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# Twenty Years of Searching for a Solution

– A Minor Field Study of the continuous abuse of  
Sri Lankan women working as housemaids in the  
Middle East

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## **Abstract**

The debate regarding the problems faced by Sri Lankan women migrating abroad for employment is not a very recent, but a rather protracted one. For this reason it becomes even more interesting to study. When comparing current articles and research with equivalent work performed during the 1990's one immediately discovers that the same problems exist and are still being reported. This in spite of massive reformations in policies by the Sri Lankan Bureau of Foreign Employment and the implementation of other, non-state bound organisations. This study aims at examining the reasons behind the absence of apparent improvement regarding migrating women's situation. By looking at criticism stated during the 1990's and suggested improvements; and comparing them to current implementations; certain factors emerges as more important in contributing to the problem than others. Qualitative interviews with Sri Lankan women whom recently have worked abroad and returned home have been conducted, so as to get an understanding of which policies that are truly implemented and which are merely paper decorations today. This study shows that bilateral agreements are of immense importance in the efforts of protecting migrating workers' rights. It further highlights the lack of communication and cooperation within and between Sri Lankan organisations in dealing with the issue.

**Key words:** Migrant, Domestic Worker, Ill-treatment

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Finally I would like to thank Dr. Anusha Edirisinghe who has been my guiding light through this journey. She and her family made it easy to cope with all possible problems. *Anusha you are golden! Without you I would have been lost.*

With love and respect,

Nina

*"With the continuous stream of Sri Lankans leaving the country to earn a living or pursue better opportunities...It is indeed time to give them what they are due (respect and recognition of their contributions and efforts, assurance of their basic human rights, protection and promotion of their well-being)."*

- The Sri Lankan Bureau of Foreign Employment, Evolution & Best Practices of Industry of Foreign Employment in Sri Lanka (Country paper)

\*Provided to me by Mr. Senanayake during our interview.

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## **List of Abbreviations**

<b>SLBFE</b>	The Sri Lankan Bureau of Foreign Employment
<b>ACILS</b>	The American Center for International Labor Solidarity
<b>ILO</b>	The International Labour Organisation
<b>CIDA</b>	The Canadian International Development Agency
<b>MOU</b>	Memoranda Of Understanding
<b>UAE</b>	United Arab Emirates
<b>MWA</b>	Migrant Worker Association
<b>NGO</b>	Non-Governmental Organisation

## 1.0 Background

The past thirty years has shown a shift in the appearance of the Asian labour market with a dramatic increase of geographic mobility within Asia and a change in the migration flow. During the 1960's the migration flow from Asia was directed towards the western parts of the world. This changed, however, in the 1970's and 1980's with the oil crisis and the increased income level of the Middle East. The migration flow began to be dominated by an intra-Asian pattern<sup>1</sup>. The increased income level amongst the Middle Eastern countries also had another effect on the appearance of the Asian migration; namely the gender composition<sup>2</sup>. Since households became richer in the Middle East it became more common to hire domestic workers which most often were, and still are, females. In 1990 an estimation of six million people were working in this geographical region and of those, 20% were foreign female domestic workers<sup>3</sup>.

The Sri Lankan government has had quite an unusual involvement, when compared to other countries in history, in the migration flow. Policies which have been implemented show the positive attitude towards migration by the government, starting with the implementation of the Sri Lanka Bureau of Foreign Employment (SLBFE) in 1985<sup>4</sup>. Reasons for this are diverse, one of which may be the widespread poverty on one hand and the very high socio-economic expectations of the average Sri Lankans on the other<sup>5</sup>. Increased migration can reduce local unemployment and at the same time transfer foreign exchange into the country<sup>6</sup>. This was one of the main sources of foreign income earnings in 2005 which amounted to nearly 200 billion Sri Lankan Rupees<sup>7</sup>.

The reasons for choosing to migrate correlate with above mentioned factors. The most common push factor is stated to be poverty, while the most frequent pull factor is employment<sup>8</sup>. Since women generally are more exposed to different kinds of exploitations; such as physical and sexual abuse and lower wages, the aim of migrating for many women was said to be some sort of betterment in their situation<sup>9</sup>.

The majority of the migrating women leave the country as Domestic workers or 'Housemaids'. In 2010 the housemaids represented 86.36% of the female migration<sup>10</sup>. Today they are not protected by any labor law while working abroad. In many cases the distinction

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<sup>1</sup> Agrawal, Anuja, Women and Migration in Aisa: Migrant women and work. Vol 4, Sage Publications India Pvt Ltd, New Delhi, 2006, Chapter by: Leela Gulati, p. 46

<sup>2</sup> Ibid. p. 49

<sup>3</sup> Ibid. p. 56

<sup>4</sup> Ibid. p. 52

<sup>5</sup> Arya Sadhna & Roy, Anupama, Women and Migration in Asia: Poverty, gender and migration. Vol 2, Sage Publications India Pvt Ltd, New Delhi, 2006, Chapter by: Sepali Kottegoda, p. 50

<sup>6</sup> Gamburd, Michele Ruth, Transnationalism and Sri Lanka's Migrant Housemaids: The kitchen spoon's handle, Vijitha Yapa Publications, Colombo, 2002, ISBN: 955-8095-15-X, p. 42

<sup>7</sup> Associated Newspapers of Ceylon Ltd, Legal Aid Commission, Lake House Copyright, 2010, <http://www.dailynews.lk/2010/05/07/fea23.asp>, 2011-03-30

<sup>8</sup> Agrawal, Anuja, Women and Migration in Aisa: Migrant women and work. Vol 4, Chapter by: Thapan, Meenakshi, p. 10

<sup>9</sup> Ibid.

<sup>10</sup> The Sri Lankan Bureau of Foreign Employment, Evolution & Best Practices of Industry of Foreign Employment in Sri Lanka (Country paper), p. 3

between modern slavery and employments is rather thin. The Middle East has since the 1970's represented the largest host countries for Sri Lankan housemaids<sup>11</sup>. In 2008 Kuwait was the biggest employer of Sri Lankan housemaids with 32.82%. Saudi Arabia followed closely with 32.62%<sup>12</sup>.

A crucial consequence of the changing pattern of migration, and especially the increase in domestic work migration, was that such work suddenly was given an economic value by becoming waged work<sup>13</sup>, hence important for the national economy. Recognising this, the government implemented the above mentioned Bureau of Foreign Employment to monitor the migration and to protect the migrants. In the 1990's cases of abused women working in the Middle East began to be reported and the SLBFE received some critique of not measuring up to its own standards, especially regarding violations of contracts by employers and a lack of training of migrants<sup>14</sup>.

The sole fact of being alone abroad and away from the home country's legal system, and thus being dependent upon the employer in the new country is in itself a cause for distress. In addition to this, previous research show that the ones suffering largest risk of being victims of some sort of abuse are poor women working abroad as unskilled labour in the domestic area<sup>15</sup>. Housemaids working in the Middle East are definitely in this category. Furthermore, in many countries people working in the domestic area are generally regarded as having a lower status than people with other professions. When governments like the Sri Lankan are trying to defend the human rights for their population working in such areas they encounter problems of not being able to change the mentality of the host country regarding the status of housemaids<sup>16</sup>. Given the vulnerability of the women working abroad as housemaids and the difficulty for the government to control their situation, the issue becomes a two-folded problem.

To get a better understanding of the seriousness of the situation for some Sri Lankan women working abroad the study "Punishing the victim: Rape and Mistreatment of Asian Maids in Kuwait" from 1992, which was a part of the Women's Rights Project by the Middle East Watch, is here used as an example.

