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FAIR RECRUITMENT COUNTRY BRIEF: SRI LANKA

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Labour migration in Sri Lanka

Labour migration from Sri Lanka has grown in importance in recent decades and has significantly contributed to the socio-economic development of the country. In the context of a globalized economy, Sri Lankan workers continue to search for decent work and better livelihoods abroad, leading to yearly increases in labour migration and remittance flows. Labour migration has decreased unemployment rates and provided a source of household income for many.

In 2017, the number of migrants emigrating from Sri Lanka for work was around 212,000, according to statistics from the Sri Lanka Bureau of Foreign Employment (SLBFE). The majority of Sri Lankan migrants perform jobs that the SLBFE categorizes as ‘skilled’ or ‘unskilled’.¹ Remittances to Sri Lanka increased from the equivalent of 20 per cent of total export earnings in 2000, to 63 per cent in 2017. Remittances current comprise approximately nine per cent of national Gross Domestic Product (ILO, 2019).

Recognizing the strategic relevance of labour migration and yet acknowledging the challenges migrant workers face at all stages of their migration experience, the Government of Sri Lanka has developed an important set of regulatory and institutional mechanisms to govern labour migration and protect migrant workers. Yet, a number of challenges remain to be addressed. The Global Action to Improve the Recruitment Framework of Labour Migration (REFRAME) project seeks to work in partnership with ILO constituents in the country to address some of the challenges related to the recruitment of migrant workers in line with the ILO’s General Principles and Operational Guidelines for Fair Recruitment. The section below summarizes some of the identified challenges and the areas of priority for the REFRAME project intervention during the biennium 2018-19. The challenges and opportunities have been identified based on a literature review, research conducted by the REFRAME project, and through national consultations.

¹ Currently, the SLBFE classifies occupations according to several categories: professional, skilled, semi-skilled, middle-level, clerical, unskilled, and housemaid. These categories are without any correspondence to international occupational classifications. In order to better address issues of potential mismatch between the availability of migrant workers’ skills and the demand for jobs, the SLBFE, with the support of the ILO, is in the process of harmonizing its occupational classifications with international standards.

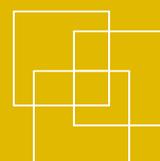
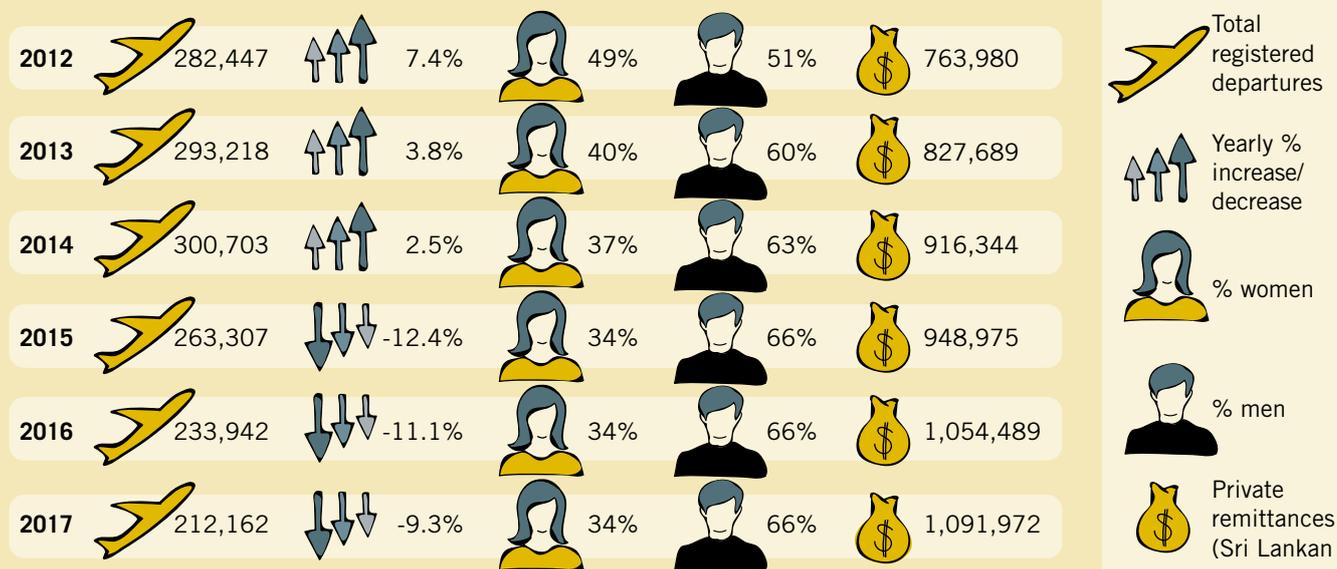


