

NATIONAL LABOUR MIGRATION POLICY FOR SRI LANKA

**MINISTRY FOR FOREIGN EMPLOYMENT
PROMOTION AND WELFARE**

Development of the National Policy
supported by



International Labour office, Colombo

October 2008

PREFACE

Sri Lanka has seen a tenfold increase in migrant numbers in the last two decades, and current estimates suggest over one million migrants working abroad with an annual outflow of about 200,000 persons. Over the years, foreign employment has generated substantial inflows of remittances, and relieved local unemployment pressures and provided employment opportunities especially to women.

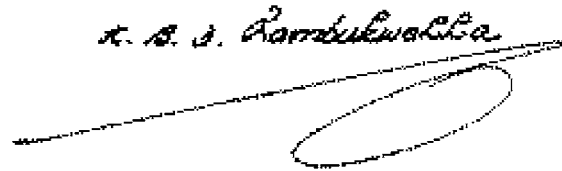
In view of the continuing importance of migration for overseas employment for the economy and society, the newly created Ministry of Foreign Employment Promotion and Welfare has given priority attention to articulating its long term vision, aims and commitment to labour migration.

The elaboration of the national labour migration policy is topical and timely for several reasons. There have been important economic, social and political developments since the mid-1980s when the basic institutional, legal and regulatory framework for overseas employment was developed. These relate to impact of globalization trends on the economy, rapid growth of migrant numbers with associated vulnerability, protection and welfare issues, increasing feminization of migration, social implications of migration and Sri Lanka's commitment to international instruments pertaining to migrant workers. Sri Lanka ratified the International Convention on the Protection of the Rights of All Migrant Workers and Their Families in 1995. It has now ratified all core Conventions of the ILO, and also endorsed the ILO Multilateral Framework on Labour Migration as a solid foundation for elaboration of the national policy. The Government's Ten Year Horizon Development Framework (2006-2016) and the National Plan of Action for Decent Work have recognized the importance of labour migration for the economy. Sri Lanka has also joined global initiatives for promoting migration and development linkages.

It was in this context that my Ministry decided to develop the national labour migration policy with technical assistance from the International Labour Office. The National Labour Migration Policy elaborated here is a considered response to the above developments, representing a unique and pioneering initiative for the South Asian region. It articulates State commitment to ensuring a labour migration process that adheres to principles of good governance and rights and responsibilities enshrined in international instruments to advance opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, dignity, security and equity. The policy document has been generated through an extensive consultative process among all concerned stakeholders - relevant government ministries and agencies, employers' and workers' organizations, migrant associations, civil society and concerned international agencies. The National Policy sets forth the Government's policy commitments and elaborates on challenges and policy responses identified by all stakeholders in the consultative process. The Policy further contains a detailed work plan addressing important policy challenges and issues that have emerged.

A Tripartite Steering Committee (TSC) under my chairmanship was responsible for formulation of the National Labour Migration Policy. The TSC identified three key focus areas for elaboration of the policy - *Governance, Protection and empowerment of migrant workers and their families* and *Migration and Development*. It appointed three Task Forces comprising of stakeholders with considerable experience and involvement in each of these areas. Based on the deliberations of the three taskforces, the National Policy was developed under the overall guidance of the TSC. The draft policy was then reviewed at a broad based national consultation including delegates from all the provinces, and revised accordingly. My Ministry wishes to place on record its appreciation of all the valuable contributions made by members of the task forces, the TSC, the national advisors, and the ILO.

The Ministry of Foreign Employment Promotion and Welfare is happy to carry forward the National Labour Migration Policy. My Ministry recognizes the crucial roles and responsibilities of all key stakeholders in the process, and counts on their full cooperation for ensuring migration in conditions of dignity, security and equity for all Sri Lankan women and men seeking employment overseas. The Ministry also commits itself to ensuring a multi-stakeholder mechanism to monitor and evaluate the implementation process of the Policy.

A handwritten signature in black ink, reading "K. B. J. Rambukwella". The signature is written in a cursive style with a long horizontal stroke extending to the left and a large loop at the end.

Keheliya Rambukwella , M.P.
Minster of Foreign Employment Promotion & Welfare
Chairman, Tripartite Steering Committee,
National Labour Migration Policy

October 2008
Ministry of Foreign Employment Promotion & Welfare
Colombo 1

ACKNOWLEDGEMENTS

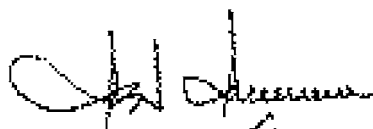
The development of the National Labor Migration Policy for Sri Lanka in a timely manner was made possible through the kind assistance and cooperation of numerous individuals representing public and private sector organizations, employers, trade unions and non-governmental organizations.

I am grateful to the Honourable Minister Dr Kheliya Rambukwella for his commitment and leadership in guiding this process. I wish to acknowledge with grateful appreciation, the contributions made by the members of the Tripartite Steering Committee, members of the working groups who gave of their valuable time in sharing their experiences, expertise and insights on which this National Policy is based.

I gratefully acknowledge the technical and financial support extended by the International Labour Office for the formulation of the National Labour Migration Policy. I wish to place on record my special thanks to Ms Tine Staermose, Director, ILO Colombo Office, Ms Pramodini Weerasekera, Programme Officer, ILO, Colombo Office and Dr Piyasiri Wickramasekara, Senior Specialist on Migration, ILO, Geneva for their guidance, assistance and technical inputs throughout the policy formulation process.

I am also grateful to Ms. Ramani Jayasundere, for her contribution, commitment and dedication throughout the process in her capacity as Process Manager for the formulation of the National Labour Migration Policy and Ms Lakmali Dasanayake for assisting the process. I also acknowledge with appreciation the valuable contribution made by the two Advisors, Professor Siri Hettige, and Dr Markus Meyer of Social Policy Analysis and Research Centre (SPARC) of the University of Colombo.

I wish to express my grateful thanks to all concerned officers of the Ministry of Foreign Employment Promotion and Welfare and the Sri Lanka Bureau of Foreign Employment for their contribution and valuable insights.



Sunil S Sirisena
Secretary
Ministry of Foreign Employment Promotion & Welfare

October 2008
Ministry of Foreign Employment Promotion & Welfare
Colombo 1

EXECUTIVE SUMMARY

The Sri Lanka National Policy on Labour Migration is developed by the Ministry of Foreign Employment Promotion and Welfare. Its aim is to articulate the State Policy regarding Sri Lankan citizens engaged in employment in other countries and to recognise the significant contribution of all Sri Lankan migrant workers to the national economy through foreign exchange remittances and other mechanisms. The policy has the goals of developing a long-term vision for the role of labour migration in the economy, enhancing the benefits of labour migration on the economy, society, the migrant workers and their families, minimizing its negative impacts and, finally, working towards the fulfilment and protection of all human and labour rights of migrant workers.

Over the years, Sri Lanka has instituted a number of programmes and schemes that cover issues of governance in the process of labour migration, the protection and welfare of migrant workers and their families. Most notably, the Sri Lanka Bureau for Foreign Employment (SLBFE) has been instituted since 1997, providing services and a regulatory framework for interested migrants. In 2007, this was brought under the purview of the Ministry of Foreign Employment Promotion and Welfare (MFEPW). The operations of these initiatives have been within the framework of principles of decent work, dignity of labour and the protection of all human rights and freedoms of migrant workers and their families. Despite these initiatives, Sri Lanka continues to face a number of challenges in the field of foreign employment such as the vulnerability of workers who migrate under risky and unsafe conditions and the predominance of low-remittance, low-skilled jobs mainly for women with heavy social costs for families. Thus, the delicate balance between the promotion of foreign employment and the protection of national workers abroad is a continuous challenge. The current national policy is designed to address this and other challenges.

Overall, the national policy aims to promote opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, equity, security and human dignity. It is intended to do so through the institution of policies, laws, regulations, services and facilities for migrant workers and their families. Special emphasis is laid on the development of skills as a main and effective means of protection for migrant workers and their families. The policy is developed in three sections; namely, governance of the migration process, protection and empowerment of migrant workers and their families, and linking migration and development processes. Additionally, six appendices describe the comprehensive framework and consultative process within which the policy was developed.

In the **first section**, good governance is recognised as vital to regulating the labour migration process and is seen to encompass effective institutions and regulations. Good governance should protect human rights, promote participation and achieve equitable social and economic outcomes. Participation, transparency and accountability are key elements of good governance. There are four key areas for consideration, namely, the institutional framework, the legislative framework, the regulatory framework and the social dialogue and consultative framework.

The MFEPW sets the *institutional framework* and is complemented by other key institutions. Under the provisions of the current policy, an Advisory Committee on Labour Migration and an Inter-Ministerial Coordinating Committee are to be established to review existing labour migration processes and facilitate collaboration where necessary. The regulatory role of the SLBFE is to be recognised and further strengthened. In particular, clear guidelines for recruitment are to be issued and the recruitment process more closely monitored and regulated. Recruitment agencies will be held to high standards of conduct and penal provisions are present to address offences. Equally importantly, the role and capacities of the

diplomatic missions in receiving countries to meet the protection and guidance needs of migrant workers are to be strengthened through allocation of resources for training, greater coverage in services and establishment of relevant facilities.

The *legislative framework* is to be in line with existing national and international law on migration. The current existing legislation, namely the SLBFE Act, will be reviewed and amendments proposed to fill any gaps. Sri Lanka is a signatory to the International Convention on the Protection of All Migrant Workers and their Families and a number of other international conventions and frameworks. Thus, efforts will be underway to ensure that these obligations are met where appropriate through legislative measures.

The *regulatory framework*, overseen by the SLBFE, includes ensuring accessible and equitable opportunities for skill development to all citizens thereby promoting skilled labour migration. Attention will be given to the promotion of overseas employment opportunities that safeguard the rights of migrant workers. In particular, this will be achieved through the provision of skills to low-skilled workers, ensuring just and adequate remuneration for migrant workers, addressing issues of abuse, violation and exploitation and preventing and redressing issues of human trafficking. Finally, attempts will be made to ensure the voting rights of migrant workers towards participation and consultation.

The **second section** pertains to the protection and empowerment of migrant workers and their families. The State, having the primary responsibility for the protection of migrant workers and their families, undertakes to protect and empower migrant workers and their families in all three stages of the migration process. These stages are pre-departure (from decision-making to training to preparation for migration), in-service (workers in employment and families left behind) and return and reintegration (with consideration for reintegration, acceptance and appreciation).

The State, in particular, will undertake to set minimum requirements for the profile of migrant workers to ensure their welfare and protection, develop an environment within which potential migrant workers can make informed and considered decisions to migrate for work, further minimise irregular and abusive recruitment processes, and offer significant measures to prepare and train migrant workers psychologically and professionally. This includes psychological and public health advice and support. The Diplomatic Missions in receiving or host countries shall place as priority their duty to protect migrant workers and will ensure safe repatriation for all workers in need. Ensuring that return and reintegration takes place with full protection of rights and freedoms is paramount. The State also recognises its responsibility towards protection and welfare of children of migrant workers.

In the *pre-departure* stage, the State will establish minimum requirements to qualify for labour migration pertaining to age, literacy and suitability for selected work categories. Recognizing that migration for employment is a voluntary decision and a right enjoyed by all citizens, the State will undertake measures to assist potential men and women migrants in their decision-making process to migrate for employment and will prevent dissemination of misleading information. Measures will be put in place to prevent exploitation and abuse in recruitment of migrant workers, upgrade training courses to improve competence and capacity, assist in preparation for travel and employment overseas, and conduct all necessary medical tests prior to departure. Migrant workers will be able to avail themselves of pre-departure counselling and psychological preparation for working and living overseas.

While *in-service*, the State will provide mechanisms to protect migrant workers from exploitation and abuse, and will ensure that Sri Lankan Diplomatic Missions in host countries have adequate systems and services to assist all migrant workers in each country and work towards their protection and welfare in a proactive manner. A plan for provision of benefits and services for migrant workers, including insurance, pension and welfare, will be developed by the State and made available for all migrant workers and

families. Repatriation policy will be handled through the placement of contractual responsibility and liability on recruitment agencies. Finally, the State will formulate a policy framework to protect the children of migrant workers through registration, monitoring and special benefits.

