Introduction

Sri Lanka is an island nation in the Indian Ocean, located south of India. With 21 million people and a labour force of 7.6 million, Sri Lanka had an estimated poverty rate of 23 percent as at 2008.¹ The 25-year civil conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka has been a serious impediment to economic activities. Despite a brutal civil war that began in 1983, Sri Lanka saw gross domestic product grow at an average rate of 4.5 percent annually over the last 10 years, with the exception of a recession in 2001. In late December 2004 a major tsunami claimed about 31,000 lives; left more than 6,300 people missing and 443,000 displaced; and destroyed an estimated US$1.5 billion in property.

Government spending on development and fighting the LTTE drove GDP growth to about 7 percent in 2006-2007, before slowing in 2008 due to the global recession. At the same time, government spending and high oil and commodity prices raised inflation to almost 15 percent.²

Migration Patterns

Both international migration and internal mobility occur in response to economic hardships in rural and urban areas in Sri Lanka. According to the UNDP Human Development Report 2009, Sri Lanka has an annual emigration rate of 4.7 percent, or approximately 350,000 emigrants.³

Of these, the Sri Lanka Bureau of Foreign Employment

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² Ibid.
Table 1: Migrant Profile 2006 to 2008 (Est.)

<table>
<thead>
<tr>
<th>Overseas Employment</th>
<th>2006</th>
<th>%</th>
<th>2007</th>
<th>%</th>
<th>2008 Est.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Migrants</td>
<td>201,948</td>
<td>100</td>
<td>217,306</td>
<td>100</td>
<td>252,000</td>
<td>100</td>
</tr>
<tr>
<td>Migration Process</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Licensed Agents</td>
<td>141,177</td>
<td>69.9</td>
<td>146,031</td>
<td>67.2</td>
<td>161,280</td>
<td>64.0</td>
</tr>
<tr>
<td>Other</td>
<td>60,771</td>
<td>30.1</td>
<td>71,275</td>
<td>32.8</td>
<td>90,720</td>
<td>36.0</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>90,170</td>
<td>44.7</td>
<td>102,629</td>
<td>47.2</td>
<td>128,520</td>
<td>51.0</td>
</tr>
<tr>
<td>Female</td>
<td>111,778</td>
<td>55.3</td>
<td>114,677</td>
<td>52.8</td>
<td>123,480</td>
<td>49.0</td>
</tr>
<tr>
<td>Occupations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Housemaids</td>
<td>99,659</td>
<td>49.3</td>
<td>102,176</td>
<td>47.0</td>
<td>118,440</td>
<td>47.0</td>
</tr>
<tr>
<td>Skilled Labour</td>
<td>45,063</td>
<td>22.3</td>
<td>49,609</td>
<td>22.8</td>
<td>55,720</td>
<td>22.1</td>
</tr>
<tr>
<td>Unskilled Labour</td>
<td>40,705</td>
<td>20.2</td>
<td>52,191</td>
<td>24.0</td>
<td>59,400</td>
<td>23.6</td>
</tr>
<tr>
<td>Other</td>
<td>16,521</td>
<td>8.2</td>
<td>13,330</td>
<td>6.2</td>
<td>18,440</td>
<td>7.3</td>
</tr>
</tbody>
</table>


(SLBFE) reported that an estimated 252,000 Sri Lankans went abroad to work, most to the Gulf States. Almost half of this total were female. Over 70 percent of migrants employed abroad through SLBFE were housemaids or unskilled labourers, with the number of migrants in both job categories increasing significantly in 2008. Overall, foreign employment placements during 2008 increased almost 15 percent over the 217,306 migrant workers reported by SLBFE in 2007.

There were 626 licensed recruitment agencies operating in Sri Lanka at the end of 2008. To encourage agencies to register with the SLBFE, the Sri Lanka Government instituted a national award scheme for employment agencies, based on performance and adherence to regulations.

