

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

Background to DTP Workshop III

The DTP / Helvetas series of workshops on labour migration held its 3rd module from 11-14 May 2015. The second module at the end of January 2015 began with a reflection on the recent election outcome and what this might mean for advocacy for the rights of migrant workers. There was a focus on some of the international context – the recently launched Campaign on the 25th Anniversary of the Migrant Workers Convention, and the Colombo Process. There was also a major focus on Sri Lanka’s National Labour Migration Policy (2008). It was agreed that overall the policy was good and still very relevant. There were few gaps in the policy – and the main problem is in the lack of implementation. The remainder of the module was dedicated to developing and agreeing on shared advocacy objectives using strategic advocacy tools to identify who has the power to make the changes needed and who or what might influence them.

At the conclusion of the Module it was agreed that the participants would seek a meeting with the new Minister to discuss their concerns with lack of implementation of the existing policy – with a focus on three specific priorities.

11 May 2015

Recap and Introduction of Module Purpose, Draft Schedule and Materials

The third module was scheduled for mid-March but had to be postponed. However it proved possible to have a mini-module that was very practical – focused around a meeting between the participants and the new Minister for Foreign Employment, Ms Thalatha Atukorale. Participants gathered in Colombo to discuss their plans for the meeting, who would say what and the key objectives and hoped for outcomes from the meeting. There was a short role-play to practice. The meeting with the Minister was very positive in its tone and the participants kept the discussion focused on their agenda and priorities. An immediate outcome was an invitation to meet the same afternoon with the new Secretary of SLBFE. There was an opportunity to reflect on the meeting with the Minister and that all of the objectives for the meeting had been met or exceeded.

The long gap between modules 1 & 2 affected the sense of continuity in the program between module 1 & 2. The changed political environment was also recognized as being particularly significant for the program and future advocacy strategies and approaches. The successful mini-module in March helped to regain the momentum of the program and had a very practical focus.

Review of expectations

At the end of Module 2 it had been agreed that Module 3 would focus on the situation for Sri Lanka’s migrant workers in the Middle-East. Particular attention would be given to the process of recruitment – so that advocacy strategies and priorities could be informed by a better understanding of possibilities for impact, including through working with civil society representatives in the Middle-East.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

New developments should also be reviewed – under the new govt. Check right to information bill and see if there are references to migration?

Review of key issues

Sri Lanka:

- Lack of data/documentation
- Lack of adequate information for workers regarding job placements and unsuitable placements
- Lack of sharing and coordination among stakeholders
- Decentralization of services and ineffective implementation, including Pre-departure preparations
- Recruitment process / recruitment agents
- Gaps in complaints handling mechanism
- Lack of legal aid in migration
- Inadequate understanding of the requirements of returnees
- Lack of effective reintegration
- Breakdown of the family unit
- C189 ratification
- Apparent lack of Protection strategy
- Trafficking within the labour migration process is inadequately addressed

Countries of destination – Middle East:

- Apparent lack of Protection strategy
- Contract violations- Non-Payment of Salaries
- Physical and mental torture/ abuse
- The Kafala system – and the lack of freedom of movement, association, assembly,
- Sharia law – very harsh penalties under Sharia and the terms 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.
- Language barriers,
- Lack of legal redress (*SLBFE say only 4% of MWs to SA complain, this is challenged and there is also a view that workers do not wish to complain through SLBFE*)
- Lack of MoUs and bilateral agreements
- Deployment bans in some countries that are seen as discriminatory
- Lack of respect for human rights. Monthly salaries are not being paid. Pay slips are being signed but wages are not being paid.

International, regional forums and campaigns

Regional forums

Post- 2015; Sustainable Development Goals (SDGs)

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

- 15 year program of MDGs is coming to an end and they are looking at another 15 years.
- The SDGs are a review and update of the MDGs. The Post 2015 agenda will be finalized in September 2015.

