Gender, Kinship and State Formation
Case of Sri Lanka under Colonial Rule

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It is very much part of social science to analyse state formation, large-scale economic change or the effects of colonial rule as if they are disconnected from changes in gender, family and kin relations. This hinders attempts to examine these links and pose questions not only about changes in people's degree of wealth or poverty, employment or education but also about the nature of their intimate life arrangements and support networks.

This article discusses one example of state influence on marriage, family and gender relations as well as the position of the more vulnerable family members vis-à-vis those who gained in power within their kin-networks. The example is that of the Sinhalese in Sri Lanka during British colonial rule (1795-1947).

FIFTEEN years ago Rayna Rapp in a short article emphasised the need to undertake research into the origin of state formation and its impact on kinship structures, including gender-arrangements. Much earlier, Engels in his famous work, The Origin of the Family, Private Property, and the State had developed a framework which connects the growth of private productive property to the decline of a communal kinship base. In the process marriage is made more restrictive; legitimacy of heirs more important and wives become means of reproduction for their husbands. The process included a curtailing of reciprocal relations among kin and a growing unequal degree of access to the created productive resources. This process is said to result in the transformation of kinship-based societies to those based on hierarchy and class. The hypothesis of closely linking the formation of class-based societies to the creation of the patriarchal family has yet to be examined, so far little detailed research has been undertaken. Rapp makes a plea for such research:

State formation and penetration is processual; its form and force are highly variable, both within and between societies...but...the power of the state to penetrate and reorganise the lives of its members is clear [1977:314].

Although Rapp's article cannot be other than tentative, its value lies in framing questions on the conditions under which gender and kinship are transformed. Questions which could otherwise be erased before they can be written. It is still very much part of social science to analyse state formation; large-scale economic change or the effects of colonial rule as if they are disconnected from changes in gender, family- and kin-relations. This hinders an analysis attempting to examine such links and pose questions not only in relation to changes in people's degree of wealth or poverty, employment or education; but also into the nature of their intimate life arrangements and support networks.

In this article I will discuss one example of state influence on the intimate life arrangements of marriage and family, affecting gender-relations, but also the position of the more vulnerable family members vis-à-vis those who gained in power within their kin-networks. The example is that of the Sinhalese in Sri Lanka during British colonial rule (1795-1947). The British rule differed from its European predecessors (the Portuguese and the Dutch) in that it formed a state-rule over the whole island. This had but seldom occurred in the nearly 20 centuries of documented history. Colonial rule also established its brand of capitalism, which reallocated land ownership and reshaped avenues of social mobility, through its redistribution of existing and the creation of new resources. In the process, families; family members and men and women found themselves confronted with differing opportunities and developed different strategies in response.

Before discussing the British era, I will give a short elaboration on transformation in gender-relations prior to European colonisation. Although the basic thrust of my article emphasises the deteriorating impact of colonialism on the position of women and the degree of security offered by kinship-relations, I do not want to evoke a static perspective. My findings correlate with those of other feminist writers, who have elaborated on the theme of the devolution in the position of women in societies ruled by European colonialism [Etienne and Leacock, 1980]. In highly differing cultures in north America, Asia, the importation of economy and ideology affected the access to resources such as land and labour, but also the women's degree of participation in decision-making structures within their marriages, families and communities. But such changes have to be related to the complexity of total change the society underwent, which requires detailed historical analysis. The colonised societies of the 19th and 20th centuries were obviously extremely varied and often had virtually no more in common than the foreign domination itself. The degree and length of colonial domination was also subject to great variation.

Finally, the mutations in the position of women which took place prior to colonisation should not be underestimated. Leacock has for example pointed out that the enthusiasm to expose the destructive effects of (neo)colonialism, at best divided into different economic phases of European expansion from mercantilism to fully-fledged industrialisation, also caused a neglect of pre-colonial history.

Indeed there is almost a kind of racism involved in the assumption that cultures of third world peoples have virtually stood still until destroyed by recent mushrooming or urban industrialisation [Leacock 1981: 17].

This point can be further worked out in societies with an extensive written history prior to colonisation, as in Sri Lanka. The colonial history of Sri Lanka, especially the south coast of the island, is relatively long; almost four centuries of successive invasions by the Portuguese, the Dutch and the British. The formation of hierarchy mentioned by Rapp had already largely taken place before the advent of the first European colonialists and several transformations in gender-relations can be surmised during these centuries. Therefore I will give a short review on pre-colonial Sinhalese Sri Lanka, before continuing with the only European coloniser who established a colonial state.

POSITION OF SINHALESE WOMEN BEFORE COLONIALISM

Long before the advent of European colonialism, Sinhalese society had developed pronounced 'stratified characteristics, including hereditary kingship, aristocracy, a central religion sanctioned by royalty, military powers, tax collection, trade and the use of currency [Hettiarachchi 1972; de Silva 1981]. At the same time it should be realised that a degree of 'upward mobility' was possible, and could even become prominent when new forms of economy, such as seaborne trade, gained influence. The uneasy equilibrium between forces striving for central control and those attempting to break through, or rather into, the system, resulted in a society of conflicting interests and subsequently struggle [Kulasuriya, 1976]. This struggle occurred mainly among the elite, both traditional and newly founded, and centred primarily on its male members.

Several writers have noted the relatively better position held by women in Sinhalese society in earlier centuries (5th B C to 4th A D ) when compared to the middle ages [Gunatilake, 1982, 1983; Dewaraja, 1980; Horner, 1978; Law, 1927], although much research remains to be done. Their findings are based on the position of women in the fields of religion and the state and the manner in which they are portrayed in the literature and plays of his historical period.
No information is available on a change in their position in marriage, as a Buddhist marriage remained a lay affair, so that relatively few written references were made on the subject.

