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Mythri Jegathesan

Introduction

- 1 In 2013, the Government of Sri Lanka issued the Family Background Report (FBR), a policy requiring prospective women migrant domestic workers to document their reproductive and family history when applying to work overseas. In 2015, the FBR was revised to include the following clause targeting prospective overseas women domestic workers residing on Sri Lanka's tea and rubber estates: "In the plantation sector, the residence and civil status of women living on estates should be endorsed by the Superintendent of the relevant estate. If the Superintendent is not agreeable to such endorsement, the relevant women should not be recommended" (Withanage 2015:3). The inclusion of the plantation clause raised questions about the state's intentions to regulate the reproductive capacity of women and restrict—and implicitly designate—which women should be working within and outside Sri Lanka, and where they would be allowed to work. It squarely placed endorsement of a woman's residence and civil status in the hands of a plantation superintendent—an employee of a private company supported by Government subsidies for economic and social development, and a person with no legal authority to determine or regulate the labor and household choices of civilian women. In April 2015, Sanath, a researcher at a local civil society forum based in Colombo remarked, "the regulations regarding women [on the] plantation is [a] throwback to the colonial period when estate workers needed permission from the Superintendent to work outside the estate."¹
- 2 How can a plantation superintendent extra-legally verify the civil status and state residence of a woman plantation worker? How did this constricting language—included for the purpose of excluding women residents from plantations—come into the fold of

state policy on women's labor in Sri Lanka? The state's recursive and exclusionary move in 2015 is the impetus for this paper's focus on Sri Lanka's longer history of state-industrial entanglement in the lives of minority Hill Country Tamil women, most of whom live on, or claim to have their origins in, Sri Lanka's tea plantations. When the FBR first emerged in 2013, feminist scholars and activists critiqued the circular as an exceptionally restrictive policy that directly contravened women's international and national labor and human rights. However, a closer examination of the plantation sector's colonial and postcolonial labor policies and reproductive practices suggests that the FBR is exceptional in the history of state intervention in industrial labor. In this paper, I explore discursive, archival and ethnographic evidence of this continuation to contextualize this clause within the larger legacy of state and industrial intervention in women workers' productive and reproductive lives.

- 3 This paper argues that the 2015 FBR represents a *continuation* of the Sri Lankan state's entanglements in the productive and reproductive lives of women workers. In the context of this history, the plantation clause signals the persistence of such strategic entanglements between state and industrial policies around the potential of women workers. Entanglement, as practiced in the plantation industry, can be a useful analytic through which to think more broadly about gendered labor policies in Sri Lanka. Drawing from discourse analysis and archival and ethnographic research that I conducted in Sri Lanka between 2008 and 2018, I examine key colonial and postcolonial investments in women's labor and reproductive health that aim to sustain capitalist projects of profit accumulation and industrial security. I explore various social and economic features of these state entanglements in Sri Lanka's plantation industry, given that it was the focus of the 2015 FBR exclusionary clause, introduced at a time when the plantation industry, once a resilient model of profit accumulation, was experiencing a severe financial crisis. To contextualize the financial crisis, I examine a more recent case of the tea industry's desire to keep women working on plantations in an effort to lift the sector out of the economic crisis and restore a positive perception of the Sri Lankan nation through tourism initiatives that promote an image of industrial sustainability.
- 4 I then analyze the rationale of, and responses to, the FBR and how its three iterations, between 2013 and 2017, expose the limits of human rights praxis in assuring women workers' labor choices and reproductive rights and, more specifically, the mobility and freedom of minority women workers living on plantations. By focusing on the FBR as an indicator of the continuation, rather than an exceptional act, in the Sri Lankan state's approach to women's labor, my assessment reveals how intersections of economic investment, rights-based discourse, and industrial sustainability impact women's labor and reproductive experiences and inform the persistence of the state's regulation of women workers' lives in Sri Lanka.

(Dis)locating women's labor

- 5 In this paper, I draw upon anthropological and feminist frameworks of labor, capital accumulation and potentiality to understand how this persisting tension operates and plays out in the context of state intervention in women workers' lives in Sri Lanka. Women play an integral role in maintaining household economies and their actions involve biological reproduction, household income generation, unpaid domestic labor

activities, and fulfilling reproductive expectations such as fertility and childcare. This paper focuses on how state policies targeting women's lives and labor make visible the tension between women's productive and reproductive lives. This can be broken down into three categories: (1) the valuation of what women produce through the labor they perform; (2) the valuation of their capacity to create and sustain life and the experiences that such projects of potentiality engender; and (3) the dialectical relationship between the valuation of women's labor and the management of their reproductive experiences. This paper foregrounds this dialectical relationship to investigate the conditions through which the plantation clause came to be integrated into the affective and immaterial hierarchies of labor economies on Sri Lanka's plantations.