According to the most recent statistics, the use of recruiting agents licensed by the SLBFE declined from 75 percent in 2003 to 64 percent in 2008. Difficulties in monitoring the activities of recruitment agencies and reports of high fees are thought to have contributed to the decline in the use of recruiting agents in general, as well as those licensed by the SLBFE. For example, the SLBFE reported in June 2008 that Sri Lankan men migrating to Gulf oil-exporter nations were expected to pay a minimum Rs 60,000 (US$550) in fees to recruiters; the SLBFE charges each migrant only Rs 7,700 (US$70.60).

Only those migrants who are registered with the SLBFE are reflected in statistics for temporary migration. The actual number of migrant workers is assumed to be much higher, with many workers leaving through unauthorized sources and personal contacts. In 2007, an estimated 60,000 undocumented Sri Lankan workers were employed in foreign countries.

**Occupational Profile of Migrants**

The SLBFE *Annual Statistical Report of Foreign Employment* (2008) classifies migrant contract workers into seven categories: professional, middle-level, clerical and related, skilled, semi-skilled, unskilled, and housemaids. The cumulative gender disaggregated data on Sri Lankan migrant workers in each category is provided in Figure 1 and Table 1.

The number of Sri Lankan migrants going abroad to work has increased steadily over the past three decades. Primary destinations are the Gulf States and neighbouring countries in South and South-East Asia. The Central Bank of Sri Lanka reports that 1.8 million Sri Lankans, equivalent to almost a quarter of the Sri Lankan labour force, were documented migrants employed abroad by 2008.

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4 Sri Lanka Bureau of Foreign Employment reports.


Documented workers most often assume positions in health, information technology, tourism, and construction industries. Professional positions held by Sri Lankan migrants in the health sector include doctors, surgeons, psychiatrists, dentists, nurses, pharmacists, pathologists, and radiographers. The information technology sector employs software engineers, data processors, systems engineers, and analysts. In the tourism sector, skilled and semi-skilled jobs include accountants, surveyors, administrators, chefs, hairdressers, cashiers, receptionists, and security officers, among others. In the construction sector, skilled workers find jobs as masons, painters, carpenters, plumbers, and metal workers.

The number of unskilled workers migrating is much higher than the skilled and professional categories. In 2008, 59,400 departing migrants were classified as unskilled, while 2,800 were classified as professionals. Undocumented workers include migrants who enter destination countries without proper documents and those who may have entered as documented, but their status was subsequently changed, their visa expired, their contract finished, or they were dismissed from their work. There is also a growing tendency for Sri Lankan students to migrate to Western countries for educational purposes and then later obtain employment and residency in these countries. There are huge data gaps on these individuals since there is no single authority that records the flow of undocumented Sri Lankans living in foreign countries.7

Gender and Migration

The collapse of the rural agricultural economy and increasing levels of economic hardship and poverty, compounded by years of conflict, have all led to increased migration of Sri Lankan women. Sri Lanka has an active policy of promoting emigration of its female citizens for work in the Arab States and affluent South-East Asian nations, such as Singapore and Malaysia, primarily as domestic workers. Over the past three decades the number of Sri Lanka migrant workers has increased steadily, as has the proportion of women in the emigrant group. More than a million female Sri Lankan citizens are estimated to be earning their livelihood abroad in the Arab States.8

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7 IOM, International Migration Outlook.
In 2008, for the first time in a decade, the percentage of male migrants increased to 51 percent of the total, up from 36 percent in 2003 (see Table 2). This was due to high demand for skilled and unskilled jobs for males in Qatar, Saudi Arabia, United Arab Emirates (UAE) and, Jordan, particularly in the construction and manufacturing sectors. At the same time, female migration to Saudi Arabia and Oman decreased, mainly due to inadequate remuneration, but possibly also as a result of increased job opportunities for women in Sri Lanka.

