saudi Arabia as a destination country to ascertain the extent to which migrant workers were provided adequate levels of rights protection and wellbeing.

The researcher investigated the economic, political and other factors that influenced the Sri Lankan Government to become a labour brokerage state; the effectiveness of Sri Lankan governance structures, labour migration policy and procedures to regulate and protect migrant workers; the working conditions, labour protection measures and experiences of Sri Lankan female domestic workers in Saudi Arabia; and the gaps in the existing migration structures, policies and procedures in Sri Lanka and Saudi Arabia that have led to marginalisation of Sri Lankan domestic workers in comparison to other labour origin countries such as the Philippines. Furthermore, the researcher analysed the underlying factors impacting on equitable provision of labour rights and human rights protections for migrant domestic workers.

The main research problems related to the effectiveness of labour management regimes in Sri Lanka and Saudi Arabia; workers' access to employment information, and inequality issues and the type of protections afforded to migrant workers and how these compare to international labour and human rights standards. A key consideration was how the institutional frameworks and regulatory measures make the migration experience an equitable one. The research methodology included macro and micro level analyses based on three research questions:

- In what ways and why has Sri Lanka transformed itself into a labour brokerage state, preparing workers for foreign jobs, developing a bureaucracy to send them abroad, and regulating them for work abroad?
- As a labour importing country what measures has the Saudi Arabian Government put in place for migrant workers and how does it regulate the working conditions and labour protections for the migrant domestic workers?

- What are the experiences of Sri Lankan domestic workers in Saudi Arabia with respect to labour migration procedures, working conditions and labour protections?

The conceptual framework of the study and the approach adopted was based on gender analysis with inequality as the main theme. These relate to the work done by several migration researchers on the unequal consequences of globalisation and international labour migration. The gender perspective recognises gender as a key determinant of unequal migration and work experiences leading to their marginalisation. There are strong arguments both in theoretical and policy terms for adopting a gender-sensitive approach to the study of migration and domestic work in destination countries. This is especially the case when examining the gendered aspects of international labour migration, particularly in the case of female migrant workers. Such studies have to go beyond a mere analysis of statistics to embrace socio-political and economic contextual factors in specific countries that promote labour migration as a development strategy. This broader approach is also necessary to identify historical, structural and ideological influences that lead to one or another policy framework, governance structure or protection mechanism. Studies that focus on policy aspects need to be strengthened by empirical studies of migrant workers to obtain information on their experiences and views. Often those who are discriminated against and victimised do not come forward to express their views openly and in-depth research can be designed to obtain these perspectives from vulnerable groups to enhance the analytical outcome. These studies thus contribute to a better understanding about the exploitation and marginalisation of female migrant domestic workers.

Chapter two examined theoretical perspectives in international labour migration. The researcher explained the limitations of adopting purely economic approaches such as the push-pull theory, the dual labour market theory and the world systems theory. The migration and development approach mainly focused on strategies that can be used to maximise the benefits of migration to a nation while reducing poverty in sending countries. The migration and inequality perspective considers why certain categories of migrants face inequality. In adopting a rights-based gender perspective the researcher has endeavoured to highlight discrimination, exploitation and abuse of female migrant workers and the increasing violation of their labour and human rights. A review of the

literature identified how these theoretical perspectives included macro to micro level analysis from economic and non-economic perspectives. The gender and inequality approach focusing on the labour and human rights of guest workers, especially domestic workers, is vital to an understanding of this approach. The chapter also reviewed ILO and UN conventions relating to migrant workers, including Conventions No.97 and No.143, ICMW, CEDAW and the recently adopted Domestic Workers Convention, and their provisions for regulating the migration industry, promoting decent work, and ensuring the wellbeing and protection of migrant workers.

Chapter four provided an overview of Sri Lankan economy and society, which is relevant to the first research question. The researcher traced the transformations in the economic, social and political spheres that created the push factors for Sri Lankan citizens to seek employment overseas. These included slow economic growth, growing poverty, high unemployment levels, political unrest, civil war and the state's liberal economic policies. The researcher examined how the high female unemployment rate, the growth of female-headed households and the feminisation of poverty due to wage gaps in certain occupations, occupational segregation and gender stereotypical employment niches were contributing factors. The under-representation of women in top-level management echelons and the concentration of women in lower-skilled and lower-paid occupations are very significant in Sri Lankan society. Thus gender inequality in the economic sphere has compelled women to seek work abroad as domestic workers. An important question that emerged was whether the liberalisation of women's employment allowing them to go overseas on short-term contracts subsequently created a new form of oppression. The chapter thus provided important conceptual and contextual directions and questions for the research study on female labour migration.