- 6 I ground my understanding of women's labor in the Gens manifesto, written by Laura Bear, Karen Ho, Anna Tsing and Sylvia Yanagisako, which calls to reinsert "kinship, personhood, the household and social reproduction" into anthropological investigations of labor valuation and gender (Bear et al. 2015).² This move is attentive not only to the financialization of women's labor (the conversion of labor performed into a wage assessed and earned, and the subsequent surplus value of that labor) but also to the more contradictory valuations of women's labor—the immaterial, affective, and invisible dimensions that often go undocumented. Following Penny Harvey and Christian Krohn-Hansen (2018), I argue that the fixing of minority Hill Country Tamil women workers on the plantations and in the plantation sector in Sri Lanka is integral to the survival of the Ceylon tea industry and the nation's global market brand. Paying attention to the location and dislocation of these women's labor is critical to an understanding of the state's interest in maintaining ethnic and gendered divisions. For Harvey and Krohn-Hansen, *dislocation* opens the field of labor to an evaluation, not only of uneven transformations in places that laboring bodies inhabit and in which they invest their capital, but also of "the structures of feeling and the affective forces that colour contemporary experiences of labour" (Harvey and Krohn-Hansen 2018:12). Placing these features of women's labor in conversation with one another reveals how and why the state unevenly intervenes in women's lives across caste, class, and ethnic difference, and how it embeds itself in minority women's households, social relations and communities.
- 7 Such entanglements also echo Laura Bear's call (2015) to build and expand upon Marilyn Strathern's (1985) internal separation, or partitioning of gender and kinship relations from the economy when they seemingly collapse into "indistinguishable" relations (p. 191). For Bear, separating gender and kinship from the economic realm is not possible given the way in which labor is performed and valued, and the "persistent conjoining of nature, culture, objects, society, and economy" (Bear 2015).³ Parsing these conjoining flows of significance, more recently anthropologists have found it useful to examine how "reproductive and productive labor add value to one another" even when work conditions are stigmatized or lacking dignity (Griffith, Preibisch, and Contreras 2018:224). In this light, the state's entanglement in women workers' lives is hard to locate and appears in the relational and immaterial features of labor performed, the dynamics of coexisting and competing labor markets, and the reality that women workers—like the capital they produce—are mobile and not confined to a single place, home, or sector.

- 8 The pivot of the dialectical relationship between productive and reproductive life is women's potentiality or capacity. Karen Sue Taussig, Klaus Hoeyer and Stefan Helmreich write: "potentiality becomes a term with which one articulates worries and not just hopeful prospects, and ... becomes linked to political action and deliberation rather than the immanent mechanisms of nature." (Taussig et al. 2013:S8). Reinserting political action is key to analyzing state and civil discourse around the FBR and state intervention in women's reproductive lives and their actual biological, embodied experiences. This paper demonstrates how the state articulates its concerns and hopes through the potential bodily acts of women—intimate and bodily labor, reproductive choices, and mothering—and it explores why it is politically useful for the state to intervene in women's labor and lives.
- 9 Studies dealing with the Sri Lankan state's interest in women's work and location in labor markets have largely focused on the experiences of women belonging to Sri Lanka's Sinhala Buddhist majority, and ethno-nationalist strategies to dictate social norms of morality, class politics and respectability. Malathi de Alwis describes how "respectability, enshrined in the 'home' and embodied in 'woman' through the confluence of patriarchal, capitalist, religious, and nationalist relations of power, continues to be reproduced and to hold hegemonic sway over [Sri Lankan] society" (de Alwis 1995:150). Michele Gamburd studies how rural Sinhala women working in the Middle East negotiate "long-distance mothering" and how money and material goods transform perceptions of motherhood (Gamburd 2000:198, 208). Likewise, Caitrin Lynch (2007) and Sandya Hewamanne (2008) examine how the Sri Lankan state invests in the production of gendered moralities and respectabilities through garment factory labor in rural and urban settings respectively. More recently, scholars have studied the centrality of capital and labor to the post-conflict politics of negotiating reconciliation and reform (Neubert 2016, Ruwanpura 2016). With the exception of Neubert (2016), this scholarship focuses on Sri Lanka's Sinhala majority, which comprises roughly 75 percent of Sri Lanka's current population (Central Bank of Sri Lanka 2017). But in the country's estate sector, nearly 1 million minority Hill Country Tamils live on company-owned plantations, and only sixteen percent are registered to work full-time on the estates (Rajadurai 2016).
- 10 Central to the above studies is the state's attempt to insert a gendered politics of location into the regulation of value created by women's work. As women's work is critical to suturing a majoritarian sense of the Sri Lankan nation, where does this leave the value of ethnic minority women's work in the narrative of Sri Lanka's nation-building? I argue that this gendered politics of location unevenly engages minority Tamil women in the estate sector. A deeper excavation of the entanglements on the plantations, which have largely been sustained by lower-caste minority Hill Country Tamil women workers' agricultural and domestic labor, reveals how this form of politics operates, and which communities it attempts to include or exclude in the policing of women's work.

Research methods

- 11 This paper is based on archival and ethnographic research I have been conducting since 2008 with Hill Country Tamils living on Sri Lanka's South-Central tea plantations. In my long-term research, I trace the labor and reproductive histories of Hill Country Tamil

women living on Sri Lanka's tea estates, specifically in Central Province outside Kandy and in Nuwara Eliya. I study the value that women and their kin attribute to labor performed in and outside the home, the transformation of households and social relations on the estates through labor remittances and migrant labor networks, the functioning of prestige and shame in kinship relations and political anxieties over the rights and dignity of minority Hill Country Tamils in the postwar context. Alongside recording and observing women's perceptions and community dynamics, I also trace colonial and postcolonial governance and industrial representations of Hill Country Tamils. In this manner I think through potential disruptions to former understandings of wage labor, caste and class stigma attributed to manual and intimate labor, and the persistence of, and challenges to, these representations amidst industrial and political reform.

