

Addressing Disputes faced by Migrant Workers and their Families in Sri Lanka

A Resource Book



Prepared by
Mangala Randeniya, Deputy General Manager,
Sri Lanka Bureau of Foreign Employment

Supported by
The Asia Foundation with funding from the
International Labour Organisation and the
Swiss Agency for Development and Cooperation(SDC)

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The Asia Foundation



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The Asia Foundation supported by the ILO with funding from the Swiss Development Corporation is providing technical support to the Ministry of Justice Sri Lanka and the Ministry of Foreign Employment to set up Special Mediation Boards to address disputes faced by migrant workers and their families in Sri Lanka in Sri Lanka.

The aim of the Special Mediation Boards (Migration) is to provide an informal system of dispute resolution for migrant workers and their families. The process of setting up Special Mediation Boards (Migration) is under discussion currently and these Special Mediation Boards will be set up under the Mediation Boards Special Categories of Disputes Act which would enable migrant workers and their families to bring disputes against any government or private institution or individual to arrive at a mediated settlement.

In preparation of setting up Special Mediation Boards (Migration), the Asia Foundation provided primary content knowledge on migration and disputes faced by migrant workers and their families in Sri Lanka to Mediator Trainers of the Ministry of Justice. These Mediator Trainers will take the leadership in training mediators when Special Mediation Boards (Migration) are established. The training of Mediator Trainers was strengthened by this Resource Book titled Addressing Disputes faced by Migrant Workers and their Families in Sri Lanka as background knowledge and reading.

The Resource Book was prepared by Mangala Randeniya, Deputy General Manager, Sri Lanka Bureau of Foreign Employment supported by the Asia Foundation.

The Asia Foundation wishes to gratefully acknowledge the support provided by Mangala Randeniya to the preparation of this Resource Book, his input to the initial training of Mediator Trainers and his continued support throughout the initial design and preparation phase.

The Asia Foundation further gratefully acknowledges the support of the Ministry of Justice, Ministry of Foreign Employment, the International Labour Organisation (ILO) with support from the Swiss Agency for Development and Cooperation (SDC) to this project that helped carry out the preparatory phase of establishing Special Mediation Boards (Migration) to serve vulnerable populations of Sri Lanka.

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Additional Reading Material

- Sri Lanka National Labour Migration Policy
- Safe Migration Manual

Introduction

Migrant labour is Sri Lanka's main contributor to the national economy. Sri Lanka recognizes the value of its out bound migrant labour population and there are diverse policy commitments and mechanisms in place to regulate and protect the migrant worker population. This includes the Ministry of Foreign Employment (MFE), the Sri Lanka Bureau of Foreign Employment (SLBFE), and the National Labour Migration Policy adopted By Cabinet in 2009.

Migrant workers continue to be the highest avenue of foreign revenue earning for the country. In 2013 migrant workers earned 827,689 million Rupees. During the six month period from January to June 2014 (as per the latest official statistics available), earnings increased by 10.6 percent and amounted to Rupees 589,137 million Rupees. One of the significant features of Sri Lanka's migrant worker population is that 34 per cent of the migrant workforce comprises women in low skilled work in the domestic sector. 40 per cent of the migrant workforce comprises women and 82.5 per cent of this female workforce is categorised as "housemaids" and "House Keeping Assistants".

There are a number of international instruments and national policy documents that govern migrant labour in Sri Lanka. The ratification of the International Convention on the Protection of All Migrant Workers and Their Families in 1996 provided the normative framework to base national migration legislation and practice. The National Human Rights Action Plan and the National Plan of Action on Women both recognise female migrant workers as a specific vulnerable category.

In 2008 the then Ministry of Foreign Employment Promotion and Welfare (currently the Ministry of Foreign Employment) drafted the first ever Sri Lanka National Labour Migration Policy. The Policy received Cabinet approval in April 2009 and has been implemented since, governing the process and approaches associated with labour migration in Sri Lanka.

There are serious issues associated with a range of disputes and grievances faced by migrant workers and their families. These grievances are not confined to destination countries where migrant workers serve but in Sri Lanka as well. There is a range of mechanisms that address these disputes and mediation is one process that is being explored in order to address disputes and grievances that migrant workers and their families face in Sri Lanka.

Chapter 1

A definition of Labour Migration

There are several definitions on labour migration. The United Nations, International Labour Organisation and the International Organisation on Migration are key among institutions that define and work on international labour migration.

The International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (1990) defines international labour migration as “people moving for various reasons to a country other than that of their usual residence for a period of at least twelve months, so that the country of destination effectively becomes the new country of usual residence”.

The United Nations and the ILO provide the following definition:

“A person who is to be engaged, is engaged or has been engaged in remunerated activity in a state of which he or she is not a national”

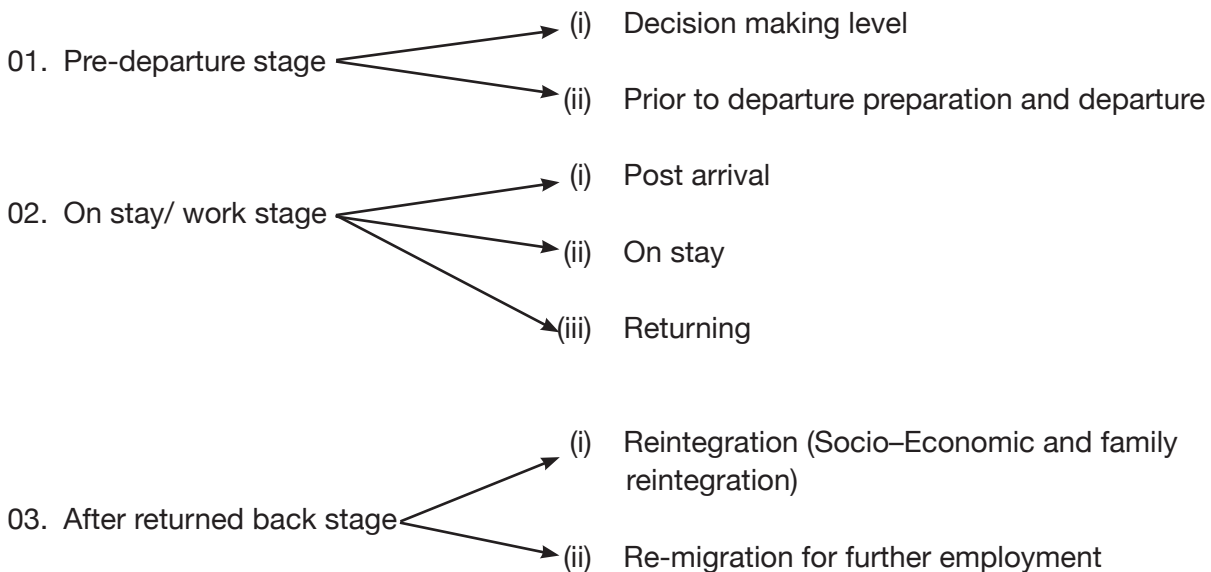
The IOM defines international labour migration as follows:

“The movement of people from one country to another for the purpose of employment”

The definition which can be adapted to the Sri Lankan context of labour migration can be formulated as “people seeking contractual employment or engaged in contractual employment, or have engaged with contractual employment in a location that is other than country of residence”.

The Stages of Labour Migration

International labour migration comprises of three stages. These three stages include six components.



The Pre - Departure Stage

Potential workers in the labour force make decisions to go abroad for employment as economic migrant workers, due to various reasons. The most visible push factor is due to economic hardships that an individual and/or family faces due to lack of financial resources within the country. Additionally, there are other individuals that choose to work abroad to achieve social objectives that may be harder to achieve in the mother country.