As far as religion was concerned, the Buddha allowed women to enter their own orders, which was a revolution in his day. When Buddhism came to Sri Lanka women established their own religious orders and gained exceptional prominence. Also women were thought capable of attaining the high spiritual state of 'arahatship', while the highest state of 'nirvana' could be achieved if she was first reborn a man. The Buddha was known to speak highly of women, although at times he was ambivalent, and early Buddhist literature is said to be less denigratory of women than the mediaeval writings of a later date [Gunatilleke, 1982:35]. It is significant that the oldest chronicle of Sri Lanka, the Dipavamsa, was written by nuns and described the Buddhist island. It is known to give greater prominence to women and their role in bringing Buddhism to the island than the later chronicle of Mahavamsa, which was written by monks. Currently it is the latter chronicle, which is more frequently referred to, which is but one first example of the imperceptible ideological shift from a female to a male perspective. In the course of time there was clearly a decline in their religious status from approximate parity with men, and after the destruction of Anuradhapura and the Buddhist orders in the 11th century, only those of monks were reinstated. Since then the nuns never regained their own orders and have had a low status in Sinhalese society.

Several historical accounts refer to their resistance to this situation in which they were unsuccessful, but currently new efforts are being undertaken [Gunatilleke, 1983]. In affairs of the state references to women are rarer, as kingship, aristocratic and military leadership were mainly male domains. Nevertheless, in early history there are references to women being trained in warfare and science [Ellawala, 1969:88] and, in the first century AD, there are still references to women who could hold titles in the feudal hierarchy in their own right. Women were also known to be involved in trade and travel to the coast for this purpose [Ellawala, 1969:82].

The literature of almost any period there is a recurrent theme emphasizing the evil side of womanhood, and the necessity for males to curb her power lest she would lead to their spiritual and/or social downfall. But here also a difference in emphasis can be detected. For instance, in the first chronicle of the Dipavamsa women are described as having played an active part in bringing Buddhism to the island—especially through their access to the supernatural. In the well known Jataka Katar [Cobwell, 1957], which have been rewritten by monks over at least 20 centuries, women are often depicted as evil, scheming beings who can nevertheless also be admired for their cunningness and cleverness. The literature of the Kotte period (preceding the Portuguese period), profoundly influenced by the current Hindu culture, depicts a similarly evil woman, but here her role is more significant in the political and social context.

These mutations in emphasis become all the more interesting if one goes more deeply into the pre-Buddhist cultures of Ceylon, which are described as being centred on a female ancestor, tracing descent through the female line ("Nagas") or as having been matriarchal and having practised polyandry ("Yakkhas") [Paul, 1929:278]. Although these cultures are now completely forgotten, the first Buddhist monks incorporated some of their beliefs in order to hasten the acceptance of Buddhism among the people. For instance, the worship of spirits living in trees is said to be transformed currently in similar beliefs in parts of the island, and in the reverence for the Bo-tree in the Buddhist chronicles [Paranavitana, 1929:315]. Examples are also found of deities of the Yakka-period, which have been transposed to central figures of Buddhist mythology [de Silva, 1981:50; Sarachandra, 1952]. In studying the distant past one also stumbles on two versions of the myth depicting the origin of the Sinhala race [Paranavitana, 1929:310].

In the version accepted today, a prince named Vijaya is said to be the mythical conqueror of Lanka. The second version, however, accorded a role to his sister as well as to him. She left her father's palace in a boat, like her brother, and founded a civilisation on another island. She became known as the ancestress of a race of Amazons, or 'western women'. According to Paranavitana this woman, known as the sister of Sinhala (another name for the same figure of Vijaya) was venerated among the Sinhalese as the 'western queen' [1929:309].

Mediaeval travellers like Marco Polo and Ibn Batuta referred to the existence of an island to the west of India, which was inhabited by a race of Amazons. Although references to these western queens are found in the Buddhist chronicle of the Mahavamsa and in Sinhalese folklore, and a place of worship is said to have been reserved for them near the western gate of Anuradhapura (which kingdom ended in the 11th century) [Geiger, 1908], in later periods this version of the myth seems to have disappeared. This second version of the myth is virtually unknown nowadays.

At this stage, these findings must remain speculative, but they do justify further research as it is a subject that has already called for, into the relationship between the dimming of female presence in history and the rise of centralised state and religious power in mainly male hands. They also strongly indicate a society undergoing deep-felt changes, in which the postulated transformation of women venerated for their fertility to one feared for their evil and fickle character could have slowly taken place long before the advent of European colonialism. In the remaining part of this article I will examine a more specific period in history, the 19th century, and attempt to give a concrete and documented analysis of a process of change, in which women and less influential family members were forced to lose their status as a social and economic sense. And as the society was already transformed into a feudal and highly stratified one, it is important to make a distinction between the impact on the privileged sections of society and the peasantry. In the first case, I will deal with transformation in women's access to land and property, through marriage and inheritance. In the second I emphasise women's access to paid labour and trade.

**Colonial influence on position of women**

The Portuguese (1505-1640) and the Dutch (1640-1795) ruled only in the coastal areas and had a profound influence on the economy and social life of those regions. The constant wars, which caused the local people to flee to the hills, must have had a seriously disruptive effect on their (family) lives. Men were frequently taken off to fight, often without payment, which must have left the women to fend for their families and themselves. In the British colonial period this process continued in a different form as labour became a marketable entity, for which a wage was paid. From before 1900, each census in the southern province for instance, showed a surplus of women, due to labour migration of men to the main towns. This migration was induced by a lack of land and jobs, especially along the coastal strip of the sputh. In such a situation married women, who in contrast to unmarried ones could not migrate so easily, were forced to rely on jobs available in their village, leading to a growing dependence within families on the women's economic contribution. One of the home-industries which grew in importance in this situation in the coir industry, which currently still provides a (meagre) income for over 25,000 women [Risseuwe, 1987].

Another factor, the brands of Christian- ity introduced to the island, including their concepts of sex and marriage, conflicted deeply with those of the local people, and, to an extent also with the Hindu-coloured ideology of the elite. Thus, the Portuguese could not even induce their own personnel to enter into permanent monogamous unions, as during their period of domination in Ceylon, a process leading to such marriages, sanctioned by the state, was only just being introduced.

