

**BUILDING CAPACITY FOR SRI LANKAN CIVIL SOCIETY TO EFFECTIVELY
ENGAGE IN POLICY DIALOGUE ON LABOUR MIGRATION NATIONALLY
AND INTERNATIONALLY**

7-10 JULY

Palm Village Hotel, Uswetakeiyawa, Wattala, Sri Lanka

	Day 1 – July 7	Day 2 – July 8	Day 3 – July 9	Day 4 – July 10
Morning 1 8:30 to 10:30	8.30 – 9.00: Registration Opening Ceremony Welcome Remarks – SDC, Helveta s, DTP, MFA Introduction of a broad agenda of the workshop series	Recap: Participant presentations The Convention on the Rights of Migrant Workers – and the Role of the Committee – Role Play Exercise	Recap: Participant presentations Sharing Experiences and Different Practices – The Philippines Experience - Pre-Departure, Missions and Reintegration	<i>Recap: Participant Presentations</i> Reflections on Engagement with Government How to get governments to Listen – and work with Civil Society
Facilitator(s)	William Gois/Patrick Earle	William Gois/Ellene Sana/Patrick Earle	Ellene Sana -	MFA/ CHRD
Tea 10:30-10:45		Diary Exercise		
Morning 2 10:45-12:30	Participants' Introductions Key Issues for Sri Lanka's Migrant Workers around the migration cycle (pre-departure, in-service, return and	Turning Recommendations into Reality - How can change be achieved? The process of advocacy Examples from Sri Lanka (e.g. WMC, CDS) and the region	International Labour Standards and the ILO – and Introduction Focus – C189 and The Protocol to the Forced Labour	Evidence-based advocacy The importance of case documentation and research - Presentation from CHRD

	reintegration) – participants’ perspectives - Participants’ expectations of course participation Training outline – Objectives and Schedule	(MFA) Andrew Samuels William Gois Ellene Sana	Convention and Mr. Mohamed	
Facilitator(s)	William Gois/Patrick Earle	Patrick Earle	Ellene Sana and William Gois	MFA/ CHR D
Lunch				Shared Lunch –
Afternoon 1 2:00-3:30	Sri Lanka’s Migrant Workers - Key Issues for Migrant Workers in the Middle East & Challenges for Advocacy	Elements of Strategic Advocacy: Context Analysis SWOT: Power Mapping	Towards Safe Migration – the different roles of Governments, civil society and trade unions and building constituencies in countries of Origin and Destination	Advocacy and Action plans for 2014/ 2015 (group work) Migrant Workers –
Facilitator(s)	Ellene Sana/William Gois	Patrick Earle/William Gois	William Gois/Ellene Sana	DTP/ MFA
Tea 3:30-3:45				

<p>Afternoon 2 3:45-5:30pm Introductory Session – 3:30PM</p>	<p>The Convention on the Rights of Migrant Workers – and the Role of the Committee</p>	<p>TBC</p>	<p>The Sri Lankan policy and legal framework governing the labour migration sector – Presentation <i>SLBFE Ms Cheka Premasiri</i></p>	<p>Course evaluation What should be covered in the following programmes? Closing Ceremony</p>
<p>Facilitator(s)</p>	<p>Patrick Earle, Ellene Sana and William Gois</p>		<p>William Gois</p>	
<p>Evening</p>	<p>Diary Exercise</p>		<p>Diary Exercise</p>	<p>Diary Exercise</p>
<p>Evening Events</p>	<p>Free Time</p>			

Introduction and background

HELVETAS Swiss Intercooperation Sri Lanka is implementing the SDC (Swiss Agency for Development and Cooperation) mandate “Labour Migration Project Sri Lanka, Phase II”(LMPSL II) from March 2013 until February 2016. The focus of this project is on implementing grassroots activities in the field of 1) access to safe migration information, 2) addressing social costs of migration, 3) providing legal redress and access to justice for migrants and their families and 4) remittances management and reintegration. These grassroots project interventions offer numerous insights into the migration sector, its positive impacts but also the daily challenges which are faced by the migrants and their families.

The need for capacity building was identified by SDC and HELVETAS Sri Lanka, recognizing that it is crucial to strengthen and support local organizations in advocating for migrants rights at national and international level. Therefore, the project includes a separate outcome specifically focusing on advocacy and policy influencing through Sri Lankan organizations.

The Diplomacy Training Programme (DTP) made a successful bid and was identified as a potential partner in implementing the relevant programme. The program was designed around 5 four-day modules, with assignments and exercises to be completed by participants between these sessions. The program strategy envisaged a core group of 15-20 advocates who would complete all modules, with additional participants invited to participate in specific modules – to build wider knowledge and links.

Rationale for Programme

The project has realized that there are a number of civil society organizations working on the topic of migration and development with a limited number of joint advocacy and policy influencing mechanisms. Some organizations though have experience and have been active in promoting and advocating for migrants rights at national and international level. The Sri Lankan housemaid’s Rizana’s execution in early 2013 served as one of the main triggers to the formal formation of a new network, the Migrant Forum Lanka (MFL), which consists of almost 20 organizations, including trade unions, civil society and research institutions working on the protection of migrants’ rights.

The workshop objectives include: supporting Sri Lankan organizations in influencing national policy and practice, and increasing the thematic and advocacy capacity of Sri Lankan organizations engaged in migration and supporting their linkages with international networks.

Program Partners:

Diplomacy Training Program (DTP) is an independent NGO seeking to advance human rights and empower civil society through quality education and training and the building of skills and capacity in NGOs. **Migrant Forum Asia (MFA)** is a regional network of NGOs, associations and trade unions of migrant workers, and individual advocates in Asia who are committed to protect and promote the rights and welfare of migrant workers.

Participant Selection:

A program brochure and application forms were drafted in May 2014 and circulated through DTP alumni, MFA and SDC networks. It was agreed among all involved that a maximum of 20 applicants should be accepted.

Description of Course Content:

A draft outline of content for the five modules was agreed through the tender and subsequent discussions. It was agreed from the outset that the program needed to respond flexibly to the needs and priorities identified by participants themselves.