- 12 For this paper, I analyzed the discourse presented in documents, including government-issued circulars in Tamil and English, and media and press releases from key government, human rights, and industrial stakeholders between 2015 and 2018. I also draw from archival research on the representation and treatment of "coolies" between 1900 and 1943 that I conducted in 2016, and ethnographic research (informal interviews, oral histories and participant observation) that I conducted between 2008 and 2017. The document-based and media discourse that I track here is reinforced by the concerns that Hill Country Tamil women workers and industrial stakeholders shared with me during my larger ethnographic project, and by observations that I made during the time I spent on the plantations.

Colonial care and bodily "operations"

- 13 In the early 1800s, Tamil-speaking low caste communities began migrating to British Ceylon from South India as laborers (Moldrich 1989; Peebles 2001). The community was largely referred to in the archive as Tamil "coolies" or waged laborers, and they were documented as working in agricultural, informal, and casual labor economies known for their poor forms of compensation and working conditions, and as settled on Ceylon's tea and rubber plantations (Peebles 2001; Nithiyanandan 2014). Today's Hill Country Tamils are the descendants of this former "coolie" labor force. Beginning in 1948, their disenfranchisement and prolonged statelessness provided the basis for Sri Lankan Tamil calls for a separate Tamil state and an eventual civil war on the grounds of linguistic and ethnic discrimination (Daniel 1996). Today, Hill Country Tamils comprise approximately 4.1 percent of Sri Lanka's population of 20.36 million (Central Bank of Sri Lanka 2017). As an ethnic minority, they are largely excluded today from Sri Lankan Tamil nationalist platforms for social and political reform, and they continue to experience landlessness and uneven access to higher education, healthcare, and government services (Gunetilleke, Kuruppu, and Goonasekera 2008; Balasunderam 2009).
- 14 Historically, the plantations have long been entangled in juridical and industrial forms of bodily and civil governance designed to serve the economic needs of a central colonial, then postcolonial, state. Imperial tactics of governmentality thrived in the form of colonial labor, wage ordinances and industrial directives, which all sought to extract accumulated profit from regional and global circuits of coolie labor (Tinker 1974; Kelly 1992; Breman and Daniel 1992; Nithiyanandan 2014). Labor

regulations, designed to maintain the strength of the British Crown, became the backbone of emerging and contemporary state-based directives, designed to build Sri Lanka's economic strength as a dynamic player in the global economy. The logic and trajectory of this labor heritage can be traced through a brief history of Sri Lanka's plantation sector in the context of two key shifts in industrial policies that affect the reproductive and productive lives of women estate workers. For each shift, I present archival and ethnographic evidence of the state's resilience in the plantation sector and its persistent desire to reproduce a productive labor force of women.

- 15 In the first phase (1880 to 1972), the Government of Ceylon was officially responsible for the healthcare of Tamil "coolies." But unofficially, the private plantation companies provided this service as their industrial health and generation of capital were contingent upon the health and productive capacity of "coolie" labor. Acting upon concerns and demands from colonial agents to account for ill and dying coolies on the estates, the Government of Ceylon enacted the Medical Aid Ordinance No 14 of 1872, requiring planters to provide their workers with medical aid; however, the planters largely ignored this ordinance, and in 1880 Ordinance No 17 provided that all plantation workers were to receive medical care from the Government of Ceylon (Peebles 2001:142). Between January and October 1914, the Government of Ceylon became directly embroiled in the welfare of "coolie" laborers when workers in South-Central Ratnapura sought protection from starvation and ill treatment by the local police (Meyer 1998:13–14). This led to a province-wide commission inquiry known as the Sabaragamuwa Commission (1916). The Commission, made up of colonial agents, investigated the treatment of "coolies," allegations of abuse and the circumstances surrounding the flight of coolies from resident estates. It ultimately concluded that the coolies were not being maltreated (Meyer 1998:22). Nonetheless, the report's investigative summaries provide an insight into the colonial government's desire to intervene in the productive and reproductive lives of women workers. In a section of the report entitled, "Treatment accorded to Women during and after Confinement and the care of Infants" the authors relay that estate superintendents were required by law to give a child-bearing woman workers "medical treatment and sufficient food for one month, and not to send her to work till the expiration of the month, unless the medical officer otherwise directs" (Colonial Record 2693 1916: xiv). The report further describes what kinds of food ought to be provided for the mother and child after the birth, and why employing trained midwives and building crèches or nursery care facilities on the estates would reduce infant mortality (Colonial Record 2693 1916: xiv). While couched in the context of mortality prevention and caring for women's health and lives, these recommendations are ultimately justified in the language of optimal industrial production:

if the system of inspections and bonuses ... for the encouragement of infant life were more universally adopted, there would be less tendency on the part of mothers to neglect their offspring ... in our opinion, any well-directed expense or trouble taken in the prevention of preventable disease, improvement in the environment and surroundings of the laborers, would not only be more than repaid by increasing the efficiency and working capabilities of the adults, but would indirectly benefit their offspring—the future labour force of the estates. (Colonial Record 2693 1916: xv)

The government assessment recommends that plantation superintendents invest in the reproductive lives of women workers but also that they ought to encourage women workers to bear biological life for the future benefit of profit accumulation. "Well-

intended expense or trouble” amounts to, or is valued as, ensured “efficiency,” enhanced “working capabilities” and a “future [biological] labour force.” With Tamil plantation workers’ wellbeing largely determined by the plantation companies’ own monetary and infrastructural obligations to the British Crown, women workers’ reproductive lives remained embedded in industrial relations, including the government’s judicial and police presence through various commissions and policy recommendations. After independence, the discrepancy between the lived reality of workers’ care and implemented policies became the foundation upon which plantation healthcare would operate.

