

# Sri Lanka NGO Shadow Report

on the International Convention on the Protection of the  
Rights of All Migrant Workers' and their Families

June 2008

Prepared by



The Action Network for Migrant Workers  
&  
The Women and Media Collective



## Methodology

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was ratified by Sri Lanka in 1996. This Convention entered into force in 2003. In April 2008 the Sri Lankan Government, as part of its obligation under this Convention submitted the First Periodic Country Report to the Committee on Migrant Workers.

In 2006, the Action Network for Migrant Workers (ACTFORM) and the Women and Media Collective took the initiative to coordinate and prepare the Sri Lanka NGO Shadow Report to be submitted to the Committee on Migrant Workers. Two consultative meetings were held with Government Officials as well as with relevant Non Governmental Organizations (NGOs) and Community Based Organizations (CBOs) working on migrant workers' rights issues to determine what kind of data should be included and brought to the attention of the Committee on Migrant Workers.

The first consultation was held in May 2006 while the second consultation was held in November 2006. The first draft of the Shadow Report was circulated amongst those who were present at both consultative meetings. The feedback received was incorporated into the final draft of the Report.

The report was prepared in consultation with the following organizations:

- ❖ Action Network for Migrant Rights (ACTFORM), Colombo
  - Community Encouragement Foundation, Puttalam
  - Dabindu Collective, Katunayake
  - Manawa Himikam Praja Sanwidanaya, Puttalam
  - Migrant Service Centre, Dehiwela
  - Migrant Women's Organization, Ambalantota
  - Migrant Women's Organization, Gabbala
  - Migrant Women's Organization, Hambantota
  - Migrant Women's Organization, Kandy
  - Migrant Women's Organization, Koggala
  - Migrant Women's Organization, Rambukkana
  - Migrant Women's Organization, Thihariya
  - National Worker's Centre, Dehiwela
  - Parami Women's Organization, Matugama
  - Welcome House, Colombo
  - Women and Media Collective, Colombo
  - Women's Centre, Ja-Ela
  - Women's Resource Centre, Kurunegala
- ❖ Human Rights Commission, Colombo
- ❖ International Movement Against Discrimination and Racism, Colombo
- ❖ National Worker's Congress, Colombo
- ❖ Ministry of Foreign Affairs, Colombo
- ❖ Ministry of Labour, Colombo
- ❖ Sri Lanka Bureau of Foreign Employment, Colombo

The report was prepared in keeping with the ‘Guidelines for Non Governmental Organizations on the Implementation of the UN Migrant Worker’s Convention’ – a handbook prepared by December 18 for the International NGO Platform on the Migrant Workers’ Convention (IPMWC), August 2005 ([www.december18.net](http://www.december18.net)).

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## SECTION A

### Introduction

Sri Lanka is one of the biggest exporters of human labour to West Asia. The foreign employment industry is the second largest earner of foreign exchange and contributes substantially to the Sri Lankan economy. The total number of departures for foreign employment was 203,841 in 2006.<sup>1</sup> Of this figure 55.55% were women. According to provisional data received from the Sri Lanka Bureau of Foreign Employment (SLBFE), approximately 89% of these women went as housemaids. While migration of women for employment overseas has had many benefits for a number of workers and their families in Sri Lanka, there is irrefutable evidence that the industry is plagued by abuse and exploitation of these migrant workers during the entire migration process. Non payment of salaries, exploitation by unscrupulous foreign employment agents, physical and sexual harassment, breach of employment contracts, suicide, accidental deaths of migrant workers are some of the complaints recorded by the Sri Lanka Bureau of Foreign Employment (SLBFE).

The placement services offered by the state were insufficient to meet the needs of the growing migrant worker population. This has resulted in the proliferation of foreign employment agencies around the country. Provisional data for 2006 indicates that 607 foreign employment agencies have been registered with the SLBFE and established around the island, of which 372 (61.29%) are based in Colombo. Unscrupulous agents tend to engage in unlawful activities that include charging exorbitant fees for services, resulting in the cancellation of their licenses by the SLBFE. Potential migrants are easy prey for sub agents who work in collaboration with the foreign employment agencies, actively seeking out potential migrants from vulnerable communities. These sub agents remain unregulated and are not accountable for their acts and omissions to any person or authority.

This report will highlight some of the more serious violations of the rights of migrant workers. It will include the abuse and exploitation of migrants, violations of their terms of employment, lack of facilities to exercise their voting rights, right to freedom of movement, the role of consular and diplomatic missions, institutional mechanisms set up to deal with migrant workers, access to training and access to information. In accordance with the guidelines on NGO reporting, the report is limited to twenty six pages. A set of annexure has also been compiled.

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<sup>1</sup> All data received for 2006, is provisional data provided by the Sri Lanka Bureau of Foreign Employment (SLBFE), Sri Lanka.

## SECTION B

### Part I and II

#### General Principles

#### Article 1(1), 7 / Article 83 / Article 84

##### *1) Situational Analysis*

Recent legislation has sought to address migrant workers' rights. The provisions in the penal code on trafficking were strengthened and an Amendment to the Penal Code was passed in 2006 based on the SAARC Convention on Trafficking as well as on the UN Convention on Trafficking (Panama Protocol). The Immigrants and Emigrants (Amendment) Act in 2006 sought to bring in measures to be taken in cases of trafficking of persons for foreign employment. The amendment to the Penal Code also deals with the illegal recruitment of persons on a promise of securing employment outside Sri Lanka. Although such laws have been passed on trafficking and migration related issues, it is in their implementation that the state fails. The Sri Lanka Bureau of Foreign Employment Act (SLBFE Act) which was passed in 1984 and subsequently amended, does not cater to the current needs of migration in Sri Lanka and requires substantial amendment.<sup>2</sup> Similarly, institutions established to monitor foreign migration such as the SLBFE fail to adequately protect migrant workers seeking employment abroad.

### CASE STUDY

Thirunagal from Mannar went as a migrant worker to Lebanon, a few years ago. Thiru worked in Lebanon without any major problem. Her employers were kind to her, and when the two year contract was completed they asked her to stay on, to which she agreed. She sent her money regularly to her husband and they were even able to build a small cement house in a little plot of land they owned in the village.

While cooking, a bottle of alcohol close to the cooking hob burst and exploded. Her Madam was also present but escaped the blast. Thiru was burned from her chest down to the upper part of her legs. Her face was saved. The employer immediately took her to the hospital in Lebanon, and after one month's treatment there decided that she needed to be in her own country for better treatment and healing.

Through our Sisters in Lebanon, the employer contacted me (Sister Immaculate). The employer promised to send \$1,000 which he did, a further \$ 1,700 was sent to her husband. Two big suitcases were sent with clothes for her, shirts for the husband, and clothes and toys for the children.

I contacted the SLBFE and was told that we would get help of their staff at the airport, and also get an ambulance from their center at Seeduwa. However, the ambulance was refused

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<sup>2</sup> The shortcomings of the Act are dealt with later in this report.

to us, as this case did not reach them directly. The attitude of the Bureau personnel at Seeduwa was very disappointing.

She was brought out of the aircraft in a wheel chair. At 2.00 a.m. we took her to the National Hospital. After more than four weeks the doctors said she could go home.

**(Adapted from a case study provided by Sister Immaculate at Welcome House, a shelter run by Catholic nuns in Colombo)**

## **CASE STUDY**

Niluka's husband was convicted in an assault case and was sentenced to six years in prison. Niluka had three children; two boys aged 7 and 3 and a girl of 5. She left the children with her grandmother, borrowed money and went to Kuwait. For the first three months she did not get her promised salary of Rs 9,000/-. She was able to send the fourth month's salary home which the grandmother had to use to pay the mortgage on the house they lived in. The grandmother complained to the SLBFE about the non payment of wages and they made an appointment for her to meet the agent. She had to travel to Battaramulla (where the SLBFE was located) twice and both times the agent had not come. This meant a third visit to Battaramulla. The officials at SLBFE insisted that the agent ensured that Niluka's salary was paid. A few months later the agent traveled to Kuwait and brought back Rs 18,000 – the salary for two months.

Fortunately we were lucky<sup>3</sup> to get a sponsor who began paying the family Rs 3,000/- a month. Once a month the grandmother would visit the son-in-law in prison. This continued for months. Niluka in Kuwait begged to be brought back, but the SLBFE could do nothing. The agent meanwhile did nothing, except to make false promises. About once every four or five months the salary would be paid and she would send it home. When the two year's contract was completed she argued with her employer until he gave her the air ticket home.

Meanwhile the husband was given parole for one week and arrived home. He did a lot of work and took care of the children and house etc. At the end of one week, he had to go back to prison. The children who were affected by this, fell sick, one by one. Finally, Niluka came home. They once again traveled to the SLBFE, but were informed that since she had come home, they could do nothing to get the money. I also contacted officers I knew at the SLBFE and was told the same thing.

**(A case study adapted from information submitted by Sister Immaculate at Welcome House)**

**(See Annexure for more case studies)**

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<sup>3</sup> As related by Sister Immaculate at Welcome House, a shelter run by Catholic nuns for abused women and girls and women migrant workers.

