

Strengthening Migrant Workers' Grievance Handling Processes

Year	Total Departures	Total Complaints
2010	267,507	14,704
2011	262,961	9,936
2012	282,447	10,221
2013	293,218	11,521
2014	300,413	9,865

SLBFE Data regarding departures and corresponding complaints

The Sri Lanka Bureau of Foreign Employment (SLBFE) is the key agency that handles grievances and issues of migrant workers in Sri Lanka and overseas. This process is also supported by other grievance handling procedures facilitated by government, semi government and non-governmental organizations at various levels.

Migrant workers grievance redressing is mandated under the Sri Lanka Bureau of Foreign Employment Act No. 21 of 1985. Within section 15 of the Act, the SLBFE undertakes the provision of welfare and protection of Sri Lankan migrant workers to be one of its key objectives. Under this objective, the SLBFE, during the last 25 years of its existence, has built and organized a mechanism for handling the complaints and grievances of migrant workers and family members. This is undertaken with involvement of Sri Lankan diplomatic missions in destination countries.

The ILO's project on *"Promoting Decent Work through Good Governance, Protection and Empowerment of Migrant Workers: Ensuring the Effective Implementation of Sri Lanka National Labour Migration Policy Phase II"* financially supported by the Swiss Agency for Development and Cooperation (SDC) seeks to support the Government and tripartite stakeholders to enhance the grievance handling process for migrant workers among the other areas of the national policy implementation.

The following have been carried out by the project in its Phase 1 and Phase 2 in support of strengthening migrant workers grievance handling processes.

As the number of migrant workers leaving the shores of Sri Lanka increases annually, their issues and grievances too have increased correspondingly. According to provisional data of the SLBFE in 2014 the total number of departures was 300,413 which are the number of women and men who registered with the SLBFE and migrated for employment. There is a general increasing trend of migrant worker complaints from 2011 proportionate to the increasing number of annual registered migrations for employment seen in the table. There is also a sharp drop in complaints in 2014 perhaps owing to new regulations introduced in after 2013 however it is too early to confirm.

- A study on "Strengthening Grievance and Complaint Handling Mechanisms to Address Migrant Worker Grievances in Sri Lanka: A review and analysis of mechanisms" - 2011
- A "Review of Operational Guidelines, Procedures and processes of Sri Lankan Diplomatic Missions in Destination Countries" - 2011
- National Consultation to share findings of the two studies and agree on a way forward - 2012
- Finalization of the Operational Manual at Regional Consultation on Welfare and Protection for Sri Lankan Diplomatic Missions in destination Countries of the Migrant Workers, Amman, Jordan - 2012



- Skills Training and Capacity Building for Conciliation Officers of the SLBFE - 2012
- Launch of “Operational Manual for Labour Sections of Sri Lankan Diplomatic Missions in Destination Countries” - 2013
- Sensitization programmes for Ministry of Foreign Employment and officers in Sri Lanka and based at Diplomatic missions - 2013 & 2015
- Supported the MFE to convene a sub-committee chaired by Secretary Ministry of Foreign Employment Promotion and Welfare (as named at the time) consisting of Ministries handling foreign employment, Labour, Justice, Women and Children's Affairs, SLBFE senior management, Women and Children's Bureau of Sri Lanka Police, Trade Unions, Civil society representatives and ILO - 2013
- Supporting the Drafting of an Action Plan for the sub-committee - 2014
- Supported the SLBFE to conduct a National Workshop on Centralizing the Grievance Referral Mechanism for Migrant Workers - 2014
- Conducting Background studies on the types of Mediation Boards to be established at Divisional level to resolve grievances of migrant workers not covered by SLBFE - 2014
- Supporting the Designing of Special Mediation Boards for migrant workers - 2015
- Conduct of an Independent review of the Centralized Grievance Referral System and made recommendations for way forward - 2015

Migrant Worker Grievances

There are many issues and grievances faced by Sri Lanka's migrant workers and their families, especially the lower skilled migrant workers. These problems are faced at the pre departure, in service and return and reintegration stages of the migration process. These grievances include those faced in destination countries as well as back home, in Sri Lanka. Some of the issues faced by migrant workers and families are as follows:

