

Decentralize Conciliation Services to the Sri Lanka Bureau of Foreign Employment (SLBFE) Regional Office in the Eastern Province

Labour Migration in the Eastern Province

The Eastern Province is among the regions with the highest number of migrant workers (MW) in the country. As per official statistics of SLBFE, in 2017, 15'239 people migrated from Batticaloa district and 14'521 of people migrated from Ampara district. Of these Migrant Workers, 15% in Batticaloa district and 10% in Ampara district are women. Over the last three decades, Eastern province has experienced outbound migration due to the ethnic conflict, lack of development, lack of economic opportunities, destruction of the tsunami in 2004, poverty and other reasons (to get temporary relief from family problems, to settle debts, to cover expenses for medical and education of the family members and the inability to continue with traditional livelihoods). According to the 2016 Poverty Indicator published by the Department of Census and Statistics, the Eastern Province with a poor population of 118,061 is among the provinces with the highest poverty head count. Furthermore, the Sri Lanka Labour Force Survey 2018 indicates that the Eastern Province has the highest unemployment rate in the country. According to the SLBFE statistics in 2017, 70% of the labour migrants from Batticaloa and Ampara were categorised as low-skilled migrants. Under this category a significant majority of the migrant workers are women who migrate as domestic workers. Low skilled migrants and particularly women working in private households have a higher probability to find themselves in vulnerable situations and be affected by fraud, exploitation and abuses. This then leads to a significant number of migrant workers in service and returning seeking assistances for their grievances.

ESCO and SWOAD support to Migrant Workers

Since 2014, Eastern Self-Reliant Community Awakening Organisation (ESCO) in Batticaloa and since 2013, Social Welfare Organization (SWOAD) in Ampara District, have been supporting migrant workers and fostering safe labour migration in respective districts under the "Safe Labour Migration Project Sri Lanka" funded by the Swiss Agency for Development and Cooperation. Under this, ESCO and SWOAD have been providing safe labour migration information, psycho-social support, financial literacy training, skills development and legal assistance to migrant workers and their families. Both organizations have been collecting and documenting complaints cases of migrant workers (MWs) and their families since 2013 and 2014 respectively, and at the same time have been assisting MWs to access insurance schemes, report abuses and fraud or re-establish contact with family members. In some cases, they have supported MWs to get compensation for some of the above-mentioned cases. When ESCO and SWOAD started working on these issues, neither the MWs nor the officials at the district secretariats and divisional secretariats were fully aware of complaint procedures or redress mechanism. Deceived or abused MWs had nowhere to turn to and were content to have returned home to their families. These complaints are mostly coming from low-skilled female migrant workers. Over the course of the

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years, ESCO and SWOAD have encountered numerous grave cases, have compiled evidence and followed up on how and where the said cases were investigated and eventually resolved.

SLBFE decentralized services in the East for MW

Under the SLBFE Act No.21 of 1985 (Sec. 15m) one of SLBFE's objectives is clearly indicated as "undertaking the welfare and protection of Sri Lankan migrant workers". Since the 90's SLBFE has taken steps for decentralization of their services towards MW, by opening SLBFE offices at district level and regional level. Currently, the SLBFE district office in Batticaloa and Ampara offer a range of services to the Migrant Workers:

- Two-day training programme for male migrant workers,
- Registration and renewal of MW going on foreign employment (except Qatar),
- Handing over complaint forms to migrant workers, accepting complaints, providing affected migrant workers with a case reference number, and sending them to SLBFE Head Office in Battaramulla,
- Maintaining a database with updated information on the status of the complaints lodged to SLBFE. (Information is only available to migrant workers and their family members),
- Providing vital information to migrant workers when vital documents are lost. (e.g: passport, NIC info and employment details of the destination country),
- Receiving documentation pertaining to compensation claims for death cases and injuries and sending them to Colombo and following up on those claims,
- Organizing legal clinics at divisional level to migrant workers from time to time

For provinces \ districts with a high number of migrant workers, SLBFE has decentralized complaint handling and created SLBFE regional centres in Anuradhapura, Badulla, Kandy, Kurunegala, Rathnapura, Vavuniya, Tangalle, and Mathugama. In order to handle the cases, the Bureau has employed senior level personnel that have the capacity to handle complaint cases.