DAY 1- 07.07.2014

Opening Ceremony and Welcome Remarks

Chaired by Ellene Sana; Jean Michelle (SDC), Katrin Rosenberg (Helvetas), Patrick Earle (DTP) and William Gois (MFA)

Jean Michelle, SDC - welcomed the participants to Colombo and Sri Lanka. This is the first module of a series of workshop to reinforce the capacity of CSOs on labour migration. At present, there is much suspicion between government and non-government stakeholders. We need to ensure that we overcome this and engage in effective dialogue. However, the Ministry of Foreign Employment Promotion and Welfare (MFEPW) gives hope that there is still space to engage in such dialogue with SDC and its partners being a part of the project advisory committee. There are also district steering committees with participation of CSOs which is a platform to address issues identified by civil society.

The trainers from Philippines have a lot of experience in this area which they were willing to share with local CSOs. Further, there has been a lot of interaction between govt and non-govt in Philippines and hopefully Sri Lanka would also be able to reach that type of relationship. Thanked the resource persons for accepting the challenge and working to bring about capacity building. Helvetas should also be thanked for their hard work in organizing this workshop.

Katrin Rosenberg, Helvetas - We find many obstacles which we find difficult to address – such as legal protection in host countries, standard contracts for DW etc. It is especially difficult to address them as individual organizations. DTP and MFA will guide us on how to address some of these issues together. DTP has already done similar workshops in Nepal as well as many regional workshops. William Gois is a part of many committees and processes including the UNHLD, GFMD, Colombo Process is well known for his tireless efforts in the area of labour migration.

Patrick Earle, DTP –Explained the history and meaning of DTP including a brief introduction of its founder, HE José Ramos-Horta, 1996 Nobel Peace Laureate and former President of Timor-Leste who believed in People’s Diplomacy. DTP since its inception in 1989 has now given trainings to around 2,500 HRDs. One of the unique aspects of DTP is that the founder himself found large flaws in existing courses on human rights. He therefore created a methodology where programmes which are driven by the participants.

About 10 years ago, DTP analysed human rights within the context of globalization and the ensuing marginalization. One of the key issues/ trends that was highlighted was the issues of migrant workers. DTP felt the need to see the rights of MW within a larger HR

framework. Invited MFA to work with them and began designing programmes on labour migration. First programme was in Indonesia. The MW Convention is a very important convention and is unique in the fact that the first countries to ratify have been labour sending countries.

Over the last 2 years there is an opening in Gulf states for civil society and therefore DTP has been able to hold their programmes there. CSO are only beginning their advocacy in these Gulf states. But DTP felt that it was equally important to hold these programmes in the labour sending countries. The first programme was in Nepal. What happened there was shaped by the participants. DTP hopes to reproduce that method in SL as well and be responsive to the needs and requirements of the participants.

William Gois, MFA – MFA and DTP has partnered for at least 18 trainings in the last 10 years. There is a need to analyse the reason for coming together for such a programme. Lately William challenges the word ‘dialogue’ which has led to stagnation in most circumstances. In the 1970s/ 80s there was a concept of having a dialogue. Afterwards it changed to ‘constructive dialogue’. Now, today, we have recognized that it is time to have ‘transformative dialogue’. When participants leave this place, they need to be transformed.

We need to forget about changing governments and instead see how CSOs/ activists can change themselves and the work they do. Many CSOs go into project mode. This needs to be changed to build up a movement. One of the issues this can be done on is migration.

Although the workshop title states building capacity – we cannot build anything which is not already there. This is why there was an application process in order to choose those participants who have knowledge and are willing to make these changes. So this workshop can strengthen what is there already.

One of the main areas which need to be addressed is taking the work we do and connecting it to global initiatives. During the Colombo process it became evident that Sri Lanka wants to show leadership. Can the SL govt rise up to this challenge? How can they do so if civil society also does not engage with issues at a national level?

William expressed that he had wanted to do implement this initiative in Sri Lanka for at least 2 years. This came about when a SL migrant domestic worker Rizana Nafeek was sentenced to death. At this point there was a realization where the mechanism had failed. When a similar tragedy occurred in the Philippines where a Filipino worker was sentenced to death in Singapore, the government and the entire Filipino society was agitated and put in place mechanisms to try to prevent such a thing ever happening again to a Filipino worker.

This workshop should be dedicated to Rizana because it is important to remember why we are doing this. We need to remember the workers who are out there bringing in remittances and facing harsh conditions. We need to work together to transform ourselves before we think about changing the world around us.

Session 1 – Participant’s Introductions/ Key issues for Sri Lanka’s MW within the migration cycle – Facilitated by William Gois and Patrick Earle

A. Participants’ expectation from the programme

Participants were grouped into 4 tables with clusters of 5-6 persons. They were asked to talk amongst themselves and identify 3 expectations from this programme per table.

- (1) Establish a safe migration network
- (2) Need to know more about international experiences / initiatives in dealing with migrant rights
- (3) Identifying the services available to MW and ensuring that they are available in rural areas as well
- (4) Identifying loopholes and gaps in laws and policies and identifying strategies to overcome them
- (5) New advocacy strategies to address MW issues
- (6) To develop a strategic plan to lobby with governments
- (7) Better understanding of the status of migrant workers (situation/context)
- (8) Knowledge on how to gain access to resources to design and implement sustainable initiatives
- (9) Understanding the SL labour migration policy and identifying the gaps

These expectations were divided into categories of –

- (a) Networks
- (b) Methods/ Skills
- (c) Lobby/ Advocacy
- (d) Knowledge
- (e) Resources

B. Issues of migrant workers within the cycle of migration

Participants were asked to identify 3 big issues (per table) for Sri Lankan migrant workers:

Table 1 -

- (1) Lack of information regarding job placements etc
- (2) Protection strategy
- (3) Inadequate understanding of the requirements of returnees

Table 2 –

- (1) Lack of data
- (2) C189 ratification
- (3) Gaps in complaints handling mechanism

Table 3

- (1) Lack of information and coordination among stakeholders regarding the work done by each party
- (2) Limited Pre-departure preparations and unsuitable placements
- (3) Decentralization of services and effective implementation

Table 4

- (1) Contract violations
- (2) Physical and mental torture/ abuse
- (3) Breakdown of the family unit

Ellene - Some of the big issues across the globe are; fraudulent recruitment, trafficking etc but this is not adequately reflected within these lists of issues. Need to understand whether these are issues in SL as well as how to address them.