Global Forum on Migration and Development (GFMD)

- The next GFMD will be in Turkey in 2015. The GFMD has taken place annually since 2007. It is an Intergovernmental process. The GFMD in 2017 it will take place in Bangladesh.
- MICIC – Migrants in Crisis in Countries in Conflict. CSOs play a role in this dialogue on how to assist migrants in such countries.
- ILO is looking at 5 issues of migration and ILO and countries of origin/destination will adopt a road map on how to protect MW. Civil society needs to lobby to be part of the process.

Colombo Process

The Colombo process began in Sri Lanka – hence the name. It is a regional consultative process in which countries of origin come together to address common issues and what policy decisions need to be taken on these issues. It is primarily an intergovernmental process which has sometimes given opportunities to civil society to participate and advocate to governments. The next Colombo Process meeting in Sri Lanka will be from 4-5 November 2015.

Abu Dhabi dialogue (ADD)

The Gulf countries will be coming together in October or November 2015 for the next ADD.

SAARC

For the first time, migration was included in the SAARC agenda in 2014

Campaigns:

Step it up campaign

The campaign celebrates the 25th anniversary of the ratification of the convention on MW and lobbies for better protection and promotion of the rights of migrant workers.

www.recruitmentreform.org

This is a website where anyone can publish their articles, research, papers and other information which reflects the dialogue global civil society are conducting on how to reform recruitment practices.

In Our Hands

This is a social network campaign for domestic workers

Networks

Arab Network

- The 3rd Annual meeting of the Arab Network will be held in 2015.

Lawyers Beyond Borders

- The Network looks at how lawyers can share case work between country of origin and destination

South Asia Parliamentarians network

- The next meeting will take place in September 2015. MFA is the secretariat for the forum.

Advocacy for Migrant Rights in the GCC States - An overview of issues and challenges – Beyond The Kafala System

(1) Lebanon - Najla Chahda

Background:

There used to be around 80,000 Sri Lankan migrant workers in Lebanon prior to the war. Now there are only around 20,000 Sri Lankans. Of all migrant workers currently in Lebanon, 77% are domestic workers. All migrant workers enter Lebanon through the Kafala system. There are now unions in Lebanon for MW. The Sri Lankan embassy only recognizes one union.

Why is it that half of the population in Lebanon are migrant workers? It is because Lebanon is called the Paris of the Middle East. The Lebanese do not like to work at home. Therefore each family has a domestic worker, even if they are unable to afford a migrant worker.

Why do Lebanese prefer Filipinos and Sri Lankans especially as DW? It is because SL/Fili are good with children, they are calm and respectful. Also, they complain less esp about their right than other nationalities (such as Egyptians, Ethiopians etc). Even tho Filipino and SL DW are paid higher, Lebanese prefer them.

Recruitment procedures:

Employer gives RA US\$3000 for SL MW. Recruitment agency carries out all the relevant administrative procedures. There needs to be pre-approval from Ministry of Labour and Immigration which has a list of blacklisted employers. However this list can be misleading. RA takes this approval and goes to the SL Embassy with the approval and basic details of MW.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

Issues:

A lot of issues take place when there is a breakdown in communication. Also, there is lack of awareness on the part of both employer and MW regarding the culture and habits of each other. Employers should also be made aware of the culture etc of MW.

Contracts / terms and conditions:

The new unified contract stipulates that MDW should be given 10hours rest and one day off. But did not stipulate it is sleeping rest or whether day off can be taken outside the house. Although there is health insurance sometimes, it is not effective.

