

**Family Background Report (FBR)
September 2017**

The FBR: Raising or lowering the social costs of labour migration?

A Statement by Civil Society Organisations working with families affected by labour migration, compiled by HELVETAS Swiss Intercooperation

Executive summary

The FBR has been introduced in 2013 with the aim of reducing the social costs of labour migration and for the protection of children left behind. It was originally intended for unskilled female labour migrants and subsequently extended to all female migrant workers seeking foreign employment. It has raised concerns from various stakeholders due to its discriminatory nature resulting from inconsistencies with the Fundamental Rights enshrined in the Constitution of Sri Lanka as well as the National Labour Migration Policy. Several changes have been introduced, the most recent being in January 2017. However, there is no evidence to indicate that the FBR has made labour migration safer for women. There are on the other hand indications that it has led to more irregular and unsafe migration as well as corruption. Hence the regulation has failed to fully achieve its aim.

Key message and recommendations

Experiences and selected studies show that the Family Background Report had very limited success in achieving its aim of protecting children and the family unit. Thus, civil society organisations call upon the Ministry of Foreign Employment to:

- **Abolish the Family Background Report requirement for all females seeking foreign employment.**
- **Implement a comprehensive system to provide early advise and counselling upon demand for informed decision making, effective assistance and services to women and men seeking foreign employment to ensure the protection of children and the family unit and to mitigate all social costs of labour migration.**
- **Implement an improved multi-stakeholder service mechanism for vulnerable children left behind, which ensures well-being and protection through early identification of risks, prevention interventions, effective service delivery and monitoring.**

Kamala (pseudonym), a FBR rejected mother said, “...migration was the only option I had to earn some money for my child’s education. I was so upset when my FBR was rejected by the officer without helping me to understand why it was rejected, nor helping me to solve my problems. Now, I am in a difficult position not knowing how to improve my situation”

Context

The Family Background Report (FBR) came into existence on July 15th 2013 as a result of a policy decision taken by the Ministry of Foreign Employment Promotion and Welfare (MFE) and the Sri Lanka Bureau for Foreign Employment (SLBFE). As described by the Circular (MFE/RAD\13), the objective of the FBR is to “prevent various difficulties and social problems resulting from the migration of women for employment, particularly in instances where the safety of children of women migrating for employment is not ensured.”

According to the terms of this circular; all females seeking employment abroad are required to submit a Family Background Report as a prerequisite to obtain clearance to migrate for overseas employment. Furthermore women with children under 5 years are not recommended for foreign employment under the circular.

In practice, the FBR effectively bans women with children under the age of 5 from migrating for foreign employment and mandates the female migrant workers to ensure adequate care and protection for children over 5 years by nominating a suitable caregiver. Initially the requirement to submit an FBR was only applicable to females migrating abroad as domestic workers, which changed in June 2015 to be applied to all women under Circular MFE/RAD\10\13.

Since its inception, the FBR has been a controversial document in the context of labour migration in Sri Lanka. It has generated both positive and negative response from stakeholders in the Government, Foreign Recruitment Agencies, Civil Society and prospective migrant workers. On one hand, the FBR has been criticized for violating the rights of women through institutional discrimination as well as several international conventions Sri Lanka has ratified, while at the same time the same document is commended for taking into account the protection of children belonging to migrant female worker families.

What does the latest FBR circular (MFE/RAD/10/22, January 2017) state?

- Every women seeking foreign employment (married, unmarried, all professions) with children is required to get an FBR approval.
- FBR is not recommended for women with children under 5 years.
- Approval\Rejection of the FBR is issued by a Committee comprising of the Divisional Secretary, Development Officer Foreign Employment, Child Rights Protection Officer, Early Childhood Development Officer, Womens Development Officer, District Child Protection Officer & Medical Officer provided they are satisfied with child care arrangements to “guarantee the protection of children” by nominating a substitute caregiver.
- Women aged 45 years or above and women who returned with re-entry visa are exempted from the requirement.
- A special committee (comprising representatives of Ministries of: Foreign Employment, Women & Children’s Affairs, Internal Affairs, Health & Nutrition and SLBFE) is appointed to consider appeals of rejected FBRs.
- The period of validity of an FBR is 6 months once issued.