The report stated that of the sixty women interviewed; one third claimed to have been victimized of rape or sexual abuse of some sort by her employer or another man whom had access to the house in which she worked. Of those women, more than two thirds had been physically abused at the same time<sup>17</sup>. The abuse, however, does not have to be limited to

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<sup>11</sup>MSC-NWS Sri Lanka, Migrant New Letter for February 2010, 2010, [http://www.eureka.lk/migrant/test/newsletter\\_feb.htm](http://www.eureka.lk/migrant/test/newsletter_feb.htm), 2011-03-30

<sup>12</sup> The Sri Lankan Bureau of Foreign Employment, Annual Statistical Report of Foreign Employment 2008, Karunaratne & Sons Pvt Ltd, Battarmulla, 2009, Tabel 25, p. 31

<sup>13</sup> Agrawal, Anuja, Women and Migration in Aisa: Migrant women and work. Vol 4, p. 29

<sup>14</sup> Gamburd, Michele Ruth, Transnationalism and Sri Lanka's Migrant Housemaids: The kitchen spoon's handle, p. 51

<sup>15</sup>The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers October 7<sup>th</sup>-9<sup>th</sup> 1997, Colombo, 1998, Chapter by Perera Myrtle, Social Cost of Female Migration, p. 4

<sup>16</sup> Heyzer, Noeleen, Lycklama à Nijeholt, Geertje & Weerakoon, Nedra, vol 1, The trade in domestic workers: causes, mechanisms & consequences of international migration Zed books Ltd, Sri Lanka 1992, Chapter by: Savitri Goonesekere, p. 182

<sup>17</sup> The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers

neither sexual nor physical character. Underlying abuse such as debt bondage/non-payment and passport deprivation are both grave violations of the human rights and are frequently used as reinforcement to the sexual and/or physical abuse<sup>18</sup>. The non-payment of wages puts the woman in a very difficult situation due to a few reasons. As mentioned earlier a contributing factor for seeking employment abroad is poverty, indicating that the woman needs the money she earns for her and/or her family's well-being. Failure to pay the wages also puts the woman in the fragile position of having a lack of money, making it complicated for her to leave. Some employers had also made threats to the women saying that they would have them arrested if they left without paying their "debt". Along with the deprivation of the woman's passport (for "safe-keeping") a state of isolation for the woman is imminent<sup>19</sup>.

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October 7<sup>th</sup>-9<sup>th</sup> 1997, Chapter by: Women's Rights Project, Punishing the Victim: Rape and Mistreatment of Asian Maids in Kuwait, p. 2

<sup>18</sup> Ibid. p. 6

<sup>19</sup> Ibid. p. 9ff

## 2.0 Problem and aim

As mentioned above the problems and the debate involving the abuse of Sri Lankan women working as housemaids abroad is not a new phenomenon. This is also a part of the reason why it is such an interesting topic. When comparing current articles and research with equivalent work performed during the 1990's, when the critique first was put forward, one immediately discovers that the same problems exist and are still being reported today. During the latter part of the 1990's many scientists started to suggest different improvements in the SLBFE policy agenda. The SLBFE has since then presented many revisions in their agenda in an effort to correct any shortcomings. However, when reading a daily newspaper in Sri Lanka about women working in the Middle East today, the article could just as well have been written in 1991 instead of 2011. This study therefore aims at examining the reasons behind the absence of apparent improvement regarding migrating Sri Lankan women's situation, based on the critique put forward to the SLBFE during the 1990's. By placing the protagonist of the problem in the center of the study, a further aim is to present new perspectives of the problem and possible improvements for the future.

## 3.0 Research question

In order to investigate this matter and to fulfil its purpose I have chosen to focus on critique and suggestions of improvement of the SLBFE policies put forward in two different forums. Firstly I have chosen to study some of the ideas of Savitri Goonesekere presented in "*The Trade in Domestic Workers: Causes, Mechanisms & Consequences of International Migration*". Secondly some of the critique put forward at the international conference on migrant women workers between the 7<sup>th</sup> and the 9<sup>th</sup> of October 1997 in Colombo will be considered. This conference was organized by the American Center for International Labour Solidarity (ACILS) which is a non-profit organisation assisting workers worldwide to develop trade unions<sup>20</sup>. By applying the opinions from these two forums I am hoping to be able to answer the following question;

- ***How can the continuous abuse of Sri Lankan women working abroad be explained?***

The conclusions from this study should be viewed with consideration of the broad and very complex scope of the problem, and be used as a guideline in further policy making.

## 4.0 Limitations

To investigate all suggestions regarding improvements put forward to the SLBFE and hence all improvements that have, de facto, been made would be a far too large scope for this study. Therefore I have narrowed the research variables down to four different aspects of improvement; presented on page 14. These factors are frequently mentioned and debated about among different researchers and represent diverse perspectives of the migration process.

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<sup>20</sup> Solidarity Center, About Us, <http://www.solidaritycenter.org/content.asp?pl=409&contentid=409>, 2011-04-14

I am, however, aware that other factors not mentioned in this study might be of equal importance for the negative outcome of some women's situation abroad.

In this study there is also no representation of the employer's point of view. Instead I have chosen to focus merely on the women's experiences, memories, thoughts and feelings regarding the topic. Amongst the women I take no account to differences in age, ethnicity, duration of stay or host country (however, they have all worked in the Middle East).

## 5.0 Definitions

### *Migrant Worker*

- I have chosen to use the definition put forward by the Ministry of Foreign Employment where a migrant worker is stated as a person who is about to be, is, or has been engaged in remunerated activity in a state which is not the person's national state. Both documented and undocumented, and temporary and permanent are considered<sup>21</sup>.

### *Ill-treatment/abuse*

- Ill-treatment and abuse are here referred to as any harsh or unkindly actions, including physical, sexual and mental abuse.

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<sup>21</sup> Ministry of Foreign Employment Promotion & Welfare, National Labour Migration Policy for Sri Lanka, Supported by the International Labour Organisation, Colombo, 2008, p. 1

## 6.0 Theory

As stated above I will use the findings proposed in two different forums to form my theory. I will begin by presenting the perspectives that Savitri Goonesekere highlights in “The Trade in Domestic Workers: Causes, Mechanisms & Consequences of International Migration”.

The International Labour Office’s (ILO) Convention number 143: “Migrant Workers” was set up in 1975<sup>22</sup> but in 1992 only fifteen countries had ratified the treaty. The most significant migration sending and receiving countries of Asia, however, had not<sup>23</sup>, Sri Lanka being one of them. According to Goonesekere this sends contradictory signals to migrants and other countries. Article number 3 in the convention states that;

*Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members--*

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and*
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions.<sup>24</sup>*

Ratifying this document, Goonesekere claims, means that the country in question is expected to form a clearly stated immigration policy and to have a political intention of preventing any clandestine and illegal migration. On the other hand, by not ratifying the convention the country gives the impression of not having a clearly stated immigration policy, which in turn means that none of the major Asian countries involved in the migration labour market has that. Goonesekere continues by stating that Sri Lanka has a very open policy towards migration, given that the government through the SLBFE clearly is involved in the migration process. The question that Goonesekere poses therefore is whether the Sri Lankan government is prepared to take an official stand against illegal migration. Having an open policy towards migration at the same time as ignoring important issues like these creates an environment that promotes the exploitation of all migrants, according to Goonesekere<sup>25</sup>.

Another important issue put forward by Goonesekere is the significance of signing bilateral agreements. These agreements should be signed by the Sri Lankan government as well as the labour-receiving country. In a situation where a contract is violated the normal procedure is to have the matter settled in the national court where the contract was signed. The problem arises, however, when the work is performed in another country where the violation of the contract thus occurred. This inevitably leaves the workers to fight for themselves in a foreign country, which has a different legislative system. It is for this reason that Goonesekere stresses the importance of not only having proper contracts between employer and employee,

<sup>22</sup> The International Labour Organisation, ILO Convention No. 143 Migrant Workers (Supplementary Provisions), 1975, [http://www.ilocarib.org.tt/projects/cariblex/conventions\\_7.shtml](http://www.ilocarib.org.tt/projects/cariblex/conventions_7.shtml), 1996-2008, 2011-04-14

<sup>23</sup> Heyzer, Noeleen, Lycklama à Nijeholt, Geertje & Weerakoon, Nedra, vol 1, The trade in domestic workers: causes, mechanisms & consequences of international migration, Chapter by: Abrera-Mangahas, Alcestis, p. 163

<sup>24</sup> The International Labour Organisation, ILO Convention No. 143 Migrant Workers (Supplementary Provisions), 1975, [http://www.ilocarib.org.tt/projects/cariblex/conventions\\_7.shtml](http://www.ilocarib.org.tt/projects/cariblex/conventions_7.shtml)

<sup>25</sup> Heyzer, Noeleen, Lycklama à Nijeholt, Geertje & Weerakoon, Nedra, vol 1, The trade in domestic workers: causes, mechanisms & consequences of international migration, Chapter by: Goonesekere, Savitri, p. 179f

but also to consider the enforcement possibilities of that contract. Signing of a bilateral agreement would secure the rights of the workers immensely<sup>26</sup>.