Recommendations and key points regarding situation in Lebanon

- Need to provide Lebanon specific information
- More difficult to access information on MW in Lebanon rather than other countries
- RAs need to get approval from Min of Labour which ensure more protection
- There should be a specific pre-departure training for Lebanon where the culture is different
- Registering of MW in Lebanon is not clear
- MW cannot establish their own unions but there is union which is working with MW
- The minimum salary for a Lebanese is US\$400/ Have to pay RA around US\$3000/ MW salary is US\$200 – how do these families pay MW?
- There is social protection available for MW but does not cover pregnancy and injury compensation is maximum of US\$5000
- Even Lebanese who cannot afford a MW still get domestic workers – this needs to be reviewed as many MW face issues of non-payment of wages (Mission should at least verify whether the employers can pay the salaries of DW)
- It is the Immigration Dep which checks this. SL Embassy only checks suitability.
- Lebanon has not signed the MW Convention
- There should be a mechanism to ensure MW are paid monthly salaries
- Lebanon is not part of Colombo Process
- Lebanon is also a sending country

(2) Jordan – Linda Al Kalakash

Contract/ terms and conditions:

In Jordan, domestic workers are under the umbrella of the labour law – 8 hours work, 14 days annual leave, 1 day off a week, food and accommodation, medical insurance under the law. The service period is for 2 years and a free ticket is given by employer.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

The SL Embassy charges US\$400 charges from the employer but there is no clarification for this amount – this is claimed to be for the certification and processing. Other embassies don't charge this amount.

Gaps in law and implementation:

The law – as reflected in the contracts as well - is not implemented properly. Following are some of the gaps in implementation of the law:

When MWs arrive in Jordan they have to sign a new contract. They have to give 4 copies to – Min of Labour, Employer, Employee and recruitment agent. In fact however, only two copies are signed and these are handed over to the recruitment agent and the employer. Further, as the Sri Lankan migrant workers sign two agreements – in Sri Lanka and Jordan - it leads to more issues and the contract signed in country of origin becomes invalid.

Jordan and the Philippines:

Since 2008-2014 Jordan and Philippines have negotiated between themselves to formulate a pre-departure training. Further, when Filipinos arrive in Jordan, there is a post-arrival information given to them by the embassy. Does not happen with Sri Lankans

Migration procedures:

There are special monitoring mechanisms relating to labour migration. There is a special committee to look into irregularities which is inter-ministerial – which is a good system if it is implemented effectively.

Key Issues:

Contract substitution – The worker has to sign the second agreement in Jordan, in English and Arabic. In effect there is no real contract as the worker has not understood the terms. In terms of laws and mechanisms there are many differences. *Can we get Sri Lankan communities in these countries involved for new migrants* – this is something missions can undertake or at least look into.

Recommendations:

SL MW need to speak up more for their rights. Also, even though the law is established, to ensure implementation MW should also take steps to document issues – such as retaining the payment slips for salaries etc.

Day 2 – 12.05.2015

Towards Ethical Practice - A Dialogue with Representatives from Sri Lankan Recruitment Agencies (TBC) - Mr Undupitiya, Seretary ALFEA and Mr. Ruhunage, Consultant on Labour Migration

Questions to ALFEA and Mr Ruhunage:

- *Advance payments to DW: is it legal? Is there a specific amount?*
- *Family Background Report (FBR) and age of children: 5 or 12 years?*
- *Who is responsible when rights are violated by Recruitment Agencies (RA)?*
- *Circular on FBR to be removed?*
- *On what basis are permits issued to agencies?*
- *Some women with children below 5 are migrating despite the FBR – how can that happen?*
- *What are the measures to blacklist RAs when a lot of complaints are coming against some RAs?*
- *Implementation of Code of Ethical Conduct (CoC): how is it disseminated? How is it monitored and implemented? What are the targets? Which section of SLBFE is responsible for implementing CoC?*
- *DW: What medical tests have to be undergone? The report and the tests they have to undergo should be informed to them (right to information)*
- *Renewal of license? How can you check?*
- *What measures are taken by ALFEA to ensure that the standards are followed by their members?*
- *MW: what is the standard for training – and what is the passing mark?*
- *Return of MW for family reason: who has to bear the costs?*
- *Advertisements for jobs are not consistent with CoC*
- *What criteria are considered when registering MW?*
- *Registration fee: what is this money being used for? (70% agent, 20% insurance, 10% SLBFE)*
- *Composition of ALFEA (6 RAs and 5 SLBFE) is this fair?*
- *Transparency between subagents and ALFEA?*
- *Measures taken by ALFEA re provision of false information by RAs?*
- *RA's don't attend inquiries on complaints: what can ALFEA do?*
- *Responsibility of RA to MW after 3 months probation: what is it?*
- *What mechanisms and systems for monitoring Code of Ethical Conduct?*