Upon *return*, the State will design and implement a mechanism to facilitate return and reintegration services for migrant workers. This will include due recognition of migrant workers and enable them to enjoy priority access to services, special services on arrival at the airport, guidance and skills for reintegration, tax concessions and special benefits to children of migrant workers. The State recognises civil society organisations and trade unions to be another effective means by which migrant workers can avail themselves of an environment for successful reintegration.

The final and **third section** of the national policy relates to the linking of development and migration processes in recognition of the contribution of labour migration to employment, economic growth, development and the generation of income. Return migrants and transnational migrants contribute to investments, transfer of technology and skills, human capital formation, enhancement of social capital, promotion of trade and business links and good governance. While keeping in mind that overseas employment cannot be considered a strategy for sustainable economic growth and national development in the long run, the State recognises the significant contributions of labour migration towards development. However, the State is also committed to creating decent work opportunities at home and promoting equitable distribution of wealth and the benefits of development.

For these purposes, new overseas markets and opportunities must be explored and promoted. This will ensure the *promotion and development of employment opportunities outside Sri Lanka for Sri Lankans*. Labour market surveys, market analyses and market promotion plans in foreign countries will help ascertain the emerging opportunities and new demands.

Furthermore, it is essential that labour migration is integrated and mainstreamed in national development, decent work, labour market and poverty reduction policies to underscore the *role of migration in Sri Lanka's development*. This will be a coordinated effort with other national and international agencies and department to ensure that labour migration is incorporated into all relevant policy frameworks.

The *promotion of skilled worker* migration is seen as key to linking development and migration processes. In particular it is seen as important to ensure the development of a higher mix of skills and to increase opportunities for prospective migrant workers to become skilled. This will require appropriate human resource development plans which aim at a globally competitive workforce, provision of skills, networking to maximise training and recruitment benefits, language learning and exchange programmes and the protection of rights and freedoms of migrant workers.

The *role of migrant remittances in development* must be better understood and recognised, particularly its role in human capital formation through education and healthcare for children. Migrant remittances are private household transfers that enable education and healthcare for children, therefore action will be taken to raise volume of remittances, reduce transfer costs and increase institutional options of remitting money. Migrant savings schemes and investment incentives are other means by which migrant remittances may contribute directly and indirect to development.

Return migration and circulation are key opportunities for skills transfer, productive employment and conflict-free social integration. Commencing at the point of departure, the SLBFE will design and implement a mechanism for returnee migrant workers to promote local employment and tap their skills and potentials for national and personal development. This will be supported by periodic studies and incentives for investment and enterprise creation. Another important strategy will be *engagement of transnational communities* to harness the resources, skills and expertise of Sri Lankans working in skilled

and professional capacities overseas by providing incentives to return, contributing to home country development. Diaspora mapping, links to transnational community organisations and active networking with scientific and intellectual diasporas will be promoted for this purpose.

The need for *comprehensive information and database on labour migration* is recognised. Studies and regular monitoring, which reliably inform about the profiles and numbers of migrant workers, are means by which to achieve a better fit between development, labour migration, protection and good governance. In addition, this will enable a more differentiated set of services to migrant workers of diverse backgrounds and categories. The MFEPW will establish the Sri Lanka Migration Studies Institute to highlight solutions to migratory problems of Sri Lankans and enhance the promotion of their gainful employment abroad.

The national policy has been developed with the full and active participation of key stakeholders in the process. The Ministry of Foreign Employment Promotion and Welfare takes full responsibility to carry forward this National Policy on Labour Migration, recognising the roles and responsibilities placed on key stakeholders and actors in the process and counts on their cooperation for realising the objects of this policy. The MFEPW will establish mechanisms for monitoring and reporting back on the implementation of the policy and the realisation of its objectives.

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Introduction

The Sri Lanka National Policy on Labour Migration is developed by the Ministry of Foreign Employment Promotion and Welfare to articulate the State Policy regarding Sri Lankan citizens engaged in employment in other countries. The Policy has the following goals:

1. To develop a long-term vision for the role of labour migration in the economy;
2. To enhance the benefits of labour migration on the economy, society, and the migrant workers and their families and minimize its negative impacts;
3. To work towards the fulfillment and protection of all human and labour rights of migrant workers¹.

International labour migration from Sri Lanka has increased more than tenfold in the last two decades. Recent estimates suggest that over a million migrants work abroad while recent annual outflows have averaged about 200,000 persons. Over the years, foreign employment has generated substantial inflows of remittances and acted as a safety valve for local unemployment. Overseas migration has opened up employment opportunities for many women, who may not have been previously active in the local labour force. Since 2007, the Sri Lankan Government has placed particular emphasis on increasing the migration of skilled workers and reducing the outflow of low skilled workers (including women workers who are employed as housemaids).

Preamble to the International (UN) Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community.

Aware of the impact of the flows of migrant workers on States and people concerned, and the desire to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families.

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment.

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and, therefore, require appropriate international protection.

¹Definitions

A "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (International convention). This includes both documented and undocumented workers, and permanent and temporary migrant workers from Sri Lanka, and migrant workers from foreign countries working in Sri Lanka. The National Policy elaborated here covers only national workers migrating for employment overseas in keeping with the mandate of the Ministry of Foreign Employment Promotion and Welfare.

"Families of Migrant Workers" refer to dependants of migrant workers, and includes but is not confined to spouses, children, parents and extended family members.

The Ten Year Plan for Development and the National Action Plan for Decent Work² have recognized the importance of labour migration for the economy. The Ten Year Plan highlights 'safe, skilled migration' as the basic strategy to guide overseas labour migration. The creation of a separate ministry for foreign employment promotion in February 2007 - the Ministry of Foreign Employment Promotion and Welfare - is another indication of the priority assigned to labour migration in Sri Lanka.

International Convention: Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

With almost three decades of experience with foreign employment, Sri Lanka has developed a mature overseas employment administration system, which started with the establishment of the Sri Lanka Bureau of Foreign Employment in 1985. In this respect, Sri Lanka compares favourably with other Asian countries. The ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Their Families in 1996 provided the normative framework to base national migration

legislation and practice. The basic legislative framework of 1985, the Sri Lanka Bureau of Foreign Employment (SLBFE) Act³ is under modification to suit the present day needs, and the amended Act is expected to be submitted to the national legislature soon.

In addressing diverse developmental, economic and social issues associated with labour migration, Sri Lanka has, over the years, instituted a number of programmes and schemes that cover issues of governance in the process of labour migration, the protection and welfare of migrant workers and their families, realizing the developmental benefits of migration. These initiatives have all been within the framework of principles of decent work, dignity of labour and the protection of all human rights and freedoms of migrant workers and their families.

Despite a range of existing administrative and legal measures and regulations, Sri Lanka continues to face a number of challenges in the field of foreign employment. As reiterated in the National Policy for Decent Work in Sri Lanka (NPDW)⁴, vulnerability of workers who migrate under risky and unsafe conditions is a major issue, despite all the safeguards that were introduced. The concentration of labour migration in low-skilled categories dominated by female workers is another major challenge with related problems of protection, low remuneration and resulting low remittances. The narrow range of destinations is another issue with high dependence of Sri Lanka on the Gulf countries as the major destinations of migration. The social costs of migration, in terms of impact on families and children left behind, have been highlighted by many. Thus the delicate balance between promotion of overseas employment and protection of national workers abroad is a continuous challenge. In addition there is a need for a more systematic policy to maximize development benefits of migration characterized by inflows of migrant remittances of over two billion dollars for many years.

²Ministry of Labour Relations and Foreign Employment, *National Policy for Decent Work in Sri Lanka*, August 2006, Colombo.

³No 21 of 1985.

⁴*Ibid.*

Since 1985 the Sri Lanka Bureau of Foreign Employment (SLBFE) functioned under the Ministry of Labour. From 2007, the SLBFE comes under the purview of the Ministry of Foreign Employment Promotion and Welfare (MFEPW).

The MFEPW is responsible for policy formulation, planning, monitoring and financing the setting up of a sound mechanism for promoting foreign employment. It has the overriding objective of activating Government policy through identified agencies in a wider foreign employment promotion network. The Ministry's vision is to become the best skilled and professional labour provider in the global job market. Its mission is to convert the entire labour migration sector into a demand-driven process, making it highly competitive by introducing required structural changes, together with necessary promotional, protective and welfare measures⁵.

In 2007, the MFEPW submitted a Cabinet Memorandum⁶ setting out a Policy Framework and Action Programme for promotion of foreign employment and welfare⁷. The Memorandum accepts that *"emerging market conditions have necessitated new initiatives and converting the entire labour market migration sector into a demand driven process to meet the competitive challenges of the market by introducing new mechanisms to meet challenges realizing the importance of the contribution to the national economy."* The Memorandum sets out 18 proposals in its action plan. The Memorandum broadly addresses the main issues of promotion of more skilled Sri Lankan migrant workers, expanding employment opportunities for Sri Lankan migrant workers, improving skills including language skills, upgrading training to meet global standards, maximizing remittance benefits and incentives for promotion of migrant employment.

There are several other key ministries and government agencies concerned with overseas employment in Sri Lanka. The Ministries of

Labour Relations and Manpower, Foreign Affairs, Department of Immigration and Emigration, Education and Higher Education, Ministry of Vocational and Technical Training, Ministries of Healthcare and Nutrition, Child Development and Women Empowerment, Finance and Plan Implementation are among these. Other stakeholders constitute employers, trade unions, migrant worker associations, civil society, researchers and research centres, the media, and concerned international agencies.

Decent Work

- *The concept of decent work has four interrelated dimensions, namely fundamental principles and rights at work, employment and incomes, social protection and social dialogue. At the global level, it is hoped that the promotion of decent work will contribute to a "fair globalization".*
- *The global dimension of decent work arises from the direct impact of globalization on people through their work or employment: the opportunities and advantages, as well as the risks and exclusions*
- *The path towards fulfilling the broader aspirations of women and men starts at the national level where people experience gaps in decent work and problems within their own communities.*
- *From the global targets anticipated in the Millennium Development Goals to new planning frameworks such as the Poverty Reduction Strategies, the decent work agenda is being called upon to play a key role in efforts to reduce poverty.*

⁵www.minfep.gov.lk

⁶No 2007-02

⁷Appendix 5

Developing a National Labour Migration Policy for Sri Lanka

Against the above background, the Ministry of Labour Relations and Foreign Employment initially identified the need to articulate the Sri Lankan Government's policy on labour migration in a comprehensive policy document based on a long-term vision during the period where the subject of migration was under its purview. The Ministry thus requested the ILO to assist in the preparation of a National Labour Migration Policy for Sri Lanka, particularly in the context of the Ten Year Development Plan, and the National Action Plan for Decent Work, the ratified 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families⁸, Resolution on a fair deal for migrant workers adopted by the International Labour Conference, June 2004, and the 2006 ILO Multilateral Framework on Labour Migration. The MFEPW confirmed its interest in obtaining ILO assistance to continue with this initiative. An ILO advisory mission fielded in April 2007 provided the broad outline for developing national labour migration policy⁹. Following fruitful consultations between the Ministry of Foreign Employment Promotion and Welfare and the ILO, a road map was developed on the formulation of a national labour migration policy.

The main objective of the road map on labour migration was to outline a strategy for developing the National Labour Migration Policy through a process of stakeholder consultations. It recognized the following key objectives of national labour migration policy:

- Better governance and regulation of labour migration based on consultative processes with social partners and civil society in the formulation of migration policy (Governance and Regulation of migration);
- Providing effective protection and services

to migrant workers and their families left behind (Protecting and empowering migrant workers).

- Mobilizing development contributions of labour migration in terms of remittances, reintegration of returning migrant workers, circulation policies and linkages with transnational communities (Migration and Development).

