



## **Introductory Statement**

At the Presentation of  
Sri Lanka's 2<sup>nd</sup> Periodic Report (CMW/C/LKA/2) submitted under the  
International Convention on the Protection of the Rights of All Migrant  
Workers and Members of Their Families (CMW)

by

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25<sup>th</sup> Session of the CMW Committee

1 September 2016

**The Permanent Mission of Sri Lanka to the United Nations  
and other International Organizations in Geneva**

## 1. Introduction

Mr. Chairman and distinguished members of the Committee,  
Delegations, Members of the UN and other international organizations,  
NGOs and civil society representatives,  
Ladies and Gentlemen,

My delegation is pleased to have this interaction with the Committee on Migrant Workers to present Sri Lanka's 2<sup>nd</sup> Periodic Report under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) as yet another testimony to our commitment for continued engagement with the UN human rights treaty body processes.

Our delegation expresses its sincere appreciation to the Committee for the constructive concluding observations on our initial report and also for the concerns raised in the list of issues provided for this review, which we intend to provide further information and clarifications. We in particular wish to thank the two Country Rapporteurs on Sri Lanka for their preparatory work. We are encouraged by the recognition of this Committee the progressive steps taken by Sri Lanka and we wish to further improve them while working on areas where we need additional efforts. We look forward to hearing your comments and observations, which will receive due attention of the new unity Government, which is being in office for one year, since the general elections on 17 August last year, in its endeavours towards ensuring a sound migration policy upholding the rights and welfare of migrant workers and their families.

We also acknowledge the presence of the international organizations and civil society organizations especially those from Sri Lanka who are observing this review today. In the preparation of our second periodic report and this oral review, a considered and inclusive consultation among stakeholders including the Human Rights Commission of Sri Lanka (HRCSL) was followed, and today I am being joined by the following members;

- Mr. G.S. Withanage, Secretary of the Ministry of Foreign Employment- the dedicated line Ministry for matters related to migrant workers;
- Mr. C.A.H.M. Wijeratne, Senior Director-General (Legal), of the Ministry of Foreign Affairs, who has served as Ambassador in Kuwait from 2011- 2014
- Mrs. Samantha Jayasuriya, Deputy Permanent Representative of the Permanent Mission of Sri Lanka in Geneva;
- Mr. W.M.V. Wansekara, Additional General Manager, Sri Lanka Bureau of Foreign Employment (SLBFE) who served as Labour Counsellor in Sri Lanka Mission in Qatar from 2011-2014
- Mr. Gamini Ratnayake, Director, Sri Lanka Bureau of Foreign Employment;

- Ms. Dilini Gunasekera, Second Secretary, Permanent Mission of Sri Lanka in Geneva.
- Mrs. M.L.F. Mafusa, Second Secretary, Permanent Mission of Sri Lanka in Geneva.

a. Policy commitments of GOSL to the Convention

Mr. Chairman,

This year marks the **20<sup>th</sup> Anniversary since Sri Lanka became a State Party** to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>1</sup>, the key international instrument that comprehensively deals with the protection of the rights and welfare of migrant workers. We are pleased to be among the 48 countries that are Party to the Convention and join the call of the CMW in encouraging others to consider acceding to this important human rights instrument, in order to strengthen the global migration governance process.

I am pleased to announce that the Government of Sri Lanka has formally **withdrawn its reservation to Article 29 of the Convention** made upon our Accession to the Convention in 1996 and that the depository notification in this regard has been circulated by the UN Secretary-General on 16 August 2016 in his capacity as the depository.

We also have had a useful **engagement with the Special Rapporteur on the human rights of migrants**, Mr. François Crépeau, in June 2015 at the 29<sup>th</sup> Session of the Human Rights Council when he presented the country report pursuant to his visit to Sri Lanka from 19-26 May 2014 and Sri Lanka has taken note of his observations with appreciations. We also thank him for the initiative taken to host together with the Ministry of Foreign Employment Promotion and Welfare, a workshop on recruitment practices, which has benefitted not only the Government agencies, but the recruitment agencies and civil society.

Following the **Standing Invitation** extended on 17 December 2015, **to all UN thematic Special Procedures Mandate Holders** to visit Sri Lanka, a number of SRs have already undertaken visits representing a broad range of mandates as follows:

The **Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence**, Mr. Pablo de Greiff visited Sri Lanka from 30 March – 3 April 2015, 26 January – 1 February 2016 and in June 2016, in a technical

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<sup>1</sup> Sri Lanka acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) on 11 March 1996.

[https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=\\_en&mtdsg\\_no=IV-13&src=TREATY](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-13&src=TREATY)

advisory capacity.

The **Special Rapporteur on the Independence of Judges and Lawyers**, Ms. Monica Pinto, and the **Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**, Mr. Juan Mendez visited Sri Lanka from 29 April to 7 May 2016.

Also, the **Special Rapporteur on Minority Issues**, Ms. Rita Izsák is scheduled to visit Sri Lanka from 10-20 October 2016, and the **Special Rapporteur on Freedom of Assembly**, Mr. Maina Kiai, will visit in the first quarter of year 2017.

Following a policy decision taken by the GOSL to respond to new **communications from the UN Human Rights Committee**, the GOSL informed the OHCHR on 20<sup>th</sup> January 2016 that it will consider communications with a view to conveying a response or observation. The GOSL has therefore restored its practice of cooperating with the Committee in terms of Article 4(2) of the Optional Protocol i.e., to provide written explanations or statements clarifying the matter and the remedy (if any) that may have been taken by Sri Lanka.

From 15-16 August Sri Lanka presented its **10<sup>th</sup> - 17<sup>th</sup> Periodic Reports under the International Convention on the Elimination of All forms of Racial Discrimination (CERD)** and engaged in a constructive dialogue with the Committee members.

From 15- 16 November 2016, Sri Lanka will present its **5<sup>th</sup> Periodic Report under the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)**.

The GoSL will also present its **8<sup>th</sup> Periodic Report under the Convention on Elimination of Discrimination against Women (CEDAW)** in early 2017.

The Government since came in to power in January 2015, expeditious action has been taken in implementing our commitments on human rights obligations, namely;

- a) Ratified the **ILO Convention on Employment Policy (C122 - Employment Policy Convention, 1964 (No. 122)** on 3 February 2016.
- b) Endorsed the Declaration of Commitment to **End Sexual Violence in Conflict** on 12 January 2016.
- c) Ratified the International **Convention for the Protection of All Persons from Enforced Disappearance** on 25<sup>th</sup> May 2016. It has also taken steps to prepare enabling legislation to incorporate the provisions of the Convention into Sri Lanka's domestic law.
- d) Ratified the **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** supplementing the UN Convention against Transnational Organised Crime on 15 June 2015.

- e) Made a declaration on 16 August 2016 under **Article 22 of the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment**, that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction which claim to be victims of a violation.