- 16 In the second phase (1972 to 1991) the Government nationalized the plantations, and plantation healthcare, housing, and educational facilities became the state’s responsibility (Loganathan 1990; Hollup 1998, Periyasamy 2015). During this phase, the Government began to encourage female sterilization as a monetarily incentivized form of contraception, in an effort to curtail population growth and boost Sri Lanka above the global poverty indicators (Bass 2008, Balasundaram 2009). Hill Country Tamil leaders, unionists and human rights organizations documented their anxieties around the implementation of these family planning initiatives. Specifically, the use of financial incentives to encourage tubal ligations was rumored to be one of the outcomes of state-led efforts to reduce the population and political power of Hill Country Tamils in the context of the ethnically driven civil war (Bass 2008:275–56). Statistically, persistently high percentages of tubal ligations in the estate sector were striking. In the 2006–2007 Demographic and Health Survey, the sector had the highest percentage of female sterilizations, at 39.9 percent, while the urban and rural sectors stood at 13 and 15.5 percent respectively (Annual Health Statistics 2006:57). In 2016, female sterilization in the estate sector dropped to 27.4 percent, but still remained well above the rural and urban sectors, at 13.9 and 11.2 percent respectively (Annual Health Statistics 2016:64).
- 17 Balasunderam (2009:61) shows a correlation between these higher instances of sterilization and higher degrees of structural violence among Hill Country Tamils. In my own ethnographic work with women who had undergone tubal ligations in the 1980s, I found that perceptions and ideas about tubal ligations had come to be embodied and inherited by reproductively viable women through kinship investments. For instance, Banu Mary, a retired 63 year-old worker told me the following in Tamil when I asked about her “operation” in 2009:

I had my first child in 1961 and had eight more children after[wards] until my last, my daughter, who was born in 1982. Two of the children have died, and seven years ago my husband either drank some bad *kasippu* (“home-brewed moonshine”) or committed suicide on Deepavali—it was never clear. After giving birth to my daughter in 1982, I had the operation. The doctor at the hospital told me to get it. At first, when he told me, I was scared at having such a big operation [*pulls back her sari and pulls down her bottom half to show me the cross-like scar on her bottom abdomen*]. I was made to wear a gown and lay down on a table. They gave me an injection to take away my consciousness but it did not work so they had to give me another one. Afterwards, I ate carefully—no tomatoes, but foods like *māṭṭu irai* (“beef”) and *keerai* (“greens”) to give my blood strength. I was in the hospital for five days. Now my daughter is three months pregnant with her second child. She became pregnant with her first baby before marriage and had a registration only with the father. They separated after the baby was born but now they are okay again. He will go to Colombo and work now that they will have two children. After this child, she will have the operation.

Banu Mary's account demonstrates how reproductive and family planning policies promoted by the Sri Lankan state do not surface directly in women workers' memories, but rather through mediating authority figures and state-sponsored spaces. From recounting the context of their operations and reproductive histories, they intimately know the outcomes of these state-led initiatives. Amidst the circulation of rumors and evidence of statistics, such policies impact their decisions and actions, and what they inherited and took on through their bodily acts and care. The accounts also reveal how women workers come to accept and justify their reproductive experiences through the valuation of their labor and household contributions. In conversations, conducted between 2008 and 2017, with married, reproductively viable women above 25 years of age, most opted to have tubal ligations as a form of contraception after their third child, due to their estate work schedules and the impracticality of other contraception methods. Options such as birth control pills were unfeasible due to their working hours, the bodily side effects of the Depo-Provera injection were discouraging, and the culturally gendered stigma associated with condom use were difficult to overcome. When read alongside the longitudinal statistical evidence of preferences for female sterilization in the estate sector, their stories suggest that state entanglement in women workers' lives is not limited to single acts or historical moments; rather, it persists and lives on as kin-based knowledge about reproductive choices. These gendered labor commitments are inherited and transmitted through women workers' social relations, and exist as ways of evaluating productive life by means of reproductive experience.

Moral panic, women's rights, and care as curtailment

- 18 Using reproductive capacity and discourses of care, the Sri Lankan state and the state-subsidized plantation sector locates Hill Country Tamil women workers in the plantation labor force, knowing full well the evidence of the industry's economic shortcomings and lack of appeal for women workers and their families. With children of workers refusing to work on the plantation and pursuing off-plantation employment opportunities, overseas work, already a common pursuit among Sinhala communities in Sri Lanka, has become an attractive employment option for Hill Country Tamil men and women seeking more economically secure futures (Gunetilleke et al. 2008:29–30). Social scientists have well documented the experiences of overseas women domestic workers with respect to foreign migrant remittances, household income management, and shifting gendered expectations in transnational labor contexts (Gamburd 2000 and 2008; Kottegoda 2004 and 2006; Kottegoda et al. 2013). Between 1994 and 2005, the number of overseas domestic workers or “housemaids” rose from 36,104 to 125,493—representing 82.45 to 91.34 percent of the total number of women overseas workers respectively (Sri Lanka Bureau of Foreign Employment 2008). In 2012, 119,052 of 282,331 overseas workers—roughly 42 percent of the total migrant labor force—were women domestic workers (Sri Lanka Bureau of Foreign Employment 2012).
- 19 While a desirable form of employment, women's overseas domestic work is not without the risk of bodily violence and labor precarity. Between 2009 and 2012, an estimated average of 1,601 women workers filed complaints of physical and sexual harassment annually (Sri Lanka Bureau of Foreign Employment 2012b). Beyond these numbers, one particular case became a token of the state's concern for housemaids' safety. In May

