

**Full name of the CSOs submitting the report:** National Christian Council of Sri Lanka (NCC-SL) in collaboration with Intervention Movement Against Discrimination and Racism (IMADR) and Migrant News Lanka (MNL)

**Country to which the information relates:** Sri Lanka

**The submission may be posted on the webpage of CMW for public information purposes.**

**A response to the Second Periodic Report (SPR) of Sri Lanka submitted as a State party report to the 25<sup>th</sup> session of the UN Committee on Migrant Workers (CMW) in the form of answers to the issues raised prior to the submission of the SPR by the CMW based on Concluding Observations of the CMW on the First (initial) Periodic Report.**

**Prepared by the National Christian Council of Sri Lanka in collaboration with Intervention Movement Against Discrimination and Racism (IMADR) and Migrant News Lanka (MNL)**

**Issue 1:** Statistics or data (estimates) with regard to migrant workers in an irregular situation are not given though it is specifically asked for in the list of issues prior to the submission of the Second Periodic Report (SPR) of Sri Lanka. Many actions of Sri Lanka as a State party indicate its tacit intention to disown the migrant workers in an irregular situation whereas the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families (UNCMW) affirms the rights of migrant workers in irregular situation also. Sri Lanka Bureau of Foreign Employment (SLBFE) does not provide redress to migrant workers in distress who are not registered with the SLBFE. From 1 January 2016 SLBFE has made it compulsory for all migrant workers to register with it. It has gone further to say that undocumented would not be looked after by the SLBFE.

**Issue 2:** This issue also states the need to improve the data collection, including through studies and estimates, on Sri Lankan migrants abroad in irregular situations. However, the SPR does not state any action taken in this regard. Sri Lanka setting up an Employment Migration Authority Act to replace the SLBFE Act and the Immigration Act to regulate foreign migrant workers in Sri Lanka is noted with appreciation. They recently commenced a data collection exercise in all DS divisions in Sri Lanka through Migration Development Officers (MDOs).

**Issue 3:** In a discussion of implications of “good governance” in labour migration policies in Sri Lanka, launching of a National Labour Migration Policy (NLMP) in 2008 and creating a “National Advisory Committee” with the participants of all stakeholders can be treated as important developments. However, in the absence of a published report on the first stage of the Action Plan of the Policy (2009-2015) the impact of the National Policy on shaping of the migration policies of the country cannot be reviewed. Moreover, the functioning of the “Advisory Committee” seemed to have come to a standstill as no meeting is reported to have taken place for the entire period of this year-2016. At the same time Sri Lanka’s SPR does not divulge the budget allocated for the implementation of the 2008 NLMP. It also does not outline the co-ordination, monitoring and evaluation processes, as well as its impact on the rights of migrant workers, including foreign migrant workers and their families (CMW/C/LKA/CO/1 para 7) resident in Sri Lanka. Any plan should be accompanied with a budget adequate for its effective implementation. The

budget should be made transparent. Specially, it should be made known to all its stakeholders.

Though the Sri Lankan Bureau of Foreign Employment (SLBFE) with the assistance of the ILO has developed an operational manual with guidelines and procedures for each activity of the Labour Section of the Sri Lankan Diplomatic Missions abroad especially to handle grievances and work towards the protection of the migrant workers it is a question- how far the Labour Attaches tend to use the guidelines given in the manual. Therefore, legal revision should be made to bind the Labour Attaches to the best practices and the Code of Conduct to ensure the best interests of the migrant workers they are duty bound to serve.