Panel discussion and interview with Mr Undupitiya and Mr Ruhunage

On subagents:

- Sub agents are like clouds in the sky that appear and disappear - just to facilitate people to agency
- SAs are illegal promoters, but no obligations as SLBFE Act does not talk about them

Advance payments to DW (amount? legality?):

- 3'000 USD Kuwait, 5'000 USD Saudi: paid to subagents; it is unethical for DW as it gives unethical incentives; ALFEA members are doing it as it is part of the practice;
- SL women are free to travel to any country for work without any barriers; somebody is deceiving the SL DW

FBR:

- Loss of mother is traumatic for children. Mother should stay home until age of 15
- Good move of the government to protect children; proposal made by Ministry of Women's Affairs, and subsequently taken up by MFE

Women with children below 5 are leaving anyway:

- Any rule can be broken by people; GN and counsellors should be involved in decision-making
- GNs sometimes recommend women to leave despite knowing they have children below 5

Code of Ethical Conduct: dissemination, monitoring:

- CoC is too long, cannot be displayed; law has been incorporated into the CoC; but open to have a CoC; no experts included in formulation of the CoC; current President of ALFEA was involved
- ALFEA was a member of the panel and agreed on the CoC – how can ALFEA now not agree with it anymore? CoC has to go beyond the Act

Medical tests: information on reports to the MW:

- MW can ask for a copy of the report from the RA, as MW are entitled for it; point that should have been included in the CoC
- Right of MW to get a copy of the medical report, should be made compulsory

Sub-agents no legal status – but somehow affiliated with agencies: can the RAs somehow register “their” regular subagents?

- Problem is that housemaids do not read the papers so they need to be reached somehow
- RAs shall be members of an association: this has been changed --> now there is an issue of sub-agents
- Why was it changed? 55 letters by RA to demand to abolish the mandatory clause; membership dropped from 600 to 200. What are the reasons so many do not want to be a member of ALFEA?

Regulatory mechanism for RAs

- New Act (draft) – condition has changed from “may” to “shall” again. Is it right, though, to ask private sector companies to become a member of a specific association?

Possibility for ALFEA to give feedback to CoC? Key issues identified with CoC by ALFEA:

- CoC is too long to display
- Translation issues from English to Sinhala
- ALFEA has been empowered to formulate and implement the CoC but this section has not been followed
- CoC is not a legal document: no need for gazetting

Accountability of subagents:

- Sub agents are illegal and therefore do not exist in the reporting system. Only RA are legal - therefore they should be held responsible; legal measures taken against RA or against subagents as a citizen

Possibility of dialogue with SLBFE and ALFEA to solve issues?:

- No effective dialogue is possible between ALFEA and SLBFE
- Earlier, a dialogue was possible on e.g. insurance schemes
- ➔ However, there should be a dialogue between SLBFE and ALFEA to resolve issues

Is Act sufficient?

- No, CoC has to be there and complement the law with more specification

3 month probation period in a Domestic Worker's Contract: During that time RA is responsible.

What about the responsibility of the RA beyond that?

- Responsibility goes beyond 3 months, until the end of the contract. Act asks RA to take reasonable steps to solve the problem

Contract substitution: responsibility of RAs in SL in following through the contract signed here?