At a latter stage the Dutch faced similar problems, although a negative judgment on sexual relations outside marriage had become more pronounced. Furthermore, a judgment on sexual behaviour became an important indicator of a person's morality. Thus, leading Sinhalese were forced in growing number to marry officially and mono- gamously within Dutch churches, if they wished to pursue a career in the Dutch colonial service. Public power and morality thus
became fused, while the position of a wife under Dutch law became equated to that of a minor. Obviously the vast majority of the population still remained unaffected by such laws.

But it was only under British colonisation (1795-1947) that the traditional forms of family and marriage were systematically attacked and brought under degrees of state control, which in themselves form a fundamental break with a tradition where neither state nor religion interfered with marriage and family life.

For the local people marriage did not remain monogamous, an arrangement preferred by the colonials, as is also found in the literature of the Kotte period. There is an amusing anecdote recorded by a Portuguese officer at the beginning of the 16th century, who encountered a Sinhalese woman complaining about her eight husbands. According to his own account he gallantly offered to chase away or, even kill, seven of them. The woman, however, replied that she wished to retain at least four, and this had mystified him sufficiently to remark on it in his writings, leaving us with one of the few comments on Sinhalese women made by the Portuguese military [Peiris, 1909].

Later, writers in the Dutch and British colonial periods elaborate a picture of a society in which sexual relations in general, and marital relations also to some extent, were not made much of, but ‘considered rather as casual and inevitable incidents in a person’s life’ [Peiris, 1956:197]. Initially reports concentrated on the aspects of the marriage systems they encountered which to them seemed shocking and chaotic. This led them to overlook the importance of family bonds, which gave men and women greater economic security than marriage itself. Although from a patriarchal polyandry and the practice of infanticide, group marriage was practised [Knox, 1911; Davy, 1821; Le Mesurier, 1860], while a man could be married in a fraternal polyandric union and also have a monogamous union with a wife in a separate home. Instances of polygamy are also recorded. These facts, and the observation that people often entered into four or five marital unions during a lifetime [Knox, 1911:171-9], completed the European judgment of horror and amazement.

In the course of time and under the influence of the British attempts to change the traditional Roman Dutch law on marriage then prevailing detailed studies were undertaken which gave a better understanding of how the system worked [Jayawardene, 1952; Hayley, 1923]. Two forms were recognised within marriage in relation to residence and property: the virilocial ‘diga’ marriage, implying that the wife goes and lives on her husband’s land, and the uxorilocial ‘binna’ marriage, where the husband lives on his wife’s family land and the children take the mother’s family name. In the latter case the husband acquires no right to his in-laws’ land, and is liable to expulsion on divorce by the wife or her parents at any moment [Peiris, 1956:204].

In this system the phenomenon of a bastard child was not recognised. All children born to a woman were accepted by her family provided they were fathered by men of similar or higher social caste [Hayley, 1923]. A child became a bastard only if a woman had mated beneath her caste, in which case her male family members (including her husband if she was married) had the right to chastise and even kill her in order to restore the dignity of the family. This practice was in conflict with British concepts, and they tried to curb these male rights within the family and replace them with marriage laws, whereby a man could be brought to court for killing his wife.

One of the most significant consequences for men in the traditional system was the great importance of the family as a social unit, which implied that, even after marriage, they could at any stage fall back on the family of origin, and even regain the initial loss of inheritance to family land if they had been married in diga. In binna marriages similar rights were accorded to the male within his family of origin. In practice this meant that a woman who returned to her father’s or another family for marriage would regain her right to own the land and could be married in binna by her family.

The complex rules of inheritance, of inereditary and acquired property, of divorce by the consent of either party, of the relative lack of maintenance obligations for a husband towards his wife, as they were unnecessary, as well as the strong economic position of the widow and the custom on divorce for the husband’s family to take the sons and wife’s family the daughters, cannot be elaborated upon here. I can only summarise here the three trends which developed with the implementation of the British marriage laws [for a full discussion, see Risseeuw, 1991: chapter 1]. (a) In the first place, the legislation worked towards a monogamous, life-long union, sanctified by state and/or church, which preferred virilocial residence and patrialine inheritance. (b) The woman’s relatively independent position in marriage, provided by her life-long access to land and property and the right to divorce, was to shift to the position of a legal and economic dependent, with limited divorce rights, to be protected by her husband, and on his default, by the state. Her position became one which was at best secure but lacked economic potential, because even as a widow her rights to land and property were finally curtailed [Hayley 1923: chapter 5].

The fact that the British extended the wife’s rights compared with the prevailing Roman Dutch law, where she had a degree of dependency on her husband comparable to that of a child [Jayawardene 1952], does not contradict this basic trend. (c) Thirdly, legislation reduced the number of persons for whom the older family members could be legally held responsible, by creating a category of ‘bastards’, and by altering ‘adoption’ from a family decision to a legal procedure. The new system therefore created a greater inequality of access to family land and property among family members, coupled with a reduced responsibility of the newly privileged for the less privileged—the former being found only among selected male members.

British Legislation on Marriage and Inheritance: Women of Privilege

The reshaping of the marriage and inheritance laws was a long process, covering most of the 19th century. The first laws passed made the practice of infanticide a crime (in 1823 and in 1842) and also required the registration of every birth. In 1846 bigamy was made unlawful, which in fact meant that only a monogamous union was legal. In 1859 polygamy and polyandry were mentioned by name and prohibited while a marriage had to be registered. Non-registration was punished with a fine. Possibilities for divorce were severely curtailed and divorces were only legal if the decree was passed by a district court. Under the new laws it was easier for a man to claim divorce from his wife than vice versa [Books of Ordinances, 1823, 1842, 1846 and 1859].

In 1869-1870 debates arose between government agents and the governor, when it became apparent that the majority of the people were ignoring the new legislation, leading to an ‘alarming rise in bastardisation of the population’ [Sessional Papers 1869/70a]. In 1870 the law was further amended [Book of Ordinances 1870], while in 1919 the payment of alimony and maintenance of the children in case of divorce was regulated by the provincial register.