Though the Sri Lankan SPR mentions the development of a Code of Ethical Conduct for recruitment agencies, inquiries have found that this mechanism formulated to deliver good governance has not been implemented as yet due to some administrative reasons. To apply a code of conduct effectively it should be administered by a cohesive body of organizations and or persons. In the absence of an organization in which membership for licensed foreign employment is mandatory the implementation of an ethical code of conduct for recruitment agencies can very much tend to be very haphazard. The SPR of Sri Lankan has not delved into these challenges at all. It very emphatically states "The Financing of the implementation if the National Plan is done through the SLBFE funds with the assistance of ILO for special projects. Therefore, no difficulties were encountered up to now in the process of implementation of the National Policy". Without even having an idea if the budget being made available and at the same time not making a formal objective evaluation of the impact made by implementing the NLMP on increasing the productivity of the migration process to say that, "no difficulties encountered up to now in the process of implementation of the NLPM", is too presumptuous and may indicate an "off handish" way the Report is prepared without having an understanding of the purpose of this entire review process which is through constructive engagement, to strive to improve the protection and productivity facets of the labour migration policy. In a bad precedent set by SLBFE- co-ordination officers vacancies announced from the Ratnapura District, which is also the home constituency of the current Minister of Foreign Employment. In addition we have come to know that currently livelihood projects will be granted to labour migrants from Galle District and currently Migration Development Officers are gathering information on this matter. Galle District is the home constituency of the Deputy Minister of Foreign Employment.

### **A return and reintegration sub policy**

Sri Lankan currently has a Health Policy on labour migration. This is at the moment a standalone policy and there seems to be very minimal co-ordination between this and the National Labour Migration Policy of 2008. Even though a sub policy on Return and Reintegration was launched and funded with ILO funding, currently it is not sure if new fund allocations have been allocated to implement the return and reintegration sub policy by the Ministry of Foreign Employment. In this connection the SPR of Sri Lanka states, "A return and re-integration sub policy has been introduced for its implementation and it has been included in the 2016 Action Plan of the SLBFE. What is enunciated to be implemented in 2008 only begins to be implemented in 2016. Whether the reportage given in the Sri Lanka SPR to the affect that a return and reintegration policy is being implemented is only to placate the Committee is yet to be seen." The unfathomable lethargy in attending to imperatives of this nature relating to the wellbeing of the migrant workers who does not have a real bargaining power as the many other actively and

effectively organized sectors of the labour force of Sri Lanka lends justification to this doubt. This brings into light the need to facilitate the exercise of the franchise of Sri Lankan migrant workers of Sri Lanka, resident in other countries, at elections in Sri Lanka. Though a parliament select Committee was appointed and they have approved the requirement to grant this sovereign right, nothing more has been to be done in this regard.

**Issue 4:** The Sri Lankan SPR states that “No information is available which indicates the convention has been **involved** in the courts or before the administrative authority of the country”. This submission is totally misleading perhaps due to a lack of understanding of the drafters of these submissions on how the legal system works. The simple fact is that the State party’s legislation has not been harmonized with the provisions of the Convention. The Sri Lankan Bureau of Foreign Employment Act of 1996 with two subsequent amendments in 2004 and 2009 falls totally short of harmonizing the State party’s legislation with the provisions of the Convention. How can the Convention be invoked in the courts or before the administrative authorities of the state when the provisions of the Convention are not justiciable within the country’s legal system due to two fundamental reasons.

1. Absence of legal enactments harmonizing State party’s legislation with the provisions of the Convention
2. Non provision explicitly of the right for labor migration as a Fundamental Right in the Constitution of the State party.

The irony in the SPR is that when the query raised is whether the Convention has been invoked in the courts or before the administrative authorities of the State party the explanation given is that the convention has not been involved in the courts or before the administrative authority of the country which totally misses the crucial point raised in the query.

In this connection we are of the view that fresh legislative enactments are absolutely necessary to harmonize the State party’s legislation with the provisions of the Convention.

**Issue 5:** The Sri Lanka SPR does not indicate of any steps taken towards making the declarations provided for in articles 76 and 77 of the Convention, recognizing the competence of the Committee to receive communications from States parties and individuals. In the absence of any such indications it is reasonable for one to be of the position that no steps have been taken to fulfil the requirements of articles 76 and 77 of the Convention. This action does not require any effort or fund on the part of the State party. Once the Convention has been ratified in 1996 these declarations should have immediately followed. However, for the last 20 years, since 1996, it has not happened. In the absence of any cogent reasons being given against the giving the declarations it is justified for us to conclude that Sri Lanka as a State party deliberately does not want to recognize the competence of the Committee. This should be taken very seriously by the Committee. In the absence of the declared recognition of the Committee by Sri Lanka as a State party the constructive deliberative engagement of all the stake holders which the Convention envisages from the processes of the Committee, to mobilize and galvanize the efforts of all stakeholders towards continuously upgrading the standard of protection of the rights of migrant workers, appears to have been devalued by Sri Lanka as a State party. In short, our surmise is that, Sri Lanka as a State party does not have any regard for the highly constructive role of the Committee towards the wellbeing of all migrant workers and their