- Contract signed here should be carried by the DW; if she is made to sign another one, she can go to the Embassy and complain
- Linda: Another contract is signed in Jordan (Arabic and English)
- R: in Jordan, there is a unified service contract, which is signed here already.

Recruitment costs in Jordan have risen to more than 5'000 USD. They say that the RAs in SL have increased the costs?

- GoSL puts restrictions which decreases supply and increases demand
- Jordan is not a very popular destination for SL women (Only 3,000 last year)

Is there any communication between the worker and the employer before departure?

- Depends on agent to agent; Some agents would put them on skype in order to find out about details

Renewal of licenses:

- Done by SLBFE on an annual basis, can be checked online on their websites where renewal date has to be displayed
- 850 agencies (active) and 400 inactive ones

Fees charged from employer and employee (MW):

- 10% of the money for SLBFE: welfare funds
- 75% for RAs: costs for administration and handling of visa, travel etc

Is there a procedure of blacklisting of RAs?

- ALFEA cannot blacklist anymore, as it is not compulsory anymore
- ALFEA has not blacklisted anyone in the past year. Limited members only to expel, all are performing according to the law
- SLBFE has blacklisted around 30-35/ year (license cancelled), can be checked on the website

MW wants to return before end of the contract period: is that included in the contract they sign? If they return before (ticket), what are the repercussions?

- MW has to bear the cost for return to COO in case of pre-mature termination, if without valid reason
- With valid reason, MW can contact the Embassy and employer may pay

Abuse of migrant worker: who is responsible?

- MW has to inform employer about abuse
- MW to seek support of SLBFE through Embassy (or through family members)

Do RAs in SL have a list of employers with employers that have mistreated DW?

- Yes, there is a list online and ALFEA informs to its members
- Better collaboration between RAs in COO and COD in order to blacklist houses that mistreat and exploit the workers

Subagent are such a big issue in this country but both government and ALFEA have not been able to improve the situation for the domestic workers. The bar on women with children limits mobility of women vs. well-being of children: further exchange with stakeholders needed. It is important to bring stakeholders together regularly to exchange, also in the NAC

Examining the Kafala system and other issues in host countries: the reality Vs myth

The Kafala system is seen as being oppressive to MW. However this changes from country to country. Certain questions need to be considered in relation to the entire process of labour migration within the context of the Kafala system in order to understand the reality of the situation: Who is responsible in the destination countries? / Who was responsible for the MW? What would you like to see happen to resolve the problem? The following areas were decided upon as being reflective of some of the key issues faced by migrant workers;

- **Group 1 – Contract Substitution**
- **Group 2 – Lack of legal redress**
- **Group 3 – Lack of MoUs**
- **Group 4 - Physical and mental abuse**

1. Contract Substitution

Issues:

During the process of migration and recruitment, two contracts are signed – one in the country of origin and the other in the host country. The contract in SL is invalid due to the second contract.

Who is responsible?

Those responsible for addressing this issue include: Embassies; SLBFE; Recruitment Agencies; Employers – indirectly (such as raising awareness on labour rights of MW); Migrant workers - (need to know about their HR and labour rights); Civil society organizations (there should be awareness raising for CSOs as well).

Recommendations:

Instead of having two contracts, perhaps the contract could be directly signed at the embassy? Another issue is the language of the contract – in the case of Sri Lanka, it should be in all 3 languages. If the contract is signed at the embassy, this can be in all 3 languages.

International law states that if the worker has signed a contract in the country of origin, which the embassies have also verified (especially job details and employer's details – first have to authenticate the employer and job then the embassy should send it over to country of origin) that contract should be valid. Some countries are now proposing that once the contract is signed, it should be uploaded online – it should be an online process throughout. From the job vacancies and conditions to the contract which is signed. UAE and Kuwait are now doing it with India. Part of the articles of C189 is that the contract needs to be ratified in the country in which it was signed. If the job order/ contract has already been verified in the destination country, it is already a legal contract. The RA can be considered to have the power of attorney of the employer and can be held liable for breach of contract. In the Phillipines there is a blacklist of employers – so that if the employer comes again, they are declined. There is a lobby requesting all missions to share their black list.