Developing the National Policy included a four pronged process facilitated by a Process Management Team:

1. Establishing three thematic Working Groups to explore the following areas - 1. Governance of labour migration, 2. Protection and empowerment of migrant workers and 3. Linking migration and development and convening a series of Working Group meetings to identify issues, challenges and gaps in the labour migration process. The Working Groups represented the tripartite stakeholders in the process - the Government, Employers and Trade Unions and Civil Society organizations. This led to identifying a National Action Plan to improve the different components of the labour migration process.
2. The setting up of a National Tripartite Steering Committee convened by the MFEPW and chaired by the Minister for Foreign Employment Promotion and Welfare, comprising representatives of key Ministries and agencies involved in the labour migration process.
3. The development of a draft National Labour Migration Policy under the guidance of the Working Groups, Steering Committee and National Advisors drawn from academia.
4. Presenting the draft Policy to national

⁸Popularly known as the UN Migrant Worker Convention - Adopted by the General Assembly at its 45th session on 18 December 1990 (A/RES/45/158)

⁹Elements of a Labour Migration Policy Framework for Sri Lanka, Draft Report of the ILO Advisory mission to Sri Lanka, 18-26 April 2007, International Migration Programme, ILO, Geneva/ILO Office Colombo.

stakeholders (State, Civil Society, Employers and Trade Unions, Media) to arrive at a consensus and adoption of the National Policy.

The **Working Groups** conducted their activities under the direction of the Tripartite Steering Committee on labour migration policy, the MFEPW and the ILO, and closely interacted with the Process Management Team. Thirteen meetings were held, which promoted stakeholder consultations on identified issues, and they arrived at specific suggestions for the national labour migration policy¹⁰.

The **Tripartite Steering Committee**, headed by the Minister of Foreign Employment Promotion and Welfare, comprised representatives of Ministry of Foreign Employment Promotion and Welfare, Sri Lanka Bureau of Foreign Employment, Ministry of Labour Relations and Manpower, Ministry of Justice and Law Reforms, Ministry of Foreign Affairs, Department of Immigration and Emigration, National Planning Department of the Ministry of Finance, Ministry of Child Development and Women's

Empowerment, Tertiary and Vocational Education Commission, Employers Federation of Ceylon, National Association for Trade Union Research and Education, Central Bank of Sri Lanka, Sri Lanka Nidahas Sevaka Sangamaya, Department of Sociology of the University of Colombo, Association of Licensed Foreign Employment Agents and the Sri Lanka Foreign Employment Agency. The main objective of the Tripartite Steering Committee was to provide overall guidance in the development of the National Labour Migration Policy and ensure its implementation.

The process of developing the National Labour Migration Policy was a five-month (June to October 2008) process of consultations, drafting, review and finalization. The process included thirteen meetings of the Working Groups and four meetings with the Tripartite Steering Committee and a number of consultations with Working Group and Steering Committee members. The draft was presented at a National Stakeholder Consultation and was finalized under the guidance of the Steering Committee and the Drafting Advisory Committee¹¹.

¹⁰See Appendix 5: *Terms of Reference for Working Groups*.

¹¹The Drafting Advisory Committee comprised Senior Academics from the University of Colombo and the ILO Senior Specialist on Migration.

National Policy Statement on Labour Migration

The Sri Lanka Ten Year Development Framework (2006-2016) and the National Policy for Decent Work in Sri Lanka have established a clear vision for decent work in Sri Lanka:

"A future of peace and prosperity in which all Sri Lankans enjoy a better quality of life free from poverty and deprivation, through the promotion of opportunities for women and men to obtain productive work in conditions of freedom, equity, security and human dignity"

Thus, employment for migration can be considered part of the overall agenda of creating decent work for all citizens and the development of a globally employable workforce.

The Sri Lanka National Policy on Labour Migration aims to promote opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, equity, security and human dignity.

The National Policy on Labour Migration promotes and supports the migration of skilled men and women to secure work environments where the protection of fundamental human rights at work is upheld to the highest standards.

The National Policy on Labour Migration endorses the principles of good governance in setting in place policies, laws, regulations and administrative procedures that are reflective of the international standards ratified or respected by Sri Lanka, in order to facilitate and support migration in conditions of dignity, security and equity for work.

The National Policy on Labour Migration recognizes the significant contribution of all Sri Lankan migrant workers to the national economy through foreign exchange remittances and other mechanisms. It also recognizes the positive linkages between international migration and development highlighted at the regional and international levels.

Therefore:

The National Policy shall ensure full protection for all migrant workers through the institution of policies, laws and regulations for overseas employment and establish a high standard of protection and promotion of the welfare of migrant workers in keeping with international norms.

The State shall ensure that no policy, law or regulation will compromise or violate the dignity and fundamental rights and freedoms of Sri Lankan citizens and specifically migrant workers. In addition, the State shall adopt measures to prevent all forms of irregular migration, trafficking in persons and smuggling of human beings.

The State shall strive to promote processes for migration in conditions of dignity, security and equity with equal opportunities for all while creating local employment opportunities and promoting the equitable distribution of wealth and benefits of development.

The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely economic, legal, welfare and other services and facilities to migrant workers.

The State affirms the fundamental equality of women and men before the law and the significant role of women in nation-building. Recognizing the contribution of Sri Lankan women migrant workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programmes affecting migrant workers and the composition of bodies tasked for the welfare and empowerment of migrant workers. The policies and programmes will aim towards the empowerment of migrant workers in exercising the right to informed

decision-making and the full enjoyment of all rights, privileges and benefits of migration.

The State recognizes that a key element in protection to all migrant workers is the possession of skills.

Thus the State shall set in place processes for providing skills to workers and promoting the migration of skilled labour, while paying attention to the need for critical skills at home, and promoting circulation of skills.

The National Policy on Labour Migration in Sri Lanka does not cover in-bound migrant workers from foreign countries who are employed (contractually or without valid contracts and other documentation such as work visas) in Sri Lanka.

Governance of the Migration Process

Good Governance is recognized as vital in regulating the labour migration process. Governance encompasses effective institutions and regulations, as well as protecting human rights, promoting wider participation in the institutions and rules that affect people's lives and achieving more equitable economic and social outcomes. It is widely accepted that participation, transparency and accountability are key elements of good governance. From a human rights perspective, the concept of good governance can be linked to principles and rights set out in the main international human rights instruments. The approach draws on the principles enshrined in international Conventions, the global targets anticipated in the Millennium Development Goals (MDGs) and national policies and frameworks on development, income generation, employment and social protection.

The Good Governance approach follows the Decent Work principles accepted by the State¹². It emphasizes the four interrelated dimensions, namely fundamental principles and rights at work, employment and incomes, social protection and social dialogue which at global level, contribute to a "fair globalization".

Good Governance of labour migration entails transparent policies and practices, effective institutions, procedures and rules that serve the aspiration of potential and actual migrant workers, consistency with international standards and good practices, policy coherence, and social dialogue and consultative and participatory processes. Good governance also requires building capacity of institutions responsible for migration policy.

Sri Lanka has developed and adopted guidelines to govern labour migration based on international human rights and labour standards enshrined in

international instruments and the standards of good governance adopted locally. The development of these policies comprises four key areas for consideration, namely the institutional framework, the legislative framework, the regulatory framework and social dialogue and consultative framework.

Key issues for Good Governance

- The institutional framework for the labour migration process is provided by the Ministry of Foreign Employment Promotion and Welfare. It is important to define clearly the role of agencies in the process of labour migration in promoting access to opportunities, and ensuring the protection of the rights of migrant workers based on a long-term vision for the country. The other key government institutions and agencies in this process are, the Ministries of Labour Relations and Manpower, Foreign Affairs, Justice and Law Reform, Department of Education and Higher Education, Vocational and Technical Training, Ministries of Healthcare and Nutrition, Child Development and Women Empowerment, Department of Immigration and Emigration, National Child Protection Authority and Department of Registration of Persons.
- The Sri Lanka Bureau of Foreign Employment (SLBFE) is the primary regulatory body for overseas migration. Deriving its mandate from legislative provisions, the SLBFE has wide scope and a mandate to regulate and ensure migration in conditions of dignity, security and equity for Sri Lankan nationals seeking employment overseas. The legislative

¹²National Policy for Decent Work in Sri Lanka (2006). Ministry of Labour Relations and Foreign Employment.

framework for labour migration is enshrined in the Sri Lanka Bureau of Foreign Employment Act, 1985. The law focuses on the setting up of the SLBFE and its mandate, powers and functions.

- Sri Lanka has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Their Families. Sri Lanka is considering the ratification of the two ILO Conventions on migrant workers; Migration for Employment (revised), 1949 (no. 97) and Migrant Workers (Supplementary Provisions), 1975 (no. 143).
- The State recognizes the contribution of Recruitment Agencies (State and Private) as a key stakeholder in the process. As such the role of Recruitment Agencies is important in the governance of labour migration. Recruitment is mandated to a State regulated authority under the SLBFE, the Foreign Employment Agency (Private) Limited, as well as to private recruitment agencies represented by the Association of Licensed Foreign Employment Agencies (ALFEA).
- Sri Lanka's diplomatic missions in labour receiving countries are equipped with a mandate and facilities to provide for protection and welfare of Sri Lankan workers overseas. Their role in host countries is crucial in ensuring safety and protection in in-service situations, as well as in the immediate post-service period, especially with regard to workers leaving service due to various reasons and in repatriation. The role of diplomatic missions thus extends to preparation for return and reintegration.
- The majority of Sri Lanka's migrant worker population is low skilled. Evidence shows that low-skilled workers face violations of human rights, including labour rights, harassment and abuse at the work place more than skilled workers and

professionals, due to diverse vulnerabilities resulting from lack of adequate education and training, language skills and capacity to conform to work demands. The State recognizes that the ultimate protection to all migrant workers is the possession of skills. It is this environment that has prompted the State to take a gradual and strategic approach to changing the profile of Sri Lanka's migrant worker population.

- The State recognizes the importance of ensuring the safety and protection of low-skilled workers while setting in place a process of promoting skilled migrant workers. The State aims to promote the migration of skilled workers by securing employment opportunities for skilled workers in safe and regulated work environments, and by providing accessible and widespread opportunities for prospective migrant workers to become skilled workers.
- The State clearly acknowledges the role of bilateral agreements and memoranda of understanding between Sri Lanka and host countries in the protection of migrant workers in the labour migration process. A Memoranda of Understanding between labour-sending parties and labour-recruiting parties serve to ensure protection in situation specific work conditions, rights and benefits for workers. The State also recognizes its role in negotiating bilateral agreements with destination countries to ensure social security rights for migrant workers. These are less controversial and maybe easier to negotiate.
- Malpractices by private recruitment agencies and the gaps in the regulatory framework for local agents of recruiting agencies (known as sub-agents) lead to exploitative and abusive situations for migrant workers. This is highlighted by the State, social partners and civil society organizations. The State has the final

responsibility in all recruitment processes, derived from its commitment to protecting workers within a secure and equitable labour migration process. The State licenses private recruitment agencies to recruit on its behalf through legislative and regulatory provisions for private recruitment agencies. Despite diverse schemes set in place by the SLBFE, the inability to hold unlicensed sub-agents accountable has led to the continuation of abusive and exploitative practices. The lack of a proper monitoring mechanism for licensed agencies is a major challenge in minimizing malpractices.

- A number of exploitative practices takes place in receiving countries, including nonpayment of salaries and wages. In the

absence of agreements with labour-receiving countries, and inherent difficulties of enforcement in countries, remedial action against these practices becomes more difficult. There is a need for an overarching mechanism for complaints at all levels of the migration process that is mandated to receive, investigate and refer complaints arising out of violations of human and labour rights of migrant workers.

- The State recognizes the right of migrant workers to participate in the democratic decision-making processes of the State, and to be represented in institutions related to overseas employment. Migrant workers currently cannot exercise their voting rights while employed abroad.