Despite the range of pull and push factors prominently discussed within labour migration, the most powerful underline psychological factor is the aspirations that people have to go to another country for various reasons including to earn an income, to experience another culture, expand opportunities etc. One of the possible ways of meeting this dream is migrating for employment. However the key is whether an informed decision is made therein, and people who migrate often succeed but some do not.

Most female migrant workers make the decision to work as a domestic worker in the Gulf region do so due to urgent needs to resolve family, economic and social issues. This decision is sometimes made collectively with the family and sometimes individually.

Although the state has put in place resources for these workers to make well-informed decisions, some simply do not follow the guidelines and only pretend to do so, to receive state benefit and support. Despite this, decision making during pre departure stage remains to be instrumental to the lives of migrant workers. Currently the Development Officers (DOs) attached to DS divisions are assigned to carry out this task.

The DOs are expected to conduct home visits and prepare family background reports of females after they quit their foreign employment. This process is used to provide the necessary guidance on safe and planned migration and even includes some valuable insights on how to do family oriented

labour migration. Addressing spouses with the view of developing the family economy, carrying of children's education and protection are also given priority during this visit.

Temporary prevention of vulnerable females going abroad and addressing the vulnerabilities application of commonly agreed strategies to empower and facilitate them to go for employment in well-planned manner are seen to be the main duties of Development Officers, at DS level to address pre- departure family development issues.

The SLBFE has imposed several mandatory requirements for potential migrant workers and to licensed agents to undergo.

1. Pre-departure training for female workers and male workers.
2. Family Background Report for female workers which gives the initial recommendation for the potential female workers to proceed.
3. Mandatory signing of job agreement.
4. Embassy Authentication of job orders.
5. Approvals granted for licensed agent to find suitable job seekers.
6. Final approval and mandatory registration of recruited workers.

SLBFE conducts a 21 day National Vocational Qualification (NVQ) Level 3 training for female workers migrating into the domestic work sector primarily to Middle Eastern countries. This is entitled the Domestic Housekeeping Assistant Training Programme which provides knowledge and vocational skills for all domestic sector work including laundry, cooking skills and related knowledge, Common competencies, occupational health and safety, language skills along with general health, reproductive and sexual health sessions. In addition to this, awareness on cultural, law and political situations of the destination country is also provided to the job seekers. At one point in the training programme, spouses and other family members are also included in the programme.

Apart from the Middle East sector training programmes, country specific training programs for Cyprus, Singapore and special care-giving training programmes for Israel bound workers are also conducted in SLBFE training centers.

Male job seekers are also provided 5 days basic awareness training programme which is mandatory for all low-skilled workers and labourers. Except for the vocational training, all other components are included into this training programme (such as language, laws, culture and political situation in the destination country). Other components of the 5 day program include the use of common tools and equipment, the health of the migrant workers, Embassy and SLBFE procedures, occupational health, behavioral manners, conduct at the work place, financial management and family day.

At the pre-departure level the next mandatory requirement is the signing of a job agreement. The job seekers and responsible family member have to come to the SLBFE Head Office or District Training Centre and the responsible Local recruitment agent has to attend the same. Having understood the terms and conditions in front of an Authorized Officer of SLBFE, the Licensed Agent and the recruited job seekers should then sign the employment contract. This contract should have been authenticated by the labour section of the respective mission of the destination country.

The responsible local agent should explain the terms and conditions to the job seekers, in front of the SLBFE Officer, in an understandable language. The job seekers are notified by the SLBFE Officer at this point to clarify any discrepancy related to the conditions to the agreement/ job contract.

The final step of pre-departure stage is obtaining registration of SLBFE and leaving the source country. Once the registration is obtained the workers are provided free life and health insurance coverage by the SLBFE for the period of two years.

For any kind of assistance that the registered migrant worker may require, the SLBFE staff is stationed for assistance at the departing airport. All Sri Lankans leaving the country for employment are checked by the staff of SLBFE to screen the registration.

Within the provided pre-departure training, the migrant workers are also trained on in flight behavior, post arrival arrangements and SLBFE and embassy hotlines in any case of emergency

The potential migrant workers departing through and assisted by a licensed agent, comprise of up to 67%. The rest are self-based workers who receive no support from any agents. The self-based migrant workers also under go all the procedures. SLBFE has introduced a security deposit system for sponsors who need female domestic housekeepers from Sri Lanka. This has been introduced by the SLBFE to ensure the protection of the female migrant worker since this security system gathers the most important information of the migrant workers at the preparatory stages by the labour section of the missions.

The pre-departure arrangements for the Korean bound workers starts with the calling of application through mass media by publishing the eligibility criteria and issuing admissions for the EPS examination.

The passed candidates are subject to medical examination and those who are medically fit are fed into the EPS system in Korea. Once the job contract is received from the sponsor, the job seeker is informed by the SLBFE to sign it and then enroll these candidates to a 10 days training. The job seekers and responsible family members are also made aware of all the aspects of the Korean job placement before they depart.

The In service stage

Majority of migrant workers complete the service contract period successfully and return to Sri Lanka. Some others obtain a further one year extension and renewal of the contract. The migrant workers in service period are very critical in terms of solving labour disputes. Once the worker is provided the work permit under Kafalah system the worker can not prematurely terminate the contract. Most of the time in terms of female domestic workers the sponsor bears the cost of the migration. In terms of domestic sector workers and other cleaning sector workers, the cost factor is very high for the sponsor due to the fact that he is expected to cover all costs. Therefore, the sponsor cannot immediately give permission to terminate a contract prematurely but in certain circumstances, where a worker requires to return home before the end of the contract, the sponsor may give permission for an Exit Permit. While the workers are in service, they face several issues due to work place problem, personal issues and family issues back home.

The SLBFE is maintaining labour related departments in 17 destinations to look after the domestic workers who are in service. The female workers who are unable to manage issues at work place seek refuge in the Embassy safe house. The annual intake for safe house is not more than 6000, and is categorized based on respective Embassies.

Death, accidents, disabilities, pregnancy, illness and criminal cases are reported during the in service stage of migrant workers. All these matters are to be attended by the SLBFE with the

support of the Consular section of the Ministry of Foreign Affairs. During the period of in service, repatriation of those who are not ready to continue the work is also a serious issue that requires constant attention.

There are about 1.5 million Sri Lankan workers living and working out of a total of 232 million migrant workers working globally and out of which more than 50% comprise of female workers. Despite this, annual departure of males is on the rise in Sri Lanka.

The numbers of Sri Lankan migrant workers in major destination countries is set out below.

Departures for Foreign Employment in 2012* (January - December)

Through All Sources/ By Country & Sex

Country	Female	Male	Total
Saudi Arabia	59362	38035	97397
Doha Qatar	7309	49616	56925
Kuwait	31398	12406	43804
U.A.E.	13779	23763	37542
Jordan	9132	1218	10350
South Korea	75	5493	5568
Oman	2323	2482	4805
Bahrain	2971	1512	4483
Maldives	458	3492	3950
Lebanon	3469	394	3863
Cyprus	2488	356	2844
Malaysia	1379	1292	2671
Singapore	756	205	961
Others	2252	2067	4319
Total	137151	142331	279482

*Provisional

Departures for Foreign Employment in 2013

Country	Female	Male	Total
Saudi Arabia	41,420	39,467	80,887
Qatar	7,863	72,861	80,724
U A E	19,191	29,311	48,502
Kuwait	28,756	13,984	42,740
Jordan	5,618	1,442	7,060
South Korea	82	5,320	5,402
Oman	2,375	2,942	5,317
Bahrain	2,763	1,784	4,547
Lebanon	3,112	425	3,537
Maldives	376	3,109	3,485
Malaysia	1,750	1,547	3,297
Israel	1,534	410	1,944
Cyprus	1,389	218	1,607
Singapore	866	399	1,265
Others	938	1,966	2,904
Total	118,033	175,185	293,218

Departures for Foreign Employment in 2014

Country	Female	Male	Total
Qatar	6,265	78,306	84,571
Saudi Arabia	38,611	41,928	80,539
U A E	19,066	31,126	50,192
Kuwait	27,705	15,823	43,528
South Korea	78	6,606	6,684
Jordan	4,902	1,273	6,175
Oman	2,890	2,860	5,750
Maldives	361	4,097	4,458
Bahrain	2,009	1,963	3,972
Malaysia	1,354	1,954	3,308
Lebanon	2,603	454	3,057
Israel	1,577	433	2,010
Cyprus	1,444	214	1,658
Singapore	821	641	1,462
Others	803	2,246	3,049
Total	110,489	189,924	300,413

The continuous stay of migrant workers and their return to the home country are important to sustain the country's economy and to maintain the socio-economic status of the migrant worker and her/his family. The spouses and children of migrant workers are forced to face a variety of unreported grievances, which needs to be addressed by the relevant authorities and society as a whole.