These case studies highlight the lack of commitment by the SLBFE in providing assistance to migrant workers and the inconvenience they face when they attempt to seek redress for their grievances. The callous attitude of the SLBFE is highlighted in the first case study, while the latter highlights the issue of withholding of salaries which is an issue many migrants have to face. The second case study also highlights the trouble migrants go through upon their return when they approach the SLBFE for assistance and compensation.

## ***2) Suggested Law Reform***

### **(i) Amendments to the Sri Lanka Bureau of Foreign Employment Act (SLBFE Act)**

Numerous amendments have been suggested by researchers and NGO's working on migrant issues.<sup>4</sup> Some of these amendments are cited below:

1. Currently four representatives of foreign employment agencies sit on the board of directors. The proposed amendment seeks to bar such members as it results in a conflict of interest as these agencies are directly involved in recruiting persons for overseas employment.
2. Representatives of the SLBFE who are posted in foreign countries in which migrant workers are employed currently need to be accountable to the SLBFE
3. The Act must lay down conditions for the granting and revocation of licenses to foreign employment agencies.
4. The current Act provides for an Information Data Bank. This data bank, which is currently inaccessible to the general public, needs to be made accessible to the general public.
5. Fines laid down by the Act for various offences should be imposed substantially.
6. The Act must include provisions to deal sufficiently with the welfare of migrant workers.

### **(ii) Recommendations to Government:**

- Take measures to amend the Sri Lanka Bureau of Foreign Employment Act to comply with the Convention on the Protection of the Rights of All Migrant Workers and Their Families (hereafter referred to as the MW Convention).
- Take steps to ensure the effective implementation of the Sri Lanka Bureau of Foreign Employment Act through the appointment of a monitoring body.
- The Ministry of Foreign Employment must establish an advisory body consisting of NGO representatives.
- NGO representatives working on behalf of migrant workers should be represented on the Board of Directors of the SLBFE in order to ensure impartiality.
- Ensure a substantial increase in the fines imposed for various offences under the Act and also take measures to impose fines for offences committed under the Act.
- SLBFE representatives should be held accountable to the Bureau in safeguarding the welfare and interests of migrant workers.

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<sup>4</sup> Migrant Services Centre, American Centre for International Labour Solidarity (ACILS).

- Stringent conditions on safe migration procedures should be laid down in the Act for the granting of licenses by the SLBFE to foreign employment agencies and revocation of license upon contravention.
- The proposed amendment to the Act requires the data to be accessible to the public and also for the establishment of a comprehensive gender disaggregated data base on international labour migration from Sri Lanka.
- To entrust the Board with the safety of migrant workers and the welfare of their families and to appoint a monitoring committee to monitor the efficient implementation of such measures.

### **Part III**

### **Human Rights of all Migrant Workers' and Members of Their Families**

### **Articles 8 to 33**

#### ***1) Freedom of Movement***

A recent decision by the Sri Lankan government threatens to violate the right of migrant workers to leave their state of origin of their own accord. On a recommendation by the Minister of Child Development and Women's Empowerment, the Cabinet of Ministers took a decision on 7<sup>th</sup> March 2007 to ban female migrant workers with children under the age of five from leaving the country for employment. The decision was taken due to the abuse and neglect children are exposed to when their mothers leave for overseas employment. The government also decided to impose restrictions on women who have children over the age of five, where they will have to prove that children will be in safe hands while their mothers are overseas. This announcement drew wide criticism from women's groups who are lobbying for a withdrawal of the Cabinet decision. This decision violates Article 8 of the MW Convention which states that migrant workers shall be free to leave any state, including their state of origin. It also violates the right to their freedom of choice in employment. The cabinet decision has not been implemented upto date. Recent newspaper reports also indicate that the President of Sri Lanka has directed the Ministry of Foreign Employment to take steps to ban the recruitment and employment of housemaids to the Middle Eastern countries by the end of 2008. (Daily News, 13<sup>th</sup> March 2008)

#### **BEST PRACTICE**

The Sri Lanka Women's NGO Forum issued a press release calling on the government to reassess the situation and to take proactive measures to protect women's right to employment and the right of children to a secure childhood. The Forum called on the government to establish a visiting and monitoring unit for the families of the women and men migrants with young children which will store information on caregivers and the progress in children's health and educational needs.

**See Annexure of letter by the Sri Lanka Women's NGO Forum.**

## Recommendations to Government

- To immediately withdraw the above decision and examine alternative options for the safety of the children of migrants.
- To look at means of alternative employment for potential female migrants so that they have a choice of local employment opportunities.
- To establish a state monitoring mechanism that will ensure the welfare and safety of children left behind

## 2) Abuse and Ill Treatment of Migrant Workers

### (i) Situational Analysis

Many accounts of sexual and physical abuse of migrant workers by employers in host countries have been reported. However, there are many such cases that also go unreported. Provisional data collected by the SLBFE indicates that in 2006, 1,662 women and 102 men had complained of physical and sexual abuse. On their return to Sri Lanka too, migrant workers fall prey to unscrupulous persons at the airport. They are charged exorbitant sums of money by cab drivers for their journey home. Most of these workers come from remote villages and there have been instances where they have been robbed and sexually abused on their way home, either by the drivers themselves or others.

See Annexure for

- **Complaints Received by Nature & Sex 2003-2006, Table 63, Annual Statistical Report of Foreign Employment 2006, Sri Lanka Bureau of Foreign Employment, Sri Lanka.**
- **Complaints Received from Female Migrant Workers by Manpower Levels as a Percentage of Departures 2003-2006, Table 65, Annual Statistical Report of Foreign Employment 2005, Sri Lanka Bureau of Foreign Employment, Sri Lanka.**

### CASE STUDY

#### Dilini's Story (not her real name)

"I decided to go to Kuwait as I don't have a permanent home. I had to mortgage a piece of land to pay the employment agency. As the flight was due to leave at 7.50am, I arrived at the Bandaranaike International Airport in Katunayake at 3.00 am. I was seated when a man in a security uniform came up to me and inquired if I was from 'Saman Agency', the employment agency that handled my job. He took my documents from me and asked me to follow him. I followed him and we took the elevator to an upper floor where he met two men in civil clothing and spoke with them. The three men took me to a room, at which point I started screaming. One of them held a knife to my throat and told me not to shout and that they would kill me. Another man put something into a glass of water and forcibly poured it into my mouth. After that, I don't recall what happened. When I regained consciousness, my underclothes had been removed. I shouted and the man in the security uniform said he would kill me if I had told anyone what had occurred.

Then he took me to a bus which took me to the aircraft. I boarded the aircraft and went to Kuwait. I fell ill in Kuwait and my employers took me to the Sri Lankan embassy. On my return to Sri Lanka, I made a complaint to the police. I heard that the three men had been arrested and sent out on bail. The police arranged a medical examination for me. I have filed an application in court on this matter. After the identification parade, I have been getting death threats. I visited the SLBFE four times to meet the Chairman but was unable to meet him as he was busy. The only money I received was from Women In Need (WIN) who gave me Rs.25,000.”

**(Reported in a Sinhala language newspaper. Date unknown)**

## **CASE STUDY**

**Name of the victim:** Ms. X (Name withheld), age 23, mother of a one-year-old boy

**Alleged perpetrators:** Four airport officers, including two security personnel and two casual workers from the Janitorial Services Company

**Date of incident:** 10 October 2005

**Place of incident:** Inside the Bandaranaike International Airport, Katunayake, Sri Lanka

### **Case Details:**

On 10 October 2005, a 23-year-old female Sri Lankan passenger was on her way to Kuwait to work as a domestic helper. Her flight was scheduled for 7:30am and she arrived at the Bandaranaike International Airport in Katunayake at 4:30am where she went through the check-in procedure. After that, an airport security personnel approached her and questioned her whether she was going to Kuwait and asked her what was the name of her employment agency. Despite answering his questions, she was told that she needed to be searched again.

She was forced into a room on the first floor of the airport where civilians are not allowed to enter. There she was confronted by the other three airport officers; one security personnel and two casual workers from the Janitorial Services Company. They then threatened her by revealing a knife before taking her to the cleaners' quarters where they drugged her. She reported that the perpetrators forced her to drink a powdery substance and soon after she became unconscious. The four alleged perpetrators then raped her. As the victim's flight time approached, one of the perpetrators accompanied her to the awaiting aircraft. The victim was placed on the aircraft and flew out of the country. As a result, the victim was deprived of her right to make an immediate complaint regarding the incident.

The victim reached her destination but was feeling unwell. As she reached her workplace, she began to vomit because of the drugs that had been given to her. Her employers then lodged an entry at the Kuwaiti police before returning her on a flight to Sri Lanka. The Kuwaiti police informed their counterparts in Sri Lanka. When she returned to Sri Lanka, she made an entry at the Airport Police station and also with the SLBFE. The Officer-in-Charge (OIC) of the Airport Police warded her at the Negombo Hospital for further medical treatment. She later also complained to the Wellawa police regarding the incident. Superintendent of Police (SP), Negombo, Premasiri Vithanage initiated inquiries into the victim's complaint. Five persons were interrogated by the police and four persons were ordered to be remanded on October 20 by the Kanuwana Circuit Magistrate Court until

October 26. However, so far there has been no information forthcoming as to whether the police have taken any concrete action against the alleged perpetrators or the airport authority regarding their supervision failure.