These new laws raised a great deal of passive and active resistance from the Sinhalese, and it is by no means certain that the British were totally successful by their own standards. Nevertheless, monogamous marriage is the rule and today under 80 per cent of the marriages are said to be registered. Diga marriages are on the increase in preference to binna marriage. Currently polyandric unions are relatively rare occurrences. The traditional marriage customs are forgotten by many sections of the Sinhalese population; at best they are remembered as quaint, at times embarrassing customs of the past, especially amongst the elite and middle class. That this could take place in such a relatively short period of just over 100 years, poses several questions in relation to socialisation: family networks and relations between spouses to which I will return later.

To further understand how such drastic changes in the relationships between the sexes could take shape in such a relatively unnoticed manner, we will consider two factors: (a) The reasons underlying the British implementation of this policy, and its association with their policy on the main resource involved, namely, land. (b) The
response of different layers of the Sinhalese population to the implementation of these new policies.

**BRITISH LAND POLICY**

When analysing the dynamics of change, it becomes evident that it will not suffice to explain it at an ideological level only, by emphasising the moral indignation felt by the British and, to a degree, shared with earlier colonisers. A more crucial factor emerges explaining the policy on marriage laws during the period 1800-1870 when one looks at what happened to the most important source of inheritance, namely, land.

The commercial land policy of the British with the development of plantations has been well documented. To implement this policy the British concentrated initially on alienating vast tracts of land on behalf of the European capitalists. The way was prepared in 1833 with the Colebrooke Cameron Papers [Mendis, 1956], while in 1840 the 'Waste Land Act' was passed, which claimed all land for the crown unless property rights by individuals could be proven. Several additional ordinances followed between 1841-1907, all consolidating the initial policy outline. Much of this alienated land was utilised in the so-called 'coffee boom' of the 1840s and was sold mainly to Europeans. Tea and rubber plantations were to follow later. The process of changing land-ownership in the non-plantation areas is less well documented. In these areas, a Sinhalese revenue officer, the mudaliyar, was installed, who had far-reaching powers to re-allocate and divide land between crown property and property belonging to villagers. The mudaliyar was the official tax-collector and, as a principal government informant, he also decided when a villager could not pay taxes and thus had to sell his land. In areas of the country with the highest population density (the south and west parts of Sabaragamuwa provinces), this included sales of undivided shares, which meant that if one shareholder could not pay tax, the whole field was sold [Obeyesekera, 1967]. This highly intricate process is well analysed by Obeyesekera, who in this context speaks of 'dramatic and serious consequences to the Sinhalese social structure', giving not only European capitalists, but also local village headmen, mudaliyars and those with capital, great opportunities to expand their landed property.

With the introduction of the Waste Land Act and the Crown Land Ordinance, land had not only been taken out of Sinhalese hands, but it was also redistributed on a new basis of individual ownership and monetary purchase. Land became concentrated in fewer hands, but also in those of rising elites. Mobility between and within castes became a reality. This new mobility did not result in an easy accumulation of wealth. Every financial mistake was dearly paid for. A misguided marriage alliance could inhibit absorption into the sought-after elite. Endless struggles in the form of petitions had to be waged to enter public service, in competition with the British as well as the traditional elite for the higher posts [Peebles, 1973]. It was within the context of these new forms of land tenure and ownership that the revised marriage legislation gained momentum and reduced women’s access to landed property, by means of the altered marriage laws.

When seen in the light of this land policy, it becomes clear that a form of enduring monogamy, preferably limiting economic power to one of the spouses and reducing the responsibility needed to manage a large extended household, or a smaller unit, is a necessary prerequisite for a successful transition to the private initiative and ownership envisaged by the British. This is not the same as saying that the British officials were consciously changing the marriage patterns in order to fit their economic policy. On a conceptual level, economic policy and land-ownership were logical components of one design, but it is doubtful that a similar correlation was made consciously to reduce the economic power of women within their families. Most British officials probably felt this to be too minor a matter to require specific attention. It is important to realise that such modifications in the position of women could thus be effected while remaining relatively unnoticed among the many changes taking place. We will now look at the Sinhalese reaction to the mutations in marriage legislation, which was mainly that of the maha elite, who served as informants and intermediaries for the British.

**THE SINHALESE RESPONSE**

Initially most Sinhalese ignored the legislation passed in 1846, in which divorce options were limited and subject to a court decision, and polyandry and polygamy were forbidden. Their refusal to become involved in the British marriage laws became clear from the many government agents’ reports of 1869/70:

> It is probably within the mark to assume that 85 per cent of the existing unions are illegal and that 80 per cent of the rising generation born in the last 8 or 9 years are illegitimate' [Sessional Papers, 1869/70a].

Although registration of marriage was not widely practised it could suddenly show an increase, for example, when there was a rumour that, via the census, young unmarried men would be selected and sent to Europe to replace casualties in the Franco-German War [Administration Report, 1872]. But as time passed, more serious problems cropped up, when inheritance conflicts arose within a family, because the new laws were ignored. When family members disagreed they could try to involve the new rulers to achieve what they conceived as their rights; and when divorce had to be registered many difficulties arose, since usually the marriage had not been registered in the first place:

> Nearly all the squabbles and crime among the villagers have their origin in the present difficult and expensive way of getting separated. Their old customs admitted divorce by mutual consent in cases if unconquerable aversion or utter incompatibility of temper, and this generation cannot eradicate this from their minds [Sessional Papers, 1869/70b].

At times, British officials were expressing their disagreement with the new legislation and even noted the detrimental effects it was having on the inheritance of women and children. One of them, an Irishman and an acting district judge named Berwick, stood up for his convictions that neither 'uncertainty of paternity' nor the wife's ownership of land and property was connected to a high rate of instability in marriage. On the contrary, he foresaw that the changes planned would lead to increased violence, both in the diga and bimna forms, while the position of the wife and children would be marked by growing insecurity, including violence. Although he called the compulsory registration 'a bitter gift of bastardy' to the people, his writings received no response worth mentioning from the British colonial authorities [Sessional Papers, 1869/70c]. It also became clear that 'high people' and headmen were more amenable to registration, while the mass of people was far slower [Sessional Papers, 1869/70d].