The **High Commissioner for Human Rights**, Mr. Zeid Ra'ad Al Hussein visited Sri Lanka from 6-9 February 2016. The GoSL facilitated wide-ranging meetings with victims, Opposition, key Ministers, the President and Prime Minister, key officials including the Defence Secretary and the Heads of Security Forces and Intelligence and facilitated his travel to Jaffna and Trincomalee.

From 24-25 August 2016, the **Director General of the International Organization for Migration (IOM)** Ambassador William Lacy Swing visited Sri Lanka to participate in the Colombo Process 4<sup>th</sup> Senior Officials and the 5<sup>th</sup> Ministerial Meeting, which is a voluntary forum on contractual labour migration from Asia and it also provided an opportunity to strengthen cooperation on migration related issues, including IOM's assurances for continued bilateral support and technical assistance to the GoSL.

As we are speaking, the **UN Secretary-General**, Mr. Ban Ki- Moon is undertaking a three day visit to Sri Lanka from 31 August 2016.

Through the above measures, the Government has demonstrated its will to cooperate with international organizations and mechanisms with a view to strengthening human rights for the benefit of the population as a whole.

Mr. Chairman,

Lack of economic opportunities and livelihood continues to be determining factors which compel people to go abroad in search of better economic benefits. This is common to all communities in Sri Lanka and not confined to any particular community or ethnic group. Having recognized this issue, the new Government of President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe, has envisaged 'a **sound economic strategy for the country orienting towards a knowledge and innovation economy**', which includes strategies to implement 'a programme of providing one million jobs' to address unemployment among the youth. Further, the Government pledged to introduce a pension scheme for those employed overseas, and to add 2.5% interest to the current interest rate of their non-resident accounts, and to start a special protection programme for the families of the migrant workers including those of the Middle East.<sup>2</sup>

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<sup>2</sup> Page 49 of the Election Manifesto " A Compassionate Maithri Governance A Stable Country

## b. General migration Profile of Sri Lanka and its contribution

Mr. Chairman,

Outbound migration from Sri Lanka has not been new to Sri Lanka and the scholars on the subject would however note that it has also happened in phases in a more intense manner than the normal regular migration of labour forces. In the early 50-70s there were predominantly professionals and skilled labour migration flows to the West and other developed countries which one would call as 'brain drain'. Then with the unfortunate conflict against a separatist terrorist group and two southern youth insurrections there were further movement of people, which could be considered largely a 'mixed migration flow', including labour migrants as well. Sri Lanka has largely remained as a labour migrant originating / sending country, with a moderate number of inbound migrants to the country. The labour migration today is largely to the Gulf Cooperating Countries (GCC) which contributes substantially to our economy through remittances. As of 2014, 1.7 million Sri Lankans were employed abroad impacting nearly 25% of our population and during 2014, foreign employment provided a remittance income which amounted to US \$. 7.018 Billion (LKR 916.367 Billion)<sup>3</sup> There is also a well developed recruitment industry which has 977 registered agencies as of August 2016. One of the primary reasons for the large number of women migration from Sri Lanka as domestic workers is the lack of employment opportunities beyond the traditional agriculture based livelihoods, besides other push factors. However, the Government has deployed several initiatives to reduce the female dependency on the Middle Eastern domestic worker market, and as per records the average percentage of women migrants has now reduced to 34% by 2015.

## **2. Legal, Institutional, and Socio-economic mechanisms for addressing migration issues and the measures to implement the Convention since last periodic report;**

### **a). Implementation measures within Sri Lanka on Migration issues;**

#### **I. Legislative and regulatory measures:**

Sri Lanka has over the years built the necessary legal, institutional and socio-economic safeguards to address issues related to migration within Sri Lanka as well as in partnership with other countries and this remains an ongoing process.

The **Constitution of Sri Lanka**, which is the supreme law of the country in its Article 14 (1) (h) provides for the freedom of movement and of choosing one's residence within Sri Lanka and Article 14 (1) (i) guarantees the freedom to return to Sri Lanka. Every citizen is entitled to obtain a passport according to law for purposes of

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<sup>3</sup><http://www.foreignemploymin.gov.lk/about-us.php?lg=EN>

travel outside the country. With the progressive liberalization of the economy and the deregulation of exchange controls and of import and export activity since 1977, foreign travel has recorded a significant growth.

Further, the Constitution Article 12 (2) of the Constitution of Sri Lanka guarantees the fundamental right to equality where “No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.” Reflecting this specific stipulation in the Constitution, the 19th Amendment has been enacted as a part of a constitutional reform process that ensures diversity and pluralism.

The passage of the **19<sup>th</sup> Amendment to the Constitution** saw the re-establishment of **independent commissions** for oversight of key institutions including the judiciary, human rights, bribery & corruption, elections, police, public service, finance and delimitation.

In the context of the 19<sup>th</sup> Amendment to the Constitution, which guarantees the Right of Access to Information in Article 14 A of the Constitution, provides assurances on fostering a culture of transparency and accountability in public authorities by giving effect to the right of access to information and thereby promoting a society in which the people of Sri Lanka would be able to more fully participate in public life through combatting corruption and promoting accountability and good governance.<sup>4</sup> Moreover, the **Right to Information Act** was unanimously (without a vote) enacted by Parliament on 24 June 2016. The Speaker having certified the Right to Information Act on 4 August 2016, all provisions of the Act will come into effect within one year.

The Parliament, by a resolution for the appointment of the **Constitutional Assembly** has resolved that there shall be a “Committee, which shall have the powers of a Committee of the whole Parliament consisting of all Members of Parliament, for the purpose of deliberating, and seeking the views and advice of the People, on a Constitution for Sri Lanka, and preparing a **draft of a Constitution Bill** for the consideration of Parliament in the exercise of its powers under Article 75 of the Constitution”<sup>5</sup>. A Public Representations Committee tasked with seeking the views of the public for the Constitution submitted its report to the Government on 31 May 2016. The report is publicly available including online.

Any person who has violated the **Immigration and Emigration Laws** of Sri Lanka may be detained until such time as arrangements are made for his/her departure. Any person who has violated the Immigrants and Emigrants Act, may be ordered to be removed from the country as soon as possible as per Sec. 28 (1) (a), (b), (c) of the

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<sup>4</sup>Preamble of the Right to Information Act No. 12 of 2016, certified on 4 August 2016.

<sup>5</sup>Resolution for the appointment of the Constitutional Assembly,  
[http://www.parliament.lk/files/documents\\_news/ca-motion/motion-en.pdf](http://www.parliament.lk/files/documents_news/ca-motion/motion-en.pdf).

amended Immigrants and Emigrants Act. No. 20 of 1948. For removing a person from Sri Lanka Sec. 28, Sec. 45 and Sec. 48 should be read together.<sup>6</sup>

Freedom to return to the country has been further facilitated by the implementation of regulations pertaining to the granting of **dual citizenship**<sup>7</sup>.