Return and Reintegration

This is also a very important stage in the labour migration path. The majority of the expatriated workers return after the contract period or after a one year extension and after which they return to the mother country. Most of the migrant workers are returning with the expectation of re-migrating to the same or even a different work place. Reintegration is not applicable to those who are re-migrating. The stable mentality to reside in the home country, with the family, depends on the financial stability. Without an income generating economic activity or sustainable program with the spouse the returnee migrant worker cannot be reintegrated successfully either economically or socially.

Therefore, the Ministry and SLBFE with the support of the ILO has now developed a national Re-integration policy for the labour migration trade which has covered all the aspects of the labour migration industry. In order to meet the re-integration objectives, the policy addresses the social

reintegration of returnees with the objective of dignified and safe return of migrant workers and their efficient re-integration into a secure and responsive family and community. The economic reintegration of returnee migrant workers is carried out to help them acquire certified and employable skills, develop entrepreneurship skills and engage in employment and sustainable livelihood. Furthermore civil and political empowerment of migrant returnees support and empower migrant workers to influence policy decisions and practice to secure the protection of their socio-economic and civil rights.

Chapter 2

Labour Migration in Sri Lanka – Some background information

Migrant labour in Sri Lanka's main contributor to the national economy. Around 1.8 million Sri Lankans work abroad. These are documented statistics and this number is more due to people not being recorded as registered workers as they migrating for work through private sources (visas sent by friends, relatives and directly by employers as well as migrating on visit visas which are later converted to work visas in destination countries. In 2013 migrant workers earned 827,689 million Rupee. During the six month period from January to June 2014 (as per the latest official statistics available), earnings increased by 10.6 percent and amounted to Rupees 589,137 million Rupees.

One of the significant features of Sri Lanka's migrant worker population is that 34 per cent of the migrant workforce comprises women in low skilled work in the domestic sector. 40 per cent of the migrant workforce comprises women and 82.5 per cent of this female workforce is categorised as "housemaids" and "House Keeping Assistants" (source: Ministry of Foreign Employment Annual Performance Report 2014)

Sri Lanka recognises the value of its out bound migrant labour population and there are diverse policy commitments and mechanisms in place to regulate and protect the migrant worker population. This includes the Ministry of Foreign Employment (MFE), the Sri Lanka Bureau of Foreign Employment (SLBFE), and the National Labour Migration Policy adopted By Cabinet in 2009.

In terms of numbers, the equal participation of women in the migrant labour force stands in contrast to the participation of women in the national labour force in Sri Lanka. The national labour force participation in Sri Lanka is characterized by the high participation of males. Women constitute approximately half of the number of males in the work force. Despite a gradual increase in women's participation in formal work, female unemployment rates remain almost double that of male unemployment. These characteristics are not reflected in women's participation in migrant labour. However the skewed nature of female labour participation within Sri Lanka where larger numbers of women are employed in low skilled, low wage work is equally reflected in women's participation in the migrant labour force.

The feminization of the migrant labour force and its changing trend is a unique character in Sri Lanka's migrant labour force. In the late 1990s 75 per cent of Sri Lanka's migrant labour force was women. By 2008, the number began to fall below 50 per cent due to policies and procedures that promoted male migration over female and skilled migration over low skilled work. This policy push increased the migration of males. While the annual departure numbers of women workers remained the same, the numbers of male workers migrating increased, reducing the percentage of female migrant workers.

Large numbers of Sri Lanka's out bound migrant workers employed in low skilled work, including domestic work. Thus migrant workers from Sri Lanka face numerous problems throughout the migration cycle. . These problems are largely a result of the nature of work that Sri Lankan low skilled workers perform abroad, and are related to employment contracts, violations of contractual terms and conditions, lack of employment benefits, lack of or violation of provisions for termination as well as to issues arising out of working in isolation with a single employer, harassment at work, lack of union representation, employers holding and controlling passports to limit movement,

restrictions that limit changing employers, inadequate mechanisms to redress grievances and so forth –. These workers also face problems during preparation for migration and in transit (lack of documents, forged documents, charging too excessive fees, issues with childcare), as well as on return and reintegration (legal issues and issues related to the family left behind). Migrant workers need external support to resolve these issues; support that goes beyond that provided by their families.

Outward Labour Migration in Sri Lanka

The domestic economy in Sri Lanka provides almost 300,000 male and female workers to the overseas labour market annually. Since labour migration started, with workers moving towards the Gulf region, majority of the migrant worker population consisted of female domestic workers. Originally the percentage of female domestic workers stood at 75% and remained that way for decades. Recently however, in 2009, there was a turning point with the proportion of female domestic workers with percentages dropping 25 points to 50%.

Due to various promotional work initiated by SLBFE and the introduction of regulations for female domestic sector housekeeping workers, the current trend in the labour migration floor is 68% male workers and 32% female workers. Out of the total 32% female worker percentage female domestic workers consist of more than 80%. Following tables shows the number of workers leaving the country for employment sex wise, job category wise for last 5 years.

Departure for foreign employment (Male, female job category wise)

Departures for Foreign Employment in 2012 - 2015(Jan - June)

Through All Sources by Manpower Level & Sex

Manpower Level	2012		Total	2013		Total	2014		Total	2015 (Jan - June)		Total
	Female	Male		Female	Male		Female	Male		Female	Male	
Professional	427	4018	4445	504	4647	5151	412	4927	5339	166	2040	2206
Skilled	7297	59781	67078	8247	65460	73707	6681	66359	73040	2801	34821	37622
Semi Skilled	457	3008	3465	444	2968	3412	580	3392	3972	232	1839	2071
Middle Level	554	8724	9278	547	15963	16510	724	20025	20749	250	2674	2924
Clerical & Related	1190	14976	16166	1491	25070	26561	1661	27576	29237	702	5195	5897
Unskilled	9570	53277	62847	9900	61077	70977	11770	67645	79415	4575	31009	35584
Housemaid	119052		119052	96900		96900	88661		88661	36315		36315
Total			282331			293218			300413			122619

The contribution to the economy

Labour migration is one of the main contributors to the national economy in both micro and macroeconomic levels. Currently there are about 1.7 million Sri Lankans working overseas and contribute almost US \$7.2 billion to the national economy every year, via remittances... In economic terms, migrant employment delivers multiple economic impacts to the national economy which inevitably creates direct indirect employment in the country. Once foreign remittances are changed into local currency the purchasing power of the local currency rises, leading to a better standard of living for Sri Lankan people

This industry is operated by license foreign employment agent. The 62% is owned by them when recruitments are concerned. The employment opportunities direct & indirect created by them are a contribution to national economy.

Chapter 3

International Framework on Labour Migration

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is the primary United Nations treaty governing the protection of migrant workers and their families. The Convention was signed on 18 December 1990 and entered into force on 1 July 2003. Sri Lanka ratified the Convention in 1996.