**(Asian Human Rights Commission, Hong Kong)**

The above accounts by the victim and the Asian Human Rights Commission on the same case reveal the horrific gang rape of a woman migrant worker prior to departure from the Bandaranaike International Airport in late 2005. The vulnerability of these women seeking employment overseas, who in most instances, venture out of their villages and familiar surroundings for the first time, is highlighted in this case. It also highlights the dangers they are exposed to when traveling overseas for the first time. These women are clearly vulnerable to harassment at the airport by airport employees and others. The Women in Need (WIN) has assisted the victim in filing her application in court. The case was then handed over by the SLBFE to the Women's Bureau of the Police, and as of early 2008, information is that her case is still pending trial before the courts. As of June 2008 the victim in the case study has not received any form of compensation from the SLBFE.

The SLBFE generally handles cases of registered migrant workers. However, at times it has assisted unregistered workers at their discretion.<sup>5</sup> The SLBFE officers at the airport are charged with checking the registration status of migrant workers. They also assist returnee migrant workers with travel to their villages. A 24-hour ambulance is also on standby at the airport. An agreement has been reached with the Sri Jayawardenepura Hospital to transfer migrant workers who return to the country and who require medical assistance from the airport to the hospital.

**(ii) Recommendations to Government**

- Welfare officers in the Sri Lankan missions overseas must proactively engage in monitoring conditions of employment of migrant workers employed in households as domestics and in factories.
- All complaints of violence and abuse to the SLBFE by both documented and undocumented workers must be investigated and dealt with.
- The SLBFE must appoint more officials at the international airport to oversee the safety of migrant workers prior to their departure from Sri Lanka
- The provision of safe transport facilities for returnees to return to their homes. These vehicles and their drivers should be registered by the state for this purpose.

**3) Role of Consular and Diplomatic Missions**

**(i) Situational Analysis**

Labour attaches are appointed by the Ministry of Labour and Manpower and are as such accountable to the Ministry. The SLBFE has no involvement in these appointments. Labour Welfare Officers and Senior Welfare Counselors are appointed and are accountable

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<sup>5</sup> Information provided by Country Co-ordinator, Sri Lanka Bureau of Foreign Employment.

to the SLBFE which comes under the Ministry of Foreign Employment Promotion and Welfare. Currently, labour welfare officers are attached to the Sri Lankan missions in Qatar, Saudi Arabia, Kuwait, Riyadh, Jeddah, Maldives, UAE, Abu Dhabi and Korea, and senior welfare counselors are attached to Oman, Riyadh, Malaysia, Singapore, Jordan, Lebanon and Kuwait.<sup>6</sup> A 14-day briefing is given by the Ministry of Foreign Affairs prior to their departure to take up appointments in the missions overseas. These appointments are not merit based and they do not go through a competitive examination process.

Disputes involving contracts of employment are taken by the Sri Lankan missions on behalf of Sri Lankan migrant workers to the labour courts. The Sri Lankan missions overseas are not fully equipped to handle these cases and the costs of hiring Arab lawyers are very high. Only a few of the labour attaches and labour welfare officers attached to the missions possess any knowledge of Arabic or Koranic laws.

## **(ii) Recommendations to Government**

- Establish well resourced Migrant Worker Resource Centres within Sri Lankan embassies in host countries which have a high concentration of workers. These centres should provide welfare assistance, counseling and legal aid services, health services, registration of undocumented workers, information, follow up on migrant complaints, mediation of employer employee disputes and social interaction for Sri Lankan migrant workers in an efficient and adequate manner.
- Increase the number of welfare officers especially in countries which have a high percentage of Sri Lankan workers to one officer per 50,000 migrant workers.
- A merit based service of labour attaches should be set up so that competent persons are appointed to these posts.
- Appointments should not be politicized and the appointments should be based on the capacity of the personnel.
- Ensure that there is no overlap in the functions of labour attaches, labour welfare officers and counselors. A delineation of job functions is necessary in order that these officers perform their mandate efficiently.
- Ensure that sections in embassies that deal with migrant workers remain open 24-hours on a daily basis, including holidays, so that workers have access at all times to the available services.
- Ensure that monitoring of workers in the receiving countries take place through telephone calls and unannounced visits, especially during the initial months of employment.
- Ensure that embassies and missions adopt a process by which it remains in contact with workers in the host country by enlisting the support of expatriate self help groups. These groups could also act as a monitoring group to ensure that model employment contracts are enforced in the absence of binding bilateral agreements.
- Ensure that embassies maintain a register of migrant workers.

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<sup>6</sup> Number of Labour Welfare Officers in Qatar- 1, Korea-2, Riyadh-3, Jeddah-1, Maldives-1, Korea-2, UAE-1, Abu Dhabi- 1. Number of Senior Welfare Counselors in Oman-1, Riyadh-1, Malaysia-1, Singapore-1, Jordan-1, Lebanon-1, Kuwait-1.

#### *4) Camps / Jails / Welfare Camps*

Article 27 of the MW Convention states that migrant workers and their families who are deprived of their liberty shall be treated with humanity and dignity. Some West Asian countries have set up shelter facilities to harbour or detain migrant workers. According to government officials, women are kept only for 24 hours in custody by the missions and thereafter they are sent to a camp/ jail where they are kept until they are deported from the host country. These women are usually held on charges of immigration violations, theft and violation of the law in the host country. The camp in Lebanon houses those who have violated immigration laws and also holds others who have been accused of various crimes. The conditions in the camp/ jail are unsuitable to house migrant workers.

A migrant worker from Ghana described the prison-like conditions in a shelter facility in Saudi Arabia, which was a small room with no ventilation, except for a tiny window which housed about sixty women. There were no proper health facilities provided. Additionally, social workers and migrant rights activists were prohibited from visiting the shelter. The report also mentions the existence of another government run camp near Riyadh that held migrant women who fled their employers or had lost their jobs.

**'Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia', Human Right Watch Report, Human Rights Watch, July 2004, Vol.16, No.5 (E)**

#### **Recommendations to Government**

- Take measures to come to an agreement with Lebanese authorities that they will not harbour migrant workers at this jail and urge authorities to locate migrant workers in suitable alternate accommodation prior to deportation.
- Undertake an independent investigation of these shelter facilities and urge states concerned to ensure that migrant workers' rights under the MW Convention are not violated.

#### *5) Access to Training and Information*

##### **(i) Situational Analysis**

###### *Training*

Pre departure training is a prerequisite for registration with the SLBFE since 1996. The SLBFE has established 22 training centres at the provincial level. The Western province has eight centres, whereas the Eastern province has only one. The North Central and North Western provinces have two centres each.

The Migrant Services Centre, the social arm of the National Workers Congress (NWC) began training programmes in late 1996, as a pilot project, which was expanded upon by the government when it commenced training programmes around the island.

Provisional data for 2006 indicates that the majority of migrant workers are from Colombo (Western Province) 12.8%; Kegalle (Sabaragamuwa Province) 4.8%; Gampaha (Western Province) 8.8%; Galle (Southern Province) 5%; Batticaloa (Eastern Province) 4.2%; Anuradhapura (North Central) 5.8%; Puttalam (North Western Province) 4.8%; Kandy (Central Province) 7.1%; Kurunegala (North Western Province) 13.6%; and Ampara (Eastern Province) 4.1%. More training centres need to be established in these areas to cater to the migrant population. **See Annexure, Departures for Foreign Employment by Districts and Manpower Levels 2006 (Provisional), Table 27, Annual Statistical Report of Foreign Employment 2006, Sri Lanka Bureau of Foreign Employment.**

The SLBFE conducts training programmes for registered migrant workers prior to departure. Until end 2006, housemaids were given a Twelve-Day training. Since 2007 however, this training period was extended to a Thirteen-Day training for Middle East bound housemaids and a Twenty Two-Day training for housemaids bound to non Middle Eastern countries. Steps are also being taken to train nurses prior to departure for employment.<sup>7</sup> A range of information is given at both these training programmes and booklets produced by the SLBFE giving useful information is also distributed. The training includes personal development aspects, vocational training, management of finances, family welfare and other aspects. In addition, Arabic and English are also taught. A module on educating the spouses of prospective migrant workers on their role as caregivers is also included. However, the training provided is inadequate because it does not cater comprehensively to the needs of the migrant workers and does not prepare the worker for the conditions of work and the type of work the worker will be called upon to perform.

#### **BEST PRACTICE**

At the training sessions, trainees are given a small handbook which contains common Arabic words and their meaning. They are also given leaflets on 'whom to contact' and 'where to go' if they are faced with any problems and require assistance.

The training programmes must be focused and pragmatic and aim at safeguarding the rights of the workers in given situations. For example, the training should include information on the undesirability of changing one's employer without notifying and getting prior approval of the embassy in the host country. Workers must have relevant information so that they can act accordingly if problems arise during their employment.