**Media freedom** was restored and all local and foreign journalists are now free to travel anywhere in the country without any restrictions. Journalists living in exile were invited to return to Sri Lanka with a guarantee of their safety,<sup>8</sup> and all restrictions imposed by the previous administration on providing Sri Lankan passports to those who had sought asylum overseas have been lifted. Meanwhile, the Telecommunication Regulatory Commission has been instructed by H.E. the President Maithripala Sirisena to remove all bans on news websites.

The **National Human Rights Commission** established by Act No 21 of 1996 is empowered and it is now headed by Dr. Ms. Deepika Udagama, a Professor of Law and Human Rights Activist appointed in October 2015, by the Constitutional Council.<sup>9</sup> It has a broad mandate to guarantee fundamental human rights enshrined in the Constitution by law and practice. The Commission also undertakes to work on human rights on migrants both inbound and outbound and has setup a focal point on migrant issues.<sup>10</sup>

The **democratic space for private sector and civil society** to engage the state and the public has broadened since early 2015. Notable improvements have taken place with respect to the freedom of speech and expression, freedom of assembly and freedom of association, and the general protections afforded to journalists, human rights defenders and victim groups. Moreover, civil society participation was central to the national consultations on constitutional reform and reconciliation mechanisms. These consultations have been important in terms of shaping the ongoing reform agenda of the Government.

The SLBFE continues to work in cooperation with the civil society organizations who address issues related to migrant workers and their family members.

In conclusion Mr. Chairman, we look forward to a fruitful dialogue with the distinguished members of the Committee. I will now give the floor to the members of our delegation to further elaborate on and provide responses.

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<sup>6</sup> A/HRC/29/36/Add.4, Comments by the Government of Sri Lanka on the Report of the SR on migrants.

<sup>7</sup> Para 63-64 of Sri Lanka's 10<sup>th</sup> -17<sup>th</sup> Periodic reports submitted under CERD on 15 October 2015, CERD/ C/LKA/ 10-17.

<sup>8</sup> Ibid.

<sup>9</sup> Advancing Human Rights, Accountability, Reconciliation and Good Governance in Sri Lanka: January 2015- June 2016 (FestinaLente) as of 28 June 2016.

<sup>10</sup> A/HRC/29/36/Add.1 para 28-report on SR on migrants Mission to Sri Lanka



I also thank the Secretariat for their kind assistance during this process.

I thank you Mr. Chairman.

## **II. Progress made in harmonizing the State party's legislation with the provisions of the Convention**

With the objective of harmonizing the State party's legislation with the provisions of the Convention on Migrant Workers, the GoSL has undertaken several measures to revise the existing domestic legislation related to the situation of migrant workers. For example, the Sri Lanka Bureau of Foreign Employment Act No. 21 of 1985 has been amended twice in 1994 and 2009. As a continued progress of these measures, steps are being taken to revise the existing legislation, to be in line with the Convention.

Accordingly, the Ministry of Foreign Employment has drafted a new piece of legislation titled "**Sri Lanka Employment Migration Authority Act**" to set up an authority on migration to replace SLBFE Act, which would provide a more overarching role for the SLBFE in various components of the industry. The Act provides for the establishment of a national chamber of licensed foreign employment agencies. It also provides for the establishment of a "**Foreign Employment Promotion Fund**."

The SLBFE has been operating a **local Workers' Welfare Fund** to compensate migrant workers and their family members in cases of deaths and accidental injuries. The SLBFE also operates an **overseas Workers' Welfare Fund** to meet the expenses related to repatriations, legal assistance, and maintenance of safe houses and to provide basic essentials such as food, medicine for destitute workers in countries of destination.

Civil societies and other relevant stakeholders will have the opportunity to make comments on this new draft legislation before presenting it to the Parliament for enactment.

The **Sri Lanka Foreign Employment Agency (SLFEA)**, is the only State owned recruitment agency established in 1996, which operates as a subsidiary of the Sri Lanka Bureau of Foreign Employment, the national regulator of the foreign employment sector in Sri Lanka and is under the purview of the Ministry of Foreign Employment. The SLFEA has been awarded ISO 9001:2008 quality certificate in 2013. The SLFEA competes with other licensed recruitment agencies to provide employment opportunities at a lower cost while ensuring the welfare and protection.

## **National Advisory Committee on Labour Migration**

The Ministry of Foreign Employment takes full responsibility to carry forward the National Labour Migration policy of Sri Lanka, recognizing the roles and responsibilities placed on key stakeholders in the process and counts on their cooperation to realize the objectives of the policy. Hence, the Ministry of Foreign Employment has established mechanisms for monitoring and reporting back on the implementation of the policy. National Advisory Council on Labour Migration is one of that.

The implementation of the National Labour Migration Policy (NLMP) is monitored and evaluated by the **National Advisory Committee on Labour Migration**, chaired by the Minister of Foreign Employment and this committee is comprised by all the Key stakeholders relevant to the labour migration in Sri Lanka such as, Government Institutions, International organizations, NGOs, Recruitment Agents, academia, civil society, Private sector and Trade Unions.

A Special project based on the recommendations of the National Advisory Committee is implemented with technical assistance of the International Labour Organization. Second phase of this special project is being implemented with the financial assistance of the Swiss Development Co-operation and with the assistance of the ILO, IOM and UN Women and evaluated and monitored by a Programme Advisory Committee headed by the Secretary of the Ministry of Foreign Employment.

The National Labour Migration Advisory Committee meets once in every 3 months. The Committee last met in June 2016 .

The Ministry of Foreign Employment works with the following civil society partners, in implementing the National Labour Migration Policy, especially in conducting awareness programmes for migrant workers and their families and training of grass root level officers working on migration grievance handling, remittance management, psycho-social support and reintegration support under the Safe Migration Project:

1. Social Organizations Networking for Development (SOND)- Jaffna District
2. Social Welfare Organization (SWOAD) – Ampara District
3. Eastern Self-Reliant Community Awakening Organization (ESCO)-Batticaloa District
4. Caritas Seth Sarana (CCSS)- Gampaha District
5. Plantation Rural Education Development Organization (PREDO)- Nuwara Eliya District
6. Community Development Services (CDS) in partnership with Center for Human Rights and Community Development (CHRCD) –Kurunegala District
7. Caritas SEDEC – Kurunegala and Gampaha District
8. Helvetas Sri Lanka –Seven Districts.

### **III. Welfare measures for the migrant worker families**

The GoSL makes every possible effort to protect the rights of the migrant workers and provide welfare at all three stages namely pre-departure, while at work and return and re-integration and also well-being of their family members. Special welfare measures have been implemented through the SLBFE Budget for the well-being of migrant workers and their family members such as educational scholarships for the children, school materials for needy children, vocational training scholarships for school leavers and low interest loan facilities for housing and self-employment through State banks etc.

During the period of service of migrant workers in the host country, they are covered by an insurance scheme provided by the SLBFE as a welfare measure in addition to the welfare services extended by the Sri Lanka Diplomatic Missions in destinations.

In Sri Lanka's submission to this Committee, we have provided statistical information on the number of **Scholarships** and the total value of scholarships granted for migrant workers' children. In 2015, 3,351 scholarships have been awarded, which amounts to approximately Rs. 61 Million.