2005, seventeen year-old Rizana Nafeek migrated, using forged identification papers and application documents, to be a housemaid. She was arrested for the murder of an infant under her care shortly after she arrived. On June 16, 2007, Nafeek was convicted as a minor and sentenced to death by execution. The act was in direct contravention of Article 37 of the Convention on the Rights of a Child (CRC)⁴ and ten days later, the Asian Human Rights Commission (AHRC) began a legal fund and appeals campaign with Amnesty International, A Safe World for Women, and other organizations followed its lead (BBC Sinhala 2007; Fernando 2011). One month after Nafeek was sentenced, the case was raised in the British Parliament and the Government of Sri Lanka began assessing its own overseas worker policies (UK Parliament 2007).

- 20 In August 2006, the Ministry of Labour Relations and Foreign Employment unveiled the National Policy for Decent Work in Sri Lanka under the International Labour Organization (ILO) directives. The policy, implemented within the National Action Plan (2006–2016), was an offshoot of then President Mahinda Rajapaska's 2005 election manifesto (Rajapaska 2005). Then, in coordination with the ILO and industry and human rights actors, the Ministry of Foreign Employment Promotion and Welfare (MFEPW) launched the National Labour Migration Policy in October 2008. This document outlined institutional, legislative, and regulatory frameworks for foreign migrant employment and focused on objectives of good governance, worker empowerment, and economic growth (Ministry for Foreign Employment Promotion and Welfare 2008:v-vi). As in 2006, the National Labour Migration Policy of 2008 employs the language of human rights, but also features clauses that promote nationalist aims and objectives. Sri Lanka's women workers were ensured "productive employment in conditions of freedom, equity, security and human dignity" (p. iv) but the labor assurances were enmeshed in national development and economic growth objectives.
- 21 Between Nafeek's arrest in 2005 and the drafting of the National Labour Migration Policy of 2008, the above policies did not positively impact her case (Najab and Munas 2014). From 2008 to 2009, the end and aftermath of the civil war dominated Sri Lanka's political landscape. In October 2010, eight months after his re-election, President Rajapaska, made two unsuccessful appeals to the King of Saudi Arabia to grant Nafeek clemency (BBC News 2010). Between 2010 and 2012, the Sri Lankan Government and Foreign Employment Bureau (SLBFE) engaged in diplomatic negotiations to have Nafeek exonerated and released. But they were unsuccessful, and on January 9 2013, Saudi officials beheaded Nafeek, despite condemnation by the Sri Lankan Government, the European Union, the UN, and the international human rights community.
- 22 Sri Lanka's rights-based policy interventions did not save Nafeek and her bodily rights as a child, worker, and detainee remained unprotected. Her death, and the failure of state negotiations, exposed the limitations of the state's international human rights praxis in terms of valuing women's overseas domestic work. Revisiting Nafeek's case, alongside the British colonial Government in Sri Lanka's justification of providing "coolie" women maternity and childcare benefits on the estates, reveals the implications of the state's continuing execution and failure of rights praxis. Like the Commission's discursive linking of reproductive healthcare benefits to future productive labor forces on the plantations, the state's response to Nafeek's case was to regulate and generate more economic growth using the language of good governance

and empowerment through rights. In this move, the state employed the discourse of care and rights but actively entangled itself in the project of assessing women workers' worth for profit accumulation.

- 23 Nafeek's death and the increase of human rights violations documented by the SLBFE also provoked further curtailments of women's roles in labor economies outside the home and nation. On June 7, 2013, the Ministry for Foreign Employment (MFE) issued the FBR also known as circular No.13/2013 (Ministry of Foreign Employment Promotion and Welfare 2013). The government directive, effective on January 14, 2014, outlined four age-related clearance certifications that prospective overseas domestic workers were obliged to provide. First, it made migration for domestic work of any woman with children under the age of five years illegal. Second, it required women with children over the age of five years of age to provide written guarantees that their children would be cared for in their absence.⁵ Third, it raised the age limit for migration for women from 18 years to various minimum ages ranging between 21 and 25 years, and fourth, a maximum age of 55 years was set for all labor-receiving countries.
- 24 The FBR gravely concerned policymakers, intellectuals, activists, and human rights' practitioners. In September 2015, a citizen challenged the circular for violating women's constitutional rights to employment; but the Supreme Court determined that the circular was not in violation of the citizen's fundamental rights (United Nations Sri Lanka 2015:29). On January 28, 2014, the Office of the Chairperson-Rapporteur of the Working Group on the Issue of Discrimination against Women in Law and in Practice, and the Office of the Special Rapporteur on the Human Rights of Migrants, sent a joint allegation letter to the Permanent Representative of the Sri Lankan Permanent Mission to the UN. In the letter, the Offices allege, "Circular 13/2013 of June 7, 2013 issued by the Sri Lanka Bureau of Foreign Employment discriminates against women and restricts their rights to freedom of movement and work" (UNHCR 2014). The letter further cautions that the FBR reinforces gender stereotypes of women as the sole caregivers of children and that the policy's enactment would enable "irregular migration practices" that might make women more susceptible to "exploitation, including becoming victims of trafficking and abuse" (UNHCR 2014). In May 2014, following a visit to Sri Lanka, the UN Special Rapporteur on the human rights of migrants, François Crépeau, called the FBR discriminatory and cited the Sri Lanka-ratified International Covenant on Civil and Political Rights (ICCPR) in his justification (UNHCR 2014a).
- 25 On May 27, 2014, the Government responded to the Joint Allegation Letter and Rapporteur's call to repeal the FBR. The response outlined the centrality of the family unit as the "fundamental unit of society" (MFEPW 2014:10) and used the language of rights to justify its policy. First, the Government countered the Rapporteur's deployment of the ICCPR by citing Article 19, Section 2 of the CRC, which states that the government should provide social programs and judicial mechanisms in order to support the wellbeing of, and preventive care for the child and the child's caregivers (MFEPW 2014:5). Second, the Government response referenced Article 1 of the Universal Declaration of Human Rights (UDHR)⁶ calling the FBR a form of social work designed to maintain the country's "spirit of brotherhood." Third, the response referenced Article 8 of the European Convention on Human Rights and Fundamental