Following ratification by Sri Lanka, the State adopted its provisions only in 2009 amending domestic laws applicable to international labour migration.

Thus in 2009, the then Ministry of Foreign Employment Promotion and Welfare (now the Ministry of Foreign Employment) facilitated an amendment to the Sri Lanka Bureau of Foreign Employment Act no 21 of 1985. The amending act was Act no 56 of 2009. This amendment shed more light on migrant workers via article 66 to 68 through which the SLBFE could empower and strengthen the Special Investigation Division. Special Investigation division was empowered to arrest and prosecute perpetrators who violate the labour migration law of the country.

This international framework has given room to ensure and protect the rights of the migrant workers and families. All 93 articles of the convention cover the entire process of labour migration. The UN committee on migrant workers is the mandatory authority for monitoring the progress of countries which have ratified the implementation and adaptation of the convention. Sri Lanka has submitted the 1st report in terms of the list of issues raised by the committee. The second periodic report is currently being prepared. The committee has raised several issues and requested the government to provide progress reports in terms of each articles. The government can respond to these queries effectively since the state has started several programmes and projects in support of the labour migration process.

The national framework which is National labour migration policy adapted in 2009 directed the SLBFE towards many progressive initiatives in terms of the protection of migrant workers that will be discussed under the National framework on labour migration.

The United Nations has adopted an international instrument on migrant workers, underscoring the importance of this segment of workers and the international consequences of migration. This Instrument, the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (adopted in 1990) is the only international instrument dealing with migrant workers Sri Lanka has ratified, and as the Convention has become operational since 1996, Sri Lanka is under an obligation to implement it by making necessary legislative and regulatory changes in compliance with it.

The Convention constitutes a comprehensive international treaty regarding the protection of migrant workers' rights. It emphasizes the connection between migration and human rights, which is increasingly becoming a crucial policy topic worldwide. The Convention aims at protecting migrant workers and members of their families; its existence sets a moral standard, and serves as a guide and stimulus for the promotion of migrant rights in each country.

The primary objective of the Convention is to foster respect for migrants' human rights. Migrants are not only workers, they are also human beings. The Convention does not create new rights for migrants but aims at guaranteeing equality of treatment, and the same working conditions,

including in case of temporary work, for migrants and nationals. The Convention innovates because it relies on the fundamental notion that all migrants should have access to a minimum degree of protection. The Convention recognizes that legal migrants have the legitimacy to claim more rights than undocumented migrants, but it stresses that undocumented migrants must see their fundamental human rights respected, like all human beings.

In the meantime, the Convention proposes that actions be taken to eradicate clandestine movements, notably through the fight against misleading information inciting people to migrate irregularly, and through sanctions against traffickers and employers of undocumented migrants.

Article 7 of this Convention protects the rights of migrant workers and their families regardless of “sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, or other status”.

All 93 articles cover entire process of labour migration. The UN committee on migrant workers is the mandatory Authority of monitoring the progress of the implementation and adaptation of the convention the countries which ratified. Sri Lanka has submitted the 1st report in terms of the list of issues raised by the committee. The second periodic report is being prepared by now. The committee has raised several issues and requested to give the progress in terms of each articles. The state party can answer several issues positively since the state has started several programmes and projects to adverts the almost all issues in labour migration process.

The national framework which is National labour migration policy adapted in 2009 directed the SLBFE for lot of progressive initiating in terms of the protection of migrant workers that will be discussed under National framework on labour migration.

Chapter 4

National Framework on Labour Migration

The Law that governs international labour migration

Sri Lanka adapted the labour migration law in 1985. The parliament of Sri Lanka passed the Sri Lanka Bureau of Foreign Employment Act No. 21 of 1985 in order to regulate, manage and monitor the Sri Lankan workers recruited for overseas employment. This act was amended as Act No. 4 of 1994 and subsequently Act No. 56 of 2009 in order to have more regulating authority to regulate the process of recruitment.

According to the law of recruitment in Sri Lanka, manpower is prohibited if there is no valid labour license for the recruitment company. The Act has given provisions to obtain a labour recruitment license. Accordingly a private company owner has to fulfill the requirements which are stipulated in the Act and also fulfill any extra requirement that the SLBFE expects from the company. Sections 24, 25, 26, 27 and 28 of the 1985 act have given clear instructions to the SLBFE give and regulate the license holders. Due to the insufficient power to make arrests and issue punishments the act no. 56 of 2009 amendment was introduced.

As per the labour migration law all Sri Lankans should sign an agreement in front of the authorized officer of SLBFE. This agreement/contract must be introduced by the Licensed Foreign Employment Agent or if the worker is processing for foreign employment on a self basis the worker must have the agreement which is signed by the employer and attested by the respective country mission/labour section.

Once the agreement is signed, the prospective worker can obtain the SLBFE registration. This registration is valid for a period of two years and if the worker continues, the contract with the same employer the migrant worker has to renew the registration. This renewal can be done by visiting the labour section of the mission, at the SLBFE head office or at the SLBFE district office. Maintaining continuous registration with the SLBFE is a mandatory requirement to obtain the SLBFE facilities in terms of protection and welfare of the migrant worker.

SLBFE has imposed several other mandatory pre requirements by looking at the vulnerabilities of the migrant workers and considering social aspect of the labour migration trade in this country.

- Mandatory training programme for Domestic sector female workers – 21 days, 28 days
- Mandatory training for Non domestic males & females other than skilled and technical fields – 5 days orientation
- 18 days literacy training for female domestic sector workers.
- Mandatory Family Background Reports (FBR) for female domestic sector housekeeping workers.
- The minimum age for female domestic workers
 - I. For KSA - 25 years
 - II. Other Middle East countries - 23 years
 - III. Rest of the countries - 21 years

Through all these mandatory pre-requisites the SLBFE is making efforts to ensure the protection of the migrant workers and to empower them to face the challenges successfully.

The licensed agent has a 70% share of the recruitment where annual registration is concerned. The act of 1985 has given clear instructions to SLBFE and to have special empowered officers that are designated as Conciliation Officers to intervene officially and settle labour disputes. As per sections 40-44 of the 1985 act, the licensed agent shall be fixed with full responsibility to handle matters of contract violations at the foreign workplace. If the licensed agent fails to adhere to final award given by the Conciliation Officer, a court case can be fixed against the local licensed agent. Therefore in terms of labour disputes of the expatriate workers, the SLBFE has the full power to intervene and award amicable settlements.

This law has a direct link to the job order approval granting procedure which has been introduced by the SLBFE. At the time that the licensed agent obtains the 1st approval for the job order sent by the foreign agent/sponsor, the local licensed agent must submit all other relevant documents to the SLBFE.

Those documents consist of a proposed job contract with all the confirmed terms and conditions. The local agent is responsible for any violation of those terms and conditions stipulated in the contract. When the complaint is handled by the conciliation officer the first document that conciliation officer refers to is the first approval documents. Once those documents are marked in the complaint management system the local agent is responsible for that as the local agent has to do the urgent intervention with his foreign counterpart.

This internal regulation has proved to be an effective and positive mechanism for settlement of complaints.

The Act of 1985 No. 21 amended by Act no 59 of 2009 has given the power to SLBFE to investigate any premise linked to foreign employment including recruitment agencies. This handles all the complaints at both the pre-departure level and on stay if the worker is not registered by the local agent.

The National Labour Migration Policy

The National Labour Migration Policy aims to promote opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, equity, security and human dignity. The Policy seeks to do so through policies, laws, regulations, services and facilities for migrant workers and their families. Recognising that the low skill levels of migrant workers lead to exploitative situations, the Policy lays emphasis on the development of skills as a main and effective means of protection for migrant workers and their families. It is a gender sensitive policy taking into consideration fully, the role of women in the process of migration. In addition to a general introduction and a situation analysis of labour migration in Sri Lanka, the policy has three sections; governance of the migration process, protection and empowerment of migrant workers and their families, and linking migration and development processes.

