



## **Sri Lankan Migrant Workers in Israel** **– A Report by Kav LaOved (Worker's Hotline)**

Kav LaOved (Worker's Hotline) is pleased to submit its remarks on the situation of Sri Lankan migrant workers employed in Israel for the consideration of the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families.

### **Sri Lankan Migrant Workers in Israel - General Background**

Israel is a destination country to migrant workers who come to work as caregivers for the elderly and the disabled, mostly from South East Asia (Philippines, India, Sri Lanka, Nepal). Israel is also a destination country to migrant agricultural workers and to migrant construction and industry workers (mostly from Thailand and China, respectively). Israel is not a signatory on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

According to a press release by Israel's Central Bureau for Statistics dated 30/7/2009, in 2008 some 30,000 migrant workers entered Israel with work permits. Out of this group, 2,200 were Sri Lanka nationals. The vast majority of the workers from Sri Lanka (80%) are women, according to this official publication. The overwhelming majority of Sri Lankans come to Israel to work as caregivers for elderly and disabled Israelis. In regard to undocumented workers of Sri Lankan origin, there is no official governmental data on their numbers.

As said above, the overwhelming majority of Sri Lankans come to Israel to work as caregivers for elderly and disabled Israelis. All elderly and disabled Israelis who meet disability criteria set by the Israeli National Insurance Institute are allowed to employ a domestic migrant caregiver with National Insurance subsidy. The number of migrant caregiver employment permits in Israel today stands at about 55,000. The number of migrant workers who entered Israel with a legal migrant caregiver visa, and whose maximum period of legal work in Israel (63 months) has not expired is estimated at 65,000-100,000 workers.

The legal status of migrant workers in Israel depends on their active employment by an employer with a permit. Workers who lose their work due to dismissal, quitting or employer death must find new employment within 90 days or leave the country.

### **Problems Faced by Sri Lankan Migrant Workers in Israel Stemming from Omissions on the side of the Sri Lankan Government**

1. *Lack of Bilateral Cooperation between Sri Lanka and Israel and the resulting problems (para. 32-35 to State Party Report)*

As Sri Lanka acknowledges in its report, "Protection of [Sri Lankan] nationals within the jurisdiction of another State would depend on a higher degree of bilateral cooperation between the recipient State and the State of nationality of migrant workers. Such measures include the negotiation of formal, bilateral agreements or informal arrangements." Despite this recognition, no such cooperation exists between Sri Lanka and Israel, and, to the best of Kav LaOved's knowledge, there are no negotiations between the two governments aimed at reaching bilateral agreements on labor migration.

This complete lack of cooperation between the governments creates a fertile ground for corruption, exploitation and abuse of Sri Lankan migrant workers on all stages of their migration to Israel, their stay in the country and their return to Sri Lanka. The central problems in this regard are charging of high brokerage fees, various types of visa fraud and poor working conditions. These will be considered more elaborately below.

a. Brokerage fees

Sri Lankan migrant workers coming to Israel are charged an enormous brokerage fee typically ranging from \$6,000 to \$8000 in order to get a legal migrant worker visa in Israel. While this charge is illegal according to both Israeli and Sri Lankan law, the prohibition is hardly enforced either by Sri Lanka or by Israel. Also, while the State Party report states that "SLBFE under the provision of the Act takes legal action against errant agents who violate provisions of the Act" and that "Eighty-five raids were conducted against illegal recruiting agencies in 2006" (para. 47 to the State Party report), our experience demonstrates that unauthorized, sometimes criminal actors continue to dominate the business of recruiting Sri Lankan migrant workers to work in Israel.

Brokerage fees put workers in a state of debt, thus making them particularly desperate for work, a fact which, in turn, enables reduction of wages and exploitation. The debt also prevents workers from returning to Sri Lanka before earning enough money to repay the debt. The interest rates are high gray market rates (being that many workers are too poor to secure loans from recognized financial institutions) and many workers mortgage their property to raise the money. Failure to repay the debt puts the life and livelihood of the worker and her family in danger.