Freedoms (1950),⁷ which calls on states to protect the social connections of the family unit (MFEPW 2014:8).

- 26 But more interesting was the Government's discussion of the *detriments* of a "rights-based approach" to justify its denial of the rights violation argument and its persistent attachment to interfering with the social relations of the Sri Lankan woman workers' family unit:

the rights based approach does not provide an escape route from the complexities of life and transport a person into an abstract state of freedom ... Rights without relationships are as illusory as relationships with rights ... freedoms, rights, duties and powers are not rational and static concepts but inherently dynamic, human, and emotionally shaped forms of action. They do acquire a more concrete shape and form within the formal, legal, and institutional sphere. However all of life is not determined by formal rights. The further we move away from the legal, formal, and institutional realms into the social realm it is relationships that define the content of rights—not the other way about ... an approach to human rights that treats human beings as discrete entities with equally discrete and separate rights flies in the face of multiple identities and relations that individuals possess. (MFEPW 2014:8)

- 27 The state's response outlines a unilinear balancing stick, upon which the "content" and actualization of women workers' rights sit. On one end, formal, more "concrete" forms of rights exist as unchanging, "abstract," "rational," and "illusory." What grounds and ultimately defines these abstract rights are individuals' social relationships, which are multiplex, "dynamic," "emotional," and "human." The state contends that it is not possible to move away from one's social relations and the emotional investments they entail, but only away from the formal and abstract sphere of formal rights. In this way, it claims that human rights alienate and challenge women workers' socially complex sense of self and the FBR is a less alienating, more appealing alternative to human rights discourse because it recognizes the fullness of women's lives. Yet, the state uses international human rights frameworks and mechanisms to justify the FBR's continuation alongside their reservations.
- 28 Feminist intellectuals and activists in Sri Lanka expressed strong reservations about the policy's reach and scope and the Government's approach. Abeyesekera and Jayasundere (2015) contended that "a moral panic about the 'disintegration of the Sri Lankan family'" produced a state response to "disregard the principle of gender equality enshrined in the Constitution as well as the *National Labour Migration Policy* (2008) and introduce a policy that discriminates against women, especially poor women migrating overseas for domestic labour" (pp. 20–21). Gamburd (2016) speculated that the timing of the policy's implementation may have been politically motivated and he linked its emergence to the SLFP (Sri Lanka Freedom Party) pre-election drive to obtain male votes directly ahead of the 2015 Presidential Elections. Alongside scholarly critiques, appeals to human rights frameworks questioning the FBR's discriminatory nature continued after its implementation in 2014. In August 2016, twenty civil society organizations in Sri Lanka submitted a shadow report to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). The report focused on evidence of Sri Lanka's progress on specific implemented provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), Sri Lanka's National Labour Migration Policy, and the Sri Lanka Bureau of Foreign Employment Act No. 21 of 1985 ("Shadow Report–Sri Lanka" 2016:15). Framing the arguments within the context of

international human rights law and at the intersection of gender and class, the shadow report referred to Article 65 of the ICRMW, which states, “State Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families” (United Nations 1990). In October 2016, the Institute of Policy Studies (IPS) argued that while the FBR was “successful in restricting females migrating for domestic work, [it] promotes migration outside the institutional framework of Sri Lanka and thereby increases their vulnerability at destination” (Weeraratne 2016:59).

- 29 As seen above, the range of the responses reveals two features of the Sri Lankan state's interest in controlling women's reproductive capacities and labor. First, it highlights the narrowing space within which civil society organizations, policymakers, intellectuals and human rights practitioners have to consider the role and reach of the state within international human rights frameworks. On the one hand, the woman worker is burdened with “dual allegiance” (Ishay 2004) to the Sri Lankan state and to a universal notion of human rights and, on the other hand, she experiences the impact of what Cecilia Santos (2007) has called the “dual role of the State as both promoter and violator of human rights” (p. 33). Second, the FBR's protectionist language and usage of human rights to justify both its deployment and discontinuation, reveals that women's labor and reproductive labor are more entangled within capitalist forms of accumulation and social inequality. Keeping the woman worker conjoined to her reproductive capacity as a mother and household caregiver, and to her productive capacity as an income generator for the household and state, becomes a state investment in the national economy. But it also represents the failure of human rights praxis to remedy the class, gender, and reproductive capacity-based inequalities that the woman worker experiences.