Patrick – We can add to these issues. This is not an exhaustive list.

Additional issues –

- Recruitment process / recruitment agents
- Effective advocacy approaches in the current environment
- Trafficking within the labour migration process is inadequately addressed
- Lack of legal aid in migration
- Lack of documentation

William – ASEAN intends to come up with an instrument for migrant workers. There has been a discussion of how MFA and its networks can gather enough evidence of violations to ensure an effective document. This is true for any dealings with govt. You need to show evidence of the issues you are trying to highlight. Civil society is very good at raising our voices, challenging, recommending, but is not so good at documenting evidence.

Patrick gave an overview of the programme agenda for the rest of the week but requested participants to give their input on whether the agenda is in line with their expectations.

Participants' List of House Rules –

- Be punctual / on time
- Mobiles on silent mode
- Respect the opinions of others
- Work in unity / team work
- Active and equal participation by all
- Have fun!

Participants will be divided into 4 groups. Groups need to ensure that their members follow the house rules. Groups will be chosen to give feedback on the four days. Participants will also need to

Session 3 – Sri Lanka’s migrant workers – Key issues for MWs in the Middle East and Challenges for Advocacy - Facilitated by Ellene Sana and William Gois

This session was primarily focused on familiarizing civil society with the situation in the Gulf States/ Middle East in which most Sri Lankan MW work.

Countries - Saudi Arabia, Bahrain, UAE, Oman, Qatar, Kuwait, Iraq, Israel, Jordan, Lebanon

Types of work – Domestic workers, farmers, construction, hotel, labourers, garment workers, caregivers,

Issues - Overview of common issues faced by MW within the context of the M.E – the Kafala system, lack of freedom of movement, association, assembly, language barriers, lack of legal redress, lack of MoUs and bilateral agreements, deployment bans, Sharia law - participants pointed out how the penalties under Sharia are very harsh and the term of punishment needs to be completed in the host country. There are no MOUs which allow prisoners to be brought back to the country of origin.

Saudi Arabia does not respect HR. Monthly salaries are not being paid. Pay slips are being signed but wages are not being paid. *If so, why do migrant workers keep going to SA?*

- MW are paid more to go to SA prior to departure – given nearly Rs.250,000/= (Ashila).
- The SLBFE states that only 4% of workers face complaints. We would like to challenge this (CHRC)
- Although workers face a lot of issues they do not want to complain to the SLBFE (PREDO)

Recommendations -

William –It is good to document MW cases in a systematized manner under each different country. NTUF/MWU - is working with trade unions in Kuwait, Bahrain and Jordan. They have drawn up MOUs between them. William noted that such MoUs were common some time back but nothing came of it. There is a need to ensure that such MoUs are implemented. Legal systems in the M.E countries comprise of laws issued by the Royal family as a Royal decree. It is therefore a very different type of system.

We also need to look at countries or groupings like UAE and study the patterns, the hotspots, those involved in order to better understand how to address issues of MW. We need to look at statistics which are available – such as the SLBFE Annual Report.

Ellene - CSO needs to engage in different international and regional processes such as Colombo Process and Abu Dhabi dialogue as well as engage with govt to promote recommendations.

Session 4 – The Convention on the Rights of Migrant Workers – and the role of the Committee

Q & A Competition –

What is a Convention –

- It is an international treaty
- It includes rules and regulations
- Broader understanding among states on a particular issue
- An agreement
- Legal document prepared by majority consensus
- It has to be ratified

How many human rights conventions exist at present? – **9 conventions:** ICCPR / ICESCR / CEDAW / CRC / CERD / CMW/CAT / CDW / CED

Which countries have ratified the CMW – Philippines, Sri Lanka, Timor Leste/East Timore, Indonesia, Bangladesh.

Participants were requested to match CMW articles with the identified issues.

Art 27, 28 and 29 # Art 1 – documentation of MW# Art. 3 – Complaints mechanisms# Art54 – legal redress# Art7 – right to language and religion# Art 74 – govt responsible for family# Art 37 – MW should be made aware of their rights and working conditions# Art 67 – exchange of information, cooperation between competent authorities # Art 33 – responsibility of origin states including pre-departure trainings# Art44 – reintegration and family reunification# Art 70 – ensure working and living conditions are conducive to human dignity# Art 12 – trafficking.

This exercise emphasized that the Convention responded to real issues relevant to SL's migrant workers today and was not an abstract legal document.

END OF DAY 1

DAY 2 – 08 July 2014

Recap of day 1 by group 1

Session 1 – Convention on Migrant Workers and the Role of the Committee

- Facilitated by William Gois / Ellen Sana

1. What year was the CMW adopted? – **December 18, 1990**
2. What is the CMW title in Sinhala and Tamil?
3. What year was the CMW ratified by SL? – **1996**
4. What are the UN Committees which looks at all Conventions? Human Rights Treaty Bodies **Committee of Independent Experts**
5. Is there a Sri Lankan on the committee for CMW? **Yes. Mr. Prasad Kariyawasam – Current Ambassador to the US**
6. How many experts are on this committee? **14 experts**
7. What is the number of countries required to ratify CMW for the CMW to become international law? – **20 countries were required to make it law**
8. Which year did the 20th country ratify it and the Convention became international law? - **In 2003** (It took 13 years from adoption by the UN in 1990 to acceptance as international law in 2003)
9. How many articles in the Convention? **93 articles**
10. If a migrant worker comes into a country on a non-working visa and begins work, what should the MW be called? **Irregular or undocumented workers.** The CMW has tried to ensure that no MW is called/ viewed as illegal MW
11. How many countries have ratified the CMW? **46 countries**
12. How many European countries have ratified? – **Only Bosnia Herzegovina**

There was a discussion on the status of irregular/ undocumented MW. SLBFE does not take complaints from undocumented/ unregistered MW – However, under international law (CMW) it is obligatory for govts to look into the issues of **all** MW.

Point – SLBFE can only regulate outgoing MW. There is to be a change in the mandate and role of the SLBFE to regulate incoming MW as well.

Exercise –Each table to act in the role of the UN General Assembly and draw up the CMW and list all the rights to be included under the CMW.