families. Perhaps the postponement of the submission of the first Periodic Report from 2005 to 2009 and the submission of the SPR from 2013 to 2016 could be a manifestation of this disregard sometimes indicating that Sri Lanka as a State party is complacent using migrant workers as an export commodity to earn the very much needed foreign exchange and side stepping its inalienable responsibility of protecting the human rights of all citizens who are working in foreign lands as migrant workers under trying conditions.

We welcome Sri Lanka as a State party ratifying the UN protocol to Prevent, Suppress and Punish Trafficking in Person's especially Women and Children in June 2015 and the "SAARC" Convention on Preventing and Combatting Trafficking in Women and Children for Prostitution. We also appreciate all the action taken by Sri Lanka as a State party to strengthen its efforts to combat trafficking. At the same time we are also of the view that in the drafting of the new Migration Authority Act, which will replace the SLBFE Act, appropriate provisions relating to action on combating trafficking should be included.

The SPR of Sri Lanka has conveniently ignored the issue of Sri Lanka ratifying the ILO Convention no 189 (2011) concerning decent work for domestic workers. As such we take this opportunity to strongly lobby for the ratification of ILO C 189 and enacting entailing Sri Lankan legislation relating to decent work for domestic workers. Domestic work is excluded from most of the labour laws in many countries, including Sri Lanka. Sri Lanka would find it easier to negotiate the legal protection of Sri Lankan domestic workers abroad if it could show that that was not the case in Sri Lanka. Such protection should include a law on domestic workers and ratification of ILO Convention 189 (2011) on decent work for domestic workers.

**Issue 6:** The SLBFE which is responsible for everything relating to migrant workers does not have in its Board any representation of migrant rights groups. Therefore, we could responsibly say that the State party does not consults and involve migrants, migrant rights groups and other relevant NGOs in the design and implementation of policies on migrants. Majority of the Board members seems to have some form of connection to registered recruitment agents. The SPR says that "since the National Advisory Committee on Labour Migration (NACLM) comprises all key stakeholders including NGOs and the voice of migrant workers is adequately represented at decision and policy making level". However, as far as the civil society organizations (CSOs) are concerned the NACLM is only for name sake. We are not sure how the NACLM is constituted and how it is convened. However, we know that this Committee did not meet during 2016 and it was not consulted in drafting the SPR. In any case as its name itself suggests it is only an advisory body without any legislative power to contribute effectively in decision making. Therefore, we suggest that provisions should be included in the proposed Migration Authority Act for representation of migrant workers in tis Board and also for legally establishing the Advisory Committee.

Also we strongly recommend that the proposed Mediation Boards for migrant workers be set up to settle family disputes faster and in a cheaper way. As going through a court procedure wastes a lot of time and money. Many migrant workers wish to return back quickly to destination countries. Already a sub committee appointed by the current Secretary of the Ministry of Foreign Employment has finalized the report on the same.

**Issue 7:** This issue emanates from the Concluding Observation of the Committee para 26 which recommends that the State party take the necessary steps to ensure that all migrant workers and members of their families within its territory or subject to jurisdiction enjoy

the rights provided for in the Convention without any discrimination in conformity with article 7 of the Convention. When the Concluding Observation 26 is read in conjunction with the article 7 of Convention we get the clear impression that the recommendations in Concluding Observations related to the rights of foreign migrant workers resident in Sri Lanka. However, the SPR of Sri Lanka in response to the issue raised outlines numerous welfare and protection facilities provided to Sri Lankan citizens working as migrant workers in foreign lands while in the host country and also when they come to the country of origin- Sri Lanka. As the response in the Sri Lanka SPR seems out of place here we do not want to labour in commenting. It is sufficient to say that Sri Lanka does not have any legislation which is designated to protect the rights of all foreign migrant workers and their families' resident in Sri Lanka. The Sri Lanka Bureau of Foreign Employment (SLBFE) Act which is the only legislation available in Sri Lanka relating to migration issues does not in any way contain provisions to address the issues relating to the protection of the migrant workers in Sri Lanka. The SLBFE Act was enacted much before the Convention came into force. As such one cannot expect it to have any harmony with the provisions of the Convention. This makes Sri Lanka adopting an act harmonized with provisions of Convention aimed to protect the rights of all migrant workers an imperative.