At this point it is important to look into the specific reactions from the elite, of whom exponents could benefit by the new land registration. In 1855 (nine years after the British declaration that bigamy was unlawful; 15 years after the Waste Land Act and five years after the coffee boom), the governor received a petition from the chiefs of Kandy 'Praying for the abolition by legislation of polygamy and polyandry', which is described as a 'grossly wrong custom and one exceedingly unsuited to the present state of the memorialists' (meaning 'the writers of the petition'). The problems they encountered centred around:

> ...the great barrier which now exists for a deceased person's rightful heirs succeeding, to his Estate (and which) can be traced to the lax state of the law of marriage; and all Judges and Magistrates conversant with the business of Kandyan courts will bear ample testimony to the truth of this statement.

As they continue it becomes clear in more detail where they locate the problem of the traditional marriage system and in the right of (divorced) daughters to return to their brothers' homes and reactivate their land claims:

That in numerous instances parents are reduced to poverty solely in consequence of their married daughter, and her issue, being thrown upon them for support and maintenance, and this Memorialists submit, is a clear result of the existing law regulating the marriage contract among them.

The document ends with a plea to the governor to 'adopt some measures' so that 'the present grievous state of things may be averted.' As this petition had no effect it was followed by a second one in 1858 and later that year by a Memorial, signed by 8,000...
Kandyan chiefs, headmen and people’ [Roberts, 1975:29]. The British were initially reluctant and mystified by what they termed this ‘golden opportunity’ [Roberts 1975:30] and, after further questioning, also decided that the Kandyan petition, although claiming to speak for the whole population, had in fact spoken for the elite only [Roberts, 1975:31]. Nevertheless they did make use of the change and implemented the 1859 marriage ordinance referred to earlier. An ordinance described by the governor as:

A novel and curious attempt in Eastern legislation and the outcome of a spontaneous attempt on the part of the Kandyans to elevate and purify their institution of marriage [Roberts, 1975:31].

Although historians have described this process and noted the connection between marriage customs and land disputes, they have not yet looked at it from the perspective of women [Roberts 1965:72]. However, it is clear that these petitions were a thinly disguised assault on the independent position traditionally held by women within marriage and the rules of inheritance, or more generally on the structure of responsibilities in kinship networks. It remains unclear in what numbers and to what extent the Memorialists were aware of this.

In the implementation of a widow’s rights the pressure of the male elite became clear as well. The British managed to grasp this extremely alien marriage system from the information supplied by male Sinhalese informants rather than by the Sinhalese informants themselves. It can be seen that persistent confusion occurred in relation to the rights of the widow. Here either the Sinhalese informants were less clear for reasons of self-interest, or the British officers remained unable to grasp this part of the traditional law.

Women traditionally held substantial rights to dispose of their own property, both of their own acquired and unacquired lands or property. In principle, this could lead to a situation where a woman when widowed could alienate her husband’s lands from his family by passing them to her children (e.g. daughters) who, if they married in diga, could marry into another family. How far this occurred in reality we will never know, but it is significant that the confusion regarding widow’s rights persistently cropped up as to the degree of independent use she could make of her inheritance. The shift was gradual, but inexorably moved towards the British concept of a widow’s maintenance, implying that she, at best, could only have a life interest in the landed, heritable property, as a guardian of her minor children [Hayley, 1923:352].

It is submitted that in cases of doubt... the soundest course is to adopt that view which restricts rather than which enlarges the widow’s interest. It is clearly most in accordance with the spirit of the law to keep property in the family as far as possible, and, so long as the widow is well provided for during her life, there can be no equity which calls for an enlargement of her interest so as to enable her to transfer land to her own or a second husband’s family [Hayley, 1923:368].

Nevertheless this process has been diffuse and gradual, and the move towards this rule occurred even in the beginning of the 20th century. In this context the findings of Obeyesekara [1967:173] are extremely relevant. When tracing cases of inheritance over several generations he came across the phenomenon of ‘females being consistently excluded’, of which he gives several detailed examples.

This trend to limit women’s rights in marriage also became apparent in the British analysis of the frequency of diga or binna marriages. With the shift to a monogamous life-long union, the traditional marriage patterns of diga and binna assumed a different character, in the sense that they became life-long arrangements. If a man married in binna he would be socially inferior to his wife’s relatives, who held the land and whose children the woman would bear. The same case applies to women in a diga marriage.

As the new avenues of mobility were open mainly to men, one can expect a trend among them to avoid binna marriage, and for brothers to opt for a diga marriage for their sister in order to terminate her rights to their property. In the 20th century when statistics become available, we indeed see that binna marriage is on the decline [Vital Statistics Reports, 1946, 1956 and 1962]. Furthermore, an increasing number of marriages is taking place under the General Marriage Law (originally introduced by the Dutch), whereby Kandyan marriage in time will appear more like an aberration than a norm. Indeed by 1962 statistics no longer incorporate the distinction of diga and binna.

**Marriage and Inheritance Legislation in retrospect**

A prerequisite for the British overall economic policy was the changing of the land tenure system from one which incorporated the interests of all, to one in which landownership became individualised and marketable on the basis of monetary purchase. This policy deeply affected the distribution of land among the Sinhalese and resulted in a loss for the poorer elements, while sections of the elite managed to survive or better their position. Within the family too, the British policy created a conflict of interests, and although this does not adequately explain the trend to exclude women from the access to land, it does explain the pressure to reduce family responsibility. The British economic policy required swift decisions on land transactions taken preferably by one family member, but on paper it made no difference whether this was a man or a woman. In theory, one could visualise a system of individual landownership existing within a system which included binna and diga marriage forms, and in which men and women of the elite could both strive directly for landownership, depending on their position in the marriage. That such a system was not encouraged by the British is explained by the extreme male domination in British colonial society, not in their outlook, based on the existing concepts of gender relations in Britain where state-controlled monogamy and primogeniture were a reality, but also on the fact that the British colonial service was open only to men. This was in contrast to the former colonialists, who, while only relying on male staff, could not enforce monogamy even among their own soldiers and sailors.