Rights listed by participants -

- Right to life
 - Right not to be discriminated against / Gender equality
 - Right to work in a country of their choice
 - Right to vote
 - Right to express opinions / Freedom of speech
 - Right not to be subjected to physical and sexual violence
 - Right not to be subjected to harassment at work place
 - Right to equal treatment and respect
 - Right to retain their passports
-
- Right to food
 - Right to health
 - Right to education for the children of migrant workers
-
- Right to information – job description and conditions / establish information centers
 - Right to decent wages
 - Labour rights – minimum wage, leave entitlement, working hours etc
 - Social security, welfare services
 - Right to join a trade union
 - Right to entertainment
-
- Access to justice/ legal aid
 - Right to compensation
 - Right to insurance
 - Right to communicate with families who are left behind
 - Drawing up and implementing MoUs/ legal contracts between contracts

Participants looked at the rights they had identified as belonging to MWs – and matched them with rights they could find in the Convention – emphasizing the relevance of CMW to their concerns. CMW combines rights contained in all other Conventions and further, includes the rights of the families of MW. MW are affected by all the issues addressed in other conventions and have all the rights defined in the 9 UN Conventions.

Conventions have been accepted and ratified by governments. The issue is in the implementation.

Patrick - compared the rights listed by participants to those in the CMW. Although documented workers have greater access to health care, even undocumented workers have access to basic utilities under the Convention. A particular violation that MW faced was stereotyping – which is why there is a separate article/ provisions on non-discrimination. There are at times quotas imposed by countries of destination in different sectors for some nationalities. This provision is meant to address that type of discrimination as well. Eg – In Singapore you cannot bring Chinese workers as DW. Discrimination can also be based on different wages for different nationalities. Sometimes entire nationalities are identified as a particular type of workers eg – ‘Filipina’ (Filipino woman) has been defined as ‘domestic worker’ in the Oxford dictionaries/ all DW are referred to as Filipinas.

Session 2 – Turning recommendations into reality – How can change be achieved? The process of advocacy - Facilitated by Patrick Earle /Resource Person
- Andrew Samuels

Andrew – Spoke of the work of CDS in working with the government. How do you ensure that complaints are taken up at local levels? Look beyond the safe migration leaflets. Think of the rights of MW. Pre-departure trainings should include the rights of MW. In the SLBFE Annual Report – loans have been given 67 families to build houses. They gave 300-400 scholarships. This is an extremely meagre statistic. There is debt bonding before MW even departs. How do we address these issues?

Exercise - The 4 groups were requested to take up one of the following issue each and present to representatives of the CMW (roles performed by Ellene Sana, Andrew Samuels and Patrick Earle)

- (1) To address effective work for the SL missions on complaints mechanisms (Group 1)**
- (2) To enhance pre-departure information to MW/MDW (Group 2)**
- (3) To protect MW – children in particular against violence etc (Group 3)**
- (4) On procedure/ mechanisms for repatriation, including forging/ inclusion in bilaterals (Group 4)**

Detailed questions -

- (1) The existing complaints procedures and mechanisms in the state party and Sri Lankan diplomatic missions through which the Sri Lankan MW or prospective Migrant Domestic Workers and their families can seek redress if they are abused and exploited in the host countries or in Sri Lanka. Please elaborate on the measures taken to better publicize such mechanisms and services.
- (2) Efforts made to enhance the pre-departure training programme for Sri Lankan workers, particularly for migrant domestic workers. In this regard, please indicate if such programmes include detailed information about mechanisms for redress and for lodging complaints against recruitment agents, sub agents and/or other intermediaries who violate the law.
- (3) The measures taken to protect migrant women and children, especially those in irregular situations, from economic and sexual exploitation and other forms of abuse, including trafficking into forced labour, debt bondage and situations of captivity, during the recruitment stage as well as while working in the destination countries
- (4) The procedure and mechanisms for repatriation of Sri Lankan migrant workers to Sri Lanka and indicate if bilateral or multilateral agreements facilitate voluntary return and reintegration of migrant workers.

Presentation by NGO groups to the UN Committee on Migrant Workers – Ellene Sana/ Andrew Samuels / Patrick Earle

Group 1 - To address effective work for the SL missions on complaints mechanisms

Issues / recommendations–

1. Most labour attaches are political appointments who do not know how to address MW issues
2. Communication gap between missions and families of MW
3. Complaints mechanism handled by the SLBFE – political appointments and high internal transfer system – no continuity.
4. There should be streamlining of the process – MW have to keep travelling to Colombo or 3 regional centers – Galle, Kandy, Matara. If other centers can also take complaints, it would be easier for families.

5. Stipulated response time is 14 days but SLBFE does not respond within this time period.
6. Overhaul of the mechanism to ensure more effective working

Andrew - Reports made to the committee must be evidence based. Also since you are dealing with the functions of the government – need to clarify the correct status of procedures.

William – Recommendations are good but should be backed up by data/ stats. This list of issues will be given to you and you can prepare your responses to it, next training fine tune it and maybe the responses can be sent to the Committee.

Group 2 – Pre-departure Information

Recommendations -

- (1) Registering and monitoring the recruitment sector through the local govt sector
- (2) Develop a code of ethics for agencies and sub agencies
- (3) Training given to Women DW – enhance the module in the , include information from then migration cycles and have a 21 day training
- (4) The MW need to understand the problems faced pre-departure – must explain problems MW may face and where they can get solutions. Module should contain this information
- (5) In the DS – there are 3 development officers appointed to each DS. There should be Migration Development Officers. Their capacity should be developed so that they can advise MW

Andrew – comment on 4 points.

- Have to be careful in engaging with local govt which is already involved in the family background report. However, can look at a regulatory process for sub agents and using local govt to implement this.
- Lack of information at pre-departure training – At present it is 21 days. There is language training, literacy, film on HIV education, cooking, etc. State rightly says that the trainings conforms to NVQ3 standard. However the information it lacks is the rights of MW. Especially women DW. Also lacks a lot of health related information – such as occupational hazards, HIV, sexual and reproductive health. Training should also cover information on how and where to lodge complaints and receive redress (although the SLBFE gives a list of consulate offices). Embassies do

not actually address the issues of MW at times – must bring those practical aspects into the recommendations.

- Great to specify current Development Officer titles as Migration Development Officers so that MW are clear about their role.