Civil Society experiences with the implementation of the FBR

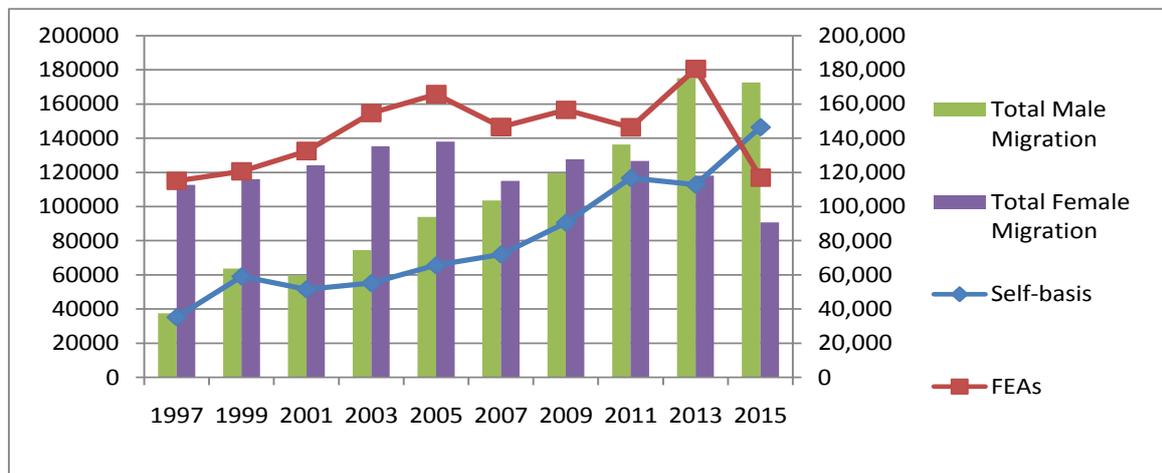
Civil Society organisations that have been working with women, children and labour migrants have been confronted with the effects of the Family Background Report. This experience together with numerous documented cases, research conducted and policy discussions, have now led several Civil Society organisations to draw collective lessons from the past 4 years of FBR practice. All organisations welcome and underline the need to prevent any harm caused to children due to women seeking foreign employment.

Several issues were highlighted relating to the implementation of the FBR. The indicated child care arrangements are not always resulting in the needed care and a proper guardian. The FBR does not provide an effective system and a mechanism to provide government services to the families of migrant women including



Migrant workers’ day in Galle © HELVETAS

children and caregivers. In practice, the situation of caregiver's personal situation is often not evaluated, especially when it comes to elderly caregivers. In the case of failure of the caregiver, the respective government official lacks the capacity to come up with a 'social protection plan' for the children. Procedural inconsistencies are causing uncertainty on the part of the prospecting migrant worker and its family. Experiences at the grass root level indicate that having stringent approval processes increases the vulnerability of the 'rejected' women to exploitation and trafficking at the hands of third parties. At the same time, increasing accounts of alternative ways to obtain the FBR approval, including corruption, have been noted and the bribe rates to obtain an FBR are increasing steeply.



Source: Compiled from SLBFE, 2015.

The FBR requirement is furthermore only applicable to female migrant workers. Male migrant workers are excluded from this requirement. This is a clear instance of discrimination against women based on sex, reinforcing patriarchy. Furthermore, it fails to recognize the role of the father as a primary care-giver in the family, and relinquishes the 'father' of parental responsibilities. Development Officers Foreign Employment (DO FEs) are often caught up in FBR approval procedures as opposed to providing detailed information and services to prospective migrant workers, while simultaneously being given discretionary power, which increases the risk of corruption. The FBR also fails to address the root causes of female migration, which are related to the fact that women often simply have no alternative source of income to provide for the children and the family. It may also be the only viable alternative for women who are seeking to escape from abusive situations. Comparative studies on the wellbeing (including education situation) of the children of migrant families and children of non-migrant families have not been conducted yet. Therefore, there is no credible evidence to prove that children of migrant workers do not perform well in education.

The FBR therefore, severely impedes choices available to disadvantaged women, makes unwarranted interference in individual decision making and results in discrimination based on gender as well as restrictions on freedom of movement and employment. Despite its well-meaning intention, the FBR does not effectively reduce the social costs of migration or enhance safe migration.



Conclusion:

- There is no substantive evidence to prove that the FBR increases the protection of the family unit.
- There are no indications or evidence that FBR increases safe migration.
- There are indications that FBR increases irregular and clandestine migration, including trafficking.
- There are indications that FBR has created space for corruption by government officials and employment agents.
- The FBR is violating fundamental rights of women as well as gender equity and equality, enshrined in the Constitution
- The FBR absorbs excessive amounts of time and resources of respective government officials, which prevents them from delivering much needed services to prospective migrants.

Recommendations:

The Family Background Report does not fully achieve its aim. It is therefore not viable for policy makers to continue with a regulation with such glaring gaps and discriminatory impacts, which does not help in achieving the desired outcome. On the other hand, thorough reflection as well as informed and collective decision-making within the family, before taking concrete steps to migrate, is conducive for safe migration. The intention to ensure that no harm is caused to children of migrants is a very legitimate concern. Hence, it is recommended for the respective policy makers to find a way for the local government to foster such decision-making while using the opportunity to provide effective services to prospective migrants.

- **Abolish the Family Background Report requirement for all females seeking foreign employment.**
- **Implement a comprehensive system to provide early advise and counselling upon demand for informed decision making, effective assistance and services to women and men seeking foreign employment to ensure the protection of children and the family unit and to mitigate all social costs of labour migration.**
- **Implement an improved multi-stakeholder service mechanism for vulnerable children left behind, which ensures well-being and protection through early identification of risks, prevention interventions, effective service deliveries and monitoring.**

References/more information

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