The second forum that is used to build my theory is the International Conference on Migrant Women Workers between the 7<sup>th</sup> and the 9<sup>th</sup> of October 1997 in Colombo, which was organized by ACILS.

One that criticized aspects of the SLBFE policy agenda on the conference was Myrtle Perera working at the Marga Institute in Colombo. The institute was founded in 1972 and is an independent center for development studies<sup>27</sup>. The suggestion that Perera stressed was amongst other things adequate training for migrants before leaving the country. That training should for example include language skills, according to Perera<sup>28</sup>. In 1993 the first training programs for housemaids were introduced. The way it was conducted, however, has received critique. The persons responsible for the actual training consisted of women who had an educational degree but that never had been to the Middle East. The government thereby prioritized educational knowledge over the experience of women returnees; in some ways dismissing their knowledge<sup>29</sup>.

Another aspect that Perera brought up was the ability of independent organisations to interact with the migrant and her family<sup>30</sup>. This was also highlighted by D.G.P Soysa in the form of a newly, at the time, started experiment called “Social Networks for Migrant Worker Associations”. The network had nine stated undertakings which included responding in crisis situations, providing psychological and social support and handling problems relating to powerlessness of migrants. To ensure an easy access for migrants and their families the network was formed to function on a local level<sup>31</sup>. At the time of the conference two such networks had been started and depending on the success of these, the aim was to have started a total of ten networks in the year 2000<sup>32</sup>.

Since the debate regarding the abuse of Sri Lankan women working abroad has been rather protracted there is a lot of information to be found. Different scientists highlight different aspects of the problem and my chosen sources do not cover all of these. However, participants of the mentioned conference in 1997 are all a part of the work involving Sri Lankan migration and should be familiar with problems surrounding it. The reason for choosing Savitri Goonesekere’s ideas is that they put emphasis on the governmental aspect, as well as the global responsibility regarding migration.

To conclude; to execute the analysis and to answer the research question I have chosen to focus on four aspects of the migration process that in the 1990’s received criticism. The categories chosen for further investigation are:

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<sup>26</sup> Ibid. p. 182

<sup>27</sup> Marga Institute, Our Vision, <http://www.margasrilanka.org/>, 1997-2009, 2011-04-14

<sup>28</sup> The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers October 7<sup>th</sup>-9<sup>th</sup> 1997, Chapter by: Perera Myrtle, Social Cost of Female Migration, p. 5

<sup>29</sup> Gamburd, Michele Ruth, Transnationalism and Sri Lanka’s Migrant Housemaids: The kitchen spoon’s handle, p. 53

<sup>30</sup> The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers October 7<sup>th</sup>-9<sup>th</sup> 1997, Chapter by: Perera Myrtle, Social Cost of Female Migration, p. 5

<sup>31</sup> Ibid. Chapter by: D.G.P Soysa, Social Safety Networks for Migrant Worker Associations, p.1

<sup>32</sup> Ibid. p. 3

- the ratifying of the ILO convention number 143
- the signing of bilateral agreements
- the revision of training programs offered to migrants and,
- the existence and spread of Migrant Workers Association's.

## 7.0 Method

In order to analyze different aspects of the migration I have chosen perspectives from different levels of the process to see in which areas improvements have been made and which have not experienced any improvement today. On a global level I have chosen to focus on the ratifying of the ILO Convention number 143 and the signing of bilateral agreements between the sending (Sri Lanka) and receiving (Middle East) countries. The national level will be investigated through the analysis of the training programs offered to migrants before their departure. On a local level I have chosen to investigate whether the existence and availability of local social networks have increased. To accomplish this I have performed a qualitative text analysis of documents. By doing so I am aware of my subjective impact of the analysis. On the other hand, the positive aspect of getting a more in depth vision of the improvements made, or not made, outweighs the risk of subjectivity.

In order to be able to conclude if the improvements made in theory actually cohere with reality ten qualitative interviews have been performed. The interviews have been with women who have recently been working abroad in the Middle East, and have experienced some sort of ill-treatment by their employer or other authority. The selection of women was made by, and with the authorisation of the SLBFE. To use the SLBFE as the main mechanism of getting into contact with the interviewees has to do with the fact of time efficiency. Since the SLBFE has records of the majority of migrants that have been, or are still, working abroad it was the most rational choice. I am aware that the selected women might thus be selected of reasons such as experience of only minor abuse or a positive result of the SLBFE work after the return. To avoid this fact as much as possible the research area was presented as focusing on the experiences of the abuse instead of the reasons behind them occurring. No consideration has been given to the women's age, ethnicity, duration of stay or host country. I have instead focused on their memories, experiences, thoughts and feelings in this study. The interviews were semi-structured (appendix 1). This was to have a clear focus in the interviews but to allow the interviewees to speak freely regarding their experiences. The focus of the interviews has eased the analysis process. The interviews have been in depth-interviews of approximately one hour each. The reason for this is again to give the interviewees space and time to speak freely. This is rather time-consuming work which further stresses the importance of time efficiency in other areas of the study. Due to the sensitivity surrounding the problem being researched all the women participating in this study do so anonymously. The names used in the analysis are in other words not their real names and some minor details such as host country, duration of stay and so forth have been changed.

On top of the ten mentioned interviews a formal interview with Mr. Senanayake; the head of the department of overseas welfare at the SLBFE has taken place. This is to be able to present other important perspectives of the issue.

Apart from shedding light on the reality of the situation for women going abroad to seek employment, the interviews have given valuable information regarding other improvements to be made or yet undiscovered problems in the process.

## 8.0 Analysis

In order to be able to offer an answer to the research question the analysis will firstly attend the development of the stated four criteria. Thereafter other important perspectives will be highlighted.

### 8.1 The four theory-based criteria

#### 8.1.1 The ratification of the ILO Convention number 143

When examining the arguments put forward by Savitri Goonesekere regarding the ratification of the ILO Convention ‘Migrant Workers’, it is clear that the ratification is more of a symbolic gesture than anything else. Goonesekere stresses the importance of the Sri Lankan government; especially since having an unusually open politics regarding migration, of officially taking a stand against illegal migration. By not ratifying this convention the Sri Lankan government is ignoring to address the important problems stated in the convention, hence allowing an exploitative environment against all migrant workers to form<sup>33</sup>.

In the ‘National Labour Migration Policy for Sri Lanka’, produced by the SLBFE in 2008 it is stated that the convention had not yet been ratified. It was proposed, however, that a review conducted by the SLBFE would take place to evaluate possible obstacles of such ratification. If these mentioned obstacles would be cleared the convention would, in fact, be ratified and thus integrated in the national legal system and practice<sup>34</sup>. Unfortunately a more recent and clear declaration regarding the status of ratification of this particular convention has not been found.

An official statement by the Deputy Minister of External Affairs of Sri Lanka was made on the matter at the 4<sup>th</sup> Global Forum on Migration and Development in Mexico 2010. Instead of mentioning any plans of ratifying the convention in question the Deputy Minister chose to illuminate the ratification of another convention. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families was ratified by Sri Lanka on 11<sup>th</sup> of March in 1996, making it one of the first countries to do so. The Minister continues to claim that “*Sri Lanka has ratified all core ILO conventions*”<sup>35</sup>; indicating either a ratification of the convention on Migrant Workers or implying that the convention is not a part of the important conventions to ratify.