Ellene Sana requested clarifications -

- Have there been evaluations of pre-departure training programmes?
- Are the pre-departure trainings only for Migrant DW? What is the content of these programmes?
- Apart from the pre-departure training program, does the Govt have any other programs which covers other information such as legal aid/rights. Are there other programs which can complement pre-dep training progs
- Where are these progs taking place? Are the resource persons accredited to do such trainings?
- Are these training programs country specific?

Patrick –

- Do NGOs have access to these trainings?
 - Is there a way of measuring MW who have been trained have better capacity?
-

Group 3 – Protection of Migrant Women and Children from violations

Issues –

1. Language issues regarding contract – especially Tamil MW being given English contracts
2. Sub agents do not give correct information about the type of work, working conditions etc
3. Unregistered sub agents
4. Debt bondage especially for women MW
5. No protection to prevent physical and sexual exploitation

Recommendations –

- There should be more negotiations with host countries on bilateral agreements
- Bilats should be made available publicly
- Proper Arabic language trainings for govt officials who are involved

- Language policy needs to be implemented
- Strict regulations to monitor sub agencies
- Proper documentation of migration
- Fraudulent recruitment practices should be brought under Penal Code as trafficking offences whenever applicable

Andrew – We require more evidence based data on the issues raised. Are these issues happening across the Gulf? Language issue – is it now available in all 3 languages? Need to have more information about the role of the agent.

Patrick – Committee is struggling to come up with some clear recommendations to put to the government. How does the govt fulfill its role to protect women/ children.

Ellene – It would be useful for us to get some statistics on MW/ Women MW from SL. Give the committee a sense of bilateral agreements that SL has and the gaps identified. Concrete recommendations on what the govt is not doing enough – identifying the gaps in policies.

Group 4 – Repatriation of migrant workers

Types of repatriation of MW – forceful repatriation, return after completion of contract, voluntary repatriation prior to completion of contract. The contract requires the signatures of 6 persons and should be a powerful document but implementation remains very poor.

Case studies / Examples –

Three women returned within 3 months. First was due to health issues. Husband was asked to pay Rs.200,000/=. Second woman was sent back to the country by employer. Third woman was sent to another country and not the one in the contract.

One woman MW was requested to work in 2 households. She was requested to give care to an old man including sexual exploitation. She came back to agency and was beaten by the son of the employer. She was forced to sign a letter stating that she was treated well and paid in full. SLBFE refused to take her complaint due to the letter. How are these women repatriated? There should be a mechanism which overrides procedures and assists MW in cases such as this.

Issues -

- (1) MW who have failed the medical test are not allowed to go off.
- (2) SLBFE says that they will assist MW with alternative livelihoods to prevent migration. Eg – Rata Viruwo says they will give loans and scholarships.
- (3) Development Officers are insufficiently aware of their role
- (4) Dead bodies who come back with missing organs
- (5) Lack of insurance to cover all issues

Recommendations -

- There should be a medical test in SL upon repatriation
- There should be good advisory committees
- If there is a death – External Affairs Ministry should also intervene.
- There should be adequate compensation

Session 3– Elements of Strategic Advocacy - Facilitated by – Patrick Earle/
Ellene Sana; Resource person – Andrew Samuels

The CMW was shared in all 3 languages with unofficial translations of CMW in Sinhala and Tamil.

Andrew - shared some of the strategies in bringing change and what has worked and what has not. He gave a background of the issues faced by NGOs including the recent circular by the Ministry of Defence on the mandate of NGOs to do press conferences, trainings, workshops etc. However, there are many NGOs who are working with the government. We therefore need to identify the strategies and spaces to put the human rights agenda into government work. Government has not identified areas for civil society to work in.

National labour migration policy is not being implemented effectively. The health policy which was formulated for migrant workers was between Health Ministry and IOM and does not include the SLBFE, ILO etc. Need to monitor and analyse the 21 day training as well.

What are the strategies which we can propose that protects our MWS?

Andrew gave an example of a successful practice - CDS / Caram Asia – 16 countries participated in the study

- (1) Removal / abolition of the mandatory test for HIV in labour migration**
- (2) Look at migrant friendly testing practices – To observe and practice the 3 Cs – Consent, Counselling, Confidentiality.**

Almost all the sending countries took on board these recommendations.

Exercise – Participants were divided into groups for brainstorming on strategies to be presented to government for change in the current context

Group 1

- (1) A percentage of government funds should go into a welfare fund/ provision of services
- (2) Minimize the cost of migration

Group 2

- (1) Building a good relationship with policy makers/ decision makers including politicians
- (2) Doing campaigns to reach out to public through social media
- (3) Involve/ engage/ invite govt officials and raise awareness
- (4) Finding common interests

Group 3

- (1) Adopt new legislation for pre-departure, in-service and reintegration
- (2) Access to information
- (3) Empowering CSOs to influence govt policy
- (4) Evidence based documentation
- (5) Online complaints system

Group 4

- (1) Jointly work with the govt to implement welfare projects for MW
- (2) Invite govt officials to participate at events organized by CSO
- (3) Assist SLBFE to gather statistical data from the ground
- (4) Jointly train Development Officers

Andrew - Get the SLBFE/Ministry to include CSOs/TUs in their initiatives. Also, the Colombo Process is a regional platform for countries of origin. The current chair is Sri Lanka. This is a good opportunity to make recommendations which can be taken up during the Colombo Process.

Patrick – Reiterated that we need to change in line with changes taking place in the current context and to keep looking for ways to make change. Always look for opportunities.

Session 4: Common understanding for what makes for good strategies and good objectives

Strategy – Is a way of getting from Point A to → Point B. B is our objective and A is where we are now.

A ----- Strategy -----> B

Objectives: (SMART)

- Specific
- Measurable
- Achievable
- Realistic
- Timebound

Participants / groups were requested to go back to the list of issues and each group to decide on one topmost priority issue and change the issue to be an **Objective** from the SMART list.

Group 1 –

SMART Objective – To reduce the number of Sri Lankan Domestic Workers who go abroad by 20% within 4 years

Context – DW get very low salaries, vulnerable to abuses

Patrick – This can be considered a SMART Objective

Group 2 –

SMART Objective – Mission staff should be given training for 1 month to ensure embassy staff give effective remedies for the issues of MW

Context – Mission people not responsive and insensitive to MW

Patrick - This is not necessarily the correct objective. Also this is not time bound. Also the outcome may not be what is expected. Not a SMART Objective

Group 3 –

SMART objective - By ratifying C189 the 50% who are migrant domestic workers will be able to access their human rights in 5 years (60 months) time.