In July 2005, a module on the prevention of HIV/AIDS was introduced as a pilot project for migrants and their families at the training centre in Anuradhapura in the North Central province of the country. An extra day's training is now provided on AIDS prevention.

However, the psychological aspects have not been emphasized in the training programmes and this aspect needs to be concentrated on as many migrant workers go through orientation problems on arrival in the host country. It has been found that some of these workers are unprepared for a tight work schedule and are uninterested in working hard. Some are

<sup>7</sup> Information from Country Co-ordinator, SLBFE.

homesick and wish to return before the expiration of the contract. These aspects need to be dealt with at the training programmes. Since 2003, counselors were recruited by the SLBFE to provide psychological inputs into the programmes. The training programmes need to incorporate the psychological aspects by trained counselors on a regular basis in order to improve the mindset of the workers and instill in them a commitment to their contractual obligations.

The period of training should also include information on the migration process so that illegal recruiters and unscrupulous licensed recruitment agents do not exploit prospective migrants.

### **BEST PRACTICE**

The SLBFE, in cooperation with the International Organisation for Migration (IOM), has established eight pilot regional Migrant Information and Service Desks (MISDs) in the offices of the SLBFE district centres, in high migration areas island-wide. This measure would ensure that decentralised services would be available at district levels to migrant workers and their families and also ensure better information dissemination and access to information on safe migration. The MISDs will be able to coordinate with civil society groups and communities in ensuring that information is more effectively disseminated.

### **(ii) Recommendations to Government**

- Take measures to improve training programmes for migrant workers by recruiting well trained trainers
- Improve the course modules currently being taught after evaluating the needs of the workers. For example, it would be useful to categorize workers based on competence, educational qualifications etc so that maximum benefit will be gained from the training
- Take measures to assess, monitor and evaluate current training programmes for programme content and effectiveness.
- Establish more training centres in areas which have heavy out migration populations
- Take immediate steps to extend the training programme to one month.
- Award different categories of certificates to migrant workers who complete the training programme in order to improve the quality of workers.
- Training of skills of workers should focus on the demands of the global labour market so that high demand categories are catered to.

A sum of Rs. 350,000 is given as compensation to the family upon the death of a migrant worker. Migrants workers and their families must be informed of this payment as many are unaware of this payment and do not claim the compensation due to them in time.

### **6) Model Employment Contract**

It is compulsory for employers to sign a contract of employment with the domestic worker. The contract is endorsed by the Sri Lankan embassy prior to the worker leaving the country.

This three-party contract is signed by the employee, agent and the employer. Since mid 2007, the signing of this contract by the agent and the migrant worker must be carried out at the office of the SLBFE. This procedure allows the SLBFE to handle complaints and also call for compensation if there is a breach of the contract. The contract attempts to curb exploitation of the worker. However, these contracts are with the employers and not with the government. Hence they lack enforceability.

There is evidence to suggest that in a few instances, where migrant workers have been able to leave without signing a contract prior to departure, upon reaching the host country, they have been made to sign contracts in a language they do not understand. However, the contracts lack legal enforcement. In spite of these contracts being signed, exploitation of the workers takes place and the contracts cannot be enforced in the host country. There is evidence to the effect that these contracts are not scrutinized prior to signing. A contract on file with the author of this report indicates that the employer had signed a contract twice and the employee had not signed it.<sup>8</sup> This type of error should not occur. **See Annexure for Contract of Employment.**

#### **Recommendations to Government**

- The contract of employment should be registered with the SLBFE and the Sri Lankan mission overseas.
- The contract of employment should be in all three languages, Sinhala, Tamil and English.
- The contract of employment should contain details such as the name of sponsor and worker, monthly wages, terms and conditions of employment, hours of work, leave and holidays, health care, food, lodging and termination of contract.

#### **7) *Returning Migrants***

#### **Recommendations to Government**

- Establish a register at the airport for the registration of returning migrants.
- Conduct periodic studies and surveys to ascertain the status of returnee migrants to inform policy development at all levels
- Returning migrants to be made aware of reintegration schemes available such as employment services, business development service, credit, training, loan facilities etc.
- Returning migrants to also be made aware of available legal actions, social programmes that focus on issues relating to reintegration.
- A community based approach should be adopted to disseminating information on the migration process by fostering focus group discussions consisting of potential, outgoing and returning migrants to inform each other.
- Qualified migrants must be encouraged by the state to return to the country and contribute their services to the development process by offering incentives.

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<sup>8</sup> Contract obtained from a NGO working on migrant labour. Name withheld for reasons of confidentiality.

- Establish a social protection scheme paid for by the state or by recruitment agencies to compensate migrants for non payment of remuneration, other benefits and financial losses.

#### **Part IV**

#### **Other Rights of Migrant Workers and Their Families who are in a Documented or in a Regular Situation.**

#### **Articles 37 to 56**

### ***1) Right to Participation in Public Affairs of the State of Origin***

#### **(i) Situational Analysis**

##### *Progress of Voting Rights*

Migrant workers in overseas employment are currently unable to exercise their vote at any local, provincial or national election held in Sri Lanka. The inability to use the vote while employed in the host country amounts to a violation of their political rights to participate in the political life of the country of origin and violates Article 41 of the MW Convention. Civil society groups for the past several years have called on successive governments to grant migrant workers the right to exercise their vote. However, the call has gone unheeded.

In 2000, the National Workers Congress (NWC) took up the issue of voting rights for migrant workers. The NWC submitted a memorandum to the Human Rights Commission of Sri Lanka (HRC) which spelt out that of the 13 million eligible voters in the country, over one million of them were employed overseas and unable to exercise their franchise, although their names were in the electoral registers. The HRC after examining the submission, recommended to the Elections Commissioner that it consider ways of ensuring the right to vote of migrant workers. The government needs to bring in amending legislation and create the necessary mechanisms to give effect to this recommendation.

#### **(ii) Recommendations to Government**

- Take immediate steps to ensure that migrant workers are able to exercise their right to vote from their country of employment at national, provincial and local government elections.
- The State must work out a scheme to permit migrant workers the right to vote. Models used in other countries which also have a large numbers of migrant worker populations working overseas need to be examined. (eg. The Philippines)
- The SLBFE should maintain statistics of migrant worker movement for voting rights purposes.

### ***2) Freedom of Movement and Withholding of Passports***

It is well documented that employers overseas withhold passports of migrant workers upon arrival at the place of employment. The reason given is that many domestic workers run away from their original place of employment and withholding of the passport is a deterrent.

It has also been well documented that these employees run away for reasons such as abuse, better alternative employment opportunities, non payment of wages and other reasons. As such, there is no justification for taking away the travel document of the worker. Although it has been argued that this is done in the best interests of the worker, this violates the fundamental right to freedom of movement of every worker. The better alternative is to educate workers prior to their departure and advise them that they should remain with the original employer with whom the contract was signed unless there are compelling reasons to leave. If they do wish to leave, then they should notify the Sri Lankan Embassy of their change of address in order that the latter can keep track of their employment.

### **Recommendations to Government**

- Ensure that prospective employers are made aware that withholding of passports is a violation of the rights of migrant workers to freedom of movement through the embassies and consular offices
- Ensure that migrant workers are educated on their right to freedom of movement and that they should not hand over their passports to their employers, agents or any other person.
- Ensure that steps are taken in the host country to prosecute any person who removes the passport of a migrant worker as it is a grave violation of a person's rights.
- Workers whose passports have been confiscated by their sponsors should not be asked to pay a fine by the Ministry in Charge for loss of passport, upon reasonable justification.

### ***3) Establishment of Support Structures and Procedures***

#### **(i) Situational Analysis**

##### **CASE STUDY**

I went to Saudi Arabia as a housemaid on the 25<sup>th</sup> of November 2002. While working there as a housemaid I had to suffer a lot. They hit me and continuously scolded me. I was even hit with a broom. One day the landlady threw me out of the house. I was on my way to the agency when the landlord came in his vehicle to take me back. For one year I was not given any food to eat. They only gave me enough food for them, to cook. I had even eaten stuff thrown into the bin. I was not paid a cent for 1 year's work.

Letters written by me were never posted. They told me my salary was sent to me. However, I have not received a cent till today. I'm heavily in debt as I took a loan from a money lender to go abroad. I have no way of paying it back and my husband doesn't have a permanent job. I have two children who go to school.

After coming back to Sri Lanka I went everywhere seeking help. Now almost three years have passed. I've still got nothing for all the trouble I had to go through. I sent a letter to the SLBFE asking for compensation. They conducted an inspection on 16<sup>th</sup> March 2006 after which they promised to pay me Rs.10,000/-. As I refused to take such a small amount, they

sent me a cheque for Rs.15,000/-. When I went to change it through my mother's bank account I was accused of stealing. Then I called the SLBFE and told them not to put me in further trouble. I somehow managed to get money for the cheque but it's not enough for all the trouble that I went through for one year in Saudi Arabia.