The situation did unfortunately not become clearer when an interview with Mr. Senanayake, head of the department of overseas welfare in the SLBFE, was conducted by me. He too

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<sup>33</sup> Heyzer, Noeleen, Lycklama à Nijeholt, Geertje & Weerakoon, Nedra, vol 1, The trade in domestic workers: causes, mechanisms & consequences of international migration, Chapter by: Goonesekere, Savitri, p. 179f

<sup>34</sup> The Ministry of Foreign Employment Promotion and Welfare, National Labour Migration Policy for Sri Lanka, Supported by the International Labour Organisation, Colombo, 2008, p. 15

<sup>35</sup> 4th Global Forum on Migration and Development (GFMD) Puerto Vallarta in Mexico at the Heads of Delegations meeting on the Future of the GFMD, Address of Hon. Gitanjana Gunawardena, M.P. Deputy Minister of External Affairs in Sri Lanka, [http://www.mea.gov.lk/index.php?option=com\\_content&task=view&id=2578&Itemid=75](http://www.mea.gov.lk/index.php?option=com_content&task=view&id=2578&Itemid=75), 2010, 2011-04-10

decided to highlight the ratification of the convention of the Rights of All Migrants in 1996. He further explained that all the necessary statements that need to be regarded are present in that convention and that ratifying it should be enough to secure the wellbeing of all migrants.

If applying the opinions of Goonesekere to the current situation it indicates that the government of Sri Lanka is not willing to officially prevent illegal migration since no ratification of the one convention in question has taken place. She does, however, not mention the impact of ratifying other conventions or participating in international dialogue about the issue. Today the problems concerning migration are being frequently discussed in different forums, perhaps more so than at the time when Goonesekere put forward her ideas. The ratification by Sri Lanka of the convention of the Rights of All Migrants in 1996 could be viewed as evidence of the willingness of the government to actively recognise these problems.

Another example of Sri Lanka's participation in the international discussions is the attendance on two workshops held by the Bureau for Workers Activities of the International Labour Organization in 2008 and 2009. The second workshop was held in Colombo, Sri Lanka to focus on the issues regarding the migration from Sri Lanka to the Middle East. Representatives from Sri Lanka, Bahrain, Jordan, Kuwait, the SLBFE and representatives of public and private recruitment agencies attended the workshop. The result of this workshop was the signing of agreements between the countries; stating amongst other things that all the ILO Conventions apply equally to migrant workers. The Convention number 143 is explicitly mentioned, though, as representing an ordinance for a sound migration policy<sup>36</sup>.

The importance of the ratification of the ILO Convention number 143 by Sri Lanka can be discussed. As Goonesekere states it would be a clear statement against illegal migration to the international forum as well as the Sri Lankan migrant workers. Other acts done by the government of Sri Lanka could, however, possibly give the same clear statement, hence being just as important. Although the government recognises the problems with the current migration situation in several ways no distinct reason for not ratifying the convention number 143 has been given. Since the ideas put forward in the convention still are to the fore; as being highlighted in the agreements mentioned above, a ratification of this particular convention could be of great symbolic meaning. Given this the questioning of the reasons behind an absence of ratification made by Goonesekere could still be applicable.

### *8.1.2 Bilateral agreements*

As mentioned Goonesekere stresses the importance of signing bilateral agreements between the countries involved in the migration process to protect the rights of the workers. Bilateral agreements would enhance the enforcement possibility of employment contracts for the Sri Lankan government, enabling assistance to be offered to workers who are in need abroad<sup>37</sup>. Agreeing with this statement the Marga Institute in collaboration with the Canadian

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The International Labour Organisation, Bilateral trade union agreements on migrant workers rights between Sri Lanka and Bahrain, Kuwait and Jordan,  
[http://www.ilo.org/dyn/migpractice/migmain.showPractice?p\\_lang=en&p\\_practice\\_id=32](http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32), last updated 090710, 2011-04-10

<sup>37</sup> Heyzer, Noeleen, Lycklama à Nijeholt, Geertje & Weerakoon, Nedra, vol 1, The trade in domestic workers: causes, mechanisms & consequences of international migration, Chapter by: Goonesekere, Savitri, p. 182

International Development Agency (CIDA) included bilateral agreements as a proposal for future implementation in 1999<sup>38</sup>, indicating that no bilateral agreements had been stated at that time.

This criticism has not gone by unnoticed by the Sri Lankan government or by the SLBFE. In 2008 the SLBFE stated that negotiations with every country receiving Sri Lankan migrants will be conducted in the form of bilateral agreements. In the case where an agreement can not be reached the collaboration will take place as a Memoranda of Understanding (MOU)<sup>39</sup>. The MOU's are not legally bounding but can be viewed as representing the mutual understanding of the two countries. These agreements were said to contain courses of action for the protection of worker's rights and in the case of violation of contracts<sup>40</sup>.

According to the Deputy Minister of External Affairs the SLBFE is currently forming collaborations with receiving countries to ensure the wellbeing of migrant Sri Lankan workers through bilateral agreements<sup>41</sup>. Although this was stated in 2010 Sri Lanka does not have any bilateral agreement to this date. Stated by the Ministry of External Affairs Sri Lanka currently has five MOU's with labor-receiving countries in the Middle East but no legally binding bilateral agreement. The first MOU signed in 2006 was with Jordan. Thereafter agreements were signed with United Arab Emirates (UAE), Qatar and Libya the following years and finally with Bahrain in 2008<sup>42</sup>. Mr. Senanayake further mentioned an ongoing negotiation with Kuwait concerning a signing of a MOU during our interview. He continued to state that the bilateral agreements are nearly impossible to achieve because of the legal binding character of them. The Middle East countries are not prepared to sign such agreements because they do not have to, according to Mr. Senanayake. The competition between the countries that are sending workers to the Middle East enables the Middle East countries to decline any binding negotiations with, for example Sri Lanka, since they are ensured to receive migrants willing to work from other countries. Any attempt by the Sri Lankan government to impose demands on the Middle East countries would, according to Mr. Senanayake, mean the loss of the Sri Lankan migration market.

The absence of bilateral agreements is obvious. The consequences of this, however, are not. Is the signing of MOU's enough to protect the migrant workers from ill-treatment? First it is important to know what is stated in agreements like MOU's. At the workshop in Colombo 2009 mentioned above Sri Lanka signed agreements with three of the Middle East Countries. I will use these agreements as an example of what can be stated in a MOU. An important part of the agreements is the respect of the worker's rights. Since the work performed by the migrant contributes to the economy in the sending country as well as the host country; both of the countries' interest should lie in the wellbeing of the migrant. Included as rights of the worker is also non-discrimination and gender-equality. The importance of protecting those workers most vulnerable of ill-treatment (housemaids mentioned) is recognised. The

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<sup>38</sup> The Canadian International Development Agency and Marga Institute, *Female Migration: Policy and Gaps in Implementation*, Funded by the Canadian International Development Agency, Colombo, 1999, p. 15

<sup>39</sup> The Ministry of Foreign Employment Promotion and Welfare, *National Labour Migration Policy for Sri Lanka*, p. 16

<sup>40</sup> *Ibid.* p. 26

<sup>41</sup> 4th Global Forum on Migration and Development (GFMD) Puerto Vallarta in Mexico at the Heads of Delegations meeting on the Future of the GFMD, Address of Hon. Gitanjana Gunawardena, M.P. Deputy Minister of External Affairs in Sri Lanka, [http://www.mea.gov.lk/index.php?option=com\\_content&task=view&id=2578&Itemid=75](http://www.mea.gov.lk/index.php?option=com_content&task=view&id=2578&Itemid=75)

<sup>42</sup> Ministry of Foreign Affairs in Sri Lanka, *Supply of Man Power*, [http://www.mea.gov.lk/index.php?option=com\\_content&task=category&sectionid=25&id=249&Itemid=133](http://www.mea.gov.lk/index.php?option=com_content&task=category&sectionid=25&id=249&Itemid=133), 2009, 2011-04-10

agreements continue to mention the countries' united actions to ensure the abolishment of any abuse of workers and to process such acts accordingly. Finally the development of a model contract for migrant workers is mentioned, which should be based on stated international work standards and incorporated into the national legislative system<sup>43</sup>.

The development of above mentioned contract is of extreme importance according to the SLBFE. Preferably those contracts are to be a part of a bilateral agreement or a MOU and are to be translated into both Sinhala and Tamil to avoid any misunderstandings regarding the statements in the contract by the worker<sup>44</sup>. Since 1999 Sri Lanka has also implemented a minimum wage for housemaids, the access to free food, accommodation and health facilities as well as a two-way airplane ticket<sup>45</sup>.