Governance of the Migration Process

Challenges and Policy Responses		Action plan
Institutional framework	The State will develop a coherent institutional framework led by the main State institution, the Ministry of Foreign Employment Promotion and Welfare and complemented by other key institutions. The management and administrative mechanisms for labour migration based on this framework will direct the migrant labour process in Sri Lanka.	In order to implement the National Policy on Labour Migration, the State will - 1. Clearly define the roles of all agencies and institutions involved in the labour migration process. 2. Establish an Advisory Committee on Labour Migration comprising representatives of all key State institutions concerned with migration, and other concerned government and non-government institutions. Representation in the Advisory Committee will comprise officials drawn from the State appointed by the Ministry of Foreign Employment Promotion and Welfare, representatives from the employers, trade unions, civil society and the recruitment industry. The role of the Advisory Committee will be to review the labour migration process, explore issues and challenges, follow the changes in the labour market and advise on all aspects of the process. The Advisory Committee shall receive periodic reports from the SLBFE, including comprehensive reviews of the labour migration situation. 3. In addition to the Advisory Committee on Labour Migration and, in order to ensure coordination amongst Ministries, Agencies, Departments, Institutions, Units and other government and nongovernmental stakeholders, such as

		civil society organizations and trade unions, it is recommended that an Inter Ministerial Coordinating Committee is set up with membership status for civil society stakeholders.
	The State shall recognize and strengthen the role of the SLBFE as being key to ensuring migration in conditions of dignity, security and equity.	Undertake a broad review of the composition of the SLBFE, including the Board of Management, regulatory and promotional functions together with its fund management opportunities, in order to fully implement the mandate of the SLBFE and to review its performance against the stated objectives. The review will examine the gaps in mandate and provide recommendations to remedy such accordingly. The State shall enhance the existing provisions that govern the SLBFE in order to promote regular and documented migration, and the protection and welfare of migrant workers and their families. In addition, analysis of labour market needs and demands and exploration of safe and productive responses to labour market opportunities that fall within the purview of the SLBFE shall be implemented.
	The recruitment aspect of the labour migration process will be regulated and managed within a framework of governance and accountability. The State shall regulate the recruitment industry through administrative policies and procedures, licensing schemes, codes of conduct and monitoring and penal provisions to address offences.	Clear guidelines that stem from and expand on the provisions of the law that govern migrant labour will be developed to prevent abuse of process. This abuse of process results in grave violations of worker rights and protection and can be traced to irregularities or gaps in the recruitment process, which shall be identified and strict and comprehensive guidelines developed for recruitment. This will

	include effective measures to curb malpractices by recruitment agencies, including licensing, monitoring and reporting, as well as penalties for defaults in the recruitment process that result in unacceptable situations. A clear mandate for recruitment shall be articulated. The role of the State in government to government labour sending agreements, and the role of private recruitment agencies in all other forms of recruitment shall be clearly set out. The guidelines will govern recruitment agencies, as well as hitherto unlicensed sub-agents. The present code of ethics and a code of practice developed by licensed recruitment agencies and its implementation will be reviewed and strengthened. A clear and comprehensive recruitment policy will be developed, setting standards for the regulation of the recruitment industry, both the State recruitment industry, as well as the private recruitment industry (including the role of representatives or sub agents). The recruitment policy will set regulations for compulsory registration, regulation and governance of all aspects of the private recruiting agent's role and functions and set in place proper monitoring processes to promote commitment and accountability, with identified heavy penalties for illegal activity.	
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	There shall be a framework of uniform procedures, practices and guidelines that apply to all Sri Lankan diplomatic missions in major labour-receiving countries. The mandate of the Missions shall be based on the framework articulated here, which shall be supported by the State (for financial resources, human resources regulations and guidelines and uniform mechanisms and broad-based services).	An initial assessment will be undertaken, followed by subsequent regular assessments thereafter to ascertain the adequacy of services and competence of consular services in Sri Lanka's overseas Missions for welfare measures and protection of Sri Lanka's migrant labour force. This will include assessment of grievance redress mechanisms to enable workers to lodge complaints against non-responsive diplomatic missions; follow-up recommendations based on the assessments will be implemented.
Legislative framework	The lacunae in legislative provisions, in terms of articulating the State's policy on labour migration shall be addressed in order to make the law wider in scope, to mandate the institution of policies of overseas employment, to establish a high standard of protection and promotion of the welfare of migrant workers and their families. This shall include remedying the gaps in the law in terms of regulations, service provision, accountability and monitoring issues.	A review will be conducted of the legislative provisions contained in the present SLBFE Act and amendments will be made to encompass all aspects of the State's policy on labour migration and its commitments to international standards on migrant workers.
International framework	The commitments to international human rights and freedoms reflected in Sri Lanka's ratification of the International Convention on the Protection of Rights of All Migrant Workers and their Families shall be comprehensively reflected in national legislation and practices through amendment to laws that govern labour migration.	A review forming part of the legislative review will be carried out to study the impediments to ratifications of ILO migrant worker Conventions, and to identify methods of overcoming these impediments. Based on the review, the State shall proceed to ratify one or both of the two ILO Conventions (C97 and C143) on migrant workers, and adopt their provisions respectively in national legislation and practice.

Regulatory framework	The State shall set in place and make accessible to all citizens, opportunities for skill development and enhancement, and promote the migration of skilled labour.	The State will recognise the important role of the private sector in providing skills in areas demanded abroad under a State regulatory framework to ensure quality and accreditation. Regular labour market surveys and market analysis will be carried out to ascertain the demand for skilled workers as the basis for a framework to change the profile of Sri Lanka's migrant workers. A comprehensive training plan aimed specifically at increasing the capacity of low-skilled workers (including housemaids) to access skilled employment will be developed and implemented. This plan will include the present training facilities carried out by the SLBFE and all agencies involved in providing vocational training in Sri Lanka.
	The State shall promote overseas employment opportunities while safeguarding the rights of migrant workers.	The State will promote and negotiate bilateral agreements with all labour-receiving countries. In the absence of bilateral agreements the State will adhere to comprehensive memoranda of understanding (MoU) with frameworks for monitoring and accountability. It will be the role of the Advisory Committee on Labour Migration to monitor all bilateral agreements and Memoranda of Understanding. A model contract will be developed (expanding the present Model Contracts) through social dialogue and participation of all stakeholders, including employers (private and public) in destination countries, with adaptability to suit specific situations, yet with non-negotiable minimum standards and provisions.

	The State shall facilitate the provision of skills to all categories of workers with emphasis on providing skills to low-skilled workers.	Training currently being provided by the SLBFE will be reviewed by an expert independent evaluation team. Based on the expert report, training will be upgraded to ensure the provisions of skills to all categories of workers specifically low skilled workers. The SLBFE will supervise training for overseas employment. The Ministry will form formal links with national training institutions and the private sector in the development and implementation of training programmes. This translates the training to a nationally recognized level, standardized training programmes and assessment schemes and certification. The apex body for this training shall be the Tertiary and Vocational Education Commission (TVEC) and the SLBFE will work with the TVEC to set training standards and National Vocational Qualification (NVQ) requirements for migrant workers and assess skills and competencies for better re employment prospects in re migration.
	The State shall take action to ensure just and adequate remuneration for migrant workers in employment.	The State will articulate a clear policy on wages for all categories of migrant workers with a minimum wage. In relation to diverse wage levels offered to migrant workers from the South Asian region, the Government will initiate a dialogue with SAARC countries to arrive at a wage structure for different categories of workers, including a minimum floor to prevent unhealthy competition.

	The State shall address violations and abuses in the different stages of the labour migration process through appropriate redress mechanisms.	A Complaints Mechanism (independent of the SLBFE) will be developed and implemented in consultation with the Advisory Committee and the Inter-Ministerial Committee with participation of the State, Employers Organization, Workers Organization and civil society. This Complaints Mechanism will be based on a comprehensive framework to address the shortcomings, abuses and rights violations within the labour migration process. The terms of reference for the mechanism, constitution and appointment procedures, roles and functions and administrative mechanism will be formulated by the above stakeholders. A key function of the Complaints Mechanism will be a review of the existing procedures within the SLBFE Act and transferring them to an independent unit. Identifying means of access to justice, including exploration of alternative dispute resolution mechanisms (such as arbitration) will be incorporated into the procedures of the complaints mechanism. A suitable mechanism for extending this principle to countries of destination will be explored.
	The State shall remedy and redress (including the implementation of the existing laws to prevent trafficking) all issues of trafficking in persons and smuggling of human beings, the process of migration based on evidence of workers beings trafficked in the process of migration.	A review of the situation of irregular migration, trafficking in persons and smuggling of human beings in the migration process will be undertaken and recommendations and action for implementation of trafficking laws in Sri Lanka will be carried out.
Participation of migrant workers in governance - voting rights for migrant workers	The State shall recognize and actively uphold and maintain the rights of all migrant workers to exercise suffrage as a fundamental right.	An assessment of the requirements to facilitate voting by migrant workers in all electoral processes in Sri Lanka, while in overseas employment will be carried out and implemented.

Protection and Empowerment of Migrant Workers and their Families

The State undertakes primary responsibility for the protection of migrant workers and their families. Based on the obligations listed in the ratified International Convention on the Protection of the Rights of All Migrant Workers and their Families, the State is committed to furthering the rights and protections of Sri Lankans migrating for employment.

This undertaking is translated into the commitment of the State in affording full protection to labour, local and overseas, organized and unorganized, and the promotion of full employment and equality of employment opportunities for all, and the provision of adequate and timely social, economic and legal services to migrant workers.

The State thus recognizes the vulnerability of migrant workers, men and women, to discrimination, exploitation and abuse. The State recognizes that this is particularly so in employment that is categorized as low skilled, especially women workers and inadequately regulated sectors of employment.

The State recognizes its role in protecting and empowering migrant workers and their families in all three stages of the migration process; *pre-departure* (from decision-making to training to preparation for migration); *in-service* (workers in employment and families left behind) and *return and reintegration* (with consideration for reintegration, acceptance and appreciation). The State also has a firm commitment to safeguard the vulnerable children of migrant workers.

The State shall prevent abusive practices and promote decent and productive work for men and women migrants in conditions of freedom, equity, security and human dignity.

The state recognizes that migrant workers are entitled to a variety of rights: fundamental human rights, migrant specific rights, and labour rights in

the workplace as articulated in the ILO Multilateral Framework on Labour Migration and international instruments.

It also recognizes that violations of rights that take place beyond its borders, and that there is a shared responsibility between source, transit and destination countries in protecting the rights of migrant workers.

Key issues for Protection and Empowerment

- In recognition of the principles of protection and welfare of migrant workers, the State currently provides extensive services to migrant workers in the preparation stage of labour migration. Yet, at different stages in preparing for migration, namely, recruitment, training, registration and actual departure, migrant workers face difficulties, exploitative situations and abuses which must be addressed.
- Sri Lanka's low skilled migrant work force, characterized by low levels of education, lack of language proficiency (other than mother tongue), and representing the age group below 21 years are more susceptible to exploitative and abusive conditions at work. The State policy thus requires setting of minimum requirements for the profile of migrant workers, in order to ensure the welfare and protection of workers.
- The absence of an environment that promotes informed decision-making on migration for employment creates personal and social problems for workers. Some citizens, especially in the low-skilled category, may choose to migrate

without due consideration of its adverse implications for personal and family interests, and rights of spouses, children, extended families and the migrant workers themselves. This is largely due to the lack of reliable and widely accessible information about migrating for employment and the difficulty for vulnerable populations to access available information and support services.

- Recruitment takes places in different ways; through the government recruitment agency, private recruitment agencies, informal networks, kin, and family and in rare occasions, directly by the employer. The recruitment process involves a number of dangers and risks for migrants. These include overcharging of fees, debt bondage, falsification of documents, the deception of under age (under 18 years of age) persons and sending them abroad for employment, dishonesty with regard to the nature and conditions of employment, contract substitution etc. There is also inadequate preparation for employment abroad during the pre-departure stage, and some migrants' lack of capacity to benefit from such training. Abuses in the recruitment process originate primarily from recruitment agents. Despite State commitment to regulate recruitment agencies and the work of the Association of Licensed Foreign Employment Agents (ALFEA) irregular processes continue to be followed by some recruitment agencies and unlicensed employment agencies and agents.
- The role of sub-agents in the recruitment process is a main cause of abuse and exploitation. Unlicensed sub-agents, working at the community level with no formal affiliation to licensed recruitment agencies, often commit malpractices and violations stated above, including trafficking for exploitative and abusing employment.
- Sri Lanka offers migrant workers a wide

range of benefits and services, such as insurance schemes, pension schemes, education scholarships and other services for children of migrant workers in recognition of their contribution to the country. There is a need to articulate this in a systematic plan, taking into account the needs of long term socio-economic security.