**Migrant Worker from Kandy. Adapted from a case study submitted by Women and Media Collective.**

## **(ii) Recommendations to Government**

- Take steps to establish links with potential migrant workers through outreach programmes. The state must reach out to potential migrant workers, rather than wait for them to access state structures such as the SLBFE and its branches set up around the country. The migrant workers maybe unable to easily access information on safe migration due to problems of distance and lack of transport facilities and also due to family commitments which do not allow them to leave the home environment to access information.
- To establish a task force consisting of returnee migrant workers, prospective migrants, NGOs working with migrants in order to ascertain and deal with problems of migrants,
- To establish a network/ committees in the countries of employment consisting of labour officers/ welfare officers/ migrant workers to ascertain and gather information on the needs/ grievances/ problems encountered of migrant workers while in employment
- Liaise with NGOs in home country and in host country to ensure support and assistance for migrant workers.
- Facilitate the establishment of community support networks in the host countries.
- Establish decentralized medical services at the district level to ensure easy access for potential migrants.

## ***4) Right to transfer earnings and rights in relation to taxation***

### **(i) Situational Analysis**

In 2006, provisional data received from the SLBFE states that inward remittances amounted to Rs.241,816 million. Of this figure, 57% of the remittances were made from the Middle East. Remittances by migrant workers contribute to 5-6% of the GDP and are second only to the garment sector. Remittances are made by migrant workers in two forms: periodic transfers to the family for consumption purposes and end of contract remittances in lump sum form. In addition to formal remittances, large sums of money are sent through informal channels such as cash carried in person and cash carried by friends and family. If channeled into investment, remittances would generate employment opportunities and also contribute to economic growth.

Some returning migrants invest in small groceries, restaurants, transport vehicles and similar businesses. These migrants need to be encouraged and assisted to save and invest wisely so that they reap the benefits of their overseas employment. Many women who were

unemployed prior to migration often have difficulty in finding suitable jobs upon their return and many re-migrate due to this reason.

### **BEST PRACTICE**

The Sri Lanka Export Credit Insurance Corporation (SLECIC), carries out a bank guarantee scheme to cover the cost of passage for Sri Lankans migrating for work. The scheme which started in 1992, has been revised periodically and the scope of the scheme is that the SLECIC issues a bank guarantee to a financial institution to grant credit to prospective migrant workers for the cost of a ticket, SLBFE registration fees and visa fees. To be eligible, applicants are required to furnish documentation and proof of employment and pay an upfront premium based on the cost of the air ticket. There is also a requirement for co guarantors, at least one of who must be a family member of the applicant and the other acceptable to the bank.

**Excerpt from “Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers: An Information Guide”, Booklet 3, International Labour Organization, International Labour Office, Gender Promotion Programme, Geneva, 2004, pg 20.**

### **(ii) Recommendations to Government**

- That links are created between banks, financial institutions, non governmental institutions and micro finance institutions so that transaction costs are lowered to encourage formal remittances.
- That investment is promoted through various incentives such as rebates.

### **Part VI**

#### **Promotion of Sound, Equitable, Humane and Lawful Conditions in Connection with International Migration of Workers and Members of their Families Articles 65 to 71**

State obligations are spelt out in this section. The provision of adequate services by the state to cater to the needs of migrant workers through the provision of adequate information and the formulation of migration policies and other means is laid down. State obligations in relation to the clandestine movement of persons are also stated. The formulation of a migration policy for Sri Lanka is being spearheaded by the International Labour Organisation (ILO) and a working group has been formed to work on the policy.

The provision of adequate consular services also forms part of a state's obligations to migrant workers. One such service is the setting up of safe houses in embassies. The Sri Lankan embassy premises in a few Middle Eastern countries (Lebanon, Jordan, Qatar, Oman) run safe houses which act as shelters for women who have run away from their employer due to various reasons such as abuse and illness. Safe houses are managed and financed by the SLBFE and house only women. Only registered workers are housed in the shelter and they are kept until their problems are sorted out after which they are deported to

Sri Lanka. Upon deportation, depending on whether the migrant workers are blacklisted or not, it is possible to re-enter the country of employment.<sup>9</sup>

The SLBFE publishes statistical data on migrant workers annually. The numbers of departures are also listed. However, it must be noted that these statistics are only of those workers who have registered with the SLBFE. Those who have not registered with the SLBFE are able to slip out of the country unnoticed. The SLBFE has appointed officials at the international airport to seek out unregistered workers and register them at the airport prior to departure. The SLBFE however maintains that the numbers of unregistered workers are negligible.

The laws on trafficking have been strengthened. (See below section on Trafficking and Recommendations to Government) However, a lack of awareness among the public of the many facets of trafficking deters their effective implementation. Recent news reports have highlighted that underage women are being sent as employees by unscrupulous employment agents.

### *1) Trafficking*

#### **Recommendations to Government**

- That all avenues are geared to ensuring that migration is safe and undertaken through legal means to deter the incidence of trafficking
- That the 1996 Amendment to the Penal Code is effectively enforced through awareness building programmes for civil society, police officers, potential migrants. These programmes must also be conducted among NGOs dealing with migrant workers and other women's organizations, officials of the SLBFE, lawyers and the judiciary.

#### **CASE STUDY**

A newspaper article highlighted that some job agencies and sub agents send girls as young as thirteen as housemaids to West Asia. Five young girls were apprehended by the SLBFE. Five forged passports have been found which state that the girls are twenty two years of age. Three girls who were taken into custody had been attending classes at a housemaid training centre run by the SLBFE. Sub agents working for employment agencies target young girls from poor families and promise them employment in West Asia and take them to Colombo. Accommodation is provided to these girls until arrangements for their travel is finalized. The SLBFE Chairman had also stated that a housemaid training centre had informed him that the centre had refused to enroll nine girls as they have been underage.

**Newspaper report in The Sunday Times, November 26 2006, Page 4.**

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<sup>9</sup> Information from Country Co-ordinator, SLBFE.

## *2) Employment Agents and Sub Agents*

### **Recommendations to Government**

- Employment agencies that flout the law and individuals guilty of malpractices must be blacklisted and should not be permitted to re-register. It is important that the name of the organization and the name of the individuals are blacklisted.
- Suitable deterrents such as imprisonment for charging of excessive fees by employment agencies must be put in place.
- Surety bonds issued to foreign employment agencies should be increased so as to act as a deterrent to unscrupulous agents.
- Monitoring of recruitment sub agents by foreign employment agencies must be carried out and if this is not possible, then the appointment of sub agents must be prohibited as most illegal activities are carried out by these sub agents who are not accountable to any person or institution.
- Sub agents must be registered and agents must be held accountable for the acts of sub agents appointed by them.
- Another option would be to appoint two or more sub agents per district per registered employment agent. This would enable proper monitoring of sub agents and reduce unlawful practices.

## *3) Insurance*

One of the benefits of registration is that an insurance cover is granted to a migrant worker for a period of two years which is the usual length of a contract. The insurance cover expires at the end of two years and if the migrant worker wished to extend this cover, he or she has to go to the mission in the country of employment and pay the required sum. Inevitably, this does not take place and if workers decide to extend the employment contract over two years, they are not covered by insurance. The majority of workers lack basic awareness of the process involved. The expectation that the majority of these workers will approach the missions on their own initiative is unrealistic. The missions have to work out a way of reaching out to these workers, instead of waiting for the workers to approach the missions. Insurance claims must also be made within fourteen days. This time period is insufficient.

### **Recommendations to Government**

- Ensure that workers are aware prior to their departure from Sri Lanka that they need to extend their insurance after two years of employment.
- Take steps to monitor the insurance covers taken by workers and the location of these workers in the country of employment so that they can be informed by the missions concerned that their insurance covers are due to lapse.
- The time period for insurance claims should be increased to at least one month or upto three months for reasonable cause.

#### ***4) Memorandums of Understanding (MOU) and Bilateral Agreements***

Sri Lanka has signed MOUs with governments of Jordan, Qatar, UAE, Korea and Malaysia. These MOUs are signed by the Ministers in charge of foreign labour in the receiving and sending countries. A bilateral agreement between Lebanon and Sri Lanka is to be signed in the near future. The MOUs need to be scrutinized well prior to signature as some of them violate provisions of the MW Convention. MOUs are not legally enforceable and their value is minimal. Unfortunately, it is only MOUs that are signed by the Sri Lankan state, and not bilateral agreements which are legally enforceable in the event of non compliance. Bilateral agreements would be the only effective method of ensuring that at least the basic rights of workers are protected in the host country.

#### **CASE STUDY**

The MOU signed in June 2006, between Sri Lanka and the government of Malaysia has several provisions which violate the MW Convention. Article 8 of this MOU which deals with the responsibilities of the employer states that the employer shall keep in his or her custody the worker's passport which will be surrendered to the Sri Lankan High Commission in the event the worker absconds. This article violates the worker's right to freedom of movement as spelt out Article 39 (1) of the MW Convention. The justification for its inclusion is that it protects the worker and prevents the worker from absconding or breaching the contract of employment. However where the worker is subject to abuse and ill treatment and has no option but to leave or there are other compelling reasons to leave the place of employment, the worker has to leave sans the passport. Although the employer has an obligation under the MOU to surrender the passport to the embassy, unless there is monitoring by the Sri Lankan Embassy, the passport will remain with the employer, resulting in hardship to the employee.