Seven of the women interviewed for this thesis had stated contracts before departure. All of them included a stated salary to be received for the work tasks. In spite of this all ten women participating in the research had problems with not receiving full wages or none at all, and not receiving food by the employer. One interviewee who I have chosen to call Sonita states that legal and binding contracts are necessary. The responsibility to ensure this lies, according to her; with the government. She continues to describe her contract signing as problematic since the paper she was made to sign was only written in English, which she does not understand. She felt too embarrassed to ask any questions about the contract at the time. Another woman; Kumari also stresses the importance of governmental protection of migrant workers even if they have chosen to leave the country illegally (to enable the SLBFE to monitor and offer help to migrants they are inclined to register with the bureau before leaving the country<sup>46</sup>. If they choose not to register they are leaving the country illegally). A third interviewee called Mariam mentions the need of SLBFE and the government to have legally binding contracts with other governments to ensure the worker's salary and protection. The fact that all of the interviewees in this research had problems with not receiving earned salary, and the statements made by the three interviewees clearly show that the MOU's does not protect the women workers in a satisfying way.

A consequence of the absence of legally binding bilateral agreements is thus that the Sri Lankan government becomes powerless when a stated employing contract is violated, which enforces the opinion expressed by Goonesekere. The employee becomes, just as Goonesekere mentioned, left alone in the hands of the host country's legal system without protection. Mr. Senanayake also highlighted this particular problem during our interview. He claims that a huge part of the problem with ill-treatment abroad is that certain countries in the Middle East possesses legal systems which do not protect the worker's rights. One part of the solutions suggested by him is a proper legal system in the concerned countries which should be internationally lobbied for by organisations such as the UN, the ILO and the Human Right's Watch. During my interview with Neluka, recently returned home, she too mentioned the need of paying attention to the lack of worker's rights in certain Middle Eastern countries. Another part of the solution mentioned by Mr. Senanayake is the signing of bilateral agreements. Without any legal consequences for the receiving countries the situation will

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<sup>43</sup>The International Labour Organisation, Bilateral trade union agreements on migrant workers rights between Sri Lanka and Bahrain, Kuwait and Jordan, [http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p\\_lang=en&p\\_practice\\_id=32](http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=32)

<sup>44</sup> The Ministry of Foreign Employment Promotion and Welfare, National Labour Migration Policy for Sri Lanka, p. 24

<sup>45</sup> The Canadian International Development Agency and Marga Institute, Female Migration: Policy and Gaps in Implementation, p. 16

<sup>46</sup> Ibid. p. 9

never change. In order to be able to sign such agreements the sending countries need to unite and influence the receiving countries with the same demands to remove the competition mentioned previously. Although this solution was the only one offered by Mr. Senanayake he concluded by stating that none of this will ever happen.

Nonetheless the government of Sri Lanka continues to strive for cooperation with the Middle Eastern countries, which officially have equal opinions regarding the positive aspects of such cooperation<sup>47</sup>. In line with Mr. Senanayake's opinions regarding the international responsibility; the government states its interest in a further cooperation with other countries and organisations to solve the problems concerning international migration. The globalisation of the world enables a worldwide migration with worldwide prosperity as a result, meaning that an internationally shared responsibility of worker's rights should naturally follow<sup>48</sup>.

Even though the Sri Lankan government acknowledges the importance of agreements between sending and receiving countries their attempts to achieve this seems to be somewhat fruitless. The signing of MOU's is only effective to a certain extent but offers no real protection to the worker that is victimized by a violated contract. No new MOU has been signed since 2008 and no such agreements exist between Sri Lanka and Saudi Arabia or Kuwait (even if one is under making), which are the largest receiving countries of Sri Lankan housemaids. In the absence of bilateral agreements and a change in the legal system in certain Middle East countries the government remains powerless.

### *8.1.3 Pre-departure Training*

The third category of analysis of improvement is the pre-departure training. At the time of critique the training was describes as inadequate<sup>49</sup> and in need of revision. Since then the training has, indeed, undergone revision.

In 1999, two years after the critique was put forward every migrating registered woman was obliged to provide a certificate that proved that they had received training. Without it airlines were told not to issue tickets abroad. The training was offered by the SLBFE in seven Sri Lankan districts and had with a new curriculum been expanded to include psychological aspects of working abroad<sup>50</sup>. The revisions continued there after and in 2008 it was stated that the training was undergoing yet another upgrading to include language training, cultural awareness, as well as knowledge of rights, benefits, obligations, privileges and where to go if in need<sup>51</sup>. Continuing on the same track as in 1999 regarding psychological matters a

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<sup>47</sup>Ministry of Foreign Affairs in Sri Lanka, Protecting Sri Lankans abroad, [http://www.me.gov.lk/index.php?option=com\\_content&task=view&id=333&Itemid=104](http://www.me.gov.lk/index.php?option=com_content&task=view&id=333&Itemid=104), 2009, 2011-04-10

<sup>48</sup>4th Global Forum on Migration and Development (GFMD) Puerto Vallarta in Mexico at the Heads of Delegations meeting on the Future of the GFMD, Address of Hon. Gitanjana Gunawardena, M.P. Deputy Minister of External Affairs in Sri Lanka, [http://www.me.gov.lk/index.php?option=com\\_content&task=view&id=2578&Itemid=75](http://www.me.gov.lk/index.php?option=com_content&task=view&id=2578&Itemid=75)

<sup>49</sup>The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers October 7<sup>th</sup>-9<sup>th</sup> 1997, Chapter by: Perera, Myrtle, Social Cost of Female Migration, p. 5

<sup>50</sup>The Canadian International Development Agency and Marga Institute, Female Migration: Policy and Gaps in Implementation, p. 5

<sup>51</sup>The Ministry of Foreign Employment Promotion and Welfare, National Labour Migration Policy for Sri Lanka, p. 24

counselling system was to be offered whenever a migrant felt a need and therefore asked for it<sup>52</sup>. Low skilled workers were to be prioritized for the receiving of needed skills and the SLBFE was said to monitor all training given to migrants<sup>53</sup>. A stated goal was furthermore to develop a specific training program to enable unskilled workers to obtain skilled employment abroad<sup>54</sup>.

Mr. Senanayake stated that the SLBFE ensures that every woman going for unskilled employment is given twenty-five days of training before departure. If that unskilled employment is located in the Middle East the training is shortened to fifteen days. If a particular woman has been in the Middle East at a previous occasion she is not expected to undergo new training, unless more than seven years have passed since her last training. She is then advised to refresh her knowledge. Mr. Senanayake mentioned the problem that a large portion of women leaving Sri Lanka to work as housemaids are from the poorer segment of the country. He claimed that because they usually are less educated and in a greater need of money they will migrate for work regardless of receiving training or not. The problem arises when these women feel that it is enough training to receive information obtained by neighbors and friends that have returned to the country. This information might, according to Mr. Senanayake, be misleading and underestimate the hardship of the work. Because it is said that the people suffering largest risk of being victims of some sort of abuse are poor women working abroad as unskilled labour in the domestic area<sup>55</sup>, the importance to protect that particular segment of the population is imminent.

It is clear that the pre-departure training has undergone changes since the critique first arose in 1997, and that the SLBFE is aware of problems concerning the absence of training and the fact that women willingly leave the country without training. However, even though revisions have taken place they are useless if the training does not reach the women in need of the knowledge.

The interviewees in this research come from rural, urban and semi-urban areas surrounding the capital Colombo. They are all, however, regarded as belonging to the poorer segment of the population. Their experiences of pre- departure training differ widely. Many of the women have been in the Middle East more than one time.

Two of the women; Neluka and Mariam had both been working in the Middle East several times starting as early as the 1980's. Both of them were registered when leaving but none of them had received any training from neither the SLBFE or any agency. Due to the fact that the training programs did not exist in the 1980's and that they both had during the years gathered immense experience of working abroad they might have chosen not to participate in any training as Mr. Senanayake mentioned. However, training could still be of use when offering information about complaints mechanisms, awareness of rights and newly implemented revisions and should therefore be strongly recommended by the SLBFE.