While the State Party in its report recognizes that "attention must be given to combating the widespread practice of debt bondage, deriving from the excessive fees and expenses imposed by recruitment agents on prospective migrants when securing employment overseas" (para. 51), and while it is clear that the most effective means to combat such phenomena is by bilateral cooperation between sending and receiving countries, no such cooperation exists to date between Israel and Sri Lanka.

b. Visa fraud

The high brokerage fees are an incentive to bring workers into Israel even if there is no work awaiting them. This results in the type of fraud called “flying visa” – a phenomenon whereby migrant workers are brought to Israel for no other purpose other than charging them thousands of dollars in recruitment fees, having no genuine intent to provide them with lawful and gainful employment in Israel. The worker is deserted shortly upon arrival to Israel; the employer or agent reports to the Interior Ministry that the worker "did not report to work" or that he is "incompatible" to work, and applies to sponsor another worker. This request is normally granted without any difficulties, another worker is charged thousands of dollars, brought to Israel and deserted shortly upon arrival, and so on. Some 10,000 workers were brought to Israel this way, including from Sri Lanka, and are continuing to come. Given the surplus of migrant caregivers in Israel, the worker is unlikely to find alternative employment, and risks losing her legal status and being deported before repaying her debt.

Another kind of common fraud is “open visa”: employers who have a migrant worker employment permit, but who do not actually require such services, register a migrant caregiver as their worker for a fee or for services or both, and allow the worker to make a living by other means (usually illegal cleaning or au-pair work for other employers). If authorities expose this fraud, the worker will lose her legal status and be deported. This fact allows employers to extort ever increasing sums of money for the “open visa” they provide, and sometimes leads to debt bondage situations, where migrant workers keep getting into debt to retain their visa.

The reality of a surplus of migrant caregivers in situations of debt and threatened loss of legal status forces workers to accept illegally low salaries, withheld pay, non payment of social benefits and forced overtime. They are sometimes forced to do work that’s not related to their job description, such as cleaning for family members. In some cases workers must accept poor lodging and food, confinement, threats and violence, and some workers are even forced to provide sexual services. Such circumstances may amount to trafficking and forced labor.

Combating such phenomenon requires, of course, deep State involvement in the recruitment process of migrant workers and in the details of their migration and employment in the country of destination. It also mandates close bilateral cooperation between countries of origin and destination (for example, by international investigations, cross-checking of data on unauthorized agencies and recruiters, etc.). As mentioned above, such cooperation is non-existent.

Additionally, the lack of information among Sri Lankan workers is too a major contributing factor to the described phenomenon. Our experience is that the State Party fails to adequately inform Sri Lankan nationals wishing to migrate to Israel about their rights arising out of the Convention as well as provide them with any other information that would facilitate their integration in Israel. We are unaware, in this regard, of any awareness-raising, pre-departure programmes for prospective migrants to Israel while still in Sri Lanka, where credible and accurate information about migration and employment in Israel is provided.

c. Lack of suitability for work

Some Sri Lankan workers come to work in Israel as caregivers, but speak no English or Hebrew, and are therefore unable to communicate with most prospective employers. These workers are likely to lose their jobs and legal status, and find themselves deported and in debt. Some workers are not physically strong enough to lift and move heavy patients. These workers are also less likely than others to find legal employment, and risk deportation.

The recruitment process of migrant workers must therefore be monitored by the Sri Lankan government, and not only review formal qualification, but must also ascertain that the worker can communicate with prospective employers and is physically able to do the required job. Again, there must be active and efficient bilateral cooperation between Sri Lanka and Israel aimed at protecting workers from exploitation and abuse through all stages of their migration.

d. Poor working conditions

Sri Lankan migrant workers in Israel are usually paid for 8 hours of work per day. In fact, most of them are either employed or on call for 24 hours a day. The lack of clear definitions of work hours, overtime hours and on-call hours leads to situations where some workers are forced to actively work to exhaustion, caring for several family members and cleaning large households. The situation is aggravated where migrant caregivers have to care for more than one patient who requires constant care (such as a married couple of disabled people in a poor health situation).

Most migrant caregivers in Israel are employed 24 hours a day, 6 days a week. They are often left alone with a single care patient, and have no access to friends and community life. The intimate circumstances of domestic work make the boundaries between employer and employee vague. This may result in positive family-like relations, but can also deteriorate to sexual harassment and exploitation.