Chapter five addressed the second part of the first research question, focusing on Sri Lanka's labour migration legislation, institutional frameworks, policies and procedures with respect to how they are designed to regulate, facilitate and mobilise foreign employment. The analysis showed that Sri Lankan migration policies and procedures are gender-neutral, lack policy coherence, and are inadequate for the protection of migrant workers from exploitative practices, particularly from recruitment agencies and sub-agents. Additionally, inadequate protection measures continue to exist in the policies and national legislation. There is a suggestion to establish an inter-ministerial committee for

better coordination between government agencies with NGO stakeholders in the migration policy document of the country but these policy measures are yet to be implemented. Sri Lanka has not ratified the ILO conventions on migrant workers and has not implemented several recommendations of the ICMW Convention that has been ratified. SLBFE officials' view on the ILO conventions not being practical (46.6 %) was cited as an example. Absence of bilateral agreements with destination countries and the inadequate safeguards in MOUs were noted as problematic governance issues.

The findings showed that information on the measures to protect migrant workers such as pre-departure training programme, model employment contract and mandatory registration with the SLBFE are fairly well known by women because of information received from sub-agents. However, their vulnerability to exploitation and abuse in the destination countries remained high. In fact, the analysis showed that more of the women who were subjected to exploitative and abusive conditions were some of those who had registered with the SLBFE and signed contracts. The findings revealed that the training for female domestic workers is focused more on work-related themes in the destinations, not on the rights and protection aspects. Whether there is a balance between promotion and protection in the policies and procedures emerged as a significant policy challenge facing countries like Sri Lanka. The government's commodity supply approach characterised by 'select, train, pack, insure and export' was found to be the dominant paradigm.

Chapter six addressed the second research question and showed the rigid administrative system, gender-biased policies, strong religious affiliation of nationals, the strict recruiting system for migrant workers (*kafala*) and discriminatory labour laws against non-national workers as factors influencing the rights of migrant workers in Saudi Arabia. The labour laws in Saudi Arabia exclude and marginalise unskilled migrant workers including domestic workers. The nationalisation policy that aims to increase the local working population over the migrant worker population coupled with the country's politico-cultural (religious) ideology provide the necessary context for maintaining such a hardline approach. Saudi Arabia has not signed any international convention on migrant workers: Conventions No.97, No.143, the ICMW or the Domestic Workers Convention. The only available protection mechanism for migrant domestic workers, the employment contract signed with the employer, is not a legally binding document. The findings

showed the extent of vulnerability migrant women in the domestic sphere faced due to this unprotected work environment. Further, the chapter showed how the *kafala* system binds the workers to the employers and limits their freedom of movement and other rights. Manipulation of the system by unscrupulous agents leading to various abuses of the system for example, debt bondage is also a serious concern. The system is highly regulated, giving an upper hand and unequal power to the employer to control the employee in not only wages and conditions but also in body and spirit. The government does not effectively implement the blacklisting system of employers who are found to be abusive and mistreat employees. Lack of a transparent dispute resolution system is also a concern.

The research showed the attitudes to gender are governed by religious law, government procedures and cultural norms in Saudi Arabia and various initiatives being developed for Saudi women's rights outside the domestic sphere, mainly in work. Yet, it also showed how some Saudi women treat migrant domestic workers differently when they are in the custody of Saudi employers who are predominantly their husbands. Even though formally the relationship is a contractual one, a very complex web of culturally sanctioned norms and practices operational in the larger society impact on employer-employee relations. Lack of bilateral agreements was shown as a factor contributing to the unsatisfactory implementation of the contractual system.