However, the fact that women lost their traditionally advantageous position cannot be solely explained by the British policy. Part of the explanation must be sought in the fabric of the society on which the British policies were implemented. In the Sinhalese society of that time public positions were already mainly in male hands and the men were the obvious persons to deal with the British Family responsibility was regarded relatively equitable and free from state control, although earlier in history marriage alliances became one of the platforms on which the struggle for greater influence in the kingdom had been fought. Thus, although male domination in British and Sinhalese societies at this time were of a fundamentally different character, women held a socially weaker position in both. This made it possible for a deterioration of women’s right in marriage and inheritance to take place relatively unnoticed on policy level. Women did resist loosing control of their land and property. Government Agent Diaries and even a short look at the registration lists of petitions, bring this to light [Risseeuw, 1991, chapters 1 and 2]. But they fought an individual struggle at a specific period in their lives, with little opportunity to gain a public platform.31

The process of change whereby there is a shift of power between individuals within a group, seems to gain momentum in situations of scarcity leading to intensified struggle. The struggle among the leaders of a threatened community or family becomes paramount, and the interests of others have a lower priority. In this case not only the poorer sections of the population suffered but also the weaker family members, among whom women paid a high price.

**Case of peasant women: labour and trade**

In relation to marriage and inheritance legislation, the position of working class and peasant women initially remained relatively unaffected compared to the position of women in families with property and other resources. The majority of the poorer classes ignored the demand for registration of marriage as they lacked the incentives to respond. But in relation to landownership, the situation was different. Over several decades of British rule the peasantry was con-

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[31] Economic and Political Weekly October 24-31, 1992
faced increasingly with land scarcity and degrees of landlessness, aggravated by the rise in population in the 1920s. Towards the end of the 19th century, landlessness was still recorded occasionally in the records of the government agents. In areas where land shortage was acute the high incidence of litigation was explained as a peculiarity of the 'nature' of the inhabitants correlated to the local, disproportionately high crime rate. In 1905 the newly arrived government agent of the southern province was introduced to his area as being the 'most criminal province' in the whole of the British empire [S P, 1897: Special Report on Crime in Ceylon].

A first attempt to curb the land shortage was the suggestion to change the 'multiple inheritance' to that of primogeniture, or naming the first son the only heir, as was practised in England. However, the governor himself disagreed with the suggestion, as the sudden introduction of such a measure would deprive three-fourths of the population of their property. The upsurge of crime was to be reduced, but the judiciary to a degree they could not handle. In developing this argument the governor even pointed out several 'minor' issues, which are relevant to my current argument. He refers to the resulting insecure position of the dependents (for e.g. unmarried females and males under 18) on the single heir.

...What is to become of them if the heir in possession sells the property... [It is difficult to believe that peace and good order will be secured if] this may work... that the ownership is obliged not only to maintain, but to keep living in the house with him and his wife a number of maiden sisters... (such) proposals are out of question... After all the rule under which brothers and sisters inherit equal shares is one which prevails...over the greater part of the civilised world [S P, 1910: No 11]. Thus government officials articulated consequences of changing the inheritance system when it affected the younger brothers in a family and not only women. One feared implementing legislation which could increase crime as "sons might as well buy a knife and stab each other, that has happened in so many cases" [S P, 1910: No 11; 8-9].

Series of locally formulated petitions and hesitant reports from (assistant) government agents, who were regularly confronted with the rural population, by 1927 managed to alert the higher authorities to the seriousness of the issue. Until then the government took the view that land scarcity and crime were but consequences of "the irreversible process of development". It led to the installation of the 'Land Commission', which reported in 1929 that "there is a serious danger of this class (the peasantry) going to the wall" [S P, 1929:18]. This led to a series of land settlement schemes, where land ownership was thus circumvented that when the allotee died, it could not be passed on to "a minor, a woman or some other person not capable of developing the land". [S P, 1941: No 5]. As we know up to this day, land settlement schemes, for e.g. the current large-scale Mahavelli Scheme, has not made adequate provision for women owners. Outside the settlement schemes, the vast majority of the poor were confronted with numerous dependents who could not apply several law systems to make their ownership claims. This led to cases recorded extensively in the entries of government agent dairies as complications of 'hotbeds of undivided shares', whereby women were at times openly accused of "being at the bottom of all quarrels" [G A diaries, 1910: July No 58]. By this time quarrelling family factions often were basing themselves on the 'customary law', or the introduced British legislation, selecting the most beneficial law for themselves. In retrospect one can say that the British administration misrecognised the growing land scarcity as they lacked an economic incentive to give priority to the problem. In a later study it was found that between 1871 and 1946 there was a four fold increase in the number of surplus families on the land and that the 1957 over 65 per cent owned none or less than one acre of land, of which 40 per cent seemed to have no obvious occupation. [Sarkar, 1957: 217-22].

It is against this background that the peasantry increasingly turned to labour and trade as a source of income and men and women were confronted with different opportunities. Between 1871 and 1946 statistics were regularly collected on labour activities, which provide several relevant insights.

- From the earliest statistics [1901] it is notable how often women are mentioned as participating in the agricultural sector, where they are noted as paddy cultivators and unspecified labourers [see Risseeuw, 1991: 102-12 for a more detailed account]. Thus at the start of the 20th century women participated substantially in agricultural land as well as landownership. Secondly an increasing number of occupations were listed in censuses of 1871, 1884 and 1901, as 'industrial class', indicating the growing involvement of the population with non-agricultural activities. Initially women seemed to have found mounting access to occupations in this sector and were represented in occupations which nowadays seem totally part of the male domain; carpenters; watch repairers; building contractors; mechanics, iron and steel workers; brass, copper, bell workers, butchers etc, although men were in the majority.

- It however also becomes clear that while women initially penetrated a wider range of jobs than they do nowadays, they frequently landed up in the lowest paid sectors. In figures for trade, termed the 'commercial class', this impression is confirmed, as well as for the professional class, where women achieved new avenues in medicine and education. Nevertheless, here also they occupied the lower-paid sectors.