The Sri Lanka National Labour Migration Policy is developed by the Ministry of Foreign Employment. Its aim is to articulate the State Policy regarding Sri Lankan citizens engaged in employment in other countries and to recognise the significant contribution of all Sri Lankan migrant workers to the national economy through foreign exchange remittances and other mechanisms. The policy has the goals of developing a long-term vision for the role of labour migration in the economy, enhancing

the benefits of labour migration on the economy, society, the migrant workers and their families, minimizing its negative impacts and, finally, working towards the fulfillment and protection of all human and labour rights of migrant workers.

The Policy is implemented by the Ministry of Foreign Employment. The Ministry convenes an Advisory Committee on labour migration represented by all key stake holders, government, civil society, worker organizations, trade unions, and employers. This Committee oversees the implementation supported by the Inter Ministerial Coordinating Committee representing key Ministries.

The National Labour Migration Policy contains three main sections:

1. The first was on Governance and Regulation of migration described as “better governance and regulation of labour migration based on consultative processes with social partners and civil society in the formulation of migration policy”.
2. The second objective focused on protecting and empowering migrant workers and was described as “providing effective protection and services to migrant workers and their families left behind”
3. The third objective looked at linking migration and development, “mobilizing development contributions of labour migration in terms of remittances, reintegration of returning migrant workers, circulation policies and linkages with transnational communities”.

The first section on governance recognizes good governance as vital to regulating the labour migration process. Good governance is accepted as essential to effective institutions and regulations. This section upholds the ultimate responsibility to protect human rights, promote participation and achieve equitable social and economic outcomes and recognizes that participation, transparency and accountability are key elements of good governance. The section focuses on four key areas; the institutional framework, the legislative framework, the regulatory framework and the social dialogue and consultative framework.

The policy highlights that the Ministry sets the institutional framework in place and this framework is complemented by other key institutions. The policy provides for the setting up of a National Advisory Committee on Labour Migration and an Inter-Ministerial Coordinating Committee to review existing labour migration processes and facilitate collaboration where necessary. The Policy deals with the SLBFE, adopting of clear guidelines for recruitment, and the regulations and monitoring of the recruitment process and the role and capacities of the diplomatic missions.

The section on the legislative framework primarily focuses on bringing national legislation in line with existing national and international laws and obligations on migration. The policy proposes the review of the existing legislation (SLBFE Act) and bringing in amendments to fill gaps. The sections recognises the obligations cast upon the country by ratifying the International Convention on the Protection of All Migrant Workers and their Families and the need to ratify other international conventions pertaining to migrant workers.

The regulatory framework focuses on the SLBFE as the main implementing agency under the Ministry and its role in ensuring accessible and equitable opportunities for skill development to all citizens thereby promoting skilled labour migration.

The second section of the policy pertains to the protection and empowerment of migrant workers and their families. In the policy, the State, having the primary responsibility for the protection of migrant workers and their families, undertakes to protect and empower migrant workers and their

families in all three stages of the migration process. These stages are pre-departure (from decision-making to training to preparation for migration), in-service (workers in employment and families left behind) and return and reintegration (with consideration for reintegration, acceptance and appreciation).

In protection and empowerment, the State undertakes to set minimum requirements for the profile of migrant workers to ensure their welfare and protection, develop an environment within which potential migrant workers can make informed and considered decisions to migrate for work, further minimise irregular and abusive recruitment processes, and offer significant measures to prepare and train migrant workers psychologically and professionally. This includes psychological and public health advice and support. The policy highlights the role of diplomatic missions in receiving or host countries to ensure protection for protect migrant workers including safe repatriation for all workers in need. The policy also takes cognizance of return and reintegration issues in order that it takes place with full protection of rights and freedoms. Expanding its role to ensure protection and empowerment of migrant workers, the State takes on an extended responsibility towards protection and welfare of children of migrant workers aiming at working with the judicial system as the upper guardian of all children.

The third section of the policy relates to the linking of development and migration processes. This section foresees implications in a future timeframe of five to ten years and attempts to address issues that have broader implications for the development of the country, its economy and its people. The policy accepts that return migrants and transnational migrants contribute to investments, transfer of technology and skills, human capital formation, enhancement of social capital, promotion of trade and business links and good governance.

The important policy statement in this section is that Sri Lanka does not see overseas employment as a strategy for sustainable economic growth and national development in the long run. But the State recognises the significant contributions of labour migration towards development, and commits itself to creating decent work opportunities at home and promoting equitable distribution of wealth and the benefits of development. For these purposes, the policy accepts that new overseas markets which provide better working conditions and uphold the rights of workers and opportunities must be explored and promoted. For this the policy sets out action plans to carry out labour market surveys, market analyses and market promotion plans in foreign countries to ascertain the emerging opportunities and new demands.

The policy accepts the current gap in the lack of comprehensive information on the migrant labour force and migrant labour. The policy identifies the need for comprehensive information and database on labour migration as well as studies and regular monitoring, which reliably inform about the profiles and numbers of migrant workers, are means by which to achieve a better fit between development, labour migration, protection and good governance. The policy provides for the setting up of a specific institution for migrant studies to research, study and highlight issues as well as find solutions to migratory problems of Sri Lankans and enhance the promotion of gainful employment abroad.

The Sri Lanka National Migration Health Policy was developed in 2013 by the Ministry of Health in recognition and promotion of the right to health for internal, in bound and out bound migrants and their families left behind in Sri Lanka. The Policy stems from Sri Lanka's overall vision for the protection of rights of all migrant populations, as part of the country's vision for development, and the World Health Assembly Resolution on "Health of Migrants" adopted in 2008. The Sri Lanka National Migration Health Policy aims to engage all relevant sectors and agencies that are responsible to ensure the health of migrants throughout the migration cycle.

The Vision of the National Migration Health Policy is to safeguard the health of all categories of migrants throughout the migration cycle to contribute to the development goals of the country.

The Mission of the National Migration Health Policy is to implement it through a coordinated multi-sectoral, multi-agency approach leading to the enhancement of the benefits of out bound, internal and in bound migration on the economy and society by promoting the beneficial aspects of migration and minimizing the negative health impacts, integrating migrant health care into development, public health care and social welfare goals of Sri Lanka, and working towards the realization and protection of human rights in the process of migration.

Review of the current status

Once the National Labour Migration Policy was approved by the Cabinet in the year 2009, the SLBFE started to adopt this policy recommendation by cooperating them into the National Action plan and the Cooperate Plan of SLBFE. The three main areas introduced in the Action Plan are Governance of Labour Migration, Protection and Empowerment and Development of Labour Migration.

Most of the recommendations of those thrust areas are now being implemented through SLBFE programmes, projects and activities. This national framework is developed again within the framework of principles of decent work, dignity of labour, protection of all human rights and freedom of all migrant workers and their families. In addition to the protection and welfare of migrant workers another policy that is looked into is the promotional aspect. More opportunities for men and women in the foreign employment industry have been addressed.

The Governance Section is the first section which has recognized the regulatory part of the trade in order to apply the good governance principles. Such as, participation, transparency and accountability, effective recommendations have been introduced into the policy. Policy as a national framework in addition to the acts of the SLBFE can play a big role in regulating the licensed foreign employment agents. This has now being succeeded though the code of ethics introduced by the SLBFE with the assistance of the ILO.

The second section gives lot of emphasis to SLBFE to arrange protection and welfare management throughout the labour migration process. Not only the migrant worker but also the family member's protection was covered. This section has highlighted the required programmes all the aspects, at the pre-departure level, in service and return and reintegration. The third section is for linking of development and migration process. Contribution to the employment generation, economic growth, investment, transfer technology and utilize acquired knowledge and skills in the country of origin.