- Over the last decade or so, the SLBFE has introduced significant measures to prepare migrants for overseas employment that include training, preparation, registration and other services to ensure that a worker does not leave the country unprepared for the tasks ahead. However, there are definite limits to such 'outreach' programmes and difficulties in implementation and enforcement, especially in countries of destination.
- Migrant workers, particularly in the low-skilled category, suffer from psychological issues due to the isolation, cultural shock and alienation, which can make them vulnerable to diverse problems, such as emotional and sexual exploitation, and lower productivity. Migrant workers, particularly in the low-skilled category, are largely unaware of the need for psychological preparation for employment overseas. In order to prepare workers for this, prospective migrant workers must receive adequate psychological preparation for migration.
- Health issues associated with the migration process require primary emphasis starting from the pre-departure stage. HIV vulnerability faced by migrants is an important issue despite the fact that Sri Lanka is listed among countries of low HIV prevalence. While migration is not a direct risk factor for HIV infection, there are economic, socio-cultural and political factors in the migration process that make migrant workers particularly vulnerable. The SLBFE pre-departure training includes HIV education as one of its components.

- Trafficking in persons and smuggling of human beings in the process of migration is a serious issue that the State shall address, with a view to placing measures for prevention and enforcing of legal procedures and penalties for those involved in trafficking.
- The Sri Lankan Diplomatic Missions in host countries shall recognize as their priority the duty to protect the rights of migrant workers and to extend immediate assistance, including the repatriation of distressed or beleaguered Sri Lankan migrant workers. Sri Lankan embassies and their personnel shall play a key role in the protection of migrant workers, as well as in the promotion of their welfare in recognition of the right to the protection of the dignity and fundamental rights and freedoms of Sri Lankan migrant workers.
- Repatriation is the responsibility of the State

and the State shall ensure safe repatriation for all workers in need. This will address emergency situations faced by migrant workers, due to sudden and serious health issues, and grave safety and security issues.

- The State shall ensure that the return and reintegration process takes place with full protection of rights and freedoms, upholding of human dignity with access to resource and opportunities. The role of civil society, employers and trade unions in reintegration will be encouraged.
- The State recognizes its responsibility towards the protection and welfare of children of migrant workers. Despite schemes to provide protection and welfare measures for the children of migrant workers, there is a lack of coordination between the respective Ministries on the issue of migrants and families left behind.

Protection and Empowerment of Migrant Workers and their Families

	Challenges and Policy Responses	Action plan
Pre departure	The State shall establish minimum requirements to qualify for migrant labour, as part of the strategy to ensure protection and to gain optimum benefits of the migration process. These include literacy, minimum age and suitability for selected work categories.	The State will require all migrants workers seeking employment abroad to be: ● Over 18 years of age. For domestic workers the preferred age will be over 21 years. ● Literate with a functional ability to read and write. The State will ensure that all migrant workers shall receive comprehensive training to suit the employment sought. The State shall make arrangements to have training programmes to have accreditation by the host countries and internationally-accepted standards and competencies.
	The State understands that migration for employment is a voluntary decision - a right enjoyed by all citizens. It shall assist potential men and women migrants in their decision-making process to migrate for employment. The State shall undertake measures to prevent dissemination of misleading information and take appropriate action.	A policy will be adopted on publicity (media and awareness raising policy) with the primary responsibility placed on the SLBFE with outreach responsibility placed on diverse State and private institutions working at national, provincial, district and community level. A Code of Ethics for publicity will be developed binding on all institutions involved in raising awareness on issues related to the labour migration process at every level.

		Mainstream media will be kept informed and responsible media coverage will be promoted. Awareness programmes and information services, including support for decision-making for families will be carried out through officials placed at District Secretariats and Divisional Secretariats, and through local radio channels, television and print media for prospective migrant workers in the different local languages. Institutions (government, NGOs, trade unions and other civil society entities) which provide assistance and services to migrant workers and their families will be identified, and related services will be set in place. A review of existing mechanisms will be conducted to institute a formal system of information provision and assistance in decision-making.
Preparation for migration	The State shall give utmost priority to the establishment of programmes and services to prevent illegal recruitment, fraud, and exploitation or abuse of migrant workers. The State shall take tangible measures to ensure better conditions for migrant workers without impinging on their rights and bearing in mind the intense competition that exists between labour-sending countries.	The Policy identifies two main areas in the pre-departure stage of labour migration - recruitment and training where protective measures will be introduced. Strengthen existing laws on regulating recruitment agents and agencies. This will be based on a legislative review and subsequent recommendations for change. Enact legislative provisions regulating 'sub-agents' for licensing, affiliation, accountability, providing for a regulatory framework for operation, complete with monitoring, sanctions and penalties.

		Develop a model contract in Sri Lanka as a primary condition for labour-recruiting countries that involves the Advisory Committee. The State shall explore means of ensuring that such contracts are part of bilateral agreements or MOUs with destination countries. For this purpose a bilateral dialogue will be encouraged. The contracts will be translated to Sinhala and Tamil to ensure that it is clearly understood by the worker prior to signing. In addition, the State will explore other forms of cooperation to establish effective relationships with labour receiving countries to ensure migration in conditions of dignity, security and equity for Sri Lankan migrant workers. These will include, but not be confined to, formal exchanges of information, exchange visits for labour officials and other related government officials, diplomatic dialogue, etc.
	The State shall upgrade existing training courses in order to ensure competency, protection and capacity of workers to handle situations in the work environment.	A review and revision process will be undertaken of the pre-departure training programme to cater to the State's focus on providing skills for migrant workers and in accordance with newer and more demanding requirements of the global labour market. The pre-departure orientation training will be country specific. It will be all inclusive with skills, language proficiency, cultural sensitization, awareness of rights, benefits, duties, privileges and complaints mechanisms and should include families of migrant workers at a point where the final decision to migrate is made.

	The State shall prepare all migrant workers for travel and employment overseas as a responsibility primarily assumed by the State.	Set up a State-sponsored Transit Home for workers arriving from distant places in the country to provide accommodation in Colombo, prior to departure. This shelter will provide last minute instructions, more information and counseling which can prepare the worker for the journey and work ahead.
	The State shall take responsibility for the conducting of medical tests in the pre-departure stage of migration. All health testing shall be carried out by professionally-qualified medical personnel accepted by the State. Workers' dignity, awareness, privacy and confidentiality of tests shall be of primary importance in this service.	Monitoring of health impacts of migration and creation of awareness among migrants regarding possible health risks will be carried out. Health testing of prospective migrant workers will be regulated in order to ensure dignity, privacy and confidentiality. A health clause will be included in all pre-departure training to provide information on health tests in the pre-departure process, health issues in service and access to services. The HIV awareness component of the pre-departure training will be reviewed for identification of possible gaps and space for improvement. HIV awareness programmes will be included in the State's proposed publicity policy on migration.
In Service	The State shall address the need for pre departure counseling on the psychological aspects of labour migration and the need to prepare migrant workers to face these situations and to provide support while in service.	A well-designed counseling system will be introduced to the pre departure training complete with training to counselors and development of a cadre of counselors within the pre-departure training programme. Counselling will be available at all stages of the migration process on demand in the host country.

	The State shall provide mechanisms for the protection of migrant workers from exploitation and abuse.	Migrant worker training programmes will be enhanced to equip workers with skills for decent work, with language proficiency, and awareness of rights and remedies. A mechanism will be introduced to monitor and minimize abuses with the participation of the proposed Inter-Ministerial Coordinating Committee and the Complaints Mechanism, and under the guidance of the Advisory Committee. The State will negotiate and implement mechanisms (bilateral agreements) to ensure inter-state cooperation between Sri Lanka and host countries to be facilitated and implemented at the diplomatic level. The State will recognize the role of other actors, including trade unions and civil society organisations in this process. MoUs and bilateral agreements will include measures for the protection of fundamental labour rights as well as physical, mental and health rights and address contractual violations
	Sri Lankan Embassies in host countries shall have a well-defined system to be in contact with all migrant workers in each country. Officers in Sri Lankan diplomatic missions in host countries, particularly the Labour Sections shall have the special capacity and ability to handle grievances of migrant workers and to work towards their protection and welfare in a proactive manner.	A framework will be developed and implemented with shared responsibility with the Ministry of Foreign Employment Promotion and Welfare and Ministry of Foreign Affairs to articulate the role, responsibilities and functions of Sri Lankan diplomatic missions in labour-receiving countries. Managing and monitoring of the work of the Labour Section of diplomatic missions shall be with the SLBFE under the supervision of the Head of each Mission.

		This framework will include the setting up of complete Migrant Worker Resource Centres in each diplomatic mission headed by trained Labour Attaches (who will take office prior to departure) and supported by Welfare Officers, who are specifically recruited, trained and posted to these Resource Centres. Extensions to the service of Labour Attaches and Welfare Officers will be made on suitability and capacity. The aim of the Resource Centres will be to provide diverse services to migrant workers. The services will include receiving and providing orientation for Sri Lankan migrant workers arriving for employment in the host country; information, advisory and programmes to promote social integration, such as post-arrival orientation, settlement and community networking services for social integration; welfare services while in service, such as opportunities for meetings and socialising with officials and other workers; counseling; problem-solving and advisory services; shelter services; medical and hospitalization services; and legal services. The Resource Centre will be equipped with a system for monitoring of daily situations, circumstances and activities affecting migrant workers in each country. The Resource Centre will be equipped with a scheme of registration of all migrant workers and linking such information with the SLBFE. The Resource Centre will offer an Orientation Programme for returning workers and other migrants, which is gender-sensitive and designed as a human resource development programme, as well as information on employment opportunities, training and skills upgrading, and reintegration support.
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	The State shall develop and implement a comprehensive benefits and services plan for migrant workers that consolidate existing services and benefits, structured, enhanced and made available for all migrant workers and their families.	A comprehensive benefits and services scheme will be implemented and will include insurance schemes, pension schemes, welfare schemes for families and children, services on return and reintegration, national recognition of services through Migrant Day or national awards, provisions of free State services (along with legal aid for migrant workers etc). The present insurance and pension schemes will be reviewed and enhanced to make such schemes more productive and service-oriented (e.g. insurance schemes to cover non-payment of wages, information on pension scheme to migrant workers and involvement of banks in managing such schemes).
	The State shall have a Repatriation Policy which places responsibility and a clearly articulated contractual liability on recruitment agencies in Sri Lanka and their partners in host countries.	A Repatriation Policy for the State will be developed and implemented, which clearly holds State and Private Recruitment Agencies responsible for repatriation. This plan will include contingency plans for emergency situations faced by migrant workers in employment.
Return and Reintegration	The State shall develop and implement a comprehensive return and reintegration plan for migrant workers.	A mechanism for returnee migrant workers will be designed and implemented by the SLBFE. This will commence at the point of departure and will be implemented by the proposed Migrant Resource Centres in Sri Lankan diplomatic missions in labour-receiving countries, and extending to Sri Lanka, which will be developed with the broad aim of promoting their local employment, tapping their skills and potential for national and personal development.

	The Return and Reintegration plan of the State shall include due recognition of migrant workers.	The mechanism will ensure the registration of returnees and promotion of services to returnees. Following the setting up of this mechanism, periodic study and assessment of the return process supported by a study of job opportunities for returning migrant workers will be undertaken by the SLBFE. A scheme of recognition will be developed and implemented. This scheme will focus on but will not be limited to the following: ● Providing a Migrant Worker Card to returnees to enable priority access to services ● Providing special services on arrival at the airport - e.g. welcome programmes, safe transport to home towns, especially for low-skilled workers, special duty free allowances, information and assistance for reintegration ● Guidance and skills for reintegration - alternative opportunities for employment (micro-level investment opportunities, small and medium micro-enterprise development, loans and credit facilities, market support) ● Providing tax holidays and tax concessions to returnee migrant workers who invest in enterprises, for a specific period of time needed to establish businesses ● Developing an awards scheme for outstanding migrant workers ● Providing special benefits to children of migrant workers, such as admission to schools and education benefits.
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	The State shall recognize the role of civil society organisations and trade unions in assisting returnee migrant workers and their families in the reintegration process. The State shall facilitate an environment where civil society organizations and trade unions can work alongside the State to plan for successful reintegration.	There will be an enabling environment for civil society organizations and trade unions to support the reintegration process and the empowerment of migrant workers through the formation of community-based organisations to enable them to articulate their concerns and for these concerns to be then addressed. A coordination system will be developed and implemented with recognized civil society organizations and trade unions to complement the work undertaken by such organisations.
Protection and welfare of children	The State shall formulate a policy framework as part of the National Labour Migration Policy for the protection of children of migrant workers.	A policy framework will be developed and implemented for the protection of children of migrant workers with key responsibility placed for its design with the inter-ministerial coordination committee involving all State and civil society institutions working towards the protection and welfare of children. The framework will be led by the Judiciary as the upper guardian of children. The responsibility of implementation and monitoring will be placed with the National Child Protection Authority and the Department of Probation and Childcare under the overall authority of the District Court of Sri Lanka. This framework will be developed by the Ministry of Justice and Law reforms and will be introduced with the participation of the National Child Protection Authority and the Department of Probation and Childcare.