-A fourth finding is that women were more firmly entrenched in those occupations, considered their domain in the sexual division of labour before the arrival of European colonialism. It is also in these sectors (for instance all kinds of weaves, food and drink processing), that women managed to maintain a relatively higher degree of control when their product became commercialised. In this context it is striking however, that as the most profitable sectors of the 'female domain' were commercialised, male ownership again increasingly penetrated. [Risseeuw, 1991:108-10].

Finally, most of the new occupations created by the colonial economy were considered masculine by the colonisers, thus providing most labour for males.

Summarising, one can probably say that both sexes were confronted with immensely harder work conditions. There were advantageous opportunities for a minority, which was predominantly but not exclusively male, with the tendency for males to take over female domains if they became lucrative. A phenomenon which did not apply vice versa. Thus slowly women found themselves in the least beneficial sectors of paid labour and trade.

Although with difficulty, changes in the position of men and women can be traced and it is evident that family and kinship relations were also greatly affected. In areas with high levels of landlessness, unemployment and population pressure like the Southern Provinces, and Jaffna in the north, land disputes were most frequent involving conflicts between family members. Secondly in these areas, migratory labour became the norm and from before 1900, the Southern Province has subsequently always recorded more female than male inhabitants. But women from the south and the north in large numbers also entered domestic service and also left their homes for long periods at a stretch.

Family-specific information is rare. Government records only noted the high incidence of poverty during periods of recession, at times voicing the view that the "teeming masses of the poor classes of Asia... (have) been accepted as a more or less necessary evil" [S P, 1937: No 11]. Social workers and their relief organisations regularly emphasised the fact that many families were breaking up. Men were absconding from their familial duties and their wives were left solely responsible for their families [Risseeuw, 1991:120]. Likewise a government committee on the situation of domestic servants [1933, recorded S P, 1935] highlighted the flourishing exploitative practices as because the employees could not return 'home'. Finally the causal but regular entries in government agents' diaries are revealing. One of them is the repeated mentioning of local women waiting outside their offices for a chance to speak to them on the issue of their missing daughters, supposedly employed as domestic servants [Risseeuw, 1991: 115].
MISRECOGNITION OF THE FEMALE WORKER

Elsewhere I have elaborated on the hypothesis that comparable to their elite peers, male peasants began a mounting struggle among themselves, to gain access to the meagre, changing resources. In the process they marginalised their women in society as well as in the family [Rissueu, 1991]. Referring to the earlier described mystification of the relation between British land policy and the legislation on marriage and inheritance, I would like to draw one parallel between peasantry. In the first case the interests of women were not so much contested as that they somehow never seemed to surface as an issue. A similar phenomenon occurs with the definition of the "female worker" in the various census reports of 1870, 1884, 1891, 1901, 1911, 1930, and 1946. While the initial census reports noted each occupation in detail, later ones increasingly made use of summarising categories of labour. In the process certain unformulated assumptions on male and female labour predominated. The concept of 'female worker' never gained a high legitimacy from a state-determined perspective. It was defined differently at each census, leading to huge disparities in the supposed female participation rate in the paid labour force. Before 1946 they fluctuated between 30 and 48 per cent. After 1946 census reports 'professionalised' their categorisation system even further, leading to a growing invisibility of female labour, which thereafter seldom reached more than 20 per cent of the total labour force. During the period 1953-1971 for instance, the percentages of 'own account' or 'unpaid family' labour dropped from 45 per cent to 13 per cent. Instead of interpreting this as a negative, if not threatening development, it was seen as a result of progress; most displaced workers were female, and therefore "less likely to seek alternate employment" [Census Report, 1971].

When analysing the shifts in definitions, one finds that they are based on three persistent misconceptions, which census officials could seldom have encountered in the field, but which they nevertheless regularly reported. These misconceptions arose from a 'common sense knowledge', which enumerators applied without thinking. These faulty conceptions were the singular focus on 'formal sector' activities; the notion of the man being the sole breadwinner and the notion of one job per person. In certain respects the mechanism was similar to that employed when analysing the scarcity of land. By discounting the female half of the population in search of land, land pressure was reduced. By the 1950s labour opportunities had diminished (as the supply of land had earlier) and a reduction on paper of the number of people seeking work was one way of keeping the rising figures of unemployment down. Again, we cannot say that this was done from a conscious strategy to exclude women. The effectiveness of the policy was based precisely on the fact that it seemed like 'common sense' and required no further explanation.

GENDER TRANSFORMATION AND COMMON SENSE

Although this article cannot fully answer all questions posed by Rapp and cited at the outset, it can bring out several characteristics of the changing relations between the sexes and family members during British colonial rule of Ceylon. I speak of gender transformation as the changing nature of gender roles, of the way society determines and applies to access to the society's resources, but also to the manner in which they were conceived. In Sri Lanka, 'marriage', 'divorce', 'adoption', 'off-spring' and the 'rights of the widow' all gained new meanings, incorporating the new reality and facilitating a misconception of the women's position (see, for example, the many publications of Savitri Goonesekere). At a later stage the concept of 'female worker' was added to the list. The characteristics of gender transformation in this case are:

- That it implied an increasing inequality of access to resources, between the sexes.
- Changes seemed to take place most effectively if they could take place over a substantial period of time, a century or more. The time-span facilitates mystification of the process. The implications of change for women could remain diffused. Decisions and counter-decisions seemed to take place in the sphere of 'common sense', at intervals of 10/20 years or more.
- A woman's concerns appeared unrelated and could not be raised, while slowly and imperceptibly she became an outsider in her own world.
- In the growing degree of state control with its— in this case—capitalist and individualised market relations of land, labour and capital, one sees the concept of 'a person with certain rights' emerge. This had consequences: family life, initially outside the political and religious sphere, was transformed as the state gained fundamental control. However, hypothetical at first, people acquired a dual position. One was within their kinship and marriage system, the second was as a citizen with a different set of rights and duties. In the case of women especially, this could lead to widely divergent positions. While on paper the colonial state, however contradictory, articulated a philosophy of 'equal opportunities for all', in practice it often eroded the more balancing access to resources between genders in the kinship system. It also eroded the degree of support family members could ideally expect from their wealthier and more powerful members.
- Pre-colonial gender relations influence the 'margins of common sense'. The position of women prior to European colonisation, although in many respects preferable, had not been on par with their men. The relatively secure and comparable position was confined to kinship arrangements.