In order to address the issues of the families of migrant workers, the Ministry of Foreign Employment has now launched a program under a theme of "**Shramika Surekuma**" which means "Migrants Protection". Under this program, a migrant worker profile is prepared and it contains the family details, including the needs of children and finally a database is created to identify their welfare and protection needs. The initial registrations under this system have been already completed through the 331 Divisional Secretariats in the country using the service of Development Officers (DOs) attached to each Divisional Secretariats for this purpose. This will enable the GoSL to have a comprehensive database on migrant workers.

The welfare assistance centre "**Sahana Piyasa**" situated in the close proximity of the International Airport is a place where the welfare assistance is provided to destitute return migrant workers. This Centre provides accommodation, food, medical assistance. This Centre has assisted 8549 and 7463 migrant workers in the years 2014 and 2015 respectively. The money spent for the welfare assistants for them amounts to Rs. 22,014,800.00.

Further, the Government pledged to introduce a **pension scheme** for those employed overseas, and to add 2.5% interest to the current interest rate of their non-resident accounts, and to start a special protection programme for the families of the migrant workers including those of the Middle East.<sup>11</sup>

Following the decision of the Cabinet of Ministers in 2007, restricting the mothers

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<sup>11</sup> Page 49 of the Election Manifesto "A Compassionate Maithri Governance A Stable Country

having children below 5 years to leave for overseas employment, the Ministry of Foreign Employment issued a circular in this effect in 2013. The Sri Lanka Bureau of Foreign Employment (SLBFE) which comes under the purview of the Ministry of Foreign Employment commenced the implementation of this Cabinet decision and requested a **Family Background Report (FBR)** from the women (mothers) when they seek departure approval from the SLBFE. The FBR contains the information of the migrant worker and her children and the report has to be signed by the local Government bodies with their recommendation.

Based on the information given in the FBR the SLBFE decides whether the absence of the female member (mother) of the family will lead to exploitative situations on the children left behind and accordingly necessary guidance / counseling programmes are conducted to ensure the protection of the rights of children of migrant workers.

However this matter has been taken up by the Cabinet of Ministers of Sri Lanka and a Cabinet Sub- Committee has been appointed to re-visit this matter.

#### **IV. Migrant Health**

Sri Lanka pays a special attention to the issue of the relationship between migration and health. In this context, it is noted that **Sri Lanka National Migration Health Policy** was launched by the Ministry of Health in 2012, in recognition of the right to health for the inbound and out bound migrants and their families left behind in Sri Lanka.<sup>12</sup> This Policy was developed with a multi-stakeholder approach involving thirteen key government ministries with technical assistance from the International Organization for Migration (IOM).<sup>13</sup> On an initiative of H.E the President, Sri Lanka will be hosting with the support of the IOM and WHO, the second Global Consultation on Migrant Health soon.

One of the priority areas identified in the National Migration Health Policy for early implementation under the key strategic area of inbound migration is the strengthening of core capacities and quarantine activities at Sri Lankan ports of entry.<sup>14</sup>

According to IOM, Sri Lanka remains one of the countries in the world with a dedicated **national migration health policy and action plan** which aims at ensuring health and social protection to various migrant and mobile population groups. The

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<sup>12</sup>[http://www.migrationhealth.lk/sri\\_lanka\\_national\\_migration\\_health\\_policy.pdf](http://www.migrationhealth.lk/sri_lanka_national_migration_health_policy.pdf)

<sup>13</sup> Ibid.

<sup>14</sup> Page 10, IOM Sri Lanka Country Strategy 2014-2017, <http://srilanka.iom.int/iom/sites/default/files/IOM%20Strategy%202014-2017%20FINAL.pdf>

Government of Sri Lanka's leadership in migration health and in advancing the World Health Assembly resolution on health of migrants has seen the government take the initiative to organize the second global conference on migration health in coordination with IOM and WHO. The World Health Assembly resolution on health of migrants promotes a 'safe, dignified and healthy migration' process for the benefit of both migrants and their families. As part of evidence based inter-ministerial approach to formulating the National Migration Health policy, the Government of Sri Lanka in technical partnership IOM commissioned a series of large-scale research studies from 2011 to 2014. The studies included for instance: the health and social consequences of children and families left behind, the health status of migrant workers, the health of inbound migrant workers, and health status of internal migrants.

#### **V. Ratifying International Conventions related to Migrant workers**

The Government has undertaken a voluntary commitment to introduce a **National Human Rights Action Plan (NHRAP) from 2017 – 2021**. In May 2016 the Cabinet approved an Inter – Ministerial Committee tasked with drafting the National Human Rights Action Plan for 2017 – 2021, assisted by a steering committee of officials and experts and drafting committees working on each of the thematic areas. The Drafting Committee on the Rights of Migrant Workers will cover the whole range of recommendations and issues as relevant to that Convention, and it is hoped that the recommendations arising from this Committee will provide inputs to the NHRAP. The Cabinet of Ministers has directed the process of formulating the NHRAP, which has already begun its work, to be completed by October 2016. The draft Plan will be open for consultations with the stakeholders including the civil society working in all thematic areas, which include the core Human Rights Conventions. Following this, the NHRAP will be sent for the consideration of the Cabinet of Ministers. The Human Rights Commission of Sri Lanka is engaged in this process and is also facilitating the participation of civil society representatives, coordinating the drafting processes. These processes would ensure equal rights, justice and dignity for all communities in Sri Lanka. Therefore, the issue of ratification of the above conventions will be studied and worked on by this consultative and drafting process.

Further, this matter is also being discussed at the National Advisory Committee on Labour Migration which comprises all key stakeholders including NGOs and Civil Societies.

#### **Declarations under the Articles 76 & 77 of the Convention**

It is noted that most labour receiving countries have yet to become state parties to the Convention, while several labour sending countries have ratified or acceded to it. In this scenario, Sri Lanka accepting the competence of the Committee at present may limit the Committee to only addressing Sri Lanka's obligations while the corresponding obligations of labour receiving countries would not be addressed. This may place Sri Lanka on an unequal footing as far as responding to or taking action on

communications is concerned, especially because some of the communications may be based on the treatments that the Sri Lankan migrant worker/s was subjected to in the receiving country although the latter is not a state party.

In view of the above, the GoSL would be in a better position to consider the option of accepting the competence of the Committee as when the convention has attracted a sufficient number of labour receiving countries as state parties hopefully in the near future.

## **b. Implementation measures outside Sri Lanka and Partnerships on Migration issues**

### **I. Consular Assistance**

Mr. Chairman,

While we have institutions to look into the migration related issues within the country, we also have established an extensive **consular services network** with a trained staff deployed through 65 Sri Lankan Diplomatic Missions including 12 Consulates. The network consists of diplomatic officers, consular officers, labour officers, and labour welfare officers account for approximately 250 Officers.