Patrick – the ratification itself will not address the issues. But ratification is a SMART objective if a realistic timetable is set.

Group 4 –

SMART Objective – To establish an effective and efficient legal aid unit which is fully equipped with adequate skilled resources in all Sri Lankan diplomatic missions as well as in all the Districts (25) to address the legal issues of all Sri Lankan migrant workers and their families by 2018.

Patrick – This is a SMART Objective

NB Just because an objective is SMART does not make it the right objective.

END OF DAY

DAY 3: 9 July 2014

Recap by Group 2

Session 1: Towards safe migration – the different roles of govt, CSOs, and TUs and building constituencies in countries of origin and destination –
Facilitated by William Gois

William requested the participants to talk to each other about their work and then present an overview.

Group 1 – CHRCD, SDF, MWF, Welcome House

- (1) Center for Human Rights and Community Development - works on welfare services and runs an information center for migrant workers aimed particularly at women – pre-departure.
- (2) Saviya Development Foundation (SDF) – Deals with community development activities Matara, Hambantota etc. Education of women on safe migration. Also to intervene on behalf of MW to provide social justice. Information center on safe migration. Pressure group and advocacy for safe migration. Also involved in prevention of HIV/AIDS. Other activities with marginalized groups.
- (3) Migrant Workers Front – Established as a trade union around the Colombo district to work on migration – 4 centers - Colombo, Kurunegala, N’Eliya, Badulla. Facilitates services for MW especially for those from the estates. Returnees are also included in their work. There are knowledge trainings, bank loans, self-employment opportunities etc.
- (4) Good Shepard’s Convent/ Welcome House –assist women who have family issues. Also assist migrant women. Provides knowledge to women going abroad.

Group 2 – Helvetas, CDS, Good Shepard, Stand Up Movements

Overview – Legal aid, trainings, financial management, awareness and guidance for MW, assist those who are subjected to human trafficking.

Group 3 – PREDO, CHRD, SWOAD, ESCO, SAH, NTUF/LJEWU

PREDO – trains employees and educates potential migrant workers

CHRD – Working on problems related to legal aid, collecting information from returnee MW and sharing with other organizations.

SWOAD – Lot of problems in Ampara relating to foreign employment in the district. They advise and assistance to returnees who has issues.

ESCO – Collecting information and sharing it with the public and within the organization.

NTUF /LJEWU – Mobilizes all the plantation workers and gives them trainings and education. Umbrella organization of 9 trade unions. Demands rights collectively.

Group 4 – CHRD, Lawyers Network, SDC

Legal aid for families; platform of lawyers to enhance the capabilities to deal with MW issues; redress for MW; SDC funds and works on policy related issues with authorities.

Discussion based on the overview of their work presented by participants

William - reminded participants about the SMART objectives and stated that there was one objective which was not highlighted. So many organizations appeared to be working on the same issue. Many organizations were doing the same work but they do not work together - same destination but different methods. Also, is this are so extensive that all of us need to work on it? If so, have there been sufficient changes? Is migration big enough for all these groups to come together?

Sujeewa - although we try to do this together it has not happened before. Is this something that needs to change?

Ashila – We need to go beyond project mentality, cannot just depend on coordinator. Everyone needs to pull their weight.

William - What is the strength of a network? To recognize and respect and work with what we have. Gave an example of 6 organizations in India working together have put migration at the top of the agenda of the new govt.

Ellene - Philippines was unable to rely on the govt and therefore began mobilizing communities. There are groups providing services to migrants – they are dependent on funding which then becomes a project. Govt is unable to provide services for all the Filipino MW. They have to work with CSOs to make it sustainable. Then there are other

groups which analyse policy. They are less funding dependent but takes a very long time to lobby and change. Parallel to these initiatives, MW were also trained and advised to organize themselves.

William – If you were to come together, what is the first thing you would need – apart from objectives? **Organization / Preparation/ Team Work**

1. Coordinator / Facilitator
 2. Resources
 3. Regular platform to come together (Space)
 4. Good understanding between the groups (Communication)
 5. Reaching out to other organizations working on the same issues
 6. Information sharing
 7. Building capacity of the network
 8. Documentation
 9. Timing
 10. Visibility – introduce your network wherever you go
-

Session 2 – International Labour Standards and the ILO - Resource person – Mohamed Sha

ILO is another specialized agency of the UN which was founded in 1990. But it is very different from the rest of the UN agencies. Other agencies are founded by governments. Representatives of governments are elected to these agencies. The ILO however has not been founded by govts. It has been founded as a result of a tripartite initiative of - govt, employer and workers.

There are 8 Core ILO Conventions. The Conventions are divided into 4 wide areas - Freedom of association, forced labour, Discrimination, Minimum age and Elimination of child labour. There are around 180 plus Conventions and over 10 recommendations (190 altogether).

History of ILO – the need for an organization such as this comes from a regimented labour force –a fixed set of people who are part of the production process. The production was not driven by the regimented labour force some time back. How was it driven in Sri Lanka? – Caste based system with people working on different types of sectors based on their caste. This whole system changed with the invention of the steam engine and people began travelling around to sell their services to different employers. But there were no contracts and people began protesting against this. This lead to the

first form of unionism. Although the first groups of workers who began protesting as unions were fired, people kept agitating.

At the same time, the early forms of democracy were beginning in Europe. But this started to create instability in the workforces and economies. People were putting even their lives at risk in order to gain their rights. Switzerland finally brought these 3 groups together in 1901 and had a dialogue. There has been a real struggle for TUs. This is the difference between unions and NGOs.

US – Andrew Carnegie was considered the richest man in the US in the early 1900s but he did not believe in unionism. When workers (miners) protested he asked the police to shoot them and hundreds died. To make up for this the Carnegie Foundation for Democracy was built to support democratic principles.

After the two world wars, govts realized that there could be no peace amongst citizens without stability and human/labour rights so the ILO was formed in 1990. ILO therefore has been built on the blood, sweat and tears of workers and we all have a stake in it. As soon as a country becomes a member of the ILO, it is bound by the principles of the ILO.