	The framework will utilize existing State official cadre (Probation and Childcare Officers - identified as Child Rights Promotion Officers, NCPA Officers - identified as National Child Protection Officers). The protection and welfare framework will include a detailed Registration and Monitoring System that includes registration with the District Court in the area of residence of the migrant worker as a pre-requisite for departure. The framework will include a monitoring system that stems from this registration, which tracks all children of migrant workers at divisional secretariat level through house-to-house visits and provides support services to children in distress, care givers in distress and neglected and abused children of migrant workers. Provision of benefits for children of migrant workers will be part of the framework and will include educational and health benefits, access to counseling ect. For this local capacities will be developed and strengthened to address the needs of migrant families, in particular children.	

Linking Migration and Development processes

The State recognizes the contribution of labour migration to employment, economic growth, development and the generation of income. These benefits mainly accrue from migrant remittances, return and circular migration and engagement of transnational communities. Return migrants and transnational migrants contribute to investments, transfer of technology and skills, human capital formation, enhancement of social capital, promotion of trade and business links and good governance.

The State recognizes that the realization of these benefits is invariably linked with good governance of migration process and the protection of the rights of migrant workers.

While recognizing this significant contribution and working towards maximizing the benefits of labour migration, the State recognizes that overseas employment cannot be considered as a major strategy to sustain economic growth and achieve national development in the long run. The State recognizes the possible adverse implications of the loss of critical skills to long-term development of the country, and the social costs of migration.

The State, therefore, shall continuously strive to create decent work opportunities at home and promote the equitable distribution of wealth and the benefits of development.

Key issues for Migration and Development

- Integration and mainstreaming of labour migration in national employment, decent work, labour market and development policy, as well as in poverty reduction policies, is essential in order to maximize the positive effects of Sri Lanka's labour migration.
- The Ministry of Foreign Employment

Promotion and Welfare is committed as part of its mandate, to develop and promote overseas markets for Sri Lankans, facilitating recruitment agencies and other partners (SLBFE, SLFEA) to enter the new markets.

- The State recognizes that diversification of skills of migrant workers and achieving a higher mix of skills is essential to enhancing development benefits of labour migration. The State aims to promote the migration of skilled workers by securing employment opportunities for skilled workers in safe and regulated work environments, and by providing accessible and widespread opportunities for prospective migrant workers to become skilled workers.
- Migrant remittances are a key link between labour migration and development. There is increased recognition of the role that remittances play in the growth and development of the economy and easing foreign exchange constraints. While migrant remittances are regarded as more reliable and stable than other capital flows, the State recognizes that they are private household transfers and should not be considered as a substitute for official development aid or foreign direct investment. Remittances have significant multiplier effect with the potential to reduce poverty and expand decent work. Use of remittances for education and health of children is important for human capital formation.
- The State recognizes the importance of harnessing the benefits of return migration. Return migrants bring back a wealth of benefits to the country; financial, human and social capital, which can contribute to local development. In Sri Lanka, at present, there are no specific programmes that target returnee migrant worker to ensure their

successful integration into the societies they left behind. Mobilising and engaging migrants (returning and settled abroad) requires that Sri Lanka recognizes their distinct contribution to the country.

- The diversity of Sri Lankan transnational communities requires differentiated approaches between skilled and professional workers, and low-skilled workers, and ethnic communities, permanent and long-term migrants and temporary migrant workers.
- State also recognizes the need to make use of inward remittances for the purpose of human resource development, in particular to develop skills needed in the vital sectors of the domestic economy.
- A comprehensive information and database on labour migration is a cross cutting foundation for formulation, monitoring and evaluation of policies on good governance, protection and development linkages. At present, statistics on outflow of workers is

processed by the SLBFE through its registration procedures. The data may underestimate the true extent of migration because of unregistered departures. There is limited data on profiles on migrants, duration of stay, wages and working conditions, remittance patterns and their utilization, returnees and their reintegration and transnational communities and their engagements.

- In view of the significance of labour migration in the economy, the State recognizes the need to set up an institute for the study of migration under the Ministry of Foreign Employment Promotion and Welfare to study, on a continuing basis, the phenomenon of migration from a holistic view point, and the migration of population both internally and externally for employment purposes. The Institute will be an autonomous academic institute which will highlight solutions the migratory problems of Sri Lankans and also enhance the promotion of their gainful employment abroad.

Linking Development and Migration Processes

Challenges and Policy Responses		Action plan
Promotion and development of employment opportunities outside Sri Lanka for Sri Lankans	The State shall facilitate and undertake measures to promote employment opportunities in foreign countries, especially non-traditional opportunities and new overseas markets, with due consideration given to avoiding adverse effects on the vital sectors of the economy.	A comprehensive market promotion plan for overseas employment will be developed that involves the MFEPW, SLBFE and Diplomatic Missions in host countries.
		A mechanism will be designed and implemented by the MFEPW to carry out labour market surveys and market analysis in foreign countries, on a continuing basis, to identify new areas and ascertain demands of workers.
		The State will promote and sign bilateral agreements/MOUs with labour-receiving countries to develop and enhance employment opportunities to Sri Lankans.
		The SLBFE and Diplomatic Missions in host countries will be responsible for monitoring the implementation of such agreements and taking follow-up action.
The role of migration in Sri Lanka's development	In view of the valuable contribution of labour migration to Sri Lanka's development, the State shall mainstream migration into national development frameworks and strategies.	Duties and responsibilities of Labour Attaches/Labour Welfare Officers/ Labour Counsellors will be redefined, emphasizing their role in overseas market and employment promotion.
		The National Policy on Labour Migration will be adopted by Sri Lanka as the key policy document to govern national strategies on labour migration. The State will interact with United Nations and other agencies to incorporate labour migration into all its policy frameworks, including the policies on development, decent work and employment.

		The long- term frameworks of the State, addressing employment and development issues, will consider the need to promote migration by choice within a sustainable long-term development plan for the country.
Promotion of skilled worker migration	To maximize the benefits of the migration process, the State is committed, as part of its national development plan, to providing skills to migrant workers to facilitate skilled employment opportunities with better wages, protection and positive returns. For this, the State will establish processes of providing skills to workers and promoting the migration of skilled labour. Coordination and policy coherence among government ministries and agencies concerned with employment, planning and development, development of human resources will be strengthened in order to meet the demand in both overseas and domestic markets.	National human resource development plans will take into the demands for skilled workers from abroad, and aim at a globally competitive workforce. The migration of skilled labour will be supported by the provision of opportunities for skills enhancement of migrant workers and potential migrant workers through public-private partnerships. There will be coordination among other relevant ministries, agencies and the private sector for identification and provision of skills that are required for employment in foreign countries. Local recruitment companies, a network of SLBFE and the SL Foreign Employment Agency, training and educational institutions in Sri Lanka, employer federations, and Sri Lanka missions in destination countries, and international recruitment consultants will be developed to monitor demands. Market analyses will be carried out to ascertain the demand for skilled workers on a continuing basis to promote skilled migration from Sri Lanka, as the basis for a framework to change the profile of Sri Lanka's migrant workers, without prejudice to the vital sectors of the economy. Priority to language training, especially English, Korean (under EPS system) and other languages in demand, through public-private partnerships and foreign collaboration will be provided.

		Prospects for short-term exchanges, temporary placements and circular migration for skilled workers will be explored. Employment opportunities for skilled workers in environments where decent work, dignity of labour and all human rights and freedoms are protected, will also be explored here.
Role of Migrant Worker Remittances in Development	The State recognizes that migrant remittances are a key link between labour migration and development	Action will be identified and implemented to raise the volume of remittances, reduce transfer costs and widen the choices for migrant workers to use institutional channels for remitting money. An enabling environment for maximizing migrant savings, and utilization of remittances for productive investments will be promoted and incentives and advisory services provided, in particular the development of skills demanded in overseas and domestic labour markets. A comprehensive cost benefit analysis of labour migration will be carried out, with special focus on the direct and the indirect costs of migration. This will be updated periodically and disseminated among stakeholders to shape the country's development policy.
Return migration and circulation	The State shall duly recognize the contribution made by migrant workers and facilitate their return and reintegration with opportunities for skills transfer, productive employment, and conflict-free social integration.	A mechanism for returnee migrant workers will be designed and implemented by the SLBFE, commencing at the point of departure, implemented by the proposed Migrant Resource Centres in Sri Lankan diplomatic missions in labour-receiving countries, and extending to Sri Lanka, with the broad aim of promoting their local employment, tapping their skills and potentials for national and personal development.

		Following the establishment of this mechanism, periodic study and assessment of the return process supported by a study of job opportunities for returning migrant workers will be undertaken by the SLBFE and disseminated among stakeholders. A review of existing incentives for migrant savings and investment, access to credit and business development services will be undertaken. Promotion and provision of incentives for promoting enterprise creation and development, by returnee men and women migrant workers.
Engaging transnational communities	As a strategic contribution to Sri Lanka's development, the State shall engage the transnational communities of Sri Lankans settled abroad to mobilise their expertise and skills, and resources for promotion of investments, technology transfers, trade and good governance.	A framework will be developed and implemented to harness the resources, skills and expertise of Sri Lankans working at skilled and professional capacities overseas by providing incentives for return or contributing to home country development from abroad through investment opportunities, tax benefits etc, and schemes for 'giving back' to the country's development. In cooperation with important destination countries, a mapping of Diaspora communities will be undertaken and a related database will be developed. Important translational community organisations with the potential to contribute to national and regional development will be identified and promoted. Active networks of scientific and intellectual diasporas to promote technology and skills transfers and exchanges will be promoted using the internet, among other means.

		The engagement of the services of Sri Lanka expatriate experts for technical assistance and development projects will be promoted.
Due recognition by the home country	The State shall give due recognition to migrant workers of all categories (both high skilled and low skilled) for their contribution to national development. .	A scheme of recognition will be developed with special services, benefits and rewards schemes.
Comprehensive Information and data	The State shall develop its documentation systems to provide comprehensive information on the migration process.	The coverage and quality of existing SLBFE data will be improved: ● With better definitions for workers ● Through documentation of information on profiles on migrants, duration of stay, wages, working conditions, returnees and their reintegration and transnational communities and their engagements. ● Through a labour migration module in the periodic labour force survey carried out by the Department of Census and Statistics. ● By introducing international migration questions into the census data. ● Through systematic information provided by destination countries. The Ministry of Foreign Employment Promotion and Welfare will establish the Sri Lanka Migration Studies Institute to study the phenomenon of migration from a holistic view point. The Institute will be function under the MFEPPW as an autonomous academic institute which will highlight solutions to the migratory problems of Sri Lankans and also enhance the promotion of their gainful employment abroad. The Institute will be composed of all stakeholders in the process; government representatives, statutory corporations, universities, employment agencies and professionals.

Conclusion

The Sri Lanka National Labour Migration Policy has been developed with the full and active participation of key stakeholder in the process. The Policy outlines Sri Lanka's commitment to a process of labour migration consistent with good governance, protection of migrant workers and development objectives. The Policy has addressed a range of issues and challenges in the process of migration for employment from the perspective of a labour-sending country and identified practical, yet strategic, plans of action to meet these challenges.

The Ministry of Foreign Employment Promotion and Welfare takes full responsibility to carry

forward this National Policy on Labour Migration. It recognizes the roles and responsibilities placed on key stakeholders and actors in the process and counts on their cooperation for contributing to the process of ensuring safe and planned labour migration for all Sri Lankan workers seeking employment overseas.