Figure 1: Sri Lankan labour migration trends, by year (2012-17)



Source: SLBFE statistics, 2012-2017; ILO (2017) Promoting decent work for women and men migrant workers from Sri Lanka: Profile of Labour Migration in Sri Lanka

Labour migration in Sri Lanka at a glance

- Total departures for foreign employment in 2017: 212,162 (decrease from 282,447 in 2012)
- Men/women ratio of foreign employment: 66 per cent male and 34 per cent female
- Over 90 per cent of Sri Lankan employees working abroad were employed in the Arab States in 2016
- Private remittances sent to Sri Lanka in 2017 were equivalent to US\$ 7.19 billion

Sources: UNDESA, SLBFE statistics, World Bank

Main labour migration trends: Challenges and opportunities

Steadily increasing migration flows which have slowed in recent years

From 1997 to 2014 the number of Sri Lankan migrant workers steadily increased. However, since 2015, this trend has reversed, leading to a considerable decrease in departures (from 300,703 in 2014 to 212,162 in 2017, a decrease of 29 per cent). The decline may be attributed to the economic downturn and labour market reforms in the Gulf Cooperation Council (GCC) countries (key destination countries), as well as regulatory measures that have affected the movement of women migrant workers (mainly domestic workers), and might have pushed them towards informal and unregistered migration.

Concentration of flows toward low-skilled occupations in the Arab States

The migration of workers from Sri Lanka is mostly toward the Arab States, and more specifically toward the GCC countries. The top four countries of destination – Saudi Arabia, Kuwait, the United Arab Emirates and Qatar – alone hosted almost 80 per cent of all Sri Lankan labour migrants in 2017. Qatar became the main destination in 2017 (SLBFE, 2017). Migrant workers from Sri Lanka have also predominantly been concentrated in low-skilled occupations, which are often excluded from effective labour protection in the destination country.

This specific migration corridor to the GCC countries is dominated by temporary labour migration schemes, governed by the sponsorship system (*kafala*) which de facto ties the migrant worker's immigration status to an individual employer or sponsor (*kafeel*) for their contract period. This system has been subject to international criticism which points to the asymmetrical power relationship it creates between worker and employer, which can make workers, and especially migrant domestic workers, vulnerable to exploitation and forced labour (ILO, 2017).