How does the ILO function? Workers have an equal stake in the working of the ILO. Representatives can vote every 2 years – composition of 2 govt, 1 employer, 1 employee. ILO requires that the worker union chosen should be the most representative. Therefore we need to send the most representative TUs. Unfortunately, in SL we have allowed the government to decide which worker representatives to take to the vote.

SL has ratified about 41 Conventions. The late night work (esp for women) were denounced by SL. According to laws women are not allowed to work after 8 pm unless specific conditions are satisfied. But govt has given a lot of administrative flexibility to some of the bigger corporations.

Reports have to be made to the ILO treaty bodies. All stakeholders are entitled to send reports to these bodies. Reporting however remains very scanty in SL. Most worker unions do not seem to be sending reports. ILO mechanisms are not used effectively. However there are global unions as well which can be used to gain access to rights.

Question & Answer Session

Sujeewa - How to ratify C189?

C189 is specifically about domestic workers. SL has not got laws covering DW. However we do have labour laws which address aspects which can be used. Therefore ratification is not the only way to go. There should also be mobilization of different groups – women’s groups, unions,, media etc.

Dilshan – What can be done about the fact that CMW has been ratified but there is no corresponding law?

There is a reporting cycle every 5 years. Govt has to respond to issues. Most times govt is completely out of context. However you don’t need to wait for this reporting cycle. If you have issues to raise, you can send it to the committee which will be put to the govt.

Exercise - Groups were requested to look at 3 given issues to consider and deliberate with the resource person –

- (1) Which ILO Conventions are most relevant (esp to labour migration)
- (2) How to use the ILO Conventions/ Processes in advocacy

Group 1 – Treatment of MDW

C189 & Recommendation 201

Core labour conventions

Group 2 – Information to MW

Migration for Employment – C97

Group 3 –

C105 - Issue of prohibiting Forced labour for MW

C111 – Eliminating discrimination against MW

Group 4

C181 – illegal recruitment

How can CSOs play a role? CSOs are not stakeholders in the ILO. They can collaborate with TUs to raise their consensus.

William – Before, TUs were seen as CSOs. It is only now that there are divisions. There have been very powerful collaborations on migration and at times TUs have put CSOs as representatives. There is a lot more synergy between the two groups. Now even the ILO is considering the idea of ‘Tripartite Plus’.

Mohamed - C189 bulk of the work was done by civil society. Another example is the fishery workers TU. You can make reports together with a TU.

Session 3: William Gois

Need to take a decision on whether participants are willing to work on a report based on the list of issues by CMW. Translations of the list of issues to be done by 18 July by Helvetas. Participants were requested to look at the list of issues and see what they were comfortable with and how the issues could be divided up between individuals or groups or organizations.

Discussion on the dialogue to be held with govt resource person. Learning how to dialogue with someone who has a different role from us.

*What/ how do you talk to a govt representative? – **Good Dialogue***

- Greeting
- Use of language
- Respect
- Listening
- Introduction
- Greeting
- Positive comments
- Without prejudice
- Appreciation
- Time
- Not personalizing
- Diplomatic
- What is the objective/agenda?
- Preparation

Session 4: The Sri Lankan policy and legal framework governing the labour migration sector -Resource person – Ms. Cheka Premasiri – DGM Conciliation and Airports /Facilitated by– Sanje Vignaraja

Overview of the SLBFE Act / Overview of the National Labour Migration Policy / Role of the SLBFE

SLBFE –

- Established under Act No 21 – 2 Amendments
- Governed by Board of Directors
- 3 ex-officio members from Min of Finance, Min of External Affairs and Min of Women’s Affairs
- 4 members representing the licensed foreign employment agencies
- 4 other members appointed by the Minister

Objectives of SLBFE

- Rehabilitation, welfare, training, undertaking investment etc

Fund –

- Fund from govt – to manage internal administration
- Workers Welfare Fund

Promotion and Development

- 119 labour representatives in 17 countries (Some sent from ministry of labour and some are contracted to the SLBFE specifically for labour migration work almost 50%)

Regulation of foreign employment agencies

- Need a valid license from the Bureau to carry on a business of foreign employment
- One person will be issued the license – non transferable

Procedure for obtaining approval for a job and recruitment of Sri Lankans for such employment

- Licensee should have a foreign company or a foreign employment agent in a labour receiving country
- Job orders to be prepared by foreign agent and taken to SL mission overseas for approval
- Once the approval is given – contract stage

Service Contract

- Job order, agency license, etc needs to be correct

Grievance handling

- When SLBFE handles complaints, they have received an inquiry to arrive at a settlement
- Licensee should prove the case
- Award can be given (eg – pay unpaid salaries)

Payments and Taxes –

- Every MW needs to pay the SLBFE
- Of this, 70% of the tax is refunded to the licensed agent who secures employment as his commission

ALFEA

- Established under the SLBFE

Staff of SLBFE

General Provisions

- SLBFE can enter into the premises of a licenced agent and seize any questionable documents.

Punishment under the Act

Interpretations under the SLBFE Act

Welfare Schemes / Welfare centers – medical care, financial assistance, housing for disabled persons

Questions / Answers –

Ruchira – *Any provision for illegal enforcement?* Section 44

Dilshan – *Is conciliation only undertaken in Colombo?* – Now in 12/13 centers there are conciliation centers

How/ from where do the funds come into the welfare fund? – What SLBFE gets from donors and revenue from fees (30%)

Thushara – *MW is charged Rs 11,652/-. Is there a percentage directed to the WF?*

Yes – 20% of the fund. Sometimes funds are even directed from the govt fund into the WWF for housing, loans etc.

Gamage – *Does the SLBFE regularly monitor the renewing of licenses of the agents?*

There is no automatic renewal. Need to apply for renewal each year. Then they are blocked from the SLBFE system and cannot send MW abroad. If they discover fraudulent agents, SLBFE can raid the agency. There are special police officers affiliated to the SLLBFE (Around 14 now).

Sujeewa – *What is being done about the issue of dual contracts?*

Worker has the right to refuse. To control this, SLBFE tells the worker to inform the embassy. Embassy has the original job order with original wage amount and conditions. The embassy will contact the employer and make inquiries. But most workers do not complain and are forced to sign.

Dilshan – *Can we make a complaint against such dual contracts?*

Yes – can complain against local agent.