Chapter seven addressed the third research question, analysing empirical data on experiences of returned Sri Lankan domestic workers from Saudi Arabia. Findings showed the extent to which labour rights violations and human rights violations exist in the Saudi Arabian domestic sphere. Non-ratification of ILO and UN conventions, reluctance for bilateral agreements by destination countries, violation of work contracts and discriminatory procedures like *iqama* significantly increased the vulnerability of migrant workers to exploitation and abuse. Associated with such vulnerability were exploitative conditions and practices such as unsatisfactory working conditions, heavy workload, unregulated working hours, withholding and unpaid wages, and verbal, physical and sexual abuse. This situation can be described as one of forced labour or contract slavery. The Human Rights Watch (2004a, 2010a) urges Saudi Arabia to address these matters to protect migrant workers labour rights and human rights. The Sri Lankan

Government as a labour exporting country also has to take these abuses and rights violations seriously.

In Chapter seven, several problem areas relating to Sri Lanka's legislation were identified. These included pre-departure training, the employment contract and the role of sub-agents. Findings make it imperative for the Sri Lankan Government to investigate why 20 percent of domestic workers in the sample changed their employers while in Saudi Arabia. Another issue was why the first time workers terminated their contracts early compared with more experienced workers. The researcher found that a large number of women had very little information about either their rights under international instruments, the governance system in Saudi Arabia or their contractual terms. Furthermore, they were also reluctant to complaint to the authorities even when they faced abusive conditions and ill treatment. Some resorted to physical or verbal return attacks or early return home to cope with their powerless situation. This shows a serious weakness in the labour migration policy framework and process requiring the attention of government authorities and NGOs, etc. Changes are also required in the way Sri Lankan foreign missions operate overseas. There should be a distinct focus and agenda on female domestic worker issues. The majority of the women interviewed for the study did not have a positive experience on this front. They felt that they were not provided with adequate facilities or treated well by the embassy staff. Lack of regulation on working hours, workload etc is seen as further issues of concern. Violations of their labour rights and human rights lead to situations such as 'debt bondage', 'forced labour' and 'contract slavery'. These findings have broader implications for other labour origin and destination countries as well. The observations made in several studies by the Human Rights Watch (2004a, 2006a, 2006b, 2007, 2008) regarding the resultant ill-treatment of workers, unsatisfactory working conditions and discrimination, lack of safety in the workplace, poor accommodation and basic facilities, delayed or withheld payment and forced labour closely corroborate the findings from the sample of returnee domestic workers interviewed in this study.

Theoretical implications

In terms of inequality in general, and gender inequality in particular Chapters four and five showed that female migrant domestic workers who represent the lower rungs of the employment ladder are vulnerable to higher exploitation and abuse due to the intricacies

in their employment, workplace, regulatory regimes and lack of protection. Although a considerable number of women interviewed had positive experiences of their employment overseas, the findings showed that the liberalisation of employment created a new form of oppression for migrant domestic workers who are confined to the domestic sphere in a different socio-cultural setting. On the basis of the findings it is possible to argue that a segment of the sample received material gains by way of their ability to build a house, spend on their children's education, etc., yet there were also many social and psychological costs. Though the research did not investigate the latter aspect in-depth, there were enough responses to make this point. The power accorded to the employer by the legal and governance system and the lack of legal and procedural protections to the worker is the dominant form of inequality discovered. Critically, this has a gender dimension. The research did not discover noteworthy gender or class equality mechanisms in the destination country. On the contrary, support mechanisms were lacking and migrant workers felt helpless and powerless, thus proving the argument of Black et al. (2006). Overall it can be argued that migration of women to a West Asian country like Saudi Arabia does not create gender equality. This has implications for the international division of labour, especially segmented labour market in terms of gender.

Findings confirm the validity of concepts such as inequality, gender exploitation and marginalisation of migrant domestic workers as well as the usefulness of gender inequality approach. As Lenard (2010) outlines the findings show the inherent vulnerability of workers, poor working conditions, exploitative contract conditions and exploitative bargaining that exist in the context of migrant domestic workers. Going by the analysis in chapter seven, it is evident that the legislation and family structure in the destination country marginalises female migrant domestic workers in a variety of ways.