Recent shifts in the gender composition of registered migration flows

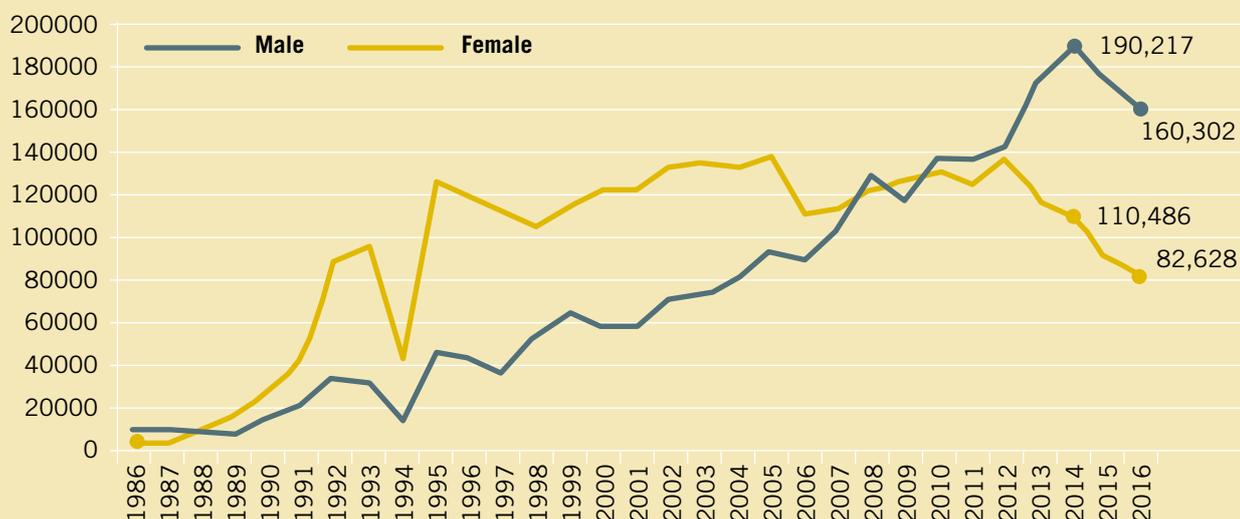
Sri Lankan labour migration has been for many years associated with the issue of “feminization of migration”. From the early 1990s, women have dominated migration flows, constituting more than 70 per cent of the total number (SLBFE, 2016).

Sri Lankan women have in the past migrated mainly for jobs in domestic work in the Arab States. This phenomenon has shown a number of challenges as reports of abuse, linked among others to the lack of coverage of domestic work by labour law in the destination country, have increased over the years, resulting in considerable negative media coverage nationally and globally.

With a view to address some of these protection challenges as well as address the social impact on families ‘left behind’, in 2013 the SLBFE adopted a regulation, the directive of the Family Background Report (FBR), banning prospective women domestic workers with children under the age of five from migrating for work overseas. The regulation has limited the opportunities for many women to migrate for employment through regular channels, and as such has contributed to a recent and significant shift in the proportion of unregistered women migrant workers who migrate through irregular channels (ILO, 2018b). Although the share of registered women domestic workers has fallen in recent years, women still accounted for about 26 per cent of all registered migrants in 2017 (SLBFE, 2016; SLBFE, 2017).

The FBR has been subject to criticism based, among other issues, on the principle of equality of opportunity and treatment for women and men and the unintended consequence of pushing women into more irregular, unprotected recruitment and migration channels. Women who migrate irregularly are potentially exposed to exploitation and abuse, and vulnerable to human trafficking and forced labour (ILO, 2018b). This shift is illustrated in the graph below:

Figure 2: Total registrations for overseas employment, by gender and year



Source: SLBFE (2016)

Skills mismatch

Most Sri Lankan workers are recruited under the SLBFE categories of ‘skilled’ or as ‘unskilled’ workers, accounting for approximately 61 per cent of all registered migrant workers. Female domestic workers are classified separately as ‘housemaids’, accounting for approximately 90 per cent of women migrants in 2016 (and dropping to 77 per cent in 2017). The destination countries of the GCC are reliant on a large foreign labour force to meet ever growing market demands, especially in the construction sector (over 90 per cent of the labour force of Qatar are migrant workers). Although the demand for migrant workers in the GCC countries has dropped in the recent years, the labour market demand for low- and semi-skilled migrant workers in the GCC private sector is projected to remain high in the short-term. In the longer-term, there will still be a structural demand for migrant workers, even though

the number and profile (in terms of skills) of migrant workers is expected to change (ILO, 2018e).