Another Article in the MOU with Malaysia prohibits workers from marrying in the host country and also prohibits the worker's family from joining the worker in the host country. This provision too violates Article 44 (2) of the MW Convention, which permits family reunification and does not prohibit marriage while living in the host country.

#### **Recommendations to Government**

- Article 12 of the MOU signed with Malaysia referred to above, states that parties may meet from time to time to discuss matters pertaining to the implementation of the MOU. The Sri Lankan government and the Malaysian government should take measures to amend the provisions of the MOU which violate the MW Convention.
- Ensure that all MOU's are worded in a manner that does not violate any of the articles in the Convention.
- MOU's have the potential to become bilateral agreements. The state should ensure that pressure is exerted at the highest level to convert MOU's into bilateral agreements at the earliest.
- Urge labour receiving counties to sign bilateral agreements and not MOUs.

- Engage in aggressive media campaigns to provide information on the migration process.

## **5) *General Recommendations to Government***

### **(a) Blacklisting of Employers**

- Ensure that domestic workers are not placed with an employer already accused of some form of abuse.
- The State must ensure that a sponsor found guilty of unlawful practices is blacklisted and that no worker is sent for employment to such sponsors

### **(b) Use of the media**

- Engage in effective media campaigns to provide information on the migration process and its dangers.
- That State as well as private media should report on positive features of migration and deal not only with the negative aspects of migration.

### **(c) General**

- Take steps to ensure that a declaration is made under Article 77 of the MW Convention, under which a state party recognizes the competence of the Migrant Rights Committee to receive and consider communications from or on behalf of persons living within its jurisdiction.
- Ensure that the Sri Lankan Ministry of Foreign Affairs is more involved in the welfare and safety of migrant workers.
- Take immediate steps to formulate a comprehensive national labour migration policy in consultation with civil society.
- Ensure that migration is mainstreamed into the national development policy.

## SECTION C

### **Measures taken by Sri Lanka for the Dissemination and Promotion of the Convention and on the Cooperation with Civil Society to Promote and Respect the Rights in the Convention.**

No specific measures are being taken by government to disseminate and promote the Convention. The SLBFE and its branch offices take on the role of disseminating information to prospective migrants as part of their mandate. Informal networking takes place between the SLBFE and civil society at seminars and training programmes organized both by the state and non state sector. Co-operation between civil society and the state is piecemeal and sporadic with no formal mechanism in existence to promote such co-operation.

## LIST OF ANNEXTURES

1. Case Studies
2. Letter against Ban on Migrant Workers by the Sri Lanka Women's NGO Forum
3. Complaints Received by Nature & Sex 2003-2006, Table 63, Annual Statistical Report of Foreign Employment 2006, Sri Lanka Bureau of Foreign Employment, Sri Lanka.
4. Complaints Received from Female Migrant Workers by Manpower Levels as a Percentage of Departures 2003-2006, Table 65, Annual Statistical Report of Foreign Employment 2005, Sri Lanka Bureau of Foreign Employment, Sri Lanka.
5. Departures for Foreign Employment by Districts and Manpower Levels 2006 (Provisional), Table 27, Annual Statistical Report of Foreign Employment 2006, Sri Lanka Bureau of Foreign Employment.
6. Extract from a Contract of Employment

## Case Studies

A 19 year old girl had come to an employment agency in Colombo through a broker with the intention of going abroad. She was charged Rs. 14,000 for the registration of a medical report and insurance. She reached Beirut in October 2005. She was given a job at an animal slaughter house to clean and package mutton and sheep. When she objected, the employee of the Beirut job agency had harassed her and sent her to work in several houses. She had also refused to work in any of these houses. For this they had burnt her hands and legs with gas. She was burnt like this continuously and neither food nor water was given for her survival. Her face was burnt with a candle. Subsequently, she had been dropped at the Beirut Airport. Employees from the SL agency had persecuted her in Sri Lanka upon her return to the country. She had gone to the Police Station in Dehiatthakandiya with a friend to make a complaint. There she had been inspected by a doctor. The Inspector of Police and the doctor both had informed the Foreign Employment Bureau of the ill treatment she had been subjected to. Yet nothing has been done so far to remedy the situation.

**(Published in “Lakbima”, a Sinhala newspaper titled “Nirosha from Dehiatthakandiya at an animal slaughter house in Lebanon” by Gayan Kumara Weerasinghe and Udeni Jayasundara. Date of newspaper not available.)**

Nadeeka is from Kandy. In 2005 she went to Kuwait as a housemaid. There she had fallen sick with fever and chest pains. The employer she'd been working for had terminated her contract saying that her services were no longer required. They had returned her to the agency. At the agency she had only been given Panadol as medication and no food had been given. The agency had taken her back to the house. At the house, the employer's son had attempted to assault her. When she reported this to the house owners they had not believed it. Instead they had beaten her till she fainted. She had not been paid her wages. Since it became difficult for her to stay any further in that house with the employer's son constantly trying to harass her, she had run away to the agency. The person at the agency too had beaten her and sent her off to another house. There she had had to work till 2 a.m. and again she had been deprived of her wages. Further she had had been given only roti to eat. She had to wake up at 5 a.m. and there too she had suffered physical assaults by the hands of her employers. As this became a habit she had gone back to the agency asking them to send her back to Sri Lanka. The person at the agency had asked her to pay extra Rs. 85000 for the ticket. Her parents had borrowed money and sent it to her with which she had been able to pay for the ticket. However she had not been able to recover that money to date.

**(A case study adapted from information submitted by Sister Immaculate at Welcome House)**



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இலங்கைப் பெண்களின் அரச சார்பற்ற நிறுவனங்களின் கூட்டு  
**Sri Lanka Women's NGO Forum**

22 March 2007

Dear Sir / Madam,

**The Ban on Mothers of Young Children Migrating Overseas for Employment**

The Sri Lanka Women's NGO Forum is very concerned about the recent move by the Sri Lankan government to impose a ban on women with children under 5 years of age migrating overseas for employment. We have presented our views in the statement attached. We feel strongly that this is a serious violation of women's right to employment as well as a violation of the Sri Lankan government's commitments to national and international conventions on protecting women's rights in general.

We would be grateful if you would publish this statement in your newspaper.

Thank You,  
Yours Sincerely,

Dr. Sepali Kottegoda  
Coordinator

**Members of the Sri Lanka Women's NGO Forum**  
The Women and Media Collective  
The Centre for Women's Research  
Suriya Women's Development Centre, Batticaloa  
Women's Education and Research Centre  
Voice of Women  
Kantha Shakthi  
Ruk Rekaganno  
Muslim Women's Research and Action Forum  
Agromart Foundation

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### **The Ban on Mothers of young children migrating overseas for employment.**

We note with deep concern the government's proposal to ban mothers with children under 5 years of age from migrating overseas for employment, primarily as this violates one of the principle rights of women, that of the right to employment as set down in the UN Convention on the Elimination of All Forms of Discrimination against Women as well as the Women's Charter of Sri Lanka. It further violates the rights of migrant workers as set out in the UN Convention on the Protection of the Rights of Migrant Workers and their Families – Both these Conventions have been ratified by Sri Lanka.

With this proposed ban, the government will take away the right of women to access a form of employment through which they have been able to support and nurture not only their own families but also to often contribute the largest share of foreign exchange to the government coffers for over 20 years. The hundreds of thousands of women who migrate for employment do so because of poverty and the non availability of adequate employment opportunities in Sri Lanka; in today's context of spiraling food and fuel prices, the impetus to find such employment is overwhelming.

It is well recorded that women migrate overseas for employment only after extensive discussion and agreement with their spouses and/or other family members including their parents and extended family members. Women exert much effort to ensure that children left behind are cared for and as mothers often remain anxious about their welfare right through their employment overseas. By going overseas for employment, women have displayed their deep commitment to the Rights of Children to better nutrition, better housing and the enhancement of their capabilities. It is imperative that this factor is recognized at the policy level, acknowledged publicly and respected by all.

The fact that there are reports of neglect or abuse of children of migrant workers is indeed disturbing and has been a focus of concern for many over the last two decades. However it must also be borne in mind that children of non migrant workers too are prone to abuse both in and out of the home and that the security of children of working parents must be ensured by adequate measures taken by families as well as by society and the State.

While undoubtedly the absence of a parent from the family affects all family members, including children, the government's move to ban migration overseas

of mothers of young children effectively denies the role which men, as fathers, play in family welfare. The assumption that only women as mothers are accountable for the welfare of the children in the family sends out the message that men are incapable of caring for their children emotionally, socially or economically. It further strengthens the view that men are most likely to be the abusers of their children and their wives, and can only be expected to waste whatever resources the family may have access to. In addition, although Sri Lanka has a serious record of violence against women and of incest, there is little accountability demanded of men who are perpetrators of such heinous crimes. Government and society continues to expect that women are to take the blame if their children are abused because of the absence of the mother from the home. This is an extension of the general view that women and girls are responsible for the violence and abuse they suffer at the hands of men. It also serves to encourage a sense of general impunity enjoyed by male perpetrators with regard to domestic violence and abuse.