Complaints and Grievances Handling Procedure in the Eastern Province

Currently, conciliation services are not available in the SLBFE offices in Batticaloa and Ampara districts. Since 2017, MWs and their families could obtain a case reference number, which saves the MW or their family members from a trip to Colombo and accelerates the complaint handling, which in urgent cases such as missing persons, medical emergencies or serious abuse is a relief. As the hearings for those cases are not handled in Batticaloa nor Ampara, often MW or their family members are compelled to take an arduous journey to Colombo to access conciliation at the SLBFE head office in Battaramulla. From March 2014 till June 2019, ESCO has received 734¹ and from March 2013 till July 2019, SWOAD has received 492 complaints cases. ESCO, working in Batticaloa, recorded that almost 90% of the filled cases had to be resolved in Colombo. In Ampara, SWOAD reports that 96% of the cases need to be handled in Colombo.

¹ 10 cases come from Trincomalee and Pollonaaruwa

Nature of complaints

According to compiled statistics of ESCO and SWOAD the complaints that need to be sent to Colombo for conciliation hearings are:

- No communication with MWs in the country of destination (40% majority female)
- Salary payment issues (30% salary not paid, a lesser amount of the promised salary is paid, overtime payments are not paid)
- Non payment of insurance by the employer in the country of destination
- Migrant workers are not sent home by the employer upon completion of the 2-year contract
- Violation of the employment contract: over work, getting them to work in many house-hold, MWs are given a different job than the one given in the contract (majority female)
- Compensation to claim for injuries and accidents faced while in service (majority male)
- Fraud and monetary deceit by the recruitment agency in Sri Lanka (Money is taken to find foreign employment for migrant workers and the recruitment agency does not send migrant workers).
- Harassments by the employer in the country of destination.

Migrant Worker Complaints Statistics Compiled by ESCO & SWOAD (2017 January – 2019 June)

Complaint type	No complaints (2017-2019 June) compiled by ESCO in Batticaloa			No of complaints (2017-2019 June) compiled by SWOAD in Ampara		
	Male	Female	Total	Male	Female	Total
No communication	22	57	79	10	05	15
Salary payment issues	36	54	90	10	09	19
Non-payment of insurance	3	1	4	19	04	23
Violation of employment contract (over work, getting them to work in many house-holds, MWs are given a different job than the one given in the contract (majority female)	51	112	163	14	07	21

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Fraud and monetary deceit by recruitment agency in Sri Lanka	7	2	9	04	03	7
Harassments by the employer at the COD	11	23	34	01	03	4

According to compiled statistics of ESCO and SWOAD the majority of, complaints come from female migrant domestic workers that originate from economically and socially underprivileged families and lack proper education. The majority of, the complaints (40%) are made by families which face difficulties in reaching out to their female family member in the country of destination due to communication restrictions placed by the employer at the destination country. For complaints like these, family members and MWs currently need to take this up with the SLBFE office in Battaramula, Colombo as conciliation services are not available in SLBFE district offices in the Eastern Province. Due to ESCO’s and SWOAD’s contribution in raising awareness on safe labour migration, providing legal support to 775 MW and their families in distress and training DoFEs, the number of complaints has decreased over 3 years (2016 – 2018). Even though the number of complaints in Batticaloa has decreased about 40% over three years, over 100 complaints continue to be filed yearly and 69 cases of the received cases are still pending and have not been resolved. In Ampara, the number of complaints has also decreased about 40% since 2017. SWOAD compared to ESCO recorded a lower number of complaints, reportedly due to the SLBFE Officer in charge’s dedication to the welfare of MWs and within its capacity is able to mediate between the MWs and the recruitment agency. However, 9 out 10 filled cases at SLBFE still need to be handled in Colombo.