Yet, some labour market trend analyses reveal an extensive gap in the skills that are supplied and those that are in demand in countries of destination. The demand for migrant workers in GCC countries is higher than the Sri Lankan labour force can meet, and migrant workers are often low-skilled or are not equipped with skill sets that are in demand. For example, less than 25 per cent of the job vacancies in the construction sector in GCC countries targeting Sri Lankan migrant workers were filled in 2012 (ILO and IOM, 2017).

According to recent studies (ILO, 2018e; ILO and IOM, 2017), there are several reasons that may explain the existing skills mismatch. Firstly, with increasing

education levels, Sri Lanka is struggling to meet the demand for low- and semi-skilled workers, as many young workers, including graduates, continue to look for more opportunities to move into skilled or semi-skilled positions abroad. In addition, the weak quality of vocational training provided in Sri Lanka, the lack of recognition of qualifications at the destination country, and the overall lack of harmonization of national qualification frameworks between Sri Lanka and the GCC countries further exacerbate this skills mismatch.

Key national legislation

- Sri Lanka Bureau of Foreign Employment Act, 1985
- National Labour Migration Policy for Sri Lanka, 2008
- Sub-Policy and National Action Plan on Return and Reintegration of Migrant Workers Sri Lanka, 2015
- Regulation: Family Background Report, 2013

A policy and regulatory framework in need of review

As governance of labour migration is a key priority in Sri Lanka, the country has developed a mature overseas employment policy and institutional framework, starting with the enactment of the [Sri Lanka Bureau of Foreign Employment Act in 1985](#) which regulates the recruitment of Sri Lankans for overseas employment. The Sri Lanka Bureau of Foreign Employment (SLBFE) is the entity mandated to govern labour migration and its main functions include the promotion of overseas employment as well as protection and assistance to migrant workers.

The [National Labour Migration Policy for Sri Lanka](#) which was developed with the technical assistance of the ILO and launched in October 2008, and the subsequent Sub-Policy and National Action Plan on Return and Reintegration of Migrant Workers Sri Lanka (December 2015) are the key policy documents in this area and are recognized as a model within the region.

Yet, given the highly dynamic nature of labour migration, this policy is now undergoing revision to better reflect changes in labour market supply and demand within the country, in the region, and in destination countries. The main gaps of this policy can be considered as: governance of the migration process, including the lack of systematic data collection; protection and empowerment, e.g. including the issue of the incentive fee paid by the recruitment agents to potential women domestic workers;² and linking migration to development, e.g. lack of consultation with stakeholders in introducing substantive policy decisions. Furthermore, changes to the Foreign Employment Act (1985) and accompanying rules need to be revisited due to the evolving context and remaining gaps in laws and regulations, notably in terms of implementation and enforcement as well as access to justice for migrant workers.

Weak enforcement of recruitment regulation, widespread informality and abuse at the recruitment stage

Historically, the majority of Sri Lankan migrant workers have found employment abroad through recruitment agencies. Up until 2014, this mode of recruitment was used by almost 60 per cent of the migrant worker population. The Sri Lankan Government has set up a framework to regulate the recruitment agencies, and a system to monitor their operation. However laws and policies do not prohibit the charging of fees to workers and weak enforcement leaves ample opportunities for unscrupulous recruitment agencies to engage in abusive and fraudulent practices, including exorbitant, unauthorized fee charging, deception and abuse. In some cases, financial incentive payments even lead to migrant workers ending up in debt bondage (ILO, 2019).

A number of challenges have been identified with respect to the complexity, cost and transparency of the current recruitment system, which leads to inefficiencies for workers, agencies and employers. Research (see ILO 2019) indicates that this could be a cause of a recent shift in the preferred recruitment model used

² Recruitment agents are reported to offer a cash payment to potential migrant domestic workers to incentive them, despite a SLBFE regulation prohibiting such payments. For further information see ILO (2018) Sri Lankan female migrant workers and the family background report.

by workers, as SLBFE data from 2015 suggests that workers prefer to migrate through the support of personal networks rather than through a registered recruitment agent. In fact in 2015, more than 62 per cent of (registered) migrant workers migrated through personal sources without an intermediary (called 'self-basis').