**Issue 8:** We welcome and appreciate all the work done by the Labour Sections in 16 Sri Lankan Diplomatic Missions in the major destinations for Sri Lankan contract workers to provide them with the assistance and protection they need in their host country especially when in trouble. However, frequent criticisms can be noted leveled against the Labour Attaches and their staff by migrant workers on their reported lethargic attitudes in assisting the destitute migrants when they seek assistance. Incidents of corruption by some of these officers have also been reported where once a Labour Attache was accused in collecting fraudulently a compensation award made in favour of the family members of a death victim in South Korea. Though in 2013 the Ministry of Foreign Employment with the assistance of ILO has developed an Operational Manual with best practices to be used by the Labour Attaches it is a question of how far these officers tend to follow the guidelines given in the Manual. Therefore, legal revision must be made to bind the Labour Attaches to the best practices and to the Code of Conduct to ensure best service from them. At the same time we wish to express our concerns with businessmen being appointed as diplomatic officers in Middle East Countries. Most of the time persons appointed to Labour Attaches offices including the Labour Attaches themselves are political appointees, who have scant empathy with the migrant workers, as they are bent on making the maximum political advantage out of the political appointments. The situation becomes worse, for instance in Jeddah when the ambassador and consul general becomes businessman and latter is a former Labour Agent. Under these circumstances the migrant workers face numerous issues when they approach embassies for services. Many migrant workers have complained about the services provided in Sri Lankan embassies in Kuwait, Qatar and Saudi Arabia. Though when compared to the previous regime political appointments are less, but still important labour receiving countries having political appointees is at the neglect of the migrant workers wellbeing. We suggest that all appointments as ambassadors and labour attaches to major labour receiving country should be persons who are empathetic with the wellbeing of the Sri Lankan migrant workers in those countries. In support of our suggestion we quote the case where a Sri Lankan lady was sentenced to death by stoning. Until the Saudi Arabian Foreign Ministry, informed our officials were not aware of the predicament though she had been in a Saudi jail for more than 1 year without the Sri Lankan authorities' knowledge. In this connection the SLBFE installing a data base with accessibility to embassies and registered job agencies

is welcome. We suggest that accessibility to the data base be also granted to the Migration Development Officers (MDOs). To facilitate MDOs accessibility to the data base each Divisional Secretary's Office be provided with a laptop computer for the exclusive use of the MDOs. Also we are made to understand that when a MDO goes on maternity leave or for some reason is not available for long tenors the duties tend to get neglected in the areas assigned to such officer. This issue is serious in some Divisional Secretariat (DS) areas where only one MDO is present. And in Weli Oya DS we are not sure even if a MDO is present as they only have a full staff cadre of 6 officers. Also as the travelling allowance has not been increased with the additional field duties they have to perform, the necessary forms these MDOs have to submit may not carry accurate details.

**Issue 9:** The procedures established by the State party to monitor the situation of Sri Lankan migrant workers in detention centers and prisons across all host countries and to ensure that they have effective access to justice and are not subject to physical and sexual abuse and the co-ordination that prevails between the SLBFE, MFE and MFA are quite comprehensive and impressive. However, the case of the Sri Lankan lady getting the Death Penalty in a Saudi court and languishing in a Saudi jail for one year without all Sri Lankan authorities coming to know about it with such a purportedly efficient, streamlined and co-ordinated tracking system as described on paper really existing is a serious question. In here we want to emphasize that even with the most efficient tracking system in place electronically-systems wise if the officers who make use of the system are not in empathy with the needs of the migrant worker, the care and protection of the migrant worker in a humane way, which is the prime objective of all these efforts, cannot be holistically achieved.