Necessity to decentralize SLBFE conciliation services to the Eastern province

The Eastern Province continues with a high number of MW and due to the nature of low-skilled migration and their vulnerable situation, complaints will continue to exist. Currently, MW and their family members have to take the journey to Colombo if they want their case to be solved due to not having a SLBFE regional centre. A staggering 20% of the complainers had to go to Colombo for more than three times to take part in conciliation. Thus, if it becomes an unbearable hurdle for the MW and their families, they are not able to attend their cases in Colombo. Also 10 % of the complainers are not willing to lodge the complaint as they are not prepared to go to Colombo to attend inquires. The main reasons are:

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- **Communication:** Majority of people who come from the Eastern Province for conciliation are Tamil speaking and therefore during their entire journey to Colombo, they come across communication issues due to the language barrier. Communication is also an issue during the conciliation process at the SLBFE conciliation centre as translators are lacking.
- **Great geographical distance** from the district to the SLBFE conciliation centre in Battaramulla, Colombo. The distance from Batticaloa to Colombo return is 640km, from Ampara to Colombo return is 700km. In total complainants have to travel more than 20h in public transportation to reach and return from Colombo.
- **Safety:** Majority of MW and their family members who take part in conciliation process are women. As they travel alone in public transport, they find themselves in vulnerable situation face more safety issues, such as sexual harassment during their journey at any time of the day.
- **Costs:** Complainants attending conciliation sessions in Colombo need to incur expenses for travel from the districts. Within the district, accommodation and food expenses for at least 3 days which roughly amount to **Rs. 8000** per visit must be added. For instances, where the MW is asked to travel to Colombo 2 or 3 times from the hearing, the expenses increase.
- **Livelihood:** The complainants loose daily income when they are unable to work or small business owner find it difficult to handover their duties during their absence. SWOAD and ESCO estimate the loss at an average of **Rs. 1000per** day. As their journey often takes 2-3 days, the costs increase up to **Rs. 3000** per journey.
- **Care:** As the majority of the complainants are women, they often face difficulties in finding a guardian to take care of their children or their parents/parents in law during an absence of 2-3 days.
- **Physical difficulties:** Long distance travel often creates physical difficulties to complainants especially when they are elderly family members of the migrant worker (e.g.: falling sick).

Attending conciliation in Colombo is expensive, difficult and sometimes dangerous for vulnerable men and women from the East. Additionally, a significant majority of the complaints are done by female migrant workers or female family members. Due to the above-mentioned issues 10% of complainants in both Batticaloa and Ampara districts do not want to attend conciliation in Colombo thereby losing the opportunity of seeking redress to their grievances.

Why can conciliation not be done in the East and how to change this?

The SLBFE offices and staff in Batticaloa and Ampara districts currently have very limited powers, capacity and resources to provide conciliation services. In terms of grievances handling, they are mainly responsible for receiving complaints. At present all important decisions have to be taken in Colombo. Hence, district SLBFE offices do not have the power to provide conciliation services to migrant workers.

Government, Please consider:

1. Decentralize SLBFE conciliation services to the Eastern Province, as in Anuradhapura, Badulla, Kandy, Kurunegala, Rathnapura, Vavuniya, Tangalle, Mathugama
2. Upgrade an existing SLBFE office as the proposed regional office in the Eastern Province, Trincomale, Ampara or Batticaloa, including a senior level / cadre staff member.
3. Legalize the intermediaries / sub agents to reduce sending potential migrants on tourist visa and consequent trafficking, cheating on money (incentive initial payment given to females for house maid job), sending male migrants on tourist or work visa where there is no employment available and compelled to return on their money and not giving them back the money they paid to get the overseas job.

It is our belief that labour migrants are important development partners for Sri Lanka. The proposed changes could be a milestone for further improvement of Safe Labour Migration.