Several challenges related to recruitment exist and may be exacerbated by this recent dynamic, including:

- The predominance of informal, unregulated recruitment agents or brokers operating outside the current legal frameworks. These brokers are often operating at local level and are individuals trusted by local communities and prospective migrants. Their role, often central in the recruitment process, is currently not regulated.
- Insufficient pre-decision and pre-departure information (e.g. about rights at work, employment conditions, and welfare services available for migrant workers and their families).

Limited access to justice and dispute resolution mechanisms

In the destination countries, due to language barriers, fear of retribution, or an insecure migration status, migrant workers face many challenges in accessing grievance and other dispute resolution mechanisms for an alleged violation of their rights during the recruitment process. While SLBFE officials may engage in mediation with the local labour officials in the destination country, their ability to institute action against the employer or recruitment agency in the destination country is very limited.

Upon return, migrant workers who have registered with the SLBFE can access complaint mechanisms and are covered by a specialized insurance scheme.³ A key challenge is that this mechanism does not protect workers who arrange employment directly (without registering with the SLBFE) or who use informal channels. At the local level, grievance handling mechanisms are known as 'Special Mediation Boards', which aim to address the issue of centralization of the process which creates access barriers.⁴

A further key challenge remains worker trust in the mechanisms. According to the recent review of the National Labour Migration Policy for Sri Lanka (ILO, 2018c), the current grievance handling system is not considered sufficiently trustworthy by many migrant workers, and many migrant workers have little confidence in the relationship between recruitment agencies and the SLBFE and perceive the system as biased in favour of the recruitment agencies.

Weak representation of migrant workers and of labour migration concerns within workers' organizations

Social partners, including workers' organizations, can play a key role in providing workers with essential information and services, advocating for their rights at different levels and influencing policy reform, as well as actively monitoring recruitment practices. While trade unions in Sri Lanka have a long history of engaging with migrant workers, the consistency and coordination of their actions has often been limited and recently there has been relatively little engagement of trade unions on the issue of labour migration.

Bolstering trade union representation could contribute significantly towards stronger advocacy initiatives on behalf of the Sri Lankan migrant workers, ultimately supporting migrant workers to make better informed decisions on safe migration.

³ See SLBFE: Benefits of insurance coverage, available at: <http://www.slbfe.lk/page.php?LID=1&PID=110?>

⁴ This mechanism is currently being revised with support of the ILO

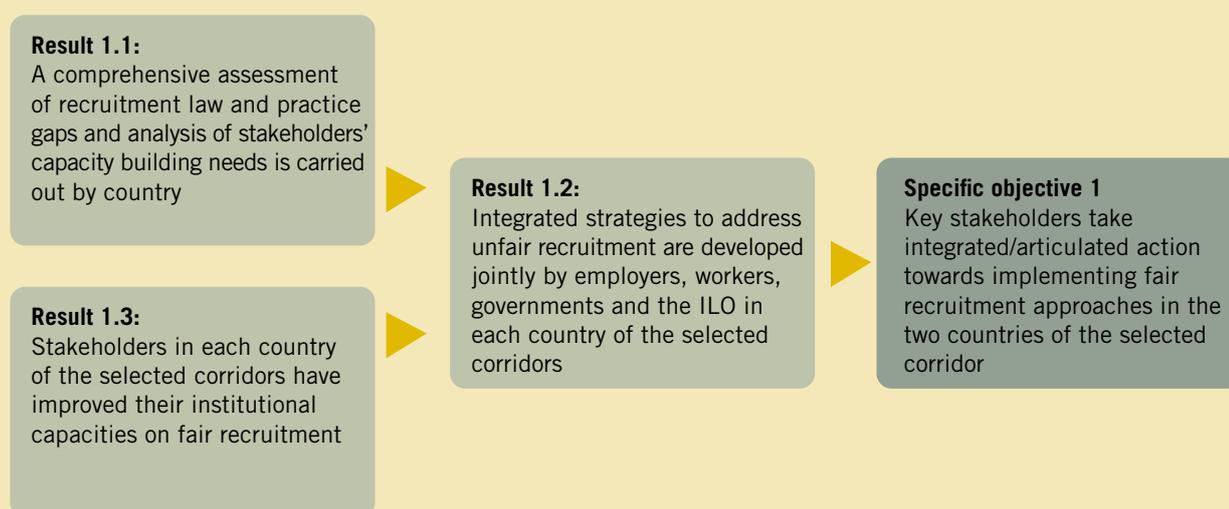
The REFRAME priorities for action in Sri Lanka