Furthermore, findings showed that gender-based discrimination intersects with discrimination based on other forms of identity. These include being a foreigner, ethnic identity, nationality and socio-economic status. Being non-Saudi, non-middle class and non-Islamic seems to have worked against the fortunes of these women. In Sri Lanka also, being a low-skilled, less-educated women put them in a disadvantaged category. The labour rights and human rights violations revealed reflect how discrimination, marginalisation and vulnerability increased twofold or threefold due to the 'otherness' of the migrant workers. As Poster and Wilson (2008), Shields (2008) and Choo and Ferree

(2010) demonstrate, the inequalities, disadvantages and abuses experienced by women are multi-dimensional.

Policy implications

The provision of better working conditions, benefits, and protection of human rights and labour rights of workers are fundamental concepts applicable to national policies on migration. When governments in association with private agencies are using migration as a vehicle for development, they need to ensure these rights, protections, working conditions and benefits of migrant workers through effective policies, procedures, institutional and legal frameworks. Since Sri Lanka moved to be a labour brokerage state in order to alleviate poverty among those in the lower strata of the society, in this case women in the lower socio-economic status, the question was to what extent it has taken steps to protect labour rights, working conditions, and the wellbeing of those who go abroad in search of work.

The findings of the research show that labour origin countries like Sri Lanka do not give first priority to rights issues, abuses, exploitation and discrimination of migrant workers. Instead, export of labour and promotion are given first priority. This dehumanises the whole process, as migration of female domestic workers is considered as a commercially driven process due to the importance of remittances. It also de-sensitises/distances women – mostly mothers and wives – from Sri Lankan cultural values and norms, actively aiding and supporting their transformation to ‘domestic workers’ in a totally different cultural, political and domestic context.

The main policy implications of this study can be summarised as follows:

Sri Lanka:

- Migration policies, governance structures and pre-departure training are more focused on promotion and regulation rather than protection of labour rights and human rights.
- Migration policies and procedures, as well as officials’ perceptions, are gender-neutral whereas they should be gender-sensitive.

- Lack of coherence/coordination between government institutions and other stakeholders: a centralised institutional framework compared to a decentralised structure like the Philippines which has shown to be more responsive to worker needs.
- Central role of recruiting agencies and sub-agents and lack of adequate regulation
- Early return of female migrant workers without completing the contract period and significant number facing various labour rights abuses and human rights violations.

Saudi Arabia:

- Exclusion of migrant domestic workers from labour laws as a key contribution to their vulnerability.
- Weaknesses in the rigid labour recruiting and sponsorship system (*kafala*): this ties the worker to an individual employer. It is difficult to change employer without the sponsor's permission.
- Labour rights violations and abusive working conditions: need for reforms in the governance structure and procedures to address these.
- Human rights violations and forced labour: need for Saudi Arabia to ratify international conventions, provide better mechanisms to prevent, investigate and prosecute these violations, and a better oversight monitoring and compliance system
- Lack of access to a complaint and dispute resolution system: need for complaint procedure with easy access, interpretation and legal assistance

Any government delays in taking proactive steps for reform in this sector could contribute to further feminisation of poverty among female migrant workers.

The research showed the necessity of gender-sensitive labour migration policies for Sri Lanka. Furthermore, the thesis showed as a development strategy how international migration is fraught with considerable risks and dangers for the migrant women in a destination country like Saudi Arabia which is not democratic in the Western sense. Countries with patriarchal values, norms, expectations and practices pose serious risks to worker welfare and wellbeing, even though this is not a universal experience among migrant women workers. A significant proportion of the women interviewed in Sri Lanka did not have negative experiences with employers. Nonetheless the findings from this research call for serious re-consideration of the migration and labour governance and

regulation procedures both in labour origin countries and destination countries in order to better informed and prepared migrant domestic workers. As the Domestic Workers Convention 2011 states, decent work principles should be embedded in domestic work. Such a step can improve migrant worker welfare and wellbeing as well as and alleviate inequalities and indignities if modelled along best practices and international expectations.

There are merits in conducting micro studies, such as case studies, to generate qualitative information about different/specific kinds of migrant workers such as female domestic workers in order to bring to light grass-roots perspectives on macro topics like labour migration to West Asia. However, in doing so the economic, social and political contexts in labour origin and destination countries need to be investigated to understand the broad push and pull factors. This study makes an original contribution in this regard as it sheds light on the migration of female domestic workers between labour origin and destination countries with a focus on rights violations and gender inequalities.

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