The plantation clause and fixing labor

- 30 Under these conditions, the 2015 FBR plantation clause represented the state's continued and subtle project of sustaining intersectional inequalities in interlocked labor sectors. Apart from minor and seemingly arbitrary changes to certain age restrictions, the inclusion of the clause was the only significant change in the 2015 version of the circular, and drew sharp criticism from activists and human rights circles upon its publication. In April 2015, I consulted lawyers and intellectuals in Colombo and the Hill Country to discuss local approaches to challenging the FBR and its plantation clause. Emergency meetings brought together labor activists, feminist scholars, plantation organization representatives and journalists to address the human rights violations posed by the FBR, and to propose a fundamental rights case through legal channels. But despite these moves, the FBR and the plantation clause remained intact through 2016.
- 31 Two potential reasons for the state's inclusion of the plantation clause reveal the relationship between national political shifts and their impacts on gendered labor and social practices across state-sponsored industries. The first is the estate sector's own economic crisis. In the Government's Ministry of Plantation Industries 2014 Progress Report, the need to increase labor productivity and address labor shortages in the plantation sector was specifically mentioned alongside the vision for the tea sector: “To ensure the future of the tea industry and promote Ceylon Tea to be the main partner in

the global beverage market through strengthening the tea small holding sector and the corporate sector for sustainable development” (Ministry of Plantation Industries 2014:13). In the same year, the Sri Lanka Export Development Board (EDB) released its “Industry Capability Report” for the tea sector in June 2014 and cited “Skilled and Effective Labour” as one of the sector’s strengths and “Labour Issues (Less Pluckers)” as one of its weaknesses (Perera 2014:10). Lastly, in March 2015, the Planters Association of Ceylon (PAC) reported that 19 of the 23 RPCs had “made a massive loss of nearly Rs. 2,750 million” in 2014. The reasons cited were low labor productivity and the need to sustain the industry, as well as the need to provide employment for workers and their resident families:

The plantation industry must thrive in order that we can give opportunities for earning and livelihood sustenance for over one million people that are resident and whose quality of life will depend on the relative fortunes of the plantation industry. If the industry collapses, where would all these people go for employment in order to sustain their livelihoods? (Planters Association of Ceylon 2015)

- 32 This question prompts a closer examination of where Hill Country Tamil women were actually finding employment, if not on the plantations. While women’s overseas domestic (or “housemaid”) work statistically declined from 67.96 percent of the total migrant labor force in 1996 to 27.8 percent in 2015 (Sri Lanka Bureau of Foreign Employment 2016:6), the plantation sector has shown signs of increased levels of overseas domestic work among women in recent years. In Nuwara Eliya district, for instance, the heart of the plantation sector and the district with the highest density of Hill Country Tamil residents in Sri Lanka, the percentage of overseas domestic workers increased from 2.67 percent of the country’s total domestic worker labor force in 2008 to 4.01 percent of country’s total overseas domestic worker labor force in 2012 (Sri Lanka Bureau of Foreign Employment 2012, 2012a). Recent anthropological research has demonstrated that overseas migration is a desired means of income generation on the estates, and has induced changes in estate household and kinship dynamics and residential landscapes (Gunetilleke 2008; Balasunderam, Chandrabose, and Sivapragasam 2009; Jegathesan 2011; Jegathesan 2018). Given the economic crisis and the state’s interest in sustaining the tea industry, the plantation clause’s timing and subtle inclusion compels due reflection.
- 33 The second reason was political. The 2015 FBR was released a month after the January 2015 Presidential Elections, coinciding with the immediate aftermath of the United National Party (UNP) coalition’s victory, but also with UN mandates urging the newly elected Government to move forward with the National Plan of Action (NPA) for plantation infrastructure development supported by technical assistance from the UNDP. The blueprint of the NPA 2016–2020 was taken from the 2006 National Plan of Action. In accordance with the UN’s Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs), it focused on enhancing the infrastructural improvements for the plantation community, including the provision of housing, electricity and water supply resources, as well as issues of environmental sustainability, preventive health, and education (Ministry of Hill Country New Villages 2016).
- 34 While the NPA 2016 made significant progress in fulfilling infrastructural needs on the estates, it did not mention women plantation residents’ desires to work abroad. Whether deliberate or not, the silence around women’s pursuit of off-plantation and overseas work, alongside the deliberate and explicit inclusion of the plantation clause, implicates the state’s intention to regulate the reproductive capacity of women

workers on the estates. More disturbing was that in the 2017 FBR ("MFE/RAD/10/22"), the plantation clause was removed from the text of the circular, and further embedded in the prospective employee application created on the basis of this circular.⁸ In September 2017, I consulted with activists in Sri Lanka to see whether the FBR had been repealed. The response I received from a labor activist friend, in the form of an email, claimed that when the issue was raised with a representative of the SLBFE, it was confirmed as active and the representative "appeared nonplussed by its inclusion."⁹

- 35 Beyond the FBR, the state pursued other trans-sector tactics to keep women workers on the estates. In June 2018, Jetwing Hotels, one of Sri Lanka's oldest and largest tourism companies, advertised an "experience" called, "Meena Amma's Line Room Experience" in South-Central Nuwara Eliya district (Jetwing Hotels N.d.). The "experience," available to tourists describes how "Meena Amma" ("Meena Mother") cultivates the ultimate experience of tea and the Hill Country for visitors keen to learn about the industry and the region:

You have the opportunity to step into the lives of our tea pluckers with the hospitality of Meena Amma, our longtime caretaker. Once a tea plucker herself, Meena Amma grew up and worked in regional estates until she eventually joined us as a gardener at the Warwick Estate. Today, Meena Amma looks after you with an enchanting charm of upcountry hospitality as she hosts a series of local experiences designed around the life of our tea and its pluckers ... at Meena Amma's request ... these experiences were crafted, for her to have you join her in the daily routine around the estate. (Jetwing Warwick Gardens N.d.)