With the support of the ILO a comprehensive 'Operational Manual for Labour Sections of Sri Lankan Diplomatic Mission in Labour Recruiting Countries' was published in 2014, and we continue to work on improving our capacities and services to better cater to our overseas Sri Lankan migrant workers. We are mindful of the limitations and restrictions and are having no illusion regarding the work need to be accomplished in this regard.

The Consular Affairs Division of the Ministry of Foreign Affairs provides comprehensive services through the following six desks dedicated to different services:

**Compensation Section** - assists Sri Lanka Migrant Workers abroad and their Next of Kin to obtain compensation, unpaid Salaries, social insurance benefits, 'blood money' (in case of an accident or murder when the victim is entitled to receive) and to repatriate personal belongings of the demised migrant workers to Sri Lanka.

**Death Section** - makes arrangements to repatriate the human remains of Sri Lankans to Sri Lanka or bury/cremate the human remains abroad.

**Authentication Section** - authenticates birth, marriage and death certificates, educational certificates G.C.E. (O/I) and (A/L) certificates issued by the Examinations Department, affidavits, police clearance certificates, copies of National Identity Card, passport, driving license and certificate issued by Lanka Automobile Ltd. and Export/Commercial Documents etc.

**Miscellaneous Section - assists in** securing the release of vessel and the crew.

## **Registration of Birth, Marriage and Death Section**

**Repatriation Section -** intervenes to repatriate Sri Lankan stranded overseas and to solve various difficulties such as non-payment of salaries, under payment of salaries, harassment, ill treatment and denial of basic facilities.

On an average, around 700 persons in need of consular assistance visit the Consular Affairs Division of the Ministry per day. Most concern certification/authentication of documents, compensation payments of migrant workers, etc.

The GoSL has expanded its consular services to the periphery in order to ensure that persons seeking consular assistance or facilitation, including potential migrant workers, do not need to travel to Colombo incurring unnecessary expenditure. Three regional offices are planned to be opened in the near future.

## **II. Bilateral Agreements with destination countries**

In order to ensure better working conditions in destination countries, Sri Lanka has been engaging bilaterally with the respective receiving governments. Sri Lanka has entered into bilateral agreements with the following countries:

- With State of Qatar – on recruitment of Sri Lankans for employment – 2008
- With Saudi Arabia – on recruitment of workers – 2006 (lapsed)
- With Bahrain – on recruitment and occupational training – 2008 (lapsed)
- With State of Kuwait – on recruitment and development of labour – 2012
- With Iraq – on recruitment and vocational training – 2013
- With Oman – on labour and training – 2014
- With Switzerland – on decent work, safety and wellbeing of migrants and families – 2014
- With South Korea – Employment Permit System – 2004
- With Israel – pilot program for recruitment of caregivers – 2016
- With Saudi Arabia – on domestic worker recruitment – 2014
- With Cyprus – on manpower recruitment (being finalized)
- With USA – on recruitment of nurses (not Government to Government) - 2016
- With Lebanon – on manpower recruitment (being finalized)

It is noted that the lack of labour laws in destination countries which cover domestic workers is a hindrance to eliminate abuse/exploitation of these vulnerable workers.

Intensified advocacy efforts and proactive campaigns by international community and civil society for the destination countries to take legal and administrative measures to protect domestic workers rights would be helpful in addressing the issue.

The destination countries are also in the process of changing Kafala system by establishing government sponsored institution for recruitment of domestic workers.

The 19<sup>th</sup> Amendment to the Constitution which guarantees the right of access to information and whereby all the MOUs, bilateral agreements entered into by GoSL with other countries will be in public domain.

### **III. Complaints mechanisms with regard to the Sri Lankan migrant workers**

The Consular Division of the Ministry of Foreign Affairs also handles complaints of Sri Lankan migrant workers especially complaints with regard to the workers who are imprisoned or in the custody of the Police and matters related to deaths.

The Labour Section attached to Sri Lankan Diplomatic Missions abroad accepts complaints directly from the workers. The Missions take actions according to the prevailing labour laws of those countries and keep close official relationships with the authorities there in finding settlements for such complaints. For instance, the Mission in Seoul, in addition to its grievance handling mechanism, runs mobile services in regions located out of Seoul for the benefit of the Sri Lankan workers who find it difficult to travel to Seoul for their consular and labour matters. The Consular section of this embassy conducted 13 mobile consular services during weekends and public holidays based on the demand of the Sri Lankan community living in different regions in 2015. Similar mobile services are being conducted in Sri Lanka Mission in Saudi Arabia, Italy, Lebanon, Malaysia.

### **IV. Right to form and join Trade Unions**

Kuwait allows Trade Union rights in varying degrees. Kuwait Trade Union Federation which is also in-charge of expatriate workers Office, despite legal and political limitations is calling for the end of the Kafala system in Kuwait for a legislation that regulates worker's rights in the private sector.

Labour Ministers from Gulf and Asian countries meeting on 26<sup>th</sup> and 27<sup>th</sup> November 2014 agreed that they should improve labour law protection, reform abusive immigration policies and increase dialogue with trade unions and non-governmental groups. Destination countries are encouraged to implement these commitments.

### **V. Readmission Agreements**

We have entered into a **Readmission Agreement with EU** and with number of its Member States bilaterally based on the standard Agreement. With the support of bilateral partners and the IOM, Sri Lanka is also implementing an Assisted Voluntary Return and Repatriation programmes in Sri Lanka[1].



The (AVRR) programmes will continue to form a major component of this area of intervention through the provision of assistance to vulnerable Sri Lankan individuals and families who choose, but have no independent means, to return home. Over the years, IOM has assisted thousands of Sri Lankans to voluntarily return to Sri Lanka from many destination or transit countries around the world and to reintegrate into their communities of origin.<sup>15</sup>

A **National Coordinating Committee on Readmission (NCCR)** was officially established as a first step in streamlining the readmission process in Sri Lanka under an EU funded project with support from the International Organization for Migration (IOM). The Cabinet approved the NCCR Memorandum submitted by the Ministry of External Affairs on the 18<sup>th</sup> July 2012. The NCCR guides and negotiates Readmission Agreements between Sri Lanka and other countries, oversees the operationalization of all existing Readmission Agreements and functions as the focal point within the Sri Lankan Government to deal with all readmission related issues.