**Issue 10:** We welcome the Sri Lankan Parliament passing the Constitutional amendment which has made the appointments to the Human Rights Commission of Sri Lanka (HRCSL) also, among many such organizations, independent. However, it lacks the resources to foster a comprehensive and effective human rights protection regime in Sri Lanka. At the same time the human rights culture in Sri Lanka is yet immature to voluntarily abide by the directions of the HRCSL. A good case in point in this regard is the recommendation made by the HRCSL to the Commissioner of Elections to take appropriate action to facilitate the exercise of the franchise by the Sri Lankan migrant workers resident abroad at all elections in Sri Lanka. To date the Commissioner of Elections has not acted to heed the recommendation when the number of Sri Lankan migrant workers in foreign lands is more than 10% of the total national vote base. Apart from the lack of resources to implement its mandate unhindered the Act setting up the HRCSL itself is incomplete in that it lacks provisions vesting powers on the HRCSL to independently enforce its directions.

**Issue 14:** The issue 14 is raised to find out the measures taken to protect migrant women especially those in irregular situations from the violation of all types of their human rights from the recruitment stage to the working in destination countries.

The SPR of Sri Lanka gives a long answer outlining many programmes it has initiated to look after the welfare and protection of migrant workers and their families in Sri Lanka. It opens the response by stating that the SLBFE and the Ministry of Foreign Employment have signed MOUs/ bilateral agreements with several destination countries on manpower recruitment to ensure the welfare and protection of the migrant workers. It does not state how many MOUs and how many bilateral agreements. We are aware that all are MOUs. The provisions in the MOUs are unenforceable. Whereas if the State party is to enforce the

provisions in the host country it has to be a bilateral agreement. A bilateral agreement could cover the rights of migrant workers in irregular situations also.

We welcome the initiatives to ensure the rights of the workers to know the terms and conditions of employment with the SLBFE paying special focus on implementing a single contract system (a service contract originated in the country of employment). At the last meeting of the "Colombo Process" held in Colombo Nov 2015 Sri Lanka stressing the importance of introducing a common contract for all labour sending countries in respect of female domestic employees is very much appreciated. However, we strongly emphasize the need of enforceable bilateral agreements between Sri Lanka and the receiving country where the provisions are enforceable instead of politically motivated unenforceable MOUs if Sri Lanka as a State party is seriously concerned about protecting the rights and welfare of its citizens working as migrant labour who earn lots of foreign exchange direly needed by the country.

**Issue 15:** The issue 15 begins with "In the wake of execution of Rizana Nafeek a Sri Lankan domestic workers, in January, 2013..." It asks for action under five subheads. Three years have lapsed since the execution of Rizana Nafeek. The SPR elaborates on comprehensive action taken under all these five subheads. However, all these actions seems to be on paper when, in January, 2016, we heard the case of a Sri Lankan lady sentenced to execution languishing in a Saudi jail for one year without none of the Sri Lanka State party authorities coming to know about it till it came to the verge of execution. This reiterates the need for having empathetic officers who take seriously the care and protection needed by the migrant workers from them and who are legally bound for their responsibilities. The lady concerned received a drastic reduction in the sentence imposed- from death by stoning to about 3 years imprisonment when the State party was compelled to intervene for clemency through intense campaigning of the civil society organizations when the matter came to light early this year. This clearly shows that the space is available for the State party to improve the lot of the Sri Lankan migrant workers in tandem with the civil society organizations who are committed for the wellbeing and protection of the migrant workers. Once again we re-iterate the need for coming into bilateral agreements with the State parties of major labour receiving if the rights of migrant workers are to be effectively protected.