The remaining women in the study migrated for the first time after the training programs were implemented, but nevertheless have different experiences. Kumari and Manju for example chose not to register but did receive some training from their agencies before leaving. Sriani,

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<sup>52</sup> Ibid. p. 25

<sup>53</sup> Ibid. p. 17

<sup>54</sup> Ibid. p. 16

<sup>55</sup> The American Center for International Labor Solidarity (ACILS) in Collaboration with the All Ceylon Federation of Free Trade Unions, Documents from the International Conference on Migrant Women Workers October 7<sup>th</sup>-9<sup>th</sup> 1997, Chapter by: Perera, Myrtle, Social Cost of Female Migration, p. 4

Sonita and Siria, on the other hand, all registered but did not receive pre-departure training at all. Rani, Shiva and Nayna all registered and received some training provided by the bureau or the agency. What is noticeable regarding the amount of training is that none of the women has received all of the fifteen days promised by the SLBFE. According to the experiences of the interviewees included in this research the registration at the SLBFE is of minor importance of determining the amount of training given. Despite this fact the reasons for some of the women not receiving training are not stated. It is therefore not said that the SLBFE does not have the capacity of offering training to everyone or that they deny anyone training. Since all of the women are a part of the poorer segment of the population the problem of not undergoing training might cohere with Mr. Senanayake's previous statement. It should, however, be mentioned that none of the women that had not received training claimed that it was by choice.

It is furthermore relevant to pose the question as to the reasons for Middle East training to be ten days shorter than other training for unskilled employment. No explanation is offered on the SLBFE website nor was given by Mr. Senanayake.

#### *8.1.4 Social Networks for Migrant Worker Associations*

During the time of the International Conference on Migrant Women Workers in 1997 the project of forming social networks for migrants and their families was merely an experiment with only two such networks recently started. The aim was to have started eight additional networks by the year 2000<sup>56</sup>. Now, eleven years later, the success or failure of the networks should be quite clear.

The project was named Migrant Worker Associations (MWA's) with the goal of making both migrants and their families a part of a social and economic safety net. The safety net would provide them with assistance before, during and after migration. Today there are thirty-five registered MWA's currently active in Sri Lanka which all are located in high migration areas. All of the associations are functioning as volunteer-based organisations<sup>57</sup>.

In collaboration with ACILS, training programs were developed and implemented. The key knowledge areas in these programs are awareness of rights, economic and health education, counselling, skills training, language and legal advice. One aspect that is highlighted by the MWA's is the importance of economic empowerment. To offer potential migrants and returnees knowledge of alternatives to migration is an important part of dealing with the current problems surrounding the Sri Lankan migration. The most recent development concerning the MWA's is the transformation into advocacy organisations. One issue that the MWA's take pride in having contributed to a positive outcome is the maintenance of migrants' voting rights when working abroad<sup>58</sup>.

The SLBFE was in 2008 positive towards the formation of grass-root level networks to assist in the reintegration process and the empowerment of migrants. The bureau promised to create

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<sup>56</sup>Ibid. Chapter by: D.G.P Soysa, Social Safety Networks for Migrant Worker Associations, p. 3

<sup>57</sup>Solidarity Center, Migrant Worker Associations Provide Safety Net for Sri Lankans, <http://www.solidaritycenter.org/content.asp?contentid=821>, 2011-03-29

<sup>58</sup> Ibid.

an enabling environment for migrants to put forward their critique and for that critique to be addressed correctly<sup>59</sup>. The specific nature of that environment is unfortunately not mentioned.

When asked the question if the SLBFE cooperates with any Non-Governmental Organisation (NGO) today, Mr. Senanayake stated that collaboration between the bureau and the ILO is currently active. The ILO contributes with assistance to the SLBFE in the form of technical assistance, training of SLBFE staff and help to improve the quality of pre-departure training. He continued to state that SLBFE staff frequently attends conferences organised by various organisations. Although there is no cooperation, he declared, there is communication.

Even though there are thirty-five active MWA's in Sri Lanka today it is very difficult to retrieve any information regarding their actual positions, how many migrants that use their services and so forth. Unfortunately I have not been able to collect any more facts about the MWA's other than is stated on the ACILS's website. The fact that none of the women participating in this study have had any contact with any organisation apart from the SLBFE, or had knowledge of any organisation existing is not at all surprising considering my own failed efforts. What is surprising, however, is this lack of information when the MWA's are claimed to be situated in high migration areas. Colombo is, as mentioned, the capital of Sri Lanka and naturally a high migration area. The absence of information in this area is quite remarkable.

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<sup>59</sup>The Ministry of Foreign Employment Promotion and Welfare, National Labour Migration Policy for Sri Lanka, p. 30

## 8.2 Other perspectives

### 8.2.1 Agencies

During the interviews with the women it quickly became apparent that they had one thing, more than others, in common; strong opinions regarding Sri Lankan recruitment agencies. The problems surrounding the agencies have, as the four above mentioned criteria, been put forward as criticism in the 1990's<sup>60</sup>. The increase of the migration market in combination with the vulnerability of unskilled migrants makes the conditions for dishonest recruitment agencies favourable. The SLBFE recognises this and issues licenses to agencies after having been approved by the bureau. To recruit workers without the license is a crime<sup>61</sup>.

To obtain a license from the SLBFE a few demands have to be fulfilled. The office where the agency is intended to be located needs to be easily accessible close to public transportation, have a floor area of at least 150 square meters and possess a number of different technical communication devices. A copy of the lease agreement then has to be submitted to the SLBFE<sup>62</sup>. Mr. Senanayake states that the bureau asks for credible reports from both the police and the Criminal Investigation Bureau to be able to evaluate the character of the applicant. To be able to judge if the agency is economically capable a bank guarantee of Rs. 750 000 (about 47 000 SEK) is required from the head of the office as well as of two additional guarantors. If all the above criteria, amongst others, are fulfilled the applicant is called to an interview conducted by the SLBFE. With the help from the interview and stated previous experience the bureau decides whether the applicant is capable of running the business. If the agency is approved it is granted a license from the SLBFE that is valid for one year<sup>63</sup>. When the one year has passed and the agency wants to renew its licence an application has to be submitted to the bureau. According to Mr. Senanayake the SLBFE then evaluates the previous year by analysing complaints made against the agency and the performance in terms of recruitment.

The actions taken by the SLBFE to control and monitor agencies are clearly stated in the SLBFE act of 2009. If an agency is found to be active without a valid license the responsible persons will be fined with not less than Sr. 100 000 (about 6300 SEK) and be imprisoned for four years. The SLBFE conducts island wide searches for illegal agencies and frequently examine passports for verification of registration. To improve the quality of agencies the SLBFE also offers training for active agencies. In order to ease the process of finding a licensed agency for migrants the bureau displays all licensed agencies on the internet and offers access to telephone lines where employment and charges for recruitment can be verified. Finally the SLBFE uses a newly implemented grading system developed by the Sri Lanka Standard Institute to monitor agencies<sup>64</sup>. The problems with illegal and dishonest agencies are widely recognised by the SLBFE.

Even so, nine of the ten women interviewed answered agencies when asked how the ill-treatment of them could have been prevented and what they would change in the migration

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<sup>60</sup> Gamburd, Michele Ruth, *Transnationalism and Sri Lanka's Migrant Housemaids: The kitchen spoon's handle*, p. 51

<sup>61</sup> The Canadian International Development Agency and Marga Institute, *Female Migration: Policy and Gaps in Implementation*, p. 9

<sup>62</sup> The Sri Lankan Bureau of Foreign Employment, *The Local Support for Global Empowerment*, <http://www.slbfe.lk/article.php?article=44>, 2011-04-12

<sup>63</sup> Ibid.

<sup>64</sup> The Sri Lankan Bureau of Foreign Employment, *Evolution & Best Practices of Industry of Foreign Employment in Sri Lanka (Country paper)*, p. 6f

process. Most of the women mention the need of better control of agencies and states that either the SLBFE or the government is responsible for this. Unfortunately some of the women did not recall the name of their agency making it impossible to clarify if the agency in question was registered with the SLBFE. However, four of the women did remember the names and their agencies were all registered with the bureau at the time of their departure.