Under the chairmanship of the Secretary of the Ministry of Foreign Affairs, the NCCR consists of members from Ministry of Foreign Employment, Ministry of Public Administration & Home Affairs, Ministry of Social Services, Department of Immigration and Emigration, Department of Registration of Persons, Criminal Investigation Department, State Intelligence Service, Prisons and Police and the Sri Lanka Bureau of Foreign Employment (SLBFE). The NCCR consists of 3 sub-Committees, each with its own action plan as follows:

- 1) Policy matters – chaired by the Ministry of Foreign Affairs
- 2) Operational Matters- chaired by the Department of Immigration and Emigration
- 3) Reintegration Matters- chaired by the Ministry of Public Administration

## **VI. Assisted Voluntary Return and Repatriation (AVRR) and reintegration measures**

The (AVRR) programmes will continue to form a major component of this area of intervention through the provision of assistance to vulnerable Sri Lankan individuals and families who choose, but have no independent means, to return home. Over the years, IOM has assisted thousands of Sri Lankans to voluntarily return to Sri Lanka from many destination or transit countries around the world and to reintegrate into their communities of origin.<sup>16</sup>

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<sup>15</sup> Page 5, IOM Sri Lanka Country Strategy 2014-2017,  
<http://srilanka.iom.int/iom/sites/default/files/IOM%20Strategy%202014-2017%20FINAL.pdf>

<sup>16</sup> Page 5, IOM Sri Lanka Country Strategy 2014-2017,  
<http://srilanka.iom.int/iom/sites/default/files/IOM%20Strategy%202014-2017%20FINAL.pdf>

## **VII. Irregular Migration, Human Trafficking and Smuggling**

**A National Anti-Human Trafficking Task Force** was established with the participation of Ministry of Justice, Attorney General's Department, Ministry of Women and Child Affairs, Ministry of Foreign Affairs, Ministry of Foreign Employment and Department of Immigration and Emigration, Department of Police in streamlining the anti-human trafficking efforts, the Task Force has developed a 5 year (2015-2019) strategic Plan to monitor and combat Human Trafficking in Sri Lanka and it has been approved by the Cabinet of Ministers.

**A Standard Operating Procedures (SOP)** was developed by the Task Force to increase identification, referral and protection of victims of human trafficking with the technical support of the IOM. It has been approved by the Cabinet of Ministers and was launched in March 2015.

Establishment of the first government shelter for women victims of human trafficking was identified as an urgent need by the Task Force in 2012 and the shelter is now fully functional. The ministry of Women Affairs under the direct supervision of the Task Force developed shelter guidelines and the shelter staff were provided with comprehensive training.

Section 360 A of the Penal Code criminalizes procurement for sexual exploitation and this offence is encompassed under the broader definition of human trafficking. The Penal Code provisions (the Penal Code (Amendment) Act No. 22 of 1995) read together with the procedural laws contained in the Code of Criminal Procedure Act (the Code of Criminal Procedure (Amendment) Act No. 20 of 1995 and the Code of Criminal Procedure (Amendment) Act No. 19 of 1997) state that 'any person who is guilty of the offence of procurement shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with a fine.' Thus, this offence is considered a serious offence in the High Courts of Sri Lanka. It should be noted that even though the alleged suspects of this offence are initially produced before a Magistrate, subsequent steps in the case is tried before relevant High Court with a prosecutor from the Attorney General's Department.

Complaints of migrant workers are handled in terms of the provisions in the SLBFE Act. However, it is important to note that, having properly scrutinized the facts of such complaints and when the officials of the SLBFE have reasons to believe that employment related complaint links or extends to that of human trafficking, they immediately take necessary steps to refer such cases to the Criminal Investigation Department (CID).

Having identified the seriousness of this issue, and in order to ensure that offenders are punished in terms of section 360 C of the Penal Code, the SLBFE has established a **new unit on anti-human trafficking at the SLBFE**. This Unit exclusively handles suspected cases of human trafficking and obtains necessary assistance from the Criminal investigation Department. Therefore it must be reiterated that mechanisms are in place to identify and distinguish a labour trafficking case from a mere employment dispute, It is also to be noted that at present the SLBFE Act is being amended.

The National Anti-Human Trafficking Task Force will take the following steps before March 2017:

- Improve efforts to investigate and prosecute suspected traffickers under Article 360 (c) and convict and punish offenders, including allegedly complicit officers.
- Continue to train officials on victim identification and referral procedures mainly to ensure victims are not detained or otherwise penalized for unlawful acts committed as a direct result of having been subjected to human trafficking, including migration violations or prostitution.
- Improve protection services to ensure identified victims, including men and children, receive specialized care services
- Expand the Bureau of Foreign Employment's mandate to include the regulation of sub agents
- Promote safe and legal migration rather than imposing discriminatory policies
- Expedite pending cases with regard to combatting human trafficking
- Retain trained officers at least for two years in units responsible for taking action against human trafficking
- Set up a special police unit with trained officers to take action against human trafficking.
- Continue to conduct workshops to create awareness on human trafficking among police officers.
- Conduct an island wide awareness campaign against human trafficking for six months, with the assistance of the specialized agencies in the private sector
- Take action against officials complicit in assisting human trafficking and action to be taken against 26 SLBFE officers whose service has been already interdicted
- Take action to complete the legal proceeding with regard to 189 pending cases against recruitment agencies

## VIII. Efforts at leveraging receiving states, regional processes and international networks for the promotion of human rights of migrant workers

Mr. Chairman,

While working in our national capacity we have also explored actively on ways and means of working in partnership with other countries. I wish to share with you briefly what we have accomplished through the '**Colombo Process**'- a voluntary gathering of 12 Member States in Asia which are largely contractual labour migrant originating countries. During our 3 years of Chairmanship this Regional Consultative Process (RCP) managed to make considerable strides on an action oriented road map based on five key thematic areas, which are important catalysts for safe, orderly and regular labour migration from our countries which now accounts for over 45 million individuals, namely;

- Develop a **Qualification Recognition Processes** including transnational accreditation and monitoring :

Better recognition of qualifications and skills is crucial to ensuring that the labour migrants do not have to accept jobs that are below their skill levels, thus paving way for better employment terms and conditions. One of the key challenges has been ensuring that there is harmonization of all the certification systems in countries of destination and CP countries, in the wide array of the sectors that the migrant workers are employed. In this regard the Colombo Process joined in a pilot initiative of the Abu Dhabi Dialogue (ADD), which focuses on skills certification in the construction, catering and electrical sectors in the UAE, Kuwait and certain CP countries, namely India, Pakistan, Philippines, and Nepal. The scope of this pilot has been extended by bringing in the ILO to enhance the recognition of skills of Sri Lankan construction workers. The first tangibles have been the completion of a national assessment of labour market trends and skills profiles of a selection of migrant construction workers going to the GCC; and a detailed mapping of all the different skills assessment and certification standards between country of origin and destination. Important recommendations have come out from these mappings on how CP workers can be trained for more niche markets in the GCC and gain a competitive edge over workforces from Non-CP origin countries. Once migrant workers have this higher value attached to them, it translates into better wages, contractual terms and living conditions.

- **Ethical Labour Recruitment Practices** (including promoting Standard Employment Contracts)

The objective of ensuring fair and ethical recruitment has been highlighted as a

priority concern to lower the costs of recruitment of migrants and this has been identified as a global priority including in the 2030 Sustainable Development Agenda. The Colombo Process set some key deliverables in this regard and one of which was to promote culture change in the private sector, by supporting the Alliance of Asian Associations of Overseas Employment Service Providers (OESPAAA) - a network of lead recruitment industry representatives from each CP country, in holding their Fourth Regional Conference in March this year. The conference gave the recruitment industry an opportunity to discuss and agree on the promotion of ethical recruitment as a common objective through enhanced partnership with the Colombo Process. Further it was agreed to hold a series of symposiums for CP Member States and countries of destination to discuss ways to promote regulatory harmonization in this field, and the first of these took place on 23 August 2016 in Colombo, and two more such meetings are to follow.