**Issue 16:** We concede that there are no legal barriers for women to enter into employment fields. However, there are cultural barriers. For instance women are not expected to travel alone in the night. Perhaps it is not safe for women to travel in the nights as they are prone to frequent harassment. In Sri Lanka taboos on women harassment are not that string culturally though there are strong laws against women harassment. Most of the women who migrate do not have marketable skills to gain employment for good pay. They are only skilled to be employed as domestic workers in Sri Lanka. There is a good demand for domestic workers in Sri Lanka. But not well paid and not legally protected as there is no legislation covering decent work for domestic workers. This strongly makes the case for Sri Lanka as a State party acceding to the ILO Convention C189 which provides provisions to ensure decent work for domestic workers and enact local legislation aimed toward harmonizing the Sri Lankan laws with the provisions of the Convention. This will have a two-fold effect on migration and development. 1) It will motivate Sri Lankan women to seek domestic employment in Sri Lanka itself. 2) It will provide a good launching pad to negotiate bilateral agreements, with labour receiving countries, aimed towards promoting the rights of migrant workers in consonance with the provisions of ILO C189 and the UN

Convention on migrant workers saying that Sri Lanka as a State party maintains these standards.

**Issue 17:** We concede and appreciate the training provided by the SLBFE to all parties across the board including the migrant workers and their families themselves on the rights of migrant workers. However, we do not see the training inputs of the SLBFE making the required impact, because we do not see, at ground level, the migrant workers being assertive of their rights. The main reasons according to our identification are that the Sri Lankan migrant workers are not organized strongly enough in the foreign lands compared to migrant workers from some other countries for instance Philippines. In this connection we concede that the organization of migrant workers could be better done by civil society organizations (CSO). We are of the opinion that if CSOs are given a statutory status by making adequate representation of CSOs in the SLBFE Board mandatory they would perform a more affirmative role in organizing migrant workers to empower them to be more assertive of their rights. Presently CSOs are represented only in the National Advisory Committee on Labour Migration which is a very loose, unrecognized body lacking any power for action.

**Issue 18:** SPR of Sri Lanka very conveniently absolves the State party from its responsibility, by saying, “unless the countries of destination accommodate the right to join the trade unions for migrant workers Sri Lanka is unable to proceed.” We reiterate that unless Sri Lankan migrant workers are organized in the destination countries they will never be able to be assertive of their rights. The State party should not stop at training migrant workers on their rights. It must innovatively facilitate the organization of migrant workers in the destination countries which we have dealt with under item 17.

**Issue 19:** The Concluding Observations under C4 para 33 states “while taking note of the constraints, as explained by the State party, regarding the facilitation of participation in elections of Sri Lankan migrants working abroad, the Committee is nevertheless concerned that Sri Lankans working abroad are unable to exercise their right to vote in elections in their country of origin ”and para 34 goes on to say that “ the Committee encourages the State party to expeditiously take all necessary steps to ensure that Sri Lankan migrants working abroad have the possibility to register and participate in elections. However, Sri Lankan State party’s response to the list of Issues, Issue 19 in respect of elections states, “There is no provision in our electoral rules where migrant workers could exercise their franchise. Pursuant to the electoral rules, the presence of a voter in a polling station is a must. Thus there are practical problems in granting their fundamental rights while they are working abroad.” This assertion does not seem to be correct because Sri Lanka has been practicing postal voting for more than 40 years. Furthermore this purported inability is reiterated 6 years after the CMW expressing concern over the inability of Sri Lankan migrant workers to exercise their franchise. We confirm that voting of Filipinos abroad in Philippines elections is facilitated by the Government of Philippines through Republic Act No. 9189 of February 13, 2003 titled An Act of Providing for a System of Overseas Absentee Voting by Qualified Citizens of the Philippines Abroad, Appropriating Funds therefor, and for other purposes.

The Human Rights Commission of Sri Lanka in response to representations made by the National Workers Congress of Sri Lanka in 2000 has recommended to the Commissioner of Elections to take action to facilitate the Sri Lankan migrant workers in foreign lands exercise their franchise in elections in Sri Lanka. Thus we see that this matter has been

pending for an inordinately a long time without any cogent reasons. Therefore, we are of the opinion that this matter should be accorded top most priority at the deliberations in the CMW and the CMW should make a firmer observation in this regard.

**Issue 20:** Here the emphasis of the SLBFE is training in technical skills as domestic assistants. The training in complaint lodging system against recruiters and foreign agents/sponsors is done only for name sake. In most instances these pre-departure training programmes are conducted by the employment agents themselves. In addition the employment agreement is now signed in the office of the local labour agent. Even here the need to strengthen and recognize legally the role of CSOs in protecting the rights and wellbeing of migrant workers comes to surface.