The Institutional Framework

There are a number of institutions that are important in the labour migration process. The leading institutions are the Ministry of Foreign Employment (MFE) and the Sri Lanka Bureau of Foreign Employment (SLBFE).

The Ministry of Foreign Employment

Vision: To be the leading policy maker and implementer to create gainful foreign employment opportunities, whilst protecting rights of migrant workers and ensuring their welfare and protection.

Mission: To convert the entire labour migration sector into a demand driven process and make it highly competitive by introducing required structural changes together with necessary promotional and welfare activities to meet the international market challenges considering the importance of its contribution to the national economy.

Aims and objectives:

- Policy making and implementation
- Establishment of information systems
- Capacity development and improvement of standards.
- Accomplishment of welfare needs of migrant workers.
- Promotion of regularizing of foreign employment industry.

Functions:

- Formulation and implementation of policies, programmes and projects for Foreign Employment industry
- Promotion of Foreign Employment
- Welfare of migrant workers
- Regulation and Supervision of Employment Agencies.
- Career guidance on Foreign Employment
- Supervision of SLBFE and SLFEA
- Welfare of expatriate Sri Lankans

For more details visit the Ministry website at <http://www.foreignemploymin.gov.lk>

Sri Lanka Bureau of Foreign Employment (SLBFE)

The SLBFE, the foremost organisation looking after the welfare aspects of Sri Lanka's migrant workers and their families was established in 1985 under the Act No. 21 and amended by Act No. 4 of 1994 and Act No.56 of 2009, the primary legislation that deals with foreign employment.

From the outset, the SLBFE operated under the supervision of the Ministry of Labour and in the year 2007 it was transferred to the created Ministry of Foreign Employment Promotion and Welfare (known as the Ministry of Foreign Employment in 2015) and was given tasks that include the formulation and implementation of foreign employment policies and promotion programs. Most of the Ministry programmes are administered by the SLBFE.

Today, the SLBFE is a public corporation with over 800 employees in nine major departments and is governed by a Board of Directors. The Bureau also has 07 regional centres and district centres throughout the country and receives its power, duties and obligations from the Act of Foreign Employment. Its mandate encompasses promotion and protection of migrants by setting standards and approving or rejecting the contracts provided by foreign employers to Sri Lankan migrants, licensing recruiting agents, and operating programs to protect Sri Lankan migrants and their families.

Vision: Sri Lanka to be the best choice for competent human resources for overseas market

Mission: Create efficient and equitable pathways for people to benefit from their skills in overseas employment markets securing interests of all stakeholders while contributing to economic growth.

Key Functions:

- Licensing of recruitment agencies
- Training for Migrant workers
- Registration of migrant workers
- Complaint Management mechanism
- Welfare activities
- Law enforcement
- Marketing and Research
- Administration & Finance

The SLBFE has a number of Divisions within the institutions that address different aspects of the labour migration process. These Divisions are as follows:

Administration and Human Resources	Welfare	Conciliation	
Foreign Relations	Licensing of recruitment agents	Investigation	
Legal	Contract Registration	Sociology	
Research	Training	Information Technology	
Finance	Maintenance	Internal Audit	Transport
Procurement	Recruitment	Planning	

For more details visit the Ministry website at <http://www.slbfe.lk/>

The Ministry of Foreign Affairs

The Ministry of Foreign Affairs seeks to ensure the welfare of expatriate Sri Lankans through its network of Missions, Consulates and Honorary Consulates abroad.

In the face of labour problems, broadly falling into the categories of non-payment of wages and harassment of workers by employers as well as death of workers while in service and stranded workers, Sri Lanka Missions have taken remedial action in collaboration with the Ministry of Foreign Employment and the Sri Lanka Bureau of Foreign Employment

The Consular Division of the Ministry of Foreign Affairs has set up a system whereby the families of Sri Lankan migrant workers, who have not been registered with the Sri Lanka Bureau of Foreign Employment, could be traced.

For more details visit the Ministry website at <http://www.mea.gov.lk/>

The Role of Sri Lankan Embassies in countries that employ Sri Lankan workers

In order to ensure the security, protection and welfare of Sri Lankan nationals employed overseas, the National Labour Migration Policy emphasizes the need to provide and strengthen services offered by Sri Lanka Diplomatic Missions in labour receiving countries.

The National Policy commits that 'Sri Lankan Embassies in host countries shall have a well defined

system to be in contact with all migrant workers in each country. Officers in Sri Lanka Diplomatic Missions in host countries, particularly the Labour Sections shall have the special capacity and ability to handle grievance of migrant workers and to work towards their protection and welfare in proactive manner’.

The “Operational Manual for Labour Sections of Sri Lankan Diplomatic Missions in Labour Receiving Countries” published in 2013 by the Ministry of Foreign Employment sets out the following to ensure services to Sri Lankan migrant workers by diplomatic missions.

- Institutionalised and standardised operations within each Diplomatic Mission
- a set of procedures and guidelines in handling migrant worker issues related to the protection and promotion of their rights, welfare and wellbeing in host countries with special attention to country-specific arrangements if any
- a modality to speed up resolutions of migrant worker disputes
- Streamlined actions of Diplomatic Missions particularly the Labour Sections, including Honorary Consulates, in delivering services to migrant worker-related issues in a more transparent manner within a structured framework
- Limiting of ad-hoc policies and different formulas by officials, involved in addressing the migrant worker grievances and promotion of safe migration.

For more information: [http://www.ilo.org/dyn/migpractice/docs/73/document\[1\].pdf](http://www.ilo.org/dyn/migpractice/docs/73/document[1].pdf)

The Department of Immigration and Emigration

The Department of Immigration and Emigration regulates the entry and exit of persons, and provide citizenship services, while safeguarding the nation’s security and social order, and promoting economic development.

The primary law that governs these functions is the Immigrants and Emigrants act no 20 of 1948

The powers, duties and functions of the Department:

- Controlling the entry into Sri Lanka of persons other than citizens of Sri Lanka
- Regulating the departure of Sri Lankan citizens as well as visitors to Sri Lanka
- Removing from Sri Lanka undesirable persons who are not citizens of Sri Lanka

For more information see <http://www.immigration.gov.lk>

Divisional Secretariats

The Development Officer (Migration) is the key contact person in the labour migration process placed at the Divisional Secretariat. The Development Officer (Migration) supports the dissemination of safe migration information and follow-up of reintegration of returnee migrants at the local level. One of the main tasks of the Development Officer (Migration) is approving the Family Background Report with regard to female domestic workers.

Ministry of Women’s Affairs and Child Development

The Ministry of Women's Affairs and Child Development, in terms of women's affairs has a Gender Complaints Desk where women migrant workers can take their complaints of violence against them. In terms of child affairs, the Ministry within its mandate, the Department of Probation and Childcare where complaints of neglect and abuse of children can be taken.

The Sri Lanka Police Service

Any issues of cheating prior to departure, labour trafficking, any complaints against sub agents forged passports and other documents, domestic disputes and issues with children can be taken to the Police.

The Sri Lanka Human Rights Commission

The Human Rights Commission has Migrant Issues within the purview of the Director, Monitoring and Review of the Human Rights Commission of Sri Lanka. Any complaints from migrant workers and their family members can be taken to the Migration Focal Point at the Human Rights Commission.

Chapter 5

Migrant Worker Grievances

Issues, problems faced by the Sri Lankan migrant workers in all stages of the labour migration process are numerous. These grievances include those faced by migrant workers themselves at the pre departure, in service and reintegration stages of the migration process, and by members of their families primarily at the in service stage when the migrant worker is absent from the home and family and on the return of the migrant worker.