The Ministry of Foreign Employment Promotion and Welfare will set in place mechanisms for monitoring the implementation of the National Policy on Labour Migration. Reporting on implementation progress and periodic evaluation of the process will form a part of this.

ANNEX 1

The Labour Migration Process in Sri Lanka

The migration of Sri Lankan nationals for overseas employment constitutes one of the primary focus areas in Sri Lanka's development, economic and employment policies. With the opening of Sri Lanka's economy in the late 1970s and the outflow of migrant workers that continues unabated to date, migration for employment is a much discussed, researched and reported on issue in Sri Lanka. The issues of focus have, however, been diverse, covering migrant worker remittances, contribution of migrant labour to the country's development, changing trends in the labour migration process and conditions of a highly feminized migrant labour force. These have accordingly influenced and informed State policy and implementation of State and non-governmental programmes on foreign employment of Sri Lankans.

Sri Lanka's economic growth in the past two decades has been diverse on different sectors of society. Disparities in the enjoyment of economic benefits, including an increase in employment and the decline in the rate of unemployment,

shows a rise in income disparities that has made the focus on poverty and poverty alleviation a prime concern of past and present governments.

Labour force participation in Sri Lanka is characterized by the high participation of males. Women constitute approximately half of the number of males in the work force. However, there has been a gradual and continuous increase in women's participation in the labour force in the past two decades. Yet, female unemployment rate remains almost double that of male unemployment.

The migrant labour force is considered a vital part of Sri Lanka's labour force, in terms of participation as well as contribution to the national economy. It is estimated that Sri Lanka's migrant population is 1,447,000 amounting to approximately 7% of the country's population.

The feminization of the migrant labour force is a unique character in Sri Lanka's migrant labour force where 55% of the labour force is female.

Departures for Foreign Employment 1986 - 2007*

Year	Male		Female		Total
	No.	%	No.	%	
1986	11,023	66.98	5,433	33.02	16,456
1987	10,647	66.02	5,480	33.98	16,127
1988	8,309	45.09	10,119	54.91	18,428
1989	8,680	35.11	16,044	64.89	24,724
1990	15,377	36.08	27,248	63.92	42,625
1991	21,423	32.97	43,560	67.03	64,983
1992	34,858	28.00	89,636	72.00	124,494*
1993	32,269	25.00	96,807	75.00	129,076*
1994	16,377	27.22	43,791	72.78	60,168

1995	46,021	26.68	126,468	73.32	172,489
1996	43,112	26.52	119,464	73.48	162,576
1997	37,552	24.99	112,731	75.01	150,283
1998	53,867	33.71	105,949	66.29	159,816
1999	63,720	35.45	116,015	64.55	179,735
2000	59,793	32.82	122,395	67.18	182,188
2001	59,807	32.50	124,200	67.50	184,007
2002	70,522	34.61	133,251	65.39	203,773
2003	74,508	35.51	135,338	64.49	209,846
2004	80,699	37.59	134,010	62.41	214,709
2005	93,896	40.60	137,394	59.40	231,290
2006	90,170	44.65	111,778	55.35	201,948
2007*	102,629	47.23	114,677	52.77	217,306

*Provisional

Source: Information Technology Division-SLBFE

* Airport Survey-SLBFE 1992-1993

This migrant worker population falls into several skill categories as defined by the SLBFE. The majority of migrant workers are in the 'housemaid' and 'unskilled' categories¹³.

Estimated No of Sri Lankan Overseas Contract Workers by Manpower Levels & Sex 2007

Manpower Level	Male	Female	Total
Professional Level	12,200	2,550	14,750
Middle Level	36,500	10,000	46,500
Clerical & Related	59,300	11,780	71,080
Skilled	260,400	107,100	367,500
Semi Skilled	3,100	235	3,335
Unskilled	250,800	77,990	328,790
Housemaid	-	810,500	810,500
Total	622,300	1,020,155	1,642,455

In 2007, the Government introduced a new category of workers under 'semi skilled' workers. The 2007 provisional statistics thus shows 3,435 migrant workers leaving the country as 'semi skilled' workers.

The trends in departure show that in all skill categories, except in the categories of unskilled workers and of housemaids, the numbers have

remained relatively static over the last seven years (2000 onwards) with slight increases in each category. In 2003 the unskilled labour category indicated a sudden rise of approximately 10,000 more workers leaving the country on unskilled employment. In contrast, the numbers leaving as housemaids indicated a sudden decline in 2006 (99,659 departures as against 125,493 departures in 2005).

¹³The SLBFE does not define the specific occupations included in these categories, except for housemaids. For example, 'skilled' can cover professional and middle groups as well. It was also suggested changing 'manpower levels' to 'skill levels' (more gender-neutral) and 'unskilled' to 'low-skilled'.

Male Departures for Foreign Employment by Manpower Levels 1994 - 2007*

Year	Professional Level		Middle Level		Clerical & Related		Skilled		Semi Skilled		Unskilled		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
1994	244	1.49	787	4.81	1,408	8.60	7,133	43.55	-	-	6,805	41.55	16,377
1995	837	1.82	2,074	4.51	4,088	8.88	19,431	42.22	-	-	19,591	42.57	46,021
1996	556	1.29	1,635	3.79	2,894	6.71	19,387	44.97	-	-	18,640	43.24	43,112
1997	534	1.42	1,386	3.69	3,008	8.01	15,832	42.16	-	-	16,792	44.72	37,552
1998	655	1.22	2,512	4.66	4,054	7.53	22,093	41.01	-	-	24,553	45.58	53,867
1999	1,175	1.84	2,738	4.30	5,270	8.27	24,425	38.33	-	-	30,112	47.26	63,720
2000	897	1.50	3,354	5.61	4,828	8.07	24,344	40.71	-	-	26,370	44.10	59,793
2001	1,125	1.88	3,205	5.36	4,631	7.74	25,262	42.24	-	-	25,584	42.78	59,807
2002	1,297	1.84	3,924	5.56	5,604	7.95	30,567	43.34	-	-	29,130	41.31	70,522
2003	1,410	1.89	5,281	7.09	5,342	7.17	31,638	42.46	-	-	30,837	41.39	74,508
2004	1,722	2.13	5,388	6.68	5,830	7.22	33,947	42.07	-	-	33,812	41.90	80,699
2005	1,324	1.41	7,150	7.61	6,988	7.44	39,882	42.47	-	-	38,552	41.06	93,896
2006	1,824	2.02	5,880	6.52	7,011	7.78	38,737	42.96	-	-	36,718	40.72	90,170
2007*	1,543	1.50	3,319	3.23	3,854	3.76	43,613	42.50	3,194	3.11	47,106	45.90	102,629

*Provisional

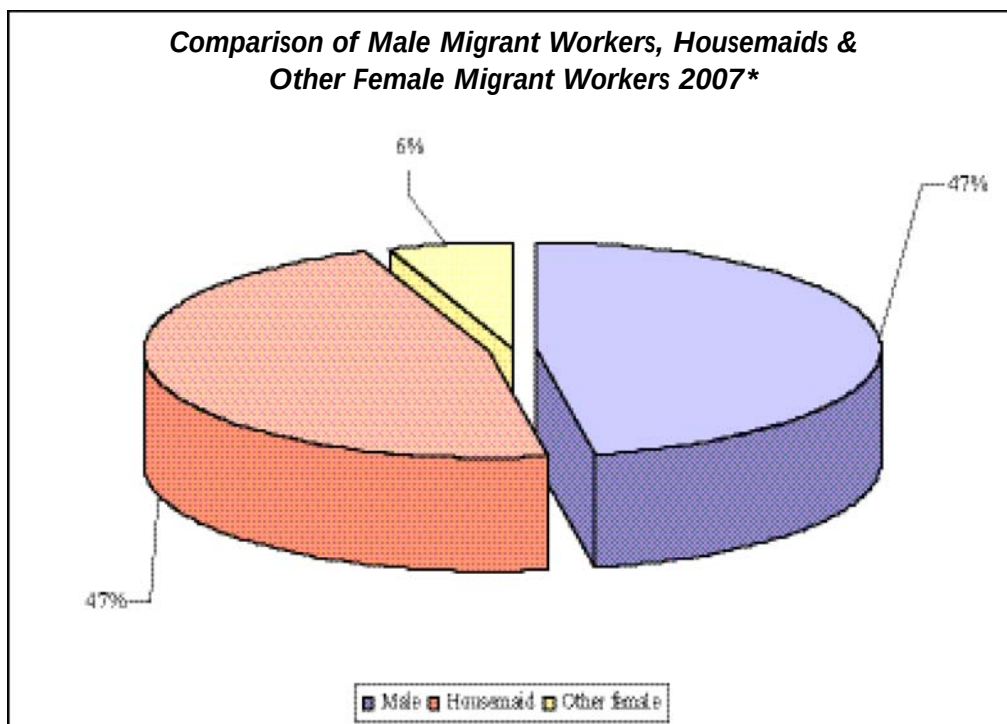
Source: Information Technology Division-SLBFE

Female Departures for Foreign Employment by Manpower Levels 1994 - 2007*

Year	Professional Level		Middle Level		Clerical & Related		Skilled		Semi Skilled		Unskilled		Housemaid		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
1994	18	0.04	46	0.11	151	0.34	5,453	12.45	-	-	2,019	4.61	36,104	82.45	43,791
1995	41	0.03	421	0.33	506	0.40	7,734	6.12	-	-	3,906	3.09	113,860	90.03	126,468
1996	43	0.04	309	0.26	477	0.40	4,867	4.07	-	-	3,289	2.75	110,479	92.48	119,464
1997	39	0.03	249	0.22	571	0.51	8,670	7.69	-	-	3,773	3.35	99,429	88.20	112,731
1998	40	0.04	311	0.29	842	0.79	9,656	9.11	-	-	9,751	9.20	85,349	80.56	105,949
1999	78	0.07	423	0.36	940	0.81	12,852	11.08	-	-	13,659	11.77	88,063	75.91	116,015
2000	38	0.03	427	0.35	997	0.81	12,131	9.91	-	-	9,389	7.67	99,413	81.22	122,395
2001	93	0.07	571	0.46	1,384	1.11	11,501	9.26	-	-	7,801	6.28	102,850	82.81	124,200
2002	184	0.14	631	0.47	1,635	1.23	14,911	11.19	-	-	7,355	5.52	108,535	81.45	133,251
2003	131	0.10	2,226	1.64	1,437	1.06	16,106	11.90	-	-	13,427	9.92	102,011	75.37	135,338
2004	105	0.08	1,173	0.88	849	0.63	11,979	8.94	-	-	9,392	7.01	110,512	82.47	134,010
2005	97	0.07	892	0.65	754	0.55	6,806	4.95	-	-	3,352	2.44	125,493	91.34	137,394
2006	148	0.13	758	0.68	900	0.81	6,326	5.66	-	-	3,987	3.57	99,659	89.16	111,778
2007*	66	0.06	516	0.45	597	0.52	5,996	5.232	41.00	0.21	5,085	4.43	102,176	89.10	114,677

*Provisional

Source: Information Technology Division-SLBFE



Source: Information Technology Division-SLBFE

Migrant remittances (documented as private remittances) play a key role in Sri Lanka's economy being the major net foreign exchange earning source for the country. In 2007 migrant workers remitted Rupees 277 million (US\$ 2.5 billion) to the country. This is a 15% increase from remittances of the previous year.

The data available on remittances covers only transfers effected through the banking system and does not account for money inflows through informal channels, cash carried in person, cash sent through friends and relatives and remittances effected in kind.