**Issue 21:** The State party states of many things it has done in developing and implementing strategies, policies and programmes in collaboration with NGOs to ensure the rights of migrant workers' children left behind in the home country are protected. It does not indicate whether the State party has carried out a comprehensive assessment to identify the causes of high female migration. It goes on to show that in 2013 female migration has decreased and male migration has increased. Nevertheless still the majority of Sri Lankans who migrate are females as domestic helpers.

**Issue 22:** The SPR states that the Association of licensed Foreign Employment Agents (ALFEA) has taken moves to ensure and enforce best ethical practices for foreign employment trade by strict disciplinary control. However, according to our knowledge, making some sense to concerns of international Conventions including UN Convention on Migrant Workers and the provisions of the SLBFE Act the SLBFE with technical assistance of the ILO has recently drafted a "Code of Ethical Conduct" to be applied on recruitment agencies but inquiries found that this application has not been implemented yet due to some administrative reasons. Hence it is important to give a wide legal coverage to such "Code of Conduct" when revision of the present Act is enacted. In any case the fact that the existing provisions in the SLBFE Act making membership in ALFEA only voluntary is a serious dilution or negation of the power of ALFEA to enforce the "Code of Ethical Conduct". A "Code of Ethical Conduct" is best enforced through a membership organization whose membership is mandatory for the involved parties. Therefore, we propose that the provisions in the SLBFE Act making membership in the ALFEA only voluntary be re-enacted making the membership in the ALFEA mandatory in a way that it does not contradict with the provisions of the Constitution of Sri Lanka. The action of the Investigation Division of the SLBFE to reign in the unscrupulous employment agents should be appreciated.

**Issue 25:** The SPR does not provide enough information about how the State party initiates action to improve the re-integration of migrant workers and members of their families. It does not state how it guarantees equal employment opportunities. It states that the identified families can be assisted under the programme of the return and re-integration policy. However, we have come to be aware that the SLBFE has not been provided a budget to effectively implement the return and re-integration sub-policy. The SPR should have indicated the financial outlays the State party has made in implementing the return and re-integration sub-policy.

The ad hoc changes made from time to time by the SLBFE in the compensation scheme as well as the insurance providing mechanism seem to have frustrated the applicants who seek benefits from the schemes. Wasteful utilization of the funds available in Workers

Welfare Fund has been another subject of recent investigation by the auditors and fraud investigation authorities. The subject minister had to make a statement in the Parliament regarding these reported misuse of funds which has been highlighted by the press.

**Issue 26:** The SPR does not respond to the issue raised to indicate if bilateral or multilateral agreements facilitate voluntary return and re-integration of migrant workers. It only indicates of an agreement with the EU which is not a major receiving area. The multilateral or bilateral agreements should have been with the major labour receiving countries in the Middle Eastern block. Our surmise is that Sri Lanka does not have multilateral and bilateral agreement with any of the Middle Eastern countries.

**Issue 28:** The SPR response to this issue raised is very brief. It only states that steps have been taken to revise the existing legislation on labour migration. The SLBFE Act No 21 of 1985 to make it line with the International Conventions. However, the process is lethargic, lacks transparency and active participation of all stakeholders. The Sri Lankan government does not seem to give the priority to the task at hand. Sri Lanka has a Ministry of Foreign Employment whose primary duty should be the protection of the rights of the Sri Lankan migrant workers working in foreign lands. However, the inordinate delay in enacting an act very effectively protecting the rights of migrant workers makes one pose the question is Sri Lankan government complacent on labour receiving countries exploit and violate the rights of our sisters and brothers as they fill our coffers with scarce foreign exchange which the country direly needs.

Sri Lanka has not taken adequate steps to widely disseminate the previous Concluding Observation to the parties as enumerated therein. This is evidence of the State party's apathy towards its inalienable responsibility of protecting the human rights of its citizens, including those working in foreign lands. We request the Committee to make a strong concluding remark in this regard.

Towards the preparation of this response the following persons provided inputs.

Dr. Nimalka Fernando - IMADR

Mr. Santha Fernando - NCCSL

Mr. L.K. Ruhunage

Mr. Dilshan Weerasinghe - MNL