Miyuru – *Can returnee MW be included in the Board of Directors in the new National Authority Act?*

This will be provided for in the new Act

Presentation on National Labour Migration Policy –

- (1) Governance of the migration process
- (2) Protection and empowerment of MW and their families
- (3) Linking migration processes with development

Questions/ Answers -

Ashila – *What happens to the labour officials/attaches who ill-treat migrant workers?*

If such officials are discovered, there will be an inquiry and officials can be recalled. Missions are open 24 hours.

Chandrasekaran – *Will there be a training center opening up in N'Eliya?*

There is one in Bogawanthalawa but at present there is no plan to open one in N'Eliya. Will take it into consideration.

Sithara – *Can a representative lodge a complaint on behalf of a MW's family/ MW?*

We can undertake complaints but for inquiries, close family members need to be brought in for practical purposes.

Gamage – *Is there any plan on the side of the SLBFE to work with CSOs in implementing initiatives?*

We are working with CSOs. But only some activities (such as service provision) can be undertaken with CSOs.

Katrin – *What is the process for self-registration and what services does SLBFE provide for MW to self-register?*

For registration of MW who have found employment through private employers, the MW needs to have a service contract and visa. No difference with the other registration process. Only that foreign sponsor's name goes on the system rather than the recruitment agent's.

Thushara – *Of the Rs. 11,652 how much goes into insurance?*

Insurance is free but there is a premium of Rs. 1200. Also, how much of this is used to redress the issues of MW? Insurance is given by the insurance company. Policies and conditions are according to international standards. There are no conditions to insure workers from non-payment of wages as yet.

END OF DAY

DAY 4: 10 July 2014

Recap by Group 3

Session 1 - Reflections on engagement with government

- Government resource person only talked about the formality not reality (Only information but no sharing of critical issues)
- It was inaccurate when she said that conciliation was decentralized (Point of Action – Extend SLBFE services to communities)
- Issue – lack of human/ staff resources at SLBFE
- Conciliation – Gaps and Attitudes
- Missions do not operate 24/7
- Same presentation every time – We should ensure that she does not continue to keep saying the same thing but takes on board issues, recommendations raised
- Exclusion of CSOs and TUs from Board of Directors

Patrick – Know who you are dealing with and what their mandate and role is in doing advocacy. Explained the Influence Tree.

Session 2 – Evidence based advocacy; the importance of case documentation and research

CHRD – Presented the PAX system – Dilshan Weerasinghe and A.F. Godwin

- It is an online complaint monitoring system - developed by “infoshare
- How do we prove that such cases exist
- Victims make complaints to the paralegals and paralegals will bring it to CHRD/ Partner organizations
- *Why it is required* – Credibility /For providing the burden of proof / manual record keeping & follow up / To keep a track of all cases
- *How it works* - unique number(with location) / Availability of contact details/ regular fine tunings and feedback/ System Administrator/ making timeline entries/ tracking the actors(through logins)

- *Benefits* - Ease of Use (current status) /Less time /Can look at open files/ Can look at geography wise/ reports it may generate/ open cases -closed cases/can scan and have the relevant documents/Partner organizations easily able to access the same

Participants were then given a case study to look at for inclusion in the database.

Premawathi lived in Galle and had 2 sons. She lived with her mother. her husband had died after meeting a train accident. Her eldest son was 10 years old and her youngest son was 8 years old. She wanted to build a small house for herself but they lived in poverty. She used to do the odd jobs whenever possible. She met Anura her schooldays friend. he told her that he could help her get a house maid job in Saudi Arabia. She migrated to Saudi Arabia on July 2013. She was sending a salary to her mother of Rial 600 to her account. But this has stopped for 2 months now and her mother is unable to contact her daughter also. Now her mother, Mrs Bisomanika has come to you to get help in this regard. She states that her 2 sons are asking for their mother. (Premawathi's details given)

Discussion - There were requests that a similar database be made accessible to all CSOs working in this area. Katrin clarified that the system is still being developed and will be made available on a wider scale once it has been tested for at least a period. Godwin stated that only cases based on tangible evidence will be entered into the database.

Reporting – This system allows trends and patterns of issues to be traced to different host countries. Also, cases which have had settlements / not settled can be accounted for which gives a clear indication of percentages of complaints vs. settlements.

Session 3: Advocacy and Action Plans for 2014/2015 (group work) –
Facilitated by –Patrick Earle

Facilitator distributed a summarized version of the CMW List of Issues Prior to Reporting (LOIPR) to participants. Translations of the Issues are to be sent out to participants . Informed participants that they should work on these issues and that DTP/MFA will get a technical committee member to be part of the second module.

Participants were divided into groups according to geographical bases and/or partner organizations. They were requested to choose issues to work on as a group -

- (1) Southern Province
 - a. Helvetas / Saviya (Item 20 & 21) - Ranjan

- (2) Eastern and Northern Province
 - a. SAH/ ESCO/ SWOAD (Item 20) - Subajini

- (3) Central Province
 - a. PREDO/ Migrant Workers Front/ LJEWU (Item 18 & 20) - Rudra

- (4) Western Province
 - a. Solidarity Center / NTUF/ Welcome House (Item 18) - Sanjendra
 - b. CHRD / Lawyers Network (Item 22)

- (5) Western and North Western Province
 - a. CDS/ CHRCO / Stand Up Movement (Item 14) - Ashila

Evaluation Forms for module 1 were given to participants which will be put in a database.

Suggestions for Module 2 –

- More concrete advocacy tools
- Guidance, tools for networking
- Info on existing orgs/ networks in destination countries
- Skills ‘evaluation’ per session
- How to create safe migration
- Networking
- Field visit to govt institutions – SLBFE, Sahana Piyasa etc (maybe even live with a migrant workers family)
- Resource persons to share experiences first and then do group work
- Invite from destination countries – (a CSO, employee, agent, MW)
- More information on work of SLBFE
- More space for dialogue with govt - SLBFE - and ALFEA (Invite for a dialogue)
- Invite labour attaches
- Do a role play to depict real issues – before dialogue
- More methodologies for participatory work – group learning is desirable
- More time to teach CMW
- Film showing or party to discuss the related issue

END OF MODULE 1 OF HELVETAS/DTP/ MFA WORKSHOP