A snapshot of grievances received by the Sri Lanka Bureau of Foreign Employment

The grievances faced by migrant workers can be categorized even in the following manner for easy understanding:

1. Workplace issue due to bad employers and bad working environment
2. Problems faced by the worker due to his or her own issues
3. Problems faced by the worker due to workers household problems
4. Workers problems due to unavoidable situations
5. Problems faced by the worker outside the workplace
6. Grievances due to punished by the law of the destination country
7. Other grievances such as complaints against staff of the labour section

The workplace issues comprise of the majority of the type of issues faced by workers every year. Breach of employment contract can be recognized as the biggest issues in this case. As per the data available with SLBFE, unskilled and semi-skilled categories of workers, domestic house-keeping workers subject to high level of violation of their rights and labour rights. Harassment in various forms such as not giving enough food, not giving proper place and minimum hours of sleep, not giving medical treatment appropriately and required minimum rest during sickness. This will aggravate the bad health condition which leads to termination of contract, absconding/ runaway etc. Non-payment of salaries, reducing the agreed salary and delaying payment of salary are mostly reported out of all grievances.

According to the SLBFE records which are referred by all the informants is less than 6% comparing with the annual departures. When it is compared with the estimated stock of contractual workers it is 0.76%, which is a very low percentage. This is not even one percent of the effective mechanism can settle issues urgently and also with effective filtering system established at pre-departure level can further reduce this issue.

Although very least number of Sri Lankan migrant workers are working in Malaysia, This has the highest complain rate at 2.42% while KSA is at 1.22% compared to more than half a million of workers employed. In Malaysia it is less than 15,000 Sri Lankan workers.

It is generally a common fact that the male migrant workers complaints are less than the female migrant workers complaints. Although the no. of complaints are high in female sector, the stock of

female workers are recorded to be the highest. Sexual, physical, psychological harassments faced by the female workers are very significant in this trade. Adjusting to a completely new environment communicating with the newly met foreign national is a biggest challenge for female workers and they must have an enough empowerment with them to negotiate at difficult and unwanted situations. Sri Lankan females who could not succeed these challenges have shown that they are not ready to professionally behave and conduct themselves in the work places. Domestic sector workers must have good skills to manage the work load they entrusted by the sponsor and other requirement of the domestic accommodation unit.

Sickness as a grievance reported to SLBFE from the workers while working abroad

Most of the time sick workers runaway to the embassy or the agency in the same country. Some workers send the complaints to the SLBFE while continuing the work in the same work places. These cases are settled by communicating via the sponsor and Foreign and Local agent. Some sick workers can be treated and sent back to the same work place or to the different work place while some are repatriated. Sickness is a difficult issue because the sponsors lose their temper with the worker if they are not fit to work. The workers at the pre-departure level are subject to a complex medical examination. The workers should refer all the health issues to the doctor at the medical centre since there are sicknesses which cannot be tested. There have been reports where the workers have withheld information on certain illnesses such as epilepsy, leading to dangerous consequences when they fail to take precautions to address it.

Grievances at the different stages of the migration process

The decision making stage results in many issues being brought to the SLBFE of potential migrant workers (both men and women) and their spouses. These issues include family related issues, recruitment agency related issues and issues with non licensed people posing as recruiters such as sub agents. In terms of family issues the majority of the cases reported to the SLBFE are about family disagreement between the migrant worker and his/her family on foreign employment. Most of the time husbands lodge the complaint at the SLBFE Head Office or regional, district center.

Accordingly to the nature of the complaint the SLBFE has to decide on how to take appropriate action. The person who makes the request to the SLBFE must prove the relationship legally along with acceptable evidence and relevant authority certification or authentication documents.

Supporting documents that the, SLBFE requires includes, certificate from the District Secretary, marriage certificates, children's birth certificates and a police report. Despite this, the only form of action that SLBFE can take is a temporary suspension on the processing of a person's application to be registered for foreign employment, thereby preventing the individual from obtaining foreign employment. This nature of requests can only be made by a family member of the individual.

These types of requests are sometimes sent by school Principals and Divisional Secretaries on behalf of an aggrieved party. These requests are also accepted by the SLBFE and the requirements are fulfilled in order to proceed with the requests.

These types of requests are mainly generated due to family issues. The husband and wife relationship is the underlying factor to this nature of disputes. These have to be addressed more by way of mediation and negotiation taking into consideration the interests of both disputing parties. However

parties expect the SLBFE to make decisions for them and this creates complex situations where matching expectations with practical solutions can be sometimes difficult.

The next important type of grievance reported to the SLBFE is caused by potential migrant workers relying on informal modes of information and guidance in the process. This type of grievance is explained in the table below.

SLBFE accept complaints against licensed agents, and non-licensed individuals in terms of issues relating to the pre-departure level.

When there is no evidence to precede the case in relation to non-licensed individuals, complainants are referred to the police station with a letter. If there is evidence to prove, the Investigation Unit of the SLBFE conducts a raid of the illegal enterprise and initiates legal action.

The types of requests made by spouses at the pre-departure level are given below.

Complaints reported between 2013 and 2015

Nature	2013	2014	2015
Assault (I) Physical	1	4	0
Assault (II) Sexual	0	1	1
Being Sent Back After Completion of Contract Period	0	1	0
Being Stranded Without Employment	1	2	0
Breach of Employment Contract	4	8	3
Breach of terms & conditions of employment (I) Contract substitution	1	0	0
Breach of terms & conditions of employment (II) Change of wage rates	1	1	0
Breach of terms & conditions of employment (IV) Denial of agreed facilities	1	3	1
Breach of terms & conditions of employment (V) Change of job classification	1	1	2
Death	0	2	0
Death (I) Natural	0	2	0
Death (II) Accidental	1	0	0
Employee Missing (Run Away)	1	0	0
Harassment	10	5	1
Illegally Work	1	0	0
Injuries (I) Occupational	0	1	0
Injuries (II) Accidental	2	4	0
Jail for offences against a law	2	1	1
Lack of Communication	13	10	5
No Correspondence to Complaints	1	0	1
Nonpayment of compensation for injury	1	0	0
Non payments of agreed wages	7	1	0
Non Receipt of Wages	8	10	1
Non sent back after contract	0	0	1
Not Available	2	0	0
Not Sent Back After Completion of Contract Period	9	6	2
On Request of Mission –Riyadh	0	2	0
On Request of Lanka Mission Overseas	0	44	0
Others	18	14	4
Others (Non-domestic sector)	0	1	0
Over kept by force	1	0	0
Overworked	1	3	1
Problem at Employees Home	521	413	206
Problem at home (Sri Lanka)	0	0	12
Runaway from place of employment	1	1	0
Total	610	541	242

Apart from grievances relating to agents, non-agents and spouses there are grievances that the potential migrant workers themselves face when they need to meet migration related financial costs. Although female domestic workers are compensated prior to departure, all other potential workers must pay the migration cost to the agency. The majority of migrant workers are from the lower income families. Therefore, their available agricultural lands are mortgaged to meet the cost of labour migration. This is a bigger issue among the male migrant workers.

Usually female spouses do not make requests to the SLBFE to stop their husbands from obtaining foreign employment. If the wife makes such an appeal, the SLBFE would look into it and make necessary interventions. However to date, the SLBFE has handled only a few cases of this nature. However it is the experience of SLBFE officials that it is more difficult to negotiate with the respective husbands.

There are incidents where the potential female worker (mother) comes with her mother or mother-in-law to explain the child care arrangement and to obtain permission for employment overseas despite the disapproval of her husband. These types of cases are also to be taken for counselling.

Post arrival and on stay period grievances faced by the migrant workers and family members

This is the biggest issue which is being discussed by everybody in society. There have been many complaints reported to SLBFE and a system has been arranged to look after those grievances.

The type of grievances that the migrant worker is being employed in overseas countries can be categorized as follows. The following table shows complaints received in the last three years.