Is banning the migration of mothers overseas for employment the answer to this problem? Rather, is it not the responsibility of the government which has received the full benefits of the earnings of these women to invest some of this wealth for example, in strengthening welfare facilities for children of migrant women workers?

Admittedly, the number of child care centres that are available to these families even after more than two decades is minuscule. The professional standards of such centres are often not monitored. It should be noted that this lack of child care facilities affect not only women migrant workers but also all women with children who are employed within Sri Lanka.

We suggest that the government establish a visiting and monitoring unit for the families of the women and men migrants with young children. This should be decentralized under the Provincial Councils and records kept regarding carers, progress re health, education etc. The money earned by these workers in foreign exchange justifies such expenditure by the government.

Given the complex nature of this issue, we call on the government to reassess the ground situation and to take more proactive measures that will protect women's right to employment and the right of children to a safe and secure childhood. We believe focused consultations must take place between the government, women migrant workers and representatives of organizations that work in Sri Lanka for the protecting the rights of Sri Lankan migrant workers in order to respond to the concerns raised. Protectionist regulations that effectively violate the rights to employment and mobility of working women, are unlikely to bring about the required results.

March 2007

**Table - 63**  
**Complaints Received by Nature & Sex in Year 2003 - 2006\***

| Nature of Complaints                       | 2003         |              |              | 2004         |              |              | 2005         |              |              | 2006*        |              |               |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
|  | Male         | Female       | Total         |
| Non payment of agreed wages                | 270          | 1,498        | 1,768        | 150          | 1,476        | 1,626        | 132          | 1,577        | 1,709        | 454          | 1,535        | 1,989         |
| Lack of Communication                      | 93           | 2,065        | 2,158        | 87           | 2,078        | 2,165        | 78           | 1,677        | 1,755        | 109          | 2,402        | 2,511         |
| Sickness                                   | 35           | 435          | 470          | 51           | 559          | 610          | 78           | 575          | 653          | 78           | 584          | 662           |
| Harassment(Physical & sexual)              | 56           | 1,358        | 1,414        | 78           | 1,675        | 1,753        | 142          | 1,807        | 1,949        | 104          | 1,662        | 1,766         |
| Death – Natural                            | 49           | 78           | 127          | 73           | 80           | 153          | 55           | 60           | 115          | 100          | 72           | 172           |
| Death – Accidental                         | 40           | 23           | 63           | 43           | 32           | 75           | 38           | 24           | 62           | 59           | 18           | 77            |
| Death – Homicide                           | 1            | 3            | 4            | 3            | 5            | 8            | 1            | 3            | 4            | -            | 1            | 1             |
| Death – Suicide                            | 4            | 19           | 23           | 3            | 6            | 9            | 5            | 17           | 22           | 3            | 4            | 7             |
| Death – Due to the Lebanon war             | -            | -            | -            | -            | -            | -            | -            | -            | -            | -            | 6            | 6             |
| Not sent back after completion of contract | 11           | 151          | 162          | 15           | 191          | 206          | 44           | 667          | 711          | 36           | 689          | 725           |
| Stranded – Lack of reception on arrival    | -            | 21           | 21           | -            | 13           | 13           | 2            | 33           | 35           | -            | -            | -             |
| Problem at home (Sri Lanka)                | 7            | 163          | 170          | 13           | 330          | 343          | 33           | 483          | 516          | 25           | 497          | 522           |
| Breach of Employment Contract              | 877          | 425          | 1,302        | 695          | 449          | 1,144        | 1,137        | 655          | 1,792        | 838          | 314          | 1,152         |
| Stranded without employment                | 1            | 7            | 8            | -            | 13           | 13           | 112          | 429          | 541          | 562          | 498          | 1,060         |
| Premature termination                      | 1            | 1            | 2            | -            | -            | -            | 1            | -            | 1            | -            | -            | -             |
| Illegal money transaction                  | 51           | 41           | 92           | 5            | 76           | 81           | -            | 1            | 1            | -            | 1            | 1             |
| Others (Domestic Sector)                   | 0            | 185          | 185          | 11           | 120          | 131          | 1            | 22           | 23           | 17           | 75           | 92            |
| Others (Non – Domestic Sector)             | 1            | 2            | 3            | 20           | 3            | 23           | 14           | 26           | 40           | 10           | -            | 10            |
| Not Identified                             | -            | -            | -            | -            | -            | -            | 1            | -            | 1            | 7            | 69           | 76            |
| <b>Total</b>                               | <b>1,497</b> | <b>6,475</b> | <b>7,972</b> | <b>1,247</b> | <b>7,106</b> | <b>8,353</b> | <b>1,874</b> | <b>8,056</b> | <b>9,930</b> | <b>2,402</b> | <b>8,427</b> | <b>10,829</b> |

\*Provisional

Source: Conciliation Division – SLBFE  
Information Technology Division – SLBFE

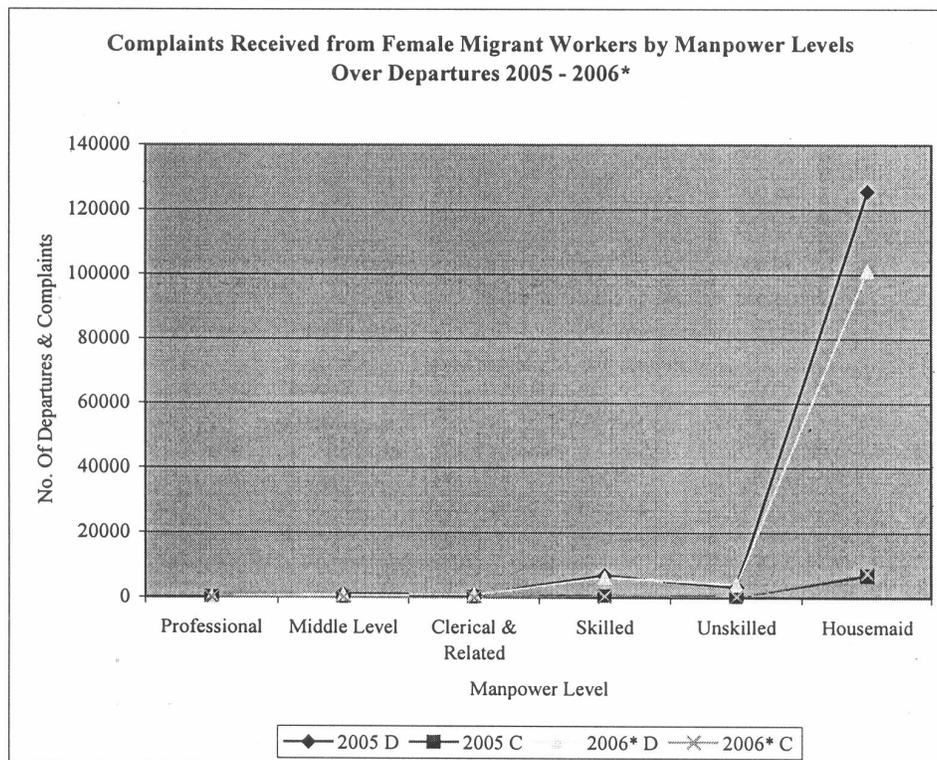
Looking the table 63 more than 78 per cent of total complaints were occurred due to Lack of communication (23 per cent), Non payment of agreed wages (18 per cent), Harassment – Physical & Sexual (16 Per Cent), Breach of employment contract (11 per cent) and Stranded without employment (10 per cent). The proper training and enhance the quality of migrants workers is essential to out come above-mentioned complaints.

**Table - 65**  
**Complaints Received from Female Migrant Workers by Manpower Levels as a Percentage of Departures for Manpower Levels in Year 2003 - 2006\***

| Manpower level     | 2003    |       |      | 2004    |       |      | 2005    |       |       | 2006*   |       |      |
|--------------------|---------|-------|------|---------|-------|------|---------|-------|-------|---------|-------|------|
|                    | D       | C     | %    | D       | C     | %    | D       | C     | %     | D       | C     | %    |
| Professional       | 131     | 2     | 1.53 | 105     | 2     | 1.90 | 97      | 5     | 5.15  | 97      | 4     | 4.12 |
| Middle Level       | 2,226   | 17    | 0.76 | 1,173   | 80    | 6.82 | 892     | 42    | 4.71  | 764     | 23    | 3.01 |
| Clerical & Related | 1,437   | 28    | 1.95 | 849     | 45    | 5.30 | 754     | 41    | 5.44  | 910     | 15    | 1.65 |
| Skilled            | 16,106  | 508   | 3.15 | 11,979  | 547   | 4.57 | 6,806   | 599   | 8.80  | 6,334   | 410   | 6.47 |
| Unskilled          | 13,427  | 381   | 2.84 | 9,392   | 483   | 5.14 | 3,352   | 376   | 11.22 | 4,003   | 314   | 7.84 |
| Housemaid          | 102,011 | 5,539 | 5.43 | 110,512 | 5,949 | 5.38 | 125,493 | 6,890 | 5.49  | 101,128 | 7,661 | 7.58 |
| Total              | 135,338 | 6,475 | 4.78 | 134,010 | 7,106 | 5.30 | 137,394 | 7,953 | 5.79  | 113,236 | 8,427 | 7.44 |

\*Provisional  
 D = Departures  
 C = Complaints

Source: Conciliation Division - SLBFE  
 Information Technology Division - SLBFE



The majority of complaints were received from female unskilled workers. Looking the table 65 housemaids complaints are increase by 11 per cent over year 2005.