"Meena Amma's Line Room Experience" was immediately met with backlash from Sri Lankan civil society given the lack of land and housing rights for all Hill Country Tamils on the estates (Jegathesan 2018) and the operative nostalgia for the days of the empire (Buthpitiya 2018). In response to the criticism, Hiran Cooray, the Chairman of Jetwing, issued the following statement:

Meena has been a loyal employee of Jetwing for 12 years, a former tea plucker who we recognized as a talented individual and welcomed into the Jetwing family. She is the housekeeper at Jetwing Warwick Gardens and ... wanted a property to manage in the style and life she knows best. I could not say no to her request, and thus Meena Amma's Line Rooms were born. We do not seek to romanticize their lives, which have historically been very difficult ... we are not foolish enough to ignore that yes, not every estate worker is as fortunate as the ones on the Warwick estate. We are a single company, and the most we can do is to at least look after the ones we can. (Jetwing Hotels 2018)

Cooray's response directly connects Meena Amma's reproductive potential to her productive life by linking her entry into and future in the Jetwing family to her life-long commitment to estate labor. The company's rhetoric of care recursively embodies colonial agents' concern for "coolies" and works to fix Hill Country Tamil women on the plantations, with the help of the FBR's protectionist policing and the plantation clause. While not a representative of the state, Jetwing supplies diverse forms of capital to Sri Lanka's economy, and in turn, the state directly supports the industry through "government collective spending," which increased from 31.1 billion rupees in 2012 to 46.4 billion rupees in 2017 (World Travel and Tourism Council 2018:12). Such state investments in the tea and tourism industry encourage us to pause and reflect, not only on the financial value of imperial nostalgia but also the subtle ways in which industries and the state entangle themselves in Hill Country Tamil women workers' lives. In the plantation sector, the state actively values, produces, and reproduces Hill Country

Tamil women's lives and labor as fixed and central to Sri Lanka's Hill Country's landscapes and industrial "operations."

Conclusion

- 36 The entanglements of industry and state policies in women's labor in Sri Lanka compel a closer examination of how the state vocalizes its desire to maximize profits created by working women, while restricting their choices. Reviewing evidence of the historical linkages between state-backed industries, and overseas domestic work, make clear how "protectionist" claims draw from the language of human rights but fail in their praxis of addressing the fullness of women's labor aspirations. In this way, the FBR and the plantation clause represent a continuation and recursion of the trust and authority that the authors of the 1916 Sabaragamuwa Commission Report placed in the hands of plantation superintendents, and the knowledge and guidance transmitted to Hill Country Tamil women by government doctors and estate midwives in the 1970s and 1980s. Such a confluence of the Sri Lankan state's economic investment, rights-based discourse, and drives for industrial sustainability are even clearer in the recent moves of the tourism industry to focus on the fixture of Hill Country Tamil women on the tea estates during the 150-year celebrations of Sri Lanka's tea industry in 2017.
- 37 This paper highlights how attention to the continuity of state investments and entanglements in industry, and a closer examination of attempts to fix and locate women workers' labor, reveal about how state interest in women's work continues to operate, and the resilience of such strategies. In light of this evidence, the FBR's 2015 plantation clause, and the embedding of the state and industry's desire to regulate Hill Country Tamil women workers' productive and reproductive lives, are in no way surprising. Just like the long heritage of industrial care, and emerging initiatives such as Meena Amma's Line Room, these tactics will continue to unfold and find new forms of investment and investors. Focusing on the uneven playing field in which the politics of locating and dislocating minority women's labor play out provides insight into women's simultaneous inclusion *and* exclusion within state policies and the subtle projects of nation-building in Sri Lanka.

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NOTES

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3. <https://culanth.org/fieldsights/659-beyond-economization-state-debt-and-labor>
4. United Nations, Committee on the Rights of the Child, CRC/C/SAU/CO/2, 17 March 2006, Para 33
5. Jolly Somasundaram reported that Sri Lanka's then Council of Ministers approved the FBR in 2007 but that the circular was not implemented until 2013 (Somasundaram 2016).
6. UDHR Article 1 states, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (United Nations General Assembly 1948:1).
7. "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others" (Council of Europe 1950:11).
8. In the 2017 FBR, the application section mentioning the estate superintendent requires the signature of either the Grama Niladhari or Estate Superintendent in order to be approved for applying to work abroad as a domestic worker. In the 2015 FBR, the signature line appears in Line 20 and also asks the same.
9. Personal Email Communication, September 11, 2017.

ABSTRACTS

In 2013, the Sri Lankan Government issued the Family Background Report (FBR), a circular requiring women to obtain a medical certificate before migrating abroad for domestic work. In 2015, the FBR was revised to further restrict the labor choices of Hill Country Tamil women in the plantation sector. Feminist scholars and activists critique the FBR as an exceptionally restrictive policy that contradicts women's rights. However, closer examination of the plantation sector's labor policies and reproductive practices suggests that it is not entirely exceptional but a continuation of the restrictions imposed upon women in Sri Lanka. Drawing from discourse analysis and ethnographic research conducted between 2008 and 2017, I argue that in the context of the plantation sector the plantation clause signals the resilience of strategic entanglements between the state and industrial policies, and exposes the limits of human rights praxis in securing women's labor and reproductive rights.

INDEX

Keywords: labor, gender, human rights, plantations, Sri Lanka

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