A key practical measure to be taken in relation to contract substitution would be that the worker needs to know what the conditions are and should know the terms of the contract before they leave the country. Otherwise, if conditions change, it would be too late for the worker to turn back. *Therefore, firstly the workers need to know that the contract they are signing is a legal document and they should know what is in that contract.*

There is an issue in the response mechanism in Sri Lanka – especially lack of human and financial resource, legal experts on the host country laws etc in the missions. Why is response slow? This is something which needs to be analysed properly.

There is a short film by the SLBFE in which it tells MW not to sign a second contract. This is the correct message to give the MW but we have to analyse why this is being breached by both the workers and the recruitment agencies.

In Jordan, there is a standardized contract which is the only one which is recognized. All MW need to sign this. This should be considered with other countries as well.

2. Lack of Legal Redress

Issues:

The group analysed the issue through a case study;

A DW who was trained by the SLBFE and signed a legal contract was found to be ill upon arrival. She was unable to explain her situation to the employer. They did not give her any food but asked her to work. When she was unable to do so, she was taken to the RA. RA also forced her to go back and work. There too she was unable to explain why she couldn't work. The RA physically and sexually abused her continuously for 2-3 days. She finally called her family who did not know who to complain to. Finally they found a NGO to assist them and complained to the SLBFE. However, they were told that MW should have complained within 24 of being abused. This issue went on for 6 months and she was repatriated using her own money.

Who was responsible for this MW?

- SLBFE – they had no idea of her communication issue.
- Foreign RA – although MW complained about her issues they too did nothing.
- Employer – Did not give her food and made her
- Police – Did not assist her
- Embassy – Did not resolve her issue properly

Recommendations

- Pre-departure training should be more effective
- The institutions responsible should ensure the safety of MW
- MW should be allowed to communicate with her embassy/family etc
- The institutions mentioned above should communicate and coordinate with each other in assisting MW
- There should be more information on host country CSOs who assist MW in distress.
- There can be a post arrival briefing/ awareness raising at the embassy.
- There should be identification of post arrival support mechanisms in host countries – CSOs, TUs, missions etc, community groups – there can be lists of different groups which are registered with the embassy
- There are also CSO networks which have members in countries of destination
- There should be more trainings for labour attaches – at present this is work in progress
- There can also be faith based organizations which can have networks in both host and origin countries
- National Human Rights Commissions could also perhaps be used as a mechanism across borders.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

- Need to have a better understanding regarding the structure of each embassy – how many labour attachés per MW in each embassy?
- Embassies only focus on repatriation – not redress or action taken against employer, access to justice
- A lot depends on the information we put together per country – on mechanisms, support systems, MWs mapping etc

3. Lack of MoUs and Bilateral Agreements

Issues:

The following are the key issues identified in relation to lack of adequate MoUs and Bilaterals;

- Inadequate safety standards for MW
- Employment does not meet minimum safety test
- There should be legal clauses to base actions upon
- There is a lack of freedom to communicate
- Numerous human rights violations

Who is responsible?

Ministry of foreign employment of both countries/ policy makers

Recommendations:

- Strengthening monitoring systems
- Establishing minimum standards
- A mechanism to facilitate communication between workers and the diplomatic missions
- Putting pressure on large investors from Europe funding SAARC, Colombo Process etc

4. Issues of physical and sexual abuse and how to address them

Issues:

The issues of physical and sexual abuse of MW was examined through a case study;

A migrant domestic worker undertook work in Saudi Arabia through a recruitment agency. She had five children. Whilst at her place of employment, she was forced to work from 4am to 2am the next day. She had been whipped and given electric shocks by her employers as ‘punishment’. She was not paid her due wages. When she requested wages, the employer’s wife had slapped her and the MW had fallen and broken her spine. She had managed to leave this employer and requested the embassy to send her back to SL. She is now crippled. However the SLBFE has only paid her ticket – she was not paid any medical or welfare benefits to date.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