In some cases migrant workers are strictly prohibited from leaving the house where they work except to accompany their patient to receive medical care. This puts great mental stress on migrant caregivers. The result is a higher than usual rate of mental problems and nervous breakdowns, which in rare occasions result in violent treatment of patients.

Many migrant workers have to lift heavy patients several times a day, and carry them between the bed, chair, toilet, bath and taxis bound to hospitals. This puts great strain on the worker's muscles and back, and leads to severe injuries that may cause permanent damage.

Here too, the lack of information among Sri Lankan workers is a grave concern and a major contributing factor to their abuse by employers. Workers arrive in Israel without

elementary information about their rights, about lawful and unlawful employment practices, about State institutions to which they can turn in cases of violations and about Non Governmental/Community organizations who offer assistance. Informing workers about their rights prior to their arrival is of particular importance in light of the nature of employment in caregiving and the social seclusion that this type of work creates.

## *2. Additional issues arising from the State Party report*

- a. The State Party report states that "A welfare fund for migrant workers has been established, which is financed through a fee levied on employers abroad when an employment contract is signed. The money is solely used for welfare activities for the migrant workers. (para. 41(f)). We are unaware of the existence of such fund in relation to Sri Lankan migrant workers employed in Israel, and we have yet to encounter even a single employer who has paid the said fee. It should be noted, in this regard, that until September 2008, there was no obligation in Israeli law to sign an employment contract with the migrant caregiver prior to her arrival to Israel, and the standard employment contracts we see include no such provision. Also, there are no guidelines to employers by the Israeli Ministry of Industry Trade and Employment regarding the obligation to pay the said fee for the welfare fund.
- b. The State Party report states that "In order to prevent unscrupulous illegal recruiters from taking advantage of workers seeking employment abroad, the SLBFE institutes financing schemes that will expand the grant of pre-departure loans and family assistances loans." (para. 271) As mentioned above, Sri Lankan migrant workers coming to Israel are charged an enormous brokerage fee typically ranging from \$6,000 to \$8000 in order to get a legal migrant worker visa in Israel. The vast majority of Sri Lankan workers we encounter took loans from various informal actors (gray market lenders, relatives, neighbor, etc.) in order to pay this illegal fee, often under an extremely high interest rate. We did not meet any worker who came to Israel with the help of the said financing schemes.
- c. The State Party report states that "SLBFE, through its public information and education programmes, conducts regular information campaigns in coordination with various government agencies, NGOs and academic institutions and seeks to assist prospective migrants in making informed decisions regarding working and migrating abroad. The programme also aims at raising public awareness of various issues concerning migration, intermarriages and assisting government policies and programmes directed against illegal recruitment and documentation, fraud and trafficking in persons, as well as of health risks." (para. 272) As stated above, our experience is that Sri Lankan migrant workers arrive to Israel without having the most basic information about their rights as well as about various other issues concerning their employment in Israel.
- d. The State Party report states that "The Government offers repatriation programmes to facilitate the immediate repatriation of distressed and sick migrant workers, together

with airport assistance, domestic transport and temporary shelter" (para. 279). We are unaware of any such assistance offered to Sri Lankan migrant workers in Israel.

- e. The State Party report lists numerous services that are allegedly provided to Sri Lankan nationals by embassies and consulates in countries of destination, including: Counselling and legal services; Welfare assistance, including the procurement of medical and hospital services; Information, advisory services and programmes to promote social integration such as post-arrival orientation, settlement and community networking services; Ensuring the registration of documented workers to bring them within the purview of the law; Human resources development, such as training and upgrading of skills; Gender-sensitive programmes and activities to assist particular needs of women migrant workers", and more. (para. 258-260). We are unaware of any such services or activities provided by the Sri Lankan embassy in Israel to Sri Lankan nationals. It should be noted, in this regard, that to the extent such services are indeed offered, civil society organizations in the destination country – often the only place workers turn to when their rights are violated – must be informed by the State Party as to their availability.

*Kav LaOved is a nonprofit non governmental organization committed to protecting the rights of disadvantaged workers employed in Israel and by Israelis in the Occupied Palestinian Territories, including Palestinians, migrant workers, subcontracted workers and low-income Israelis. Kav LaOved aims to educate and empower workers and to expose violations of their human rights, while at the same time fostering a new atmosphere of social responsibility towards workers on the part of employers, government, and the courts.*

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