Table - 27  
Departures for Foreign Employment by Districts & Manpower Levels 2006\*

| District      | Professional Level |       |       | Middle Level |       |       | Clerical & Related |       |       | Skilled |        |        | Unskilled |        |        | Housemaid | Grand Total |         |         |
|---------------|--------------------|-------|-------|--------------|-------|-------|--------------------|-------|-------|---------|--------|--------|-----------|--------|--------|-----------|-------------|---------|---------|
|               | Female             | Male  | Total | Female       | Male  | Total | Female             | Male  | Total | Female  | Male   | Total  | Female    | Male   | Total  |           | Female      | Male    | Total   |
|               | Colombo            | 48    | 652   | 700          | 180   | 1,538 | 1,718              | 268   | 2,016 | 2,284   | 738    | 5,281  | 6,019     | 492    | 4,419  |           | 4,911       | 10,572  | 12,298  |
| Gampaha       | 11                 | 253   | 264   | 118          | 991   | 1,109 | 141                | 1,166 | 1,307 | 717     | 4,327  | 5,044  | 427       | 2,909  | 3,336  | 7,005     | 8,419       | 9,646   | 18,065  |
| Kalutara      | 5                  | 88    | 93    | 52           | 403   | 455   | 49                 | 435   | 484   | 541     | 2,416  | 2,957  | 229       | 1,794  | 2,023  | 4,173     | 5,049       | 5,136   | 10,185  |
| Kandy         | 11                 | 131   | 142   | 60           | 403   | 463   | 65                 | 724   | 789   | 273     | 2,803  | 3,076  | 188       | 2,320  | 2,508  | 7,638     | 8,235       | 6,381   | 14,616  |
| Matale        | -                  | 23    | 23    | 12           | 94    | 106   | 22                 | 182   | 204   | 114     | 809    | 923    | 87        | 685    | 772    | 3,172     | 3,407       | 1,793   | 5,200   |
| Nuwara Eliya  | 1                  | 9     | 10    | 5            | 60    | 65    | 6                  | 74    | 80    | 108     | 445    | 553    | 54        | 438    | 492    | 2,382     | 2,556       | 1,026   | 3,582   |
| Galle         | 2                  | 49    | 51    | 32           | 282   | 314   | 53                 | 400   | 453   | 441     | 1,903  | 2,344  | 226       | 1,570  | 1,796  | 5,241     | 5,995       | 4,204   | 10,199  |
| Matara        | 2                  | 19    | 21    | 22           | 138   | 160   | 26                 | 124   | 150   | 267     | 1,027  | 1,294  | 112       | 790    | 902    | 2,053     | 2,482       | 2,098   | 4,580   |
| Hambantota    | -                  | 10    | 10    | 12           | 39    | 51    | 21                 | 46    | 67    | 242     | 510    | 752    | 79        | 468    | 547    | 1,843     | 2,197       | 1,073   | 3,270   |
| Jaffna        | -                  | 10    | 10    | -            | 63    | 63    | -                  | 52    | 52    | 6       | 829    | 835    | 13        | 1,264  | 1,277  | 430       | 449         | 2,218   | 2,667   |
| Mannar        | -                  | -     | -     | -            | 9     | 9     | -                  | 12    | 12    | 3       | 142    | 145    | 5         | 208    | 213    | 283       | 291         | 371     | 662     |
| Vauniya       | -                  | 2     | 2     | 1            | 27    | 28    | -                  | 11    | 11    | 12      | 300    | 312    | 11        | 358    | 369    | 539       | 563         | 698     | 1,261   |
| Mullaitivu    | -                  | -     | -     | -            | -     | -     | -                  | 2     | 2     | -       | 27     | 27     | -         | 48     | 48     | 25        | 25          | 77      | 102     |
| Batticaloa    | -                  | 14    | 14    | 3            | 168   | 171   | 7                  | 100   | 107   | 11      | 1,541  | 1,552  | 40        | 3,962  | 4,002  | 2,863     | 2,924       | 5,785   | 8,709   |
| Ampara        | 1                  | 37    | 38    | 7            | 275   | 282   | 4                  | 170   | 174   | 53      | 2,374  | 2,427  | 53        | 3,096  | 3,149  | 2,404     | 2,522       | 5,952   | 8,474   |
| Trincomalee   | -                  | 5     | 5     | 6            | 48    | 54    | 3                  | 48    | 51    | 17      | 695    | 712    | 29        | 1,098  | 1,127  | 2,504     | 2,559       | 1,894   | 4,453   |
| Kurunegala    | 4                  | 53    | 57    | 70           | 317   | 387   | 93                 | 489   | 582   | 975     | 4,739  | 5,714  | 727       | 3,842  | 4,569  | 16,505    | 18,374      | 9,440   | 27,814  |
| Puttalam      | 3                  | 22    | 25    | 36           | 162   | 198   | 13                 | 158   | 171   | 124     | 1,563  | 1,687  | 406       | 1,742  | 2,148  | 5,679     | 6,261       | 3,647   | 9,908   |
| Anuradhapura  | 2                  | 19    | 21    | 28           | 112   | 140   | 30                 | 143   | 173   | 460     | 1,677  | 2,137  | 222       | 1,236  | 1,458  | 7,943     | 8,685       | 3,187   | 11,872  |
| Polonnaruwa   | -                  | 6     | 6     | 9            | 53    | 62    | 12                 | 49    | 61    | 190     | 681    | 871    | 57        | 513    | 570    | 3,270     | 3,538       | 1,302   | 4,840   |
| Badulla       | 1                  | 24    | 25    | 23           | 94    | 117   | 14                 | 139   | 153   | 201     | 806    | 1,007  | 99        | 599    | 698    | 3,839     | 4,177       | 1,662   | 5,839   |
| Monaragala    | -                  | 7     | 7     | 2            | 18    | 20    | 2                  | 21    | 23    | 88      | 246    | 334    | 33        | 274    | 307    | 892       | 1,017       | 566     | 1,583   |
| Ratnapura     | 2                  | 21    | 23    | 22           | 124   | 146   | 24                 | 143   | 167   | 355     | 952    | 1,307  | 125       | 740    | 865    | 3,314     | 3,842       | 1,980   | 5,822   |
| Kegalle       | 2                  | 35    | 37    | 28           | 186   | 214   | 37                 | 248   | 285   | 368     | 2,065  | 2,433  | 241       | 1,507  | 1,748  | 5,229     | 5,905       | 4,041   | 9,946   |
| Not indicated | 2                  | 33    | 35    | 36           | 297   | 333   | 20                 | 117   | 137   | 30      | 815    | 845    | 48        | 1,260  | 1,308  | 1,330     | 1,466       | 2,522   | 3,988   |
| Total         | 97                 | 1,522 | 1,619 | 764          | 5,901 | 6,665 | 910                | 7,069 | 7,979 | 6,334   | 38,973 | 45,307 | 4,003     | 37,140 | 41,143 | 101,128   | 113,236     | 214,364 | 203,841 |

Source: Information Technology Division - SLBFE

\*Provisional

## EMPLOYMENT CONTRACT

Mr. Lande Badalge Si Sira  
 In capacity as Setter  
 On behalf of M/s Al Jawhara Al-Naderah Co.  
 (First Party)

And Mr. Lande Badalge Si Sira  
 of Sri Lankan Nationality, Passport No. N1216790  
 Issued at Colombo.  
 (Second Party)

**The parties here to have agreed upon the following.**

- 1<sup>st</sup> Subject to the term and conditions of the contract and any mutually agreed amendments and supplements thereto.
- 2<sup>nd</sup> The Second party shall work with first party in the position of Stone Setter, any other position suitable to his expense and capability with monthly
 

|              |     |            |       |
|--------------|-----|------------|-------|
| Basic Salary | USD | <u>450</u> | ..... |
| Allowance    | USD | <u>50</u>  | ..... |
| Total Salary | USD | <u>500</u> | ..... |

 Medical as per factory system  
 Vacation would be after completion of every two (2) years with one month basic salary
- 3<sup>rd</sup> This contract shall be effective for a period of three (3) years. This contract shall be renewed for similar period subject to the same terms and conditions unless either party informs the other party of his intention not to renew one month prior to the end of the contract.
- 4<sup>th</sup> The probationary period of the employees will be fix at ninety (90) days, the first party has a right to terminate the contract without notice. The second party should not breach the contract before completion of his contract period. If he breach the contract he should pay three (3) months salary to company, pay his own air fare and go home.
- 5<sup>th</sup> The First party will provide the residence to the second party.
- 6<sup>th</sup> The first party shall pay the Second party with Air-fare economy class per year regular leave on vacation to his country capital after completion of his contract as per mentioned in the item (3)