Stages of migration	Grievances faced by Migrant Workers	Grievances faced by families of Migrant Workers
Pre departure stage	<ul style="list-style-type: none"> • Lack of mandatory documents • Forged documents • Mismanagement of money paid to female domestic workers • Lack of money to pay for recruitment • Deception by sub agents • Deception by agents 	<ul style="list-style-type: none"> • Family disputes over decision • Disputes related to loans to migrate • Children unprepared for parent's migration
In service stage	<ul style="list-style-type: none"> • Violations of contractual terms and conditions • Lack of employment benefits • Difficult work conditions • Harassment at work including sexual harassment • Ill health • Inability to adjust to the destination country and the work expected • workers who have prematurely left their places of employment • Jailed workers • Death during employment 	<ul style="list-style-type: none"> • Difficulties faced by spouse left behind • Substance abuse by spouse • Neglect of family duties by spouse • Neglect of children • Children not attending school • Issues faced by children at school • Substance abuse by Children • Delinquent behaviour by children • Child care issues for Care Givers • Lack of communication with migrant workers • Demand to bring back migrant worker
Return and reintegration stage	<ul style="list-style-type: none"> • Difficulty in adjusting to life • Disputes with spouse • Difficulty in managing children • Disputes with extended family and relatives • Lack of information to decide on income generation/ investment • Repeat migration without due consideration 	<ul style="list-style-type: none"> • Children finding it difficult to adjust to returnee parent



Migrant workers and family members seek grievance redress in a wide range of national, District, Divisional and local level organizations that can resolve their issues. Some organizations have the legal mandate to support redressal of grievances while others engage in a referral or hand holding process to support the resolution of the complaint.

The means of complaints are many. Complaints are brought to the SLBFE in person by the migrant workers and/or by their families, and complaints are telephoned in (through the SLBFE hotline), sent via letters, emails and faxes, reported by news media and other sources by social service organisations, trade unions, and NGOs, by other government entities and politicians.

The Conciliation Division of the SLBFE

The Sri Lanka Foreign Employment Act No. 21 of 1985 gives Bureau powers for the SLBFE to intervene and resolve matters directly related to break of contractual agreement to which SLBFE is a party. The SLBFE's Conciliation Division has the responsibility of recording and settling migrant worker's and family member's complaints through a processes of negotiation and amicable settlement and minimise legal procedures. This service is available at to the SLBFE Head Office and is also decentralized in 09 SLBFE Provincial offices in Anuradhapura, Badulla, Chilaw, Dambulla, Galle, Kandy, Matara, Kurunegala, Chillaw and Ratnapura where complaints can be lodged. Requests can be made if the complainant desires that the conciliation session takes place at the SLBFE Provincial Office closest to the complainant.

Complaint Management System of the SLBFE

The Conciliation Division of the SLBFE receives approximately 50 to 70 complaints a day. On

Wednesdays, i.e public day, these numbers usually increase. Basic information such as the nature of the grievance, name of the concerned migrant worker, passport number, name of the recruitment agent, name and contact details of the complainant, relationship of complainant to migrant worker etc is recorded by the conclusion division.

The information is recorded in a complaint format which is fed in to an online database called the Complaint Management system (CMS). The CMS is able to store scanned documents and reports related to a specific case so as to ensure all required information is readily available for the concerned officials. This CMS is accessible to SLBFE Head Office, to Provincial Offices as well as Sri Lankan Diplomatic Missions in countries of destination to facilitate greater sharing of information to accelerate the grievance redress process of migrant workers. CMS does not solve the complaint immediately but goes through a unique process of verification and triangulation from the worker, local agent, foreign agent and employer to find the real situation and resolve the issue amicably avoiding any court procedures.

Types of Complaints not addressed by the SLBFE and requires an alternate dispute resolution mechanism

- Family disputes faced by migrant workers, their families and care givers
- Disputes with sub agents
- Disputes with agents where the SLBFE is not mandated to deal with such disputes
- Disputes over Family Background Reports
- Disputes between migrant workers and their families and the SLBFE





Why Special Mediation Boards as a dispute resolution mechanism at local level

- In 2010, the Ministry of Justice proposed setting up Special Mediation Boards at District level to provide a non-formal system of dispute resolution for migrant workers and their families.
- In existing Community Mediation Boards, the government or a government representative acting on behalf of the government cannot be made a party as they cater to private disputes only.
- Aimed to be set up under the Mediation Boards Special Categories of Disputes Act which would enable migrant workers and their families to bring disputes against any government or private institution or individual to arrive at a mediated settlement.
- Upholds the rights of migrant workers and their families and facilitates their access to justice.

- Type of mediation used is interest-based mediation: dispute is settled by seeking solutions that meets the needs and interests of both disputing parties equally and does not involve a third party making a decision for the disputing parties
- The process considers interests and specific conditions that a party must obtain for a satisfactory settlement to be reached. These can include substantive interests, procedural interests and psychological interests. Interest based mediation differs and diverts from positional bargaining which is generally a win-lose or compromise-oriented process.
- Thus Special Mediation Boards can address this gap and provide a forum for the mediation of disputes between private individuals (migrant workers and their families) and private entities (recruitment agents and sub-agents) as well as government representatives complementing the existing conciliation process of the SLBFE.
- The Special Mediation Boards would provide a non-adversarial system where both parties will be supported to arrive at an amicable settlement.



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