As I mentioned in the beginning of this article, there are substantial indications of a gradual dimming of their presence in the nineteen centuries of written history before colonialism. This pre-colonial process of gender transformation facilitated the further loss of ground during British rule. If women had retained a share in public authority and religion, and if the female principle had been more pronounced in the religious/cosmological world, British promotion of exclusively male participation in the sectors they colonised would at least have resulted in an active counterbalance.

The process of transformation was characterised by a rising struggle for resources, through the enlarged possibilities of social mobility created by the British macro-economic policy. The colonised resisted and confused their coloniser, but they also faced an increased conflict between themselves, in which the weaker society and family members stood to lose.

Thus it was not a process of the all powerful dominating and reshaping the lives of the dominated. This view would simplify the intricate levels of resistance at various levels and genders of society. The point is more that the powerful have the dubious privilege of remaining (partially) unaware of the consequences of their policies. In situations where common sense notions are not contested, they appear to facilitate decision-making without being noticed. In this case one can, for instance, argue that capitalism was not gender-blind in its thrust for economic development. To succeed as a policy, the new colonial economy required hierarchy in families, reduced familial responsibility and swift decision-making. It did not require males to take precedence over females. The expanding avenues of agriculture, trade and employment could have held equal benefits and equal obstacles for all. In reality they did not. This was not due to the demands of the economic policy, but to it being implemented by people who were only partly aware of the implications of their actions for gender relations.

A final point I would like to make is the need to further understand how such macro-, partially state-controlled processes of change, influence not only the intimate life arrangements, but also their emotional experience by the actors involved. In the case the number of people for whom responsibility of different kinds was owed, were altered. One has only to place oneself in the position of a woman in a polyandric or binna union to realise how different her outlook on human relations and more specifically family relations, must have been to a woman married in a monogamous, life-long diga marriage among her in-laws. Her whole perception of her worth for her own relations and her children and her position vis-à-vis her husband(s) would have had a radically different emotional content. In the first case
she possessed a source of active economic power to protect and influence the lives of her children, who would subsequently have regarded her in a different light. In this bridge case, the relationship with her children had to depend more on ‘love’, since she could do little more than manipulate/influence their father and his relations on their behalf. A comparable difference must have applied to men in the two marriage systems. Both women and men are likely to have had totally divergent perceptions of self, of each other and their relationships, and would have created an entirely different pattern of socialisation. Children would have grown up with transformed interpretations of what women and men could ‘do’ or ‘be’ in the family and society at large.

Such transformations in the content of human relations are seldom recorded. Examples however can be traced. Tambiah f noticed in his study on polyandry in Ceylon, that older males would calmly explain the system of wife-sharing: “Sexual jealousy was not considered the ground for keen friction or disruption” [1979: 293]. In contrast the younger men would be amused and embarrassed if questioned, while firmly stating never to consider marrying in polyandry: “I wouldn’t like to eat off the same plate as another man” [pp 296-97].

Here one sees a shift in emotional experiencing of intimate relations in a relatively short time-span. Unfortunately none of the (male) researchers on polyandry, have ever thought of interviewing women and children on the same topic. But for this article the point is clear. State and economy do deeply influence gender and kinship relations and even the most intimate and ‘natural’ parts of these relations. Therefore this case-study warrants further research into the dynamic relations between such seemingly disconnected processes.

Notes

1 In this section, I emphasise the position of women above family, due to paucity of data.
2 For example in the 5th century A D Sinhalese nuns were invited to China to assist in the ordination of women there [Gunatilleke, 1984].
3 The title of paramuka was held by women in their own right in the first century A D, [de Silva, 1981:23]. Gentry can be equated with the title of ‘paramuka’.
4 See for example the following legends in Cobwell’s publication [1957: 32, 61, 62, 63, 64, 66, 102, 106, 120, 147, 318, 374, 402, 433, 436, 537].
5 Geiger [1908:111] also mentions the ‘western queens’, although he has no further knowledge of these figures.
6 Paranavitana [1930] has come across the name ‘Stripuria’, city of women, in Sinhalese folklore.
7 “When does the shift take place from ‘female’ as a symbolic of positive fertility to ‘female’ as temptation to evil?” [Leacock, 1981:28].
8 In economically poorer circles the new norms are regularly ignored, as is shown in the powerful documentary film Illegitimate [Lal, 1985].
9 In 1840, 78,686 acres were sold; by 1843 this had increased to 230,000 acres of which two-thirds went to European buyers. In 1850-57 the area used for coffee plantations tripled and after 1860 a new era of massive land sales began [Snodgrass, 1966:22].
10 For example, between 1880 and 1888, in six of the nine provinces where the ordinance was implemented, 29,899 sales of paddy land in default of tax payment were effected by the crown. Between 1878 and 1888, in five provinces, one in every 26 acres was sold. In Galle and Matara districts, these figures were even higher [Obeyesekara, 1967:120-22].
11 In the statistics of 1901 for example women owners of property still figure prominently. Women formed one-third of all landowners; just under half of the coconut planters and higher staff, while they were just under half of the landed proprietors. Nowadays, landownership statistics are not recorded by sex, but such a high proportion of female owners would be estimated as highly unlikely [Risseeuw, chapter 2].
12 The highest crime rates on the island were found in the most densely populated areas where land-scarcity was most pronounced: the south of the island and Jaffna in the north.
13 In 1871, women workers in the industrial class appear in 16 of the 44 listed occupations; in 1884 in 48 of the 71 mentioned and in 1901 in 120 of 172 [Risseeuw, 1991:106].
14 An exception being done by teaching and nursing, which the colonial gender ideology perceived as of female.

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