Who is responsible? – RA/ employer/ embassy/ police

Recommendations:

- The SLBFE does not assist MW as much as they can. This needs to be taken up and addressed.
 - Mw should be given information of CSOs in host countries working on migration.
 - MW should be allowed to go to the embassy every two months
 - MW should also be given use of a mobile phone so that she could at least contact her family.
 - How effective is blacklisting of employers? Immigration can check against a blacklisted employer but at times they circumvent this by using the name of the brother or son etc who might also be residing at the same address.
-

13 May 2015

Understanding the situation of migrant workers in host countries

What is the role of previously identified institutions in assisting MW in distress?

- The Police – takes in complaints from MW but there are practical issues and attitudinal issues in dealing with cases
- National Human Rights Institutions – they intervene at times but are not fully utilized by workers
- Courts – Cases take a very long time and there are practical issues such as lack of knowledge of host country laws and language/ communication barriers
- NGOs/TUs/ - MW can report to them regarding issues and then they would act upon it
- Religious Organizations – Make visits to detention centers, provide assistance to MW
- Elected representatives – Very few parliamentarians are interested in migration
- Media – Focuses on MW issues and plays an important role
- Sri Lankan Missions – Previously the missions were very ineffective but since around 2013, things have changed for the better. But they still only receive documented MW.

The case of Lebanon:

MW come to Lebanon through RA. Employers pay approximately US\$3000 per MW. MW are sent directly to the employer. The passport is then given to the employer. Another avenue to come to Lebanon for work is through a migrant friend. If the MW leaves the house of the employer, a complaint is made to the general security. Then the MW cannot leave the country. There are many check points. If MW leaves the house and are picked up at check points, they are taken to the Department of Immigration.

Police: If a MW goes directly to the police, they are supposed to call the embassy but they usually do not do that. At the police stations, there is no translator but one is appointed in court.

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

Courts: If a MW makes a complaint through an NGO to the courts, the case might take up to 4 years.

NGOs: In Lebanon Caritas was the only NGO working with MW until 2009. Now there are over 8 NGOs although Caritas is still the largest NGO to work on MW issues.

TUs: There is one TU which is working on MW issues. It has not received official approval from the Ministry of Labour but it continues to function. There is a lot of work being done to create a feeling of community among MW.

Sri Lankan Missions – 4 years ago there was a very tragic case of a MW who was burnt by the employers wife. Media took this story and blew it out of proportion. Media has acted irresponsibly in the past. Also, there appears to be a division between labour and consulate sections. At present there is no ambassador although there is an embassy. The shelter is also not well managed. Officials were accused of taking in MW and sending them to a new employer.

Parliamentarians: In Lebanon there is only one parliamentarian who works on MW issues

Lebanon is pushing to bring MW under labour laws. MW over stay in host countries because they have to find the money to pay back various loans and fees, to find money for flight tickets, etc. Then they become irregular migrants.

Participants were then requested to give a brief description of the work they did in relation to labour migration as individuals as members of an organization or trade union.

14 May 2015

The process of formulating the Code of Ethical Conduct for Licensed Foreign Employment Agencies (Thilini Fernando – ILO, Sri Lanka)

The Process

The ILO commissioned a study to analyse gaps in the recruitment process in Sri Lanka. The code of business ethics was also something which was recommended by the study. A national multi stakeholder workshop was conducted in April 2012 and the Secretary of the Ministry of Foreign Employment appointed a sub-committee to develop a code of conduct. There were 3 workshops in 3 district which invited stakeholders. After all these inputs the code of ethical conduct was developed by 2013 and then a year after in 2014 a circular was issued to implement the code of ethical conduct.