Nature of the Complaints	2012		2013		2014		Total
	M	F	M	F	M	F	
Breach of Contract	803	1982	1237	1832	1174	2007	9035
Death	01	01	01	04	01	01	09
Harassment	36	1396	73	1515	52	1131	4203
Lack of Communication	72	1051	84	1273	107	816	3403
Employee Missing (Run Away)	01	12	13	82	02	81	191
Non Payment of Agreed wages	333	1478	535	1490	446	1097	5379
Others	254	2457	371	2544	326	1924	7876
Stranded Workers	18	38	67	107	102	106	438
Total	1518	8415	2381	8847	2210	7163	30,534

Grievances reported to the SLBFE and Sri Lankan Diplomatic Missions on violations of law in countries of employment

Data and information show that there are various types of punishments that Sri Lankan migrant workers have to undergo due to violation of migration laws of the host country. When such a situation occurs in the country of employment, the next of kin of those convicted migrant workers are found to repeatedly visit the SLBFE to obtain some form of relief.

According to the law of the destination country, no action can be taken to get release of the convicted parties. But SLBFE provides welfare facilities for inmates. For example; once in three months the labour section staff makes jail visits to hand over necessary items for relief. Furthermore inmates are provided with a sum of 15 USD for them to communicate with their families back home.

Death as an on stay grievance

The death of migrant workers is also a very critical factor and has been subjected to a widespread discourse among the general public and the media. It is therefore essential for the SLBFE to inquire into the cause of death when death occurs of a migrant worker in the country of employment.

Data and information show that the majority of fatalities has been due to natural causes (67%). Fatalities due to accidents are 33%. The dispatch of human remains and compensations is the biggest challenge in this regard. Each country has its own system of dispatching the deceased. Accordingly it takes different time periods depending on the destination country. For example the Kingdom of Saudi Arabia takes a longer period to dispatch the deceased. The duration can range from 2 months to 6 months depending on the cause of death and the case. Most of the time deaths due to natural cases are sent after two months time. Accidental deaths, special postmortems and suicides take more than two months to clear.

SLBFE provides dispatch charges if the sponsor is not ready to provide it. The insurance compensation is also arranged by the SLBFE for the migrant workers who are within the registration period of SLBFE.

Without considering the validity of the registered, migrant workers are provided with basic funeral expenses at the Airport. However additional compensation for the diseased parties, from the destination country, is handled by the Consular section and labour section of the Mission abroad.

Annually 8% of fatalities comprise of suicide. Out of this, incidents of male suicide is reported to be higher than female suicide cases. Overall, contract migrant workers register a higher male death toll in comparison to female deaths. Accidental deaths and suicides are mostly preventable if the migrant workers are provided with the adequate awareness. The interventions in terms of prevention of accidents and suicides have big potential. The dependents of the diseased parties raise many humanitarian based requests to the SLBFE with a view of obtaining some relief for their issues and the workers welfare fund of the SLBFE assists them on humanitarian grounds.

CHAPTER 06

Systems that redress migrant worker disputes

Migrant workers and their families access diverse sources in search of solutions for their grievances. Primarily, they reach the Sri Lanka Bureau of Foreign Employment where access is possible. They also reach out to the Divisional Secretariat/District Secretariat (Migration Development Officer, Women's Development Officer, Counselling Assistant), the Legal Aid Commission, the Legal Aid Commission and the National Child Protection Authority, the Ministry of Women's Affairs and Child Development, the Police and civil society organisations. They also access mediation boards for dispute resolution. Rarely do migrant workers and their families access the formal courts system.

Migrant worker's problem solving mechanism operated by SLBFE

Issues and problems faced by migrant workers have been categorized according to the stages of labour migration process. The SLBFE has arranged a mechanism to meet the requirements of the said issues taking place during each process.

Potential migrant workers problems and issues are being addressed by the SLBFE through its two divisions namely The Special Investigation division & Welfare division.

The Investigation division receives complaints of financial crimes and false promises of foreign employment by Non agents & Agents. Both complaints are entertained by this division. The complainant can lodge a complaint at the complaint receiving unit. Through the complaint management system an officer is automatically appointed from the system. The officer collects preliminary evidences and calls for an inquiry with the complainant & Agent.

For Non Licensed cases, the Investigation division faces some procedural difficulties. However if the suspected party is a sub-agent or related to the local agent in some way, the investigation officer is in a position to serve justice to the affected party. The complainant must come with very clear evidence to prove the deception in every possible way.

Some spouses of potential workers make request to SLBFE to prevent their spouses going for overseas employment. These types of requests require a lot of counseling. Based on the spouses request with reasonable grounds, SLBFE suspends the particular Passport Number & ID Number of the potential worker. This provides an avenue for possible settlement. Since the departure approval is suspended the counseling session can be conducted with both parties due to this suspension an informed decision can be made by the parties with the support of the SLBFE.

SLBFE is finding it quite difficult to involve itself in these exercises due to a lack of available resources. Cases of this nature require a lot of preliminary counseling at the grass root level. Furthermore there is a need for specialist family counseling services for cases of this type.

Problem solving mechanism for the on stay workers

The 1985 No. 21 act of SLBFE has given clear directions to have a legal mechanism to settle migrated workers issues. According to section 43 & 44 of the act, the licensed agent who has recruited the worker can be fixed the responsibility of settling the issue of the migrant worker.

Head Office of the SLBFE, Provincial Offices and District Offices including training centres have been entrusted the duty of receiving complaints and calling for inquiries.

SLBFE also has a Conciliation division under the purview of a Deputy General Manager and headed by two Managers to attend to these issues. Authorized officers are assigned country wise to attend to those issues.

Once complaint is received to any receiving centre the complaint is fed into an online system. The entire SLBFE system including labour sections of overseas missions can view the complaint by entering the Passport No, ID No. or complaint No of the national.

The responsible local agent also can view that particular complaint and the local agent should do the prompt updates by getting the relevant action. Two weeks time is given for a local agent to take action with the objective of settling the issue. This prevents the unnecessary cost involvement of settling complaint.

Each and every complaint is allocated to a particular Conciliation Officer through the system. Conciliation Officers are trained Officers to do inquiries with the complainant & licensed agent. The Conciliation Officer sends letters to local agent and complainant if the local agent does not respond positively and accordingly an inquiry is fixed by the conciliation officer. The inquiry fixing authority is vested with the Conciliation Officer by the board of directors. Complaints are settled through inquiries even in Provincial & District Centres.

The Conciliation Officer is having the power to give award for the responsible licensed agent at the end of the inquiry. Enough provisions are given to have amicable solutions during the inquiry. The Conciliation Officer has the power to go for legal action if the local agent is not in agreement with the award given by the conciliation officer at the inquiry.

The most important matters in this regard are the evidences of violation of conditions and complaining during on work stay.

Problems solving method at the return and reintegration stage

SLBFE has arranged the 24 hours working centre at the Airport to receive all the grievances of the migrant workers who are returning to Sri Lanka or repatriated to Sri Lanka.

Female migrant workers coming with issues such as harassment, injuries, traumatic situation, pregnancy, with born baby etc are provided accommodation, medical treatment, hospitalization even counseling through this centre. The male workers returning due to various reasons are also provided transportation, financial assistance for travelling to home town & hospitalization. While carrying out such support activities, the Centre also prepares necessary documents for Insurance and other welfare assistance. Some references are made to the conciliation division for further justice, if information shows that the complaint already lodged in the system.

The returnee migrant workers are permitted to lodge complaints against their local recruitments agents even after returning to Sri Lanka. Hirer lodging complaints at the SLBFE head office is important as offices in the provinces and districts are less equipped to provide adequate justice to complainants due to lack of resources and expertise.

Since the licensed agents have to listen to the SLBFE demands most of the time, returnee workers who have complaints regarding salary matters are compensated by the local agent after a level of negotiation with the SLBFE.