Nayna is one of these women and also the most resent returnee coming back to Sri Lanka only ten days before our interview. Before leaving for the Middle East, Nayna signed a contract with the owner of the agency, where the address to the employer was stated. After her departure her mother tried to send letters to the stated address only to have them returned. When the mother later went to the agency to convince them to send her daughter home the agency wanted money because of the contract being prompted. After returning home Nayna claimed to have been sold to the employer by the agency. After this incident the SLBFE closed the agency and it is no longer registered.

Another woman that mentioned the agencies selling workers is Sriani. She also went abroad with a registered agency and found herself with an employer who refused her both food and wages. After two months of unpaid work she ran to the Sri Lankan embassy. A complaint to the SLBFE was made and they contacted the agency both in Sri Lanka and in the host country. The agency in Sri Lanka wanted, as in the case of Nayna, money to bring Sriani home. The agency in the Middle East country promised to bring her home within four months. Satisfied with this response, the embassy sent Sriani back to the agency. She was there forced to work as an unpaid housemaid for the owner of the agency. After two months Sriani became ill and the agency promised to bring her back to Sri Lanka. In spite of this she was brought to yet another employer where she worked without salary or contract until she one month later became seriously ill. The agency then capitulated and paid for her return ticket home. During the months after Sriani had ran to the embassy and before she returned home the SLBFE had regular contact with her family, and the embassy with the agency. The agency is still registered. This story not only shows flaws in the actions by the agency but also the powerlessness of the bureau and the embassy.

The third woman that had a registered agency is Sonita. She went abroad and was denied salary and to have any contact with her family by her employer. She claimed that the agency treated her well the first three months and that she then was abandoned. Sonita states that if the woman seeking employment abroad is uneducated the agency will treat them however they want. An improvement of training or education by the SLBFE, she claims, will not better the situation. As long as the living conditions in Sri Lanka remain the same women will continue to migrate for employment. Therefore it is important to control agencies, she concludes. The agency's license had perspired when the interview was done and no new application for renewal had been registered.

Neluka is the fourth woman who went abroad with a registered agency. She has been in the Middle East ten times in the past years starting in the 1980's. When asked to compare her first trip with her last in 2010 she answered that she preferred the former, due to the fact that she had a better agency. The agency is still registered.

As mentioned earlier nine of the women expressed the need of improvement in the control of agencies. Since four of those nine women had proven registered agencies at departure it is relevant to claim that it does, in fact, exist problems of controlling both illegal and legal

agencies.

### 8.2.2 Embassies

One aspect that was suggested by the Marga Institute and CIDA in 1999 was concerning the poorer segment of the population. The Marga Institute and CIDA claimed that those migrants who are less wealthy and therefore less empowered are in an even greater need of receiving training than others. Unfortunately it is also them who are most likely not to register with the SLBFE to avoid the mandatory registration fee; and thereby losing the much needed training. The suggestions made to meet this problem were to implement help to receive information about the country after arriving and to put up counselling centers in the host countries<sup>65</sup>. Another aspect mentioned was the importance of regular contact with the migrants by the embassy. The purpose of this was said to be the early detection of any ill-treatment. In 1999 many women being abused ran away from employers to shelter at the embassies, putting themselves at great risk<sup>66</sup>.

In 2008 the SLBFE stated that the Sri Lankan embassies in the host countries would be developed so as to have a well-defined system to have frequent contact with all migrants in each country. Capacity and ability to handle discontent of workers and to ensure their security were promised. To be able to achieve this implementation of Migrant Workers Resource Centers in each embassy was planned. The aims of these resource centers were for example said to be the providing of post-arrival orientation, counselling, shelter and legal services. To protect the migrants from ill-treatment the centers would be able to monitor the circumstances surrounding the migrants on a daily basis<sup>67</sup>. Mr. Senanayake mentions the Sri Lankan embassies as safe-havens for women to shelter at while waiting for their claimed problems to be solved. The government provides food to all embassies and last years expenditure mounted to Sr. 375 million (about 23 500 000 SEK).

In spite all preparations for increasing embassies' capacities to handle victimised women there are doubts that the capacity is currently enough. Kumari went abroad to work in 2009 and returned home earlier this year. She did not receive any salary from her employer and when she demanded her money the employer answered by pushing her two floors down the stairs. She managed to get herself to the hospital and was from there able to contact her family, who filed a complaint to the SLBFE. The response from the bureau was that she should not contact the embassy because the process of getting her home would then be too long. Instead the SLBFE contacted Kumari's agency and forced them to bring her home. While this was said to be the fastest solution, Kumari still had to wait four months at the embassy after having been hospitalised for two months. Kumari's story shows that the embassies might not possess the ability to care for every victimised worker, especially since the SLBFE directly advised her not to seek assistance there.

Another woman that spent time in the embassy this year is Mariam. Her story begins similar to that of Kumari's with non-payment of wages and physical abuse. Mariam was able to run

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<sup>65</sup> The Canadian International Development Agency and Marga Institute, *Female Migration: Policy and Gaps in Implementation*, p. 6

<sup>66</sup> *Ibid.* p. 19

<sup>67</sup> The Ministry of Foreign Employment Promotion and Welfare, *National Labour Migration Policy for Sri Lanka*, p. 26f

away to the embassy where she was told to stay. She estimates that another five hundred women were present at the embassy at that time. Although the SLBFE did provide food to the women every day they did not receive any information about when they might be able to return home. Due to the fact that Mariam hastily had ran away from her employment she had left her passport behind. The embassy contacted her employer and asked him to bring the passport to the embassy but unfortunately he never did. After five months of waiting the embassy was contacted by the host-country government saying that some of the women's VISA's had expired; Mariam's being one of them. As a consequence Mariam and five other women were imprisoned for two months. After two months had passed she was driven to the airport and sent back to Sri Lanka, forbidden to ever return. During her time in prison she had no contact with the embassy. This again shows the powerlessness of the embassy and the great need of assistance to victimised women.

Both these incidents could have been prevented if the frequent monitoring of migrants promised in 2008 actually was implemented. Eight of the interviewees were not allowed to contact their family in Sri Lanka by their employer abroad. Many of them were not allowed to go out and were constantly monitored. In other words the women were isolated, making it quite complicated to file a complaint or to escape. None of the ten women had been contacted by the embassy or the SLBFE during their stay abroad, prior to their complaint of ill-treatment being made.

### *8.2.3 Lost in Trust*

After receiving a complaint of any kind of ill-treatment the immediate action by the SLBFE is, according to Mr. Senanayake, to feed that complaint into the SLBFE system so that it reaches the staff positioned in the particular country. Depending on that country's legal system appropriate measures are then being taken. Which those measures are is decided by that particular staff. The general first step, however, is to try to negotiate with the involved parties of the conflict. If the negotiations are unsuccessful a complaint within the country's legal system is made.

After returning to Sri Lanka the SLBFE offers assistance in providing bank loans for women interested in self-employment. Training programs are also in place if there is a need of a certain skill. All women working abroad that are registered with the SLBFE are covered by insurance in case of ill-treatment. That insurance, however, does not cover the non-payment of salaries. If the woman does not receive her stated salary a complaint has to be filed by the embassy in the particular country and then handled by the national legal system. In the case of physical abuse where the woman is in critical need of hospital care the SLBFE will provide that service to her free of charge. Mr. Senanayake concludes by stating that each case of complaint is evaluated on an individual basis and an appropriate program to care for the particular woman is developed by the SLBFE.

Although there is no reason to doubt the good intentions of the SLBFE to care for all migrants, the system seems to not be working. To explain further the example of Nayna, mentioned previously under agencies, is again used.