The Colombo Process is also supporting a research project on recruitment between India, Nepal and UAE, which is supported by the ADD and the Swiss Development Cooperation. (SDC). The CP will continue to support initiatives such as those of the UN Global Compact, ILO's Fair Recruitment Initiative, and IOM's IRIS, for the benefit of the CP nationals.

- **Effective Pre-departure Orientation & Empowerment**, with an additional focus on migration and health.

Effective Pre-departure Orientation & Empowerment forms an important component of the labour migration policies of many CP States. At the 3rd Senior Officials Meeting held in Colombo, the CP Member States reiterated their support for the Comprehensive Information and Orientation Programme for Migrant Workers (CIOP), which is led by the Government of Philippines and which has been endorsed by the ADD. The CIOP proposes the development of training manuals and Regional Module Guides at a number of distinct stages, namely at the pre-employment stage, prior to departure, post-arrival, and at the return and reintegration stage. A report was presented to the last SOM on the important mapping that was conducted of all the various CP nationally led PDO programmes, and the IOM Regional Office in Manila, has drafted a Regional Guide for the pre-departure modules and Programme Management System and it was presented to the ADD SOM in May 2016. Up to seven module guides have been developed, ranging from Remedies in Cases of Distress and Crises Situations; right to Health Management while Working Abroad. A regional Training of Trainers is planned in a selection of CP Member States. The CP looks forward to the next stage in development of the CIOP, which is for both ADD destination and origin countries to put in motion a plan for complementing the PDO guides with post arrival orientation.

- Promote Cheaper, Faster & Safer **Transfer of Remittances**

The Colombo Process agreed to work towards to achieve the global target of reducing remittance transfer costs to 3% or less as stipulated in the 2030 Sustainable Development Goals (SDGs). It also agreed to augment national-level efforts to empower migrant workers and their families on remittance management and utilization. A Thematic Area Working Group on the theme met under the chair of Pakistan, and enabled Member States to discuss a set of priorities including the improvement of domestic remittance regulatory frameworks, promoting greater choice and availability of regulated money transfer operators (MTOs), more transparent information provision on remittance transfer costs, and the provision of more initiatives that promote financial education to migrant workers and their families through PDO and other suitable avenues.

- Enhance capacities of the Colombo Process participating countries to **track labour market trends**, to which was later added the setting up of the Colombo Process Technical Support Unit (CPTSU) in support of CP goals.

The ability of CP Member States to analyse sectors that are in demand can assist in determining the type of skills training that should be prioritised in their PDOs and recruitment processes. The Colombo Process organised a Regional Workshop on Labour Market Research on 1 June 2016 that heard contributions from experts from China, Malaysia, IOM's Kuwait office as well as other CP states. It was agreed that the production of a Labour Market Research Operational Guide should be the next step and would constitute an important tool for CP Member States. A new online repository has been developed on the CP website with restricted access only for Member States, to share market trends.

#### Abu Dhabi Dialogue (ADD)

Despite being competitors on labour markets, we have been able to work collectively, and has been commended at the Global RCP meeting in 2015, as a process that other RCPs may consider emulating. The CP has also engaged with other dialogue fora such as the Abu Dhabi Dialogue (ADD), as explained above, on matters of mutual interest and at the Colombo Ministerial Meeting concluded in Colombo on 25 August 2016. Director General of the International Migration Organization (IOM) visited Sri Lanka from 22- 26 August 2016 to attend the inauguration of the Colombo Process.

Sri Lanka has been invited to take over the chair of the ADD from January 2017 and we believe it will provide us opportunities to jointly look into issues of common concern.

### Global Forum for Migration and Development (GFMD)

Sri Lanka continues active participation in the GFMD including chairing its round table discussions and during its Chairmanship in Colombo Process has endeavoured to build synergies between the two processes.

### **IX. Migration to Sri Lanka**

As stated before any person who has violated the Immigration and Emigration Laws of Sri Lanka may be detained until such time as arrangements are made for his /her departure. All such cases of detention are individually assessed to establish nationality, reasons for violating immigration regulations etc., in order to liaise with foreign diplomatic Missions, IOM, families of detainees to facilitate their early departure.

Sri Lanka has been hosting a modest number of refugees although it is not a State Party to the 1952 Convention relating to the Status of Refugees. As per the records of UNHCR monthly report for June 2016, there are 555 individuals with asylum status and another 764 individuals with Refugee Status.

The GOSL, fully cognizant of its standing as a responsible actor, has taken a policy decision to refrain from deporting any asylum seekers and to cooperate with UNHCR when required.

In 2016 (As at June 31, 2016) 132 persons (61 cases) have departed under the UNHCR resettlement process(120 persons to the USA, 11 to Canada and 1 to Sweden)As of 31 December 2015, 357 persons (181 cases) have been resettled in abroad. (221 to Canada, 130 to USA, 3 to Denmark, 3 to Germany)

### **3. Responses to a few key issues raised by the Committee**

Mr. Chairman,

I wish to briefly explain and clarify the GoSL position on the following issues raised by this Committee;

#### **a) Measures taken to protect migrant women and children,**

In order to address the issues of the families of migrant workers, the Ministry of Foreign Employment, as stated before, has launched a program under a theme of

**“Shramika Surekuma”** which means “Migrants Protection”.

Following the decision of the Cabinet of Ministers in 2007, restricting the mothers having children below 5 years to leave for overseas employment, the Sri Lanka Bureau of Foreign Employment (SLBFE) which comes under the purview of the Ministry of Foreign Employment has commenced a process of obtaining a **Family Background Report (FBR)** from the women (mothers) when they seek departure approval from the SLBFE. The FBR contains the information of the migrant worker and her children and the report has to be signed by the local Government bodies with their recommendation.

Based on the information given in the FBR the SLBFE decides whether the absence of the female member (mother) of the family will lead to exploitative situations on the children left behind and accordingly necessary guidance / counseling programmes are conducted to ensure the protection of the rights of children of migrant workers.

However this matter has been taken up by the Cabinet of Ministers of Sri Lanka and a Cabinet Sub- Committee has been appointed to re-visit this matter.

The Development Officers appointed by the Ministry of Foreign Employment make visits to individual family units to prepare the Family Background Reports (FBR) which paves the way to identify the needs and to ensure proper protection of children through developing an alternative care-plan for left behind children. With this exercise, the State authorities such as Ministry of Health, Ministry of Women and Children, Ministry of Education can have a good understanding about the individual family units to introduce family specific programs in a coordinated manner.

The Development Officers are engaged with this mandatory exercise to promote safe, planned and family friendly migration. Comprehensive assessments with evidences are gathered by the Development Officers through their family visits.