Challenges:

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

Challenges in implementing this Code include the nature of the document which is non-binding; a wider consultation would have been ideal but it would have been a longer process. However, the national stakeholder workshop included CSOs and their inputs were taken up for consideration. There are issues of translation of the Code of Ethical Conduct. The responsible authorities have tried their best to avoid mismatching and keep the language simplified.

Implementation:

At present the ILO is working with the SLBFE and ALFEA towards implementing the code. However challenges continue – *how do you get all agents to participate etc? Do you make it mandatory?* Some officials of ALFEA have issues with the code of ethical conduct. However the President of ALFEA is very much on board and he has promised that they would support ILO and SLBFE in implementing it.

There have been amendment to the SLBFE Act where it is not mandatory for RAs to register with ALFEA – how does this affect the implementation of the CoC? - Until the proposed SLEMA Act is in place, an interim arrangement is made to ensure that registration is mandatory. How do you ensure that other RAs who do not fall under ALFEA participate? This is why all licensees are registered under SLBFE. The interim plan in the meanwhile is that ALFEA will train and monitor the implementation of the code.

Issues for further consideration:

There is also a further need to address the issue of fee levying which is prohibited under UN Convention on MW and C181.

There has to be a wider participation of CSOs in the entire process including implementation and monitoring – also to analyse what type of monitoring mechanism could be in place.

Work to be completed by participants for DTP Module IV

Participants were then requested to choose 6 areas of issues identified throughout the DTP workshops and divided into groups according to choice. The participants agreed to gather information, cases, conduct interviews with relevant stakeholders, review current contracts, MoUs and bi-laterals, and give recommendations for addressing each area identified. This information was to be presented at the 4th module to be held in July 2015.

(1) Gaps in Complaints Mechanisms

Focal Point – Godwin (CHRD)

Subajini / Godwin / Geeshani / Yogeshwari / Ranjith / Gamage / Sanjeewa / Menike / Sis. Susila / Uthayan / Lathan / Chathurani / Sis. Thushari / Wimala / Sachi

(2) Analysing existing MoUs/ Bilateral Agreements

Focal Point – Munas (CEPA)

Sujeewa / Munas/ Nadhiya / Ruchira / Chandrasegaran / Sis Thushari

(3) Contracts

Focal Point – Ruchira

Thushara / Ruchira / Sujeewa / Chandrasegaran / Leela / Geeshani / Yogeshwari

(4) Reintegration

Focal Point – Leela (NTUF)

Lathan / Nadhiya / Anula / Wimala / Utayan / Leela / Sanjeewa / Sis. Susila / Menike / Sachi / Chandrasegaran

(5) Regulation of Recruitment Industry in SL

Focal point – Niranga (YMCA)

Ranjith / Gamage / Ranjan / Sis Thushari / Chandrasegaran

(6) Training/ resourcing of Development Officers

Focal Point – Wimala

Godwin / Subajini / Lathan / Uthayan / Wimala / Sachi

The organizers made a joint decision that the fourth module of the DTP series of workshops would be held from 20-23 July in Colombo. The scope and impact of the next workshop was to be expanded to include:

- *Key resource persons – Ambassador Prasad Kariyawasam and Bradford Smith from OHCHR, Geneva*
- *Dinner event to be hosted by Ministry of Foreign Employment and supported by Helvetas in celebration of the 25th anniversary of the CMW. Dinner to include host country embassies, Ministries and CSOs.*
- *Bradford Smith to meet with SLBFE officials to give training on UN reporting procedures and mechanisms*

DTP WORKSHOP MODULE 3
11 MAY TO 14 MAY 2015
PALM BEACH HOTEL, MOUNT LAVINIA

- *Meeting with LBB in Sri Lanka (The Ambassador and William Gois to meet with a group of lawyers not exceeding 30)*
 - *SLBFE officials to join a DTP workshop session on the CMW as a refresher prior to dinner event*
-