As said, Nayna left for the Middle East in 2010 and returned to Sri Lanka in March 2011. At her employer she was not given any rest, food or salary. She was not allowed to contact her

family or to go outside. After working for almost a year her employer started to physically abuse her by kicking her and beating her in the head. Nayna finally managed to contact her mother who then contacted both the SLBFE and the agency. The agency had given the wrong employment address in the contract and now wanted money to help Nayna back to Sri Lanka. The SLBFE also contacted the agency and demanded the owner to attend a meeting with the bureau regarding the matter. The owner failed to attend the appointment. The SLBFE also contacted the embassy in the particular country which managed to contact Nayna on the phone, telling her to run away. Since Nayna was being closely watched by her employer she had no such option. Due to the fact that no one knew Nayna's exact position the situation became greatly frustrating for both Nayna and her mother. In January of this year Nayna tried to commit suicide by swallowing twenty-five sleeping pills. She was then taken to the hospital by the employer but denied permission to return home. When she threatened with repeating the suicide attempt the employer suddenly bought her a return ticket home. She was never paid her salary. After returning to Sri Lanka the family has been in contact with the SLBFE regarding insurance payment. She or her mother has, however, not received any psychological help. By not offering any means for the family to deal with a psychological trauma such as this the supposedly individual care program developed by the SLBFE can be questioned.

After returning home no help has been received by any of the interviewees from the SLBFE or any other organisation. Two of the women tried to collect insurance money but did not have all the required documents and were therefore denied. One of these women is Siria. She did not have the receipt from the hospital she visited abroad and so was denied insurance money. Five days after returning home she again had to seek medical care due to her injuries caused by her employer. The duration of her stay at the Sri Lankan hospital was one month and was paid for with private money.

All the above mentioned perspectives of the issue and examples given by the women result in a lost of trust for the system that is supposed to care for their safety. When asked the question if they would consider working abroad again none of the women would do so if the conditions were the same. Five would, however, go under different circumstances. One woman would go again but to a different country, another will go but to a known employer, a third woman would consider going but with a different agency, the fourth woman would not go again as a housemaid and the fifth woman would go if she was physically able; only because of the need of money. The other five would not go abroad again no matter under which circumstances. Nayna stated that "*to live as a beggar is a better life*" [than working abroad].

To conclude, the SLBFE is not the root of the problems surrounding the migration process of women. There is no doubt that the bureau and the government are interested in the well-being of the Sri Lankan population. The problem lies in that they are hindered from protecting them sufficiently by several factors.

## 9.0 Discussion

Migration is a very complex phenomenon with a lot of different factors to consider. The particular migration pattern of Sri Lankan women seeking employment in the Middle East presents difficulties in both the sending and in the receiving country. Without a doubt the greatest challenge for the Sri Lankan government is to protect their citizens while in another country. To do this in the absence of any legal agreement between countries is not an easy task. Given the current situation there are still measures that can be taken to improve the situation for the migrant workers.

During this research it has become clear that one obvious aspect that needs improvement is the communication. It is apparent that the SLBFE is aware of problems surrounding the migration process and they therefore have the resources and the intentions to implement all resources needed to cope with these problems. Having said that; it is equally apparent that these resources do not seem to reach the women that are in need of them. Mr. Senanayake mentioned the problem of women leaving the country without adequate training. It can naturally be a question of these women choosing to do so, but it could also be a question of lack of information about their choices. The same thing can be stated about the care given after returning home. The SLBFE has a number of facilities and offers to women that have been victimised, and yet none of the women in this research had been into contact with this help. The counselling system, for instance, is offered to women in need if they ask for it. To be able to demand your rights it is important to have knowledge of them. The SLBFE is obviously not a grass-root organisation able to reach all women in the country with its information. It would therefore be a strong asset for the SLBFE to cooperate with such organisations. Mr. Senanayake stated that the bureau currently does not actively cooperate with any organisation apart from the ILO. This is a great loss of opportunity to reach all segments of the population and also to coordinate the organisations working for the same cause. Cooperation between the SLBFE and NGO's, as well as between NGO's needs to be initiated and clarified; and with the help from that cooperation the communication can be strengthened.

Another issue that inevitably leads to the continuation of migration, and hence the ill-treatment of women, is the living situation for some people in Sri Lanka. Sonita stated in her interview that increased measures by the SLBFE to improve the pre-departure training will not hinder women from migrating without getting training as long as the living situation stays the same for them at home. Measures need to be taken by the Sri Lankan government to reduce the lack of employment possibilities for the women, in order to decrease the need of working abroad.

A great contributor to dissatisfaction among the women was, as mentioned, the ill-behaviour of agencies. Since this concerns both local and overseas agencies the problem is two-folded. Regarding the situation with the given circumstances the SLBFE are left to focus their control on the local agencies. Even though the bureau recognises this problem as serious and are continuously upgrading their plan of action more resources to do this are needed. Women need to be educated about the importance of signing contracts with a registered agency, their rights and what they are entitled to demand from the agency, and where to turn if they suspect the agency of committing illegal actions. The importance of cooperation and communication is again obvious. One suggestion is, furthermore, for the SLBFE to conduct frequent check-ups of the agencies even though they have a valid license.

Many of the experiences of the interviewees could have been avoided if the frequent check-ups by the embassies were properly implemented. None of the women had been contacted by the embassy or the SLBFE and asked about their working conditions or their living situations during their work abroad. This is even more important given the lack of means to control the overseas agencies and legal systems. Obviously this factor requires women to register with the bureau which again shows the need of above mentioned suggestions. The absence of registration is, furthermore, partly due to the lack of trust in the SLBFE by the women and their families. If women in the poorer segment, as Mr. Senanayake explained, trust their friends and neighbours information about their experiences abroad; any flaws in the actions taken by the SLBFE, agency or embassy will naturally be told, perhaps resulting in that the next woman migrating does not bother to register at all.

Finally the Sri Lankan government needs to continue its mission of getting the international society involved in solving the problems surrounding migration. As the world becomes more globalised in the sense of increasing the movement of people, the entire international forum needs to be involved in solving the consequences of it.

## 10.0 Conclusion

As mentioned, several factors are needed to be taken into consideration when discussing any problem regarding migration. In this research four specific categories were chosen to analyse further; the ratification of the ILO Convention number 143, the signing of bilateral agreements, the revision of pre-departure training and the success or failure of Migrant Workers Association's.

The conclusions regarding the ratification of the ILO Convention number 143 are somewhat unclear. No distinct evidence of the ratification has been found although it is claimed that all necessary ratifications have been done. More importantly, however, is to determine whether a ratification of the particular convention would have any effect for the cessation of ill-treatment of women. Considering other conventions ratified by Sri Lanka and their participation in work involving migration issues it is highly doubtful that a single ratification would change the scenario completely. As said the ratification seems to have a symbolic value more than anything and there are factors with more direct effect on the issue that are more important to consider.

The signing of bilateral agreements is one of those factors. Without any legal support it is highly complicated for the Sri Lankan government to influence the procedures regarding their migrant workers when they are overseas. In the absence of support from authorities in the home country the migrant women are left to fight for themselves for rights they might not even know that they have. Legal international agreements are greatly needed as well as a change in the legal system in the host countries to recognise the rights of the workers.

Improvements in the designing of the pre-departure training have, indeed, been done since the 1990's. Although the criticism was directed towards the inadequacy of the training at the time, today's criticism could rather be directed towards the communication regarding the training. It is important for the women to know why it is necessary to undergo training and where to find adequate training.

Even though the information found regarding MWA's states that it is very successful the lack of information tells a different story. During this research it was troublesome to collect any documentation regarding the MWA's and none of the women had any knowledge of that sort of networks. Grass-root organisations and networks such as the MWA's are the key to reach all segments of the Sri Lankan population with information, support and help. A strong cooperation is therefore needed between all units working with the migration process.

Additionally an even firmer control of local agencies is needed. The work to prevent illegal agencies to be active has to continue, and regular controls of legal active agencies need to be conducted.

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## 12.0 Appendix

### 12.1 Appendix 1

#### Interview Guideline

How do you feel regarding the preparations offered before your departure?

- Training programs?
- Information?
- Any contact with an organisation a part from SLBFE?
- Agency?

During your stay abroad – how was the communication?

- With family?
- Authority?
- Embassy?

What was the reason for your dissatisfaction?

- How able to report?
- Actions taken by SLBFE?
- Embassy?

Did you receive any help after returning home?

- From SLBFE?
- Other organisation?
- Financial?
- Psychological?

Do you think the ill-treatment could have been prevented?

- How?

If you could improve anything about the migration process – what would it be?

Would you go to work abroad again?

Is there anything you would like to add?