The REFRAME project operates in Sri Lanka within the framework of a broader ILO Office strategy on labour migration, in synergy with a number of other development cooperation projects. The activities relating to migration are operationalized through Country Priority Outcome 3: Rights at work for all of the Decent Work Country Programme for Sri Lanka 2018-2022, including

the Outcome 3.2: *Labour market outcomes for (low-skilled) migrants are improved and their vulnerability to exploitation (forced labour) reduced.*

REFRAME activities in Sri Lanka are aligned with the global REFRAME Theory of Change.

Figure 3: REFRAME Sri Lanka Theory of Change, Objective 1



With a view to base its targeted intervention on constituents' needs and priorities and in line with its global objective to foster policy dialogue, the project has conducted a series of studies and consultations to shed light on existing recruitment practices and identify areas of priority action to support the country in operationalizing the ILO General Principles and Operational Guidelines for Fair Recruitment.

The project is expected to improve the capacities of ILO constituents in the country, as well through a corridor-specific approach with the countries in the Arab States in order to develop and implement integrated action on improving recruitment practices.

Key REFRAME project partners

Government

The Sri Lanka Bureau of Foreign Employment (SLBFE)

The Ministry of Telecommunications, Foreign Employment, and Sports

The Sri Lankan Department of Census and Statistics

Workers' Organizations (International Trade Union Confederation affiliates)

The National Trade Union Federation (NTUF)

The Ceylon Workers' Congress (CWC)

The Sri Lanka Nidahas Sevaka Sangamaya (SLNSS)

Civil Society Organizations and Media

The Free Media Movement (FMM)

To address the challenges and seize the opportunities offered by the existing labour migration framework in Sri Lanka, the project is aiming to:

- **Conduct studies and policy consultations** on specific issues and thematic areas. Including an assessment of law, policy and practice on recruitment as well as a research on recruitment agency business practices and costs. Sectoral analyses of recruitment practices (e.g. in the care and hospitality sectors) will be undertaken with a view to addressing the skills mismatch issues.
- **Identify specific needs of stakeholders**, including recruitment agencies or the Department of Census and Statistics, and support them with specific tools to improve the effectiveness of recruitment practices while enhancing their compliance with relevant standards.
- **Support awareness raising and capacity building activities of trade union organizations** to identify and address recruitment abuses, provide better services to members and migrant workers, and improve their representation.
- **Promote awareness and capacity of media** to report fairly on labour migration and identify abuses in the recruitment process.
- **Support the implementation of the Recruitment Advisor**, a web-based evaluation system of labour recruiters developed by the International Trade Union Confederation. Sri Lanka is selected as pilot country for the implementation of the Recruitment Advisor, with the co-support of REFRAME and the ILO Equipping Sri Lanka to Counter Trafficking in Persons (EQUIP) project.
- **Facilitate the strengthening of coordination mechanisms and tripartite dialogues** in order to develop integrated strategies towards implementing fair recruitment. An integrated work plan with priority areas of intervention has been established through stakeholder consultations.

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Notes

Notes

This report was produced by the Global Action to Improve the Recruitment Framework of Labour Migration project (REFRAME), supported by the European Union. The REFRAME project aims at preventing and reducing abusive and fraudulent recruitment practices, and maximizing the protection of migrant workers in the recruitment process and their contribution to development.

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