**Private Remittances and Foreign Earnings (Rs. Million)
during the Year 1990 - 2007***

Year	Private Remittance	Tea	Rubber	Coconut	Garment	Total Export	Private remittances as a % of total export
1990	16,054	19,823	3,080	2,783	25,163	79,481	20.20
1991	18,311	17,867	2,641	2,619	31,652	82,225	22.27
1992	24,037	14,893	2,960	3,691	49,176	107,855	22.29
1993	30,592	19,911	3,086	2,796	62,349	138,175	22.14
1994	34,992	20,964	3,582	3,761	68,945	158,554	22.07
1995	40,482	24,638	5,713	5,271	84,806	195,092	20.75
1996	46,003	24,068	5,753	6,091	93,814	226,801	20.28
1997	54,445	42,533	4,640	6,940	121,083	274,193	19.86
1998	64,517	50,280	2,808	6,110	142,303	310,938	20.75
1999	74,356	43,728	2,305	9,119	155,214	325,171	22.87

2000	87,697	53,133	2,179	9,174	206,360	420,114	20.87
2001	103,180	61,602	2,129	7,348	208,624	430,372	23.97
2002	123,183	63,105	2,552	8,009	214,895	449,850	27.38
2003	136,475	65,936	3,717	8,926	231,652	495,426	27.55
2004	158,291	74,897	5,155	11,453	268,574	583,967	27.11
2005	197,968	81,481	4,724	11,403	276,144	638,276	31.02
2006	224,678	88,100	9,310	7,100	308,040	688,270	32.64
2007*	276,814	102,500	10,940	8,090	334,200	774,050	35.76

*Provisional

Source: Central Bank Annual Reports 1995-2006

In terms of managing the labour migration process, Sri Lanka is yet to have control over the process in order to ensure migration in dignity, security and equity for Sri Lankan citizens. Sri Lanka responds to a demand driven international labour market. As a labour sending country, Sri Lanka's focus on labour migration is determined by the demands of the international labour market that has shaped the profile of the country's migrant labour force.

Thus Sri Lanka's labour migration process has a

number of pressing issues which demand attention. Despite diverse initiatives, both by the State and the non governmental sector, Sri Lankan migrant workers face a multitude of obstacles at all stages of the migration process; pre departure, in service and upon return and reintegration. Much of these issues stem from the profile of Sri Lanka's migrant work force where the majority of workers fall within the low skilled (termed unskilled in statistics) and housemaid categories.

Complaints Received by Nature & Sex in Year 2004 - 2007*

Nature of Complaints	2004			2005			2006			2007*		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Non payment of agreed wages	150	1,476	1,626	132	1,577	1,709	454	1,535	1,989	169	1,326	1,495
Lack of Communication	87	2,078	2,165	78	1,677	1,755	109	2,402	2,511	108	1,578	1,686
Sickness	51	559	610	78	575	653	78	584	662	47	625	672
Harassment(Physical & sexual)	78	1,675	1,753	142	1,807	1,949	104	1,662	1,766	33	1,240	1,273
Death - Natural	73	80	153	55	60	115	100	72	172	112	87	199
Death - Accidental	43	32	75	38	24	62	59	18	77	48	18	66
Death - Homicide	3	5	8	1	3	4	-	1	1	1	2	3
Death - Suicide	3	6	9	5	17	22	3	4	7	3	6	9
Death - Due to the Lebanon war	-	-	-	-	-	-	-	6	6	-	-	-
Not sent back after completion of contract	15	191	206	44	667	711	36	689	725	36	886	922
Stranded - Lack of reception on arrival	-	13	13	2	33	35	-	-	-	-	-	-
Problem at home (Sri Lanka)	13	330	343	33	483	516	25	497	522	-	36	36
Breach of Employment Contract	695	449	1,144	1,137	655	1,792	838	314	1,152	322	417	739
Stranded without employment	-	13	13	112	429	541	562	498	1,060	172	312	484
Premature termination	-	-	-	1	-	1	-	-	-	11	2	13
Illegal money transaction	5	76	81	-	1	1	-	1	1	-	5	5
Others (Domestic Sector)	11	120	131	1	22	23	17	75	92	-	55	55
Others (Non - Domestic Sector)	20	3	23	14	26	40	10	-	10	4	4	8
Not Identified	-	-	-	1	-	1	7	69	76	182	598	780
Total	1,247	7,106	8,353	1,874	8,056	9,930	2,402	8,427	10,829	1,248	7,197	8,445

*Provisional

Source: Conciliation Division - SLBFE Information Technology Division - SLBFE

There are a number of reasons for the exploitative and abusive situations faced by migrant workers. They are personal, regulatory and structural. The lack of skills that prevents low skilled workers from obtaining higher skilled employment; inadequacies in training as well as the failure to learn from the training provided due to low levels of education, social stresses and mindset; the lack of contracts and State to State agreements to safeguard and protect migrant workers, the lack of State monitoring mechanisms in labour receiving countries that provide for proactive monitoring and protection mechanisms through diplomatic missions; lack of legal mechanisms for redresses are some reasons for these exploitations and abuses. Despite safeguards provided by the State, migrant workers, especially those in the low skilled category face numerous exploitative and abusive situations in work. These are

documented and range from non-payment of salaries, early and forced termination without compensation, exploitative work conditions such as long hours of work, burden of work, lack of rest and leisure to abusive situations including verbal, physical, mental and sexual abuse and confiscation of travel documents.

The SLBFE documents situations of exploitation and abuse faced by Sri Lankan migrant workers overseas. These statistics however, do not encompass the full situation of exploitation, abuse and infringement of rights and freedoms documented through studies and research, faced by migrant workers at every point of the migration process, and by their families left behind. Thus the social cost of migration has yet to be fully analysed and remedied through a State supported strategy.

International obligations to ensure migration in conditions of dignity, security and equity

The rights and freedoms enshrined in international human rights law developed on the strength of the United Nations system, and the provisions of international labour law based on rights and freedoms enshrined in International Labour Organisation Conventions apply to all migrant workers. The essence of these international instruments, and laws that derive from them lie in the recognition of the vulnerability of migrant workers to discrimination, exploitation and abuse, and the right of all migrant workers, irrespective of their status as regular or irregular, to minimum standards of protection including basic human rights.

Sri Lanka ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 11 March 1996 with some Declarations on certain articles. Sri Lanka's ratifying the Convention speaks of the country's commitment to upholding all principles and rights of all migrant workers. The International Convention is recognized as the most comprehensive international instrument dealing with the rights of migrant workers. The Convention draws upon the Universal Declaration of Human Rights, and UN universal human rights instruments including the Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the

Convention on the Rights of the Child. It has also drawn upon the provisions of the two ILO migrant worker Conventions¹⁴.

The International Convention came into force on 1 July 2003. Sri Lanka submitted the initial report on the legislative, judicial, administrative and other measures taken to implement the provisions of this Convention in June 2008¹⁵. It highlights that the Sri Lanka Constitution already contains guarantees on a number of human rights stated in the Convention. The report rightly observes: "However, major labour recipient countries are yet to become parties to this Convention. Since Sri Lanka is a labour sending country, it is vital in the interest of Sri Lankan migrants that labour receiving countries accede to the above Convention in order to ensure a strong legal framework for the protection of the rights of migrant workers through adherence to minimum international standards."

As primarily a labour-sending country, Sri Lanka's obligations mainly relate to the articles contained in Part VI of the Convention concerning the promotion of sound, equitable, human and lawful conditions in connection with international migration of workers and members of their families. The Sri Lanka Bureau of Foreign Employment Act was enacted in 1985, well before the ratification of the International Convention. However the Act covers the major areas listed in Part VI of the Convention: information provision, pre-departure training,

¹⁴Albeit the International (UN) Convention embodies most of the substantive provisions of the ILO Conventions No. 97 and No. 143, selected provisions of the ILO Conventions exceed the rights and freedoms enshrined in the International Convention. They are thus complementary to the UN Convention.

¹⁵Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Consideration of reports submitted by States parties under article 73 of the Convention, Initial reports of States parties due in 2004, Sri Lanka, CMW/C/LKA/1, 19 June 2008. <http://www2.ohchr.org/english/bodies/cmw/docs/CMW.C.LKA.1.doc>

regulation of recruitment agencies, international cooperation and consular services, and reintegration measures for returnees. Recent reviews have however, pointed out that Sri Lanka needs to do more to implement the full provisions of the Convention¹⁶.

Among these are: translation and dissemination of the Convention to would-be-migrants; making available the services of a legal counsel at the Sri Lankan embassies abroad; educating or informing would-be-migrants in more detail of the social,

cultural, and economic conditions and to explain the (labour and other) laws and customs of the host country; ensuring that the employment contract is made available to the workers in his/her own language; making available free interpretation in the language of the migrant workers when needed in the host country; ensuring the voting rights of the migrant workers; providing the necessary training to would-be-migrants; regulating the private agencies more rigorously and to minimize trafficking and irregular migration.

¹⁶*Report of the Committee on the Rights of Women Migrant Workers, Human Rights Commission of Sri Lanka, August 2005; Robyn Iredale, Nicola Piper and Amelia Ancog (2005), Impact of Ratifying the 1990 UN Convention on the Rights of All Migrant Workers and Members of Their Family: Case Studies of the Philippines and Sri Lanka, Working Paper No. 15 , Asia Pacific Migration Research Network , August 2005*

National Law on Labour Migration

The Sri Lanka Bureau of Foreign Employment Act, 1985 is the first major legislative recognition of labour migration¹⁷. Sri Lankan migrant workers overseas do not fall within the purview of national labour laws that govern and protect workers within Sri Lanka, and thus the SLBFE Act is the primary piece of legislation that applies to Sri Lankan workers migrating for overseas employment.

The SLBFE is within the purview of the Ministry of Foreign Employment Promotion and Welfare.

The Sri Lanka Bureau of Foreign employment Act¹⁸, which repealed the Foreign Employment Agency Act, provides for all categories of migrant workers. The primary function of the legislation is to establish the SLBFE and provide for its functions which are set out in the detailed objectives and general powers. The Act confers upon the SLBFE the legal mandate to be the governing authority for Sri Lanka's migrant labour force and to act as the lead agency for overseas employment administration. The SLBFE, set up in 1986 operates as a semi government body and receives its power, duties and obligations from the SLBFE Act.

The SLBFE is managed by a Board of Directors consisting of 11 members, all of whom are appointed by the Minister of Foreign Employment Promotion and Welfare. The law empowers the SLBFE to manage the emigration of workers through specific organizational functions, among them, the licensing of employment agencies, data collection on migrant workers, setting of standards and negotiation of employment

contracts and the provision of welfare measures for the protection of overseas Sri Lankan workers. Section 15 of the Act sets out the objectives which can be summarized as follows:

- To set standards for and to negotiate contracts of employment.
- To enter into agreements with relevant foreign authorities, employers and employment agencies in order to formalise recruitment agreements.
- To formulate and implement a model contract of employment which ensures fair wages and standards of employment.
- To examine the authenticity of documentation issued to Sri Lankan recruits outside Sri Lanka going abroad for employment.
- To undertake the welfare and protection of Sri Lankans employed outside Sri Lanka.
- To provide assistance to Sri Lankans going abroad for employment.

In practice these objectives have been translated into diverse regulations, programmes and activities that support labour migration and facilitate governance of the labour migration process and the protection of migrant workers, specifically at the first two stages of the migration process; pre-departure and in service.

The SLBFE's role in licensing, managing and monitoring recruitment agencies, registering migrant workers through a comprehensive registration system, documenting and providing information from this registration process, establishing and providing job bank facilities for

¹⁷Act No 21 of 1985 amended by Act No 4 of 1994 and The Sri Lanka Bureau of Foreign Employment Regulations (The Gazette of Sri Lanka, 1985-08-28, No. 364/9)

¹⁸No 32 of 1980

the public, negotiating agreements and contracts for sending labour overseas, have resulted from the legislative provisions.

In terms of welfare and protection measures, the law has enabled the SLBFE to provide for a series of welfare measures to prepare migrants for overseas employment and to protect and promote migrant workers. These services include pre-departure training, skills improvement and enhancement to obtain skilled employment, developing model contracts and ensuring enforcement of such contracts, appointment of Labour Attaches and Welfare Officers to work for migrant workers through Sri Lanka's diplomatic missions in labour receiving countries, the setting up of the Workers Welfare Fund, insurance

schemes for migrant workers, loans schemes and educational scholarship schemes for children of migrant workers.

Sri Lanka is cited as providing an illustrative case of an attempt to positively respond to the specific needs of migrant workers. Despite extensive State commitment, there continues to be considerable scope to address challenges and issues and a review of the legislative provisions which is considered a primary step in this direction. One of the main gaps in the legislation is that the law has yet to be amended following the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

APPENDIX 4

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