NGOs and INGOs are also conducting their field works in line with this State mechanism. A paper published in 2016<sup>17</sup> evaluated the causal effect of the FBR policy and found that the policy was successful in discouraging mothers for migration for foreign employment with the decline in monthly departure ranges between 449-812 female migrants per month.

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<sup>17</sup>Weeraratne, Bilesha. "Protecting the Welfare of Children and its Causal Effect on Limiting Mother's Labour Migration." International Migration (2016).



The Ministry of Foreign Employment introduced a **minimum age** for female workers as a measure to reduce immature women migrating for employment. In this regard a Cabinet approval was obtained in 2013 to fix minimum age limits as specified below. The State expected to direct the young female school leavers for suitable vocational training instead of going abroad as unskilled labour.

The new minimum age levels are as follows.

Kingdom of Saudi Arabia	- 25 years
Other Gulf countries	- 23 years
Rest of the countries	- 21 years

The above policies are implemented to ensure the protection of the rights of both female migrant workers and their family members including children.

#### Effects on the welfare of children

The research findings published in technical reports, presented at national and international fora showed both positive and negative consequences, with respect to left behind children and family members of migrant workers and to workers themselves.

Being aware of the consequences of mothers who have less than 5 years children leaving the country, the GoSL with the technical assistance from IOM is currently in the process of developing a **Coordinated Care Plan (CCP)** for left behind children that seeks to specifically address health and social impacts of left behind children and families. This is in the formative phase of a pilot intervention that aims to identify ‘Risk’ and “at risk” children that may warrant further social welfare interventions, health referral and counselling.

#### **b) Monitoring of the recruitment agencies**

The Government has put in place several **regulatory mechanisms**, in particular aiming at fair and ethical labour recruitment. For example, by Act No. 21 of 1985 (amended in 1994 and 2009) the Sri Lanka Bureau of Foreign Employment (SLBFE) was established which governs all the matters related to overseas labour deployments.

The amended Act No. 56 of 2009 for SLBFE Act No. 21 of 1985 gives power to arrest any illegal recruiters without a court order. The Special Investigation division in the SLBFE has been strengthened by employing Police officers including Chief Inspectors and Sub Inspectors of Sri Lanka Police. Based on information received from public the officers of the Investigation Division conduct sudden raids and accordingly sub agents and passport collectors/carriers working as intermediaries are arrested. In the year

2014, 125 were arrested and punished. While for the 1st quarter of 2015 more than 30 middle men/intermediaries have been arrested.

Information on complaints received by the Special Investigation Division of the SLBFE during the period 2012/2014.

	2012	2013	2014
No. of complaints received against licensed agents	3272	3085	2473
No. of complaint received against illegal agents	616	460	574
No. of complaints settled	3614	2774	1471
Referred to the Legal Division for prosecution	133	316	792
Raids conducted against illegal recruitments	136	115	76
No. of agencies cancelled (on requests of licensee)	20	14	15
No. of agencies cancelled by SLBFE	01	03	01

The Section 54 of the SLBFE Act directs the Minister to constitute the Association of Licensed Foreign Employment Agencies (ALFEA) and its amended Act No. 56 of 2009 says "Every licensee may become a member of association." Accordingly ALFEA has been operating with its membership and functions as per the guidelines set in the said Act.

As per the provisions of the Act, the SLBFE permits the licensed recruitment agents to charge the actual recruitment expenses they incur. In this regard, the SLBFE calculates such expenses at the time of granting approvals to recruit workers and fixes the amount chargeable from each worker. The agent should issue an official receipt for such charges and legal action can be taken against the agent who levies excess fees violating the law.

### c) Insurance and Compensation Schemes

As per the provisions of the Section 45 of the SLBFE Act, the SLBFE has established a Workers' Welfare Fund (WWF) for the benefit of Sri Lankans employed outside Sri Lanka. The fund has spent Rs. 29,523,326.00 (Rs. 29.5 Million) during the years 2013 ~ 2016 for death compensations and medical treatments of Sri Lankans and also has spent Rs. 266,142,032.00 (Rs. 266. Million) for providing food and medicine to the

destitute Sri Lankan workers reported to Missions abroad during the period 2013 ~ 2015. The Insurance scheme run by the SLBFE has spent Rs. 70.2 Million during the years 2013-2015 for repatriation of destitute Sri Lankan workers from their countries of employment.

A committee has been appointed by the Board of Directors of the SLBFE comprising a member from the Ministry of Foreign Affairs and the committee meets once a month and makes collective decision on the payments of the fund. The minutes of the committee meeting are forwarded to the Board of Directors for its approval and the receipts and payments of the Fund are audited by the Government Auditors.

**d) Pre Departure Orientation (PDO) and Access to remedy;**

It may be noted that besides the regular documented migrant workers, there are considerable number of individuals who migrate through their own arrangements. However, it is noted that many such migrant workers who travel abroad face difficulties at destination countries and therefore providing redress to such persons has been a particularly challenging task. Also, collection of data on such migrants has been a complex issue. For those who are registered migrant workers, the SLBFE has an array of services being provided, including welfare schemes for the families left behind in Sri Lanka, which we could discuss as our interaction proceeds.

Notable among them are the pre-departure orientation and training. Sri Lanka has done much work domestically, but acknowledge the limitations and the need for capacity building in our local Migrant Resource Centres in this regard. For example The SLBFE has introduced a training system for migrants, namely Level 3 qualification of National Vocational Qualification (NVQ) for domestic housekeeping assistants while improving the other pre-departure training programs including orientation for non-domestic sector. The NVQ level 3 training & other training programs include a common competency module & safe migration module which covers all aspects of labour migration. Basic language training is also included in all training courses in respect of destination country.

The SLBFE has established a special Investigation Division to address the issues of exploitation of migrant workers at the recruitment process. The Division is empowered to take legal action against agencies and individuals who violate the established recruitment procedures. This Division entertains an average of 3000 cases per year in connection with the exploitation of migrant workers. Cases are generally resolved within 1-2 months.

The complaints against the individuals and recruitment agents can be lodged to the regional offices of the SLBFE and such complaints are registered through an online complaint management system which can be accessed by the respective licensed recruitment agents as well as by the Sri Lanka Missions abroad. Nevertheless, complaints of migrant workers are entertained by the Labour Sections attached to Sri Lanka Missions in destination countries and those complaints are registered with this online system. The system facilitates the parties to login and update the action taken and the complainant can get timely information on their complaints and also it expedites the settlement process.

The section 43, and 44 of the SLBFE Act has empowered the SLBFE to summon the parties concerned and to conduct inquiries on the complaints and to grant redresses. The SLBFE has a separate division for conciliation of foreign employment disputes and it consists of 15 authorized conciliation officers to conduct inquiries and make decisions. The complaints of all migrant workers irrespective of their source of finding employment are entertained for settlements. The SLBFE takes legal actions against the errant parties if efforts for mutual settlements are failed.

Further, the SLBFE operates a 24 hour/ 7 days Call Centre to receive complaints and such complaints are referred to the relevant officers to take appropriate action for redress.

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