By 2008, an estimated 810,500 Sri Lankan women, many from rural areas, were working as low paid domestic helpers in the Arab States and South-East Asia. Over the past 10 years women leaving to work as housemaids represented half to two-thirds of all work-related migration out of Sri Lanka.9 Domestic workers are often vulnerable to exploitation, and have no labour rights in many of the destination countries. According to International Organization for Migration (IOM) estimates, 47 percent of Sri Lankan labour migrants are female housemaids, and most are married with children. Very often children are left behind to be looked after by their father and/or other relatives. These children are often neglected and de-motivated, and many drop out of school, are negatively influenced, and/or are abused.10

In recent years, the Sri Lankan Government has sought to increase the migration of skilled workers through training and skill development and to discourage the outflow of domestic and unskilled workers. At the same time, to better prepare women for employment overseas, beginning in 2009, female domestic workers receive an 18-day pre-departure English and literacy program. Overall, the government’s goal is to reduce the share of female domestic workers to 25 percent of total Sri Lankan migrants.11

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9 Ibid.

10 IOM, International Migration Outlook.

Human Trafficking

Social inequities, extended periods of internal conflict and war promotes the trafficking of persons, and consequently Sri Lanka is both a source and destination country for men and women trafficked for the purposes of involuntary servitude and commercial sexual exploitation. Women and children are trafficked primarily to the Middle East, Singapore, Hong Kong (SAR), and Republic of Korea; men, mostly 18-44 years, are trafficked to war zones such as Iraq, Palestine, or Israel to undertake dangerous occupations or to coastal regions to undertake illicit fishing in ice cold seas; small numbers of women from Thailand, China, Russia, and other former Soviet states are reportedly trafficked to Sri Lanka for the sex trade.

Trafficking often flourishes under the pretext of labour migration, eventually changing into forms of forced labour and exploitation. Some migrants in the low-skilled and unskilled categories find themselves in situations of involuntary servitude, restrictions on movement, withholding of passports, threats, physical and/or sexual abuse, and debt bondage. The Government of Sri Lanka considers that much of this vulnerability is due to lack of pre-departure education, training, and awareness regarding host country laws and working conditions.

Children are trafficked internally for commercial sexual exploitation and, less frequently, for forced labour in unregulated businesses in the informal sector such as garment factories, construction sites, and domestic service. Under-aged girls are trafficked using forged documents that indicate they are adults. Trafficked children, both boys and girls, often end up in the commercial sex trade, some reportedly providing sexual services to tourists.

Source, Transit, and Destination

Source
Since the early 1980s when Sri Lanka opened its economy, migration for overseas employment was permitted without restrictions. Source communities include the highly populated districts of Colombo, Gampaha, Kalutara, Kandy, Matale, Nuwara Eliya, Galle, Matara, Hambantota, Batticaloa, Ampara, Trincomalee, Kurunegala, Puttalam, Anuradhapura, Badulla, and Kegalle.

Labour migration is less evident in the districts of Jaffna, Mannar, Vavuniya, Mulativu, and Moneragala. North and East Sri Lanka are noted for refugee migration due to prolonged conflict in these areas. During the last two years nearly 200,000 people, mostly women and children, have left their homes as internally displaced persons. This has also facilitated the trafficking of women and children.

Transit
As an island state, Sri Lankan migrants have few transit points. Most migrants leave the country by air through the Sri Lanka International Airport in Colombo and travel directly to destination countries. Many Gulf carriers have bilateral air agreements with Sri Lanka and have flights from Colombo on a daily basis.

Destination
The major destination for migrants from Sri Lanka is the Middle East, with 93 percent of all Sri Lankan migrants moving to the Gulf States. The countries of Saudi Arabia, Kuwait, UAE, Qatar, and Jordan employed 86 percent of Sri Lankan migrants from 2004 to 2008. Middle East countries have opened embassies in Colombo to facilitate issuing visas to migrants.

A small number of Sri Lankan workers are migrating to non-Gulf destinations, notably with the significant increase in employment opportunities in Republic of Korea. The SLBFE signed a memorandum of understanding (MoU) with Republic of Korea on foreign labour as part of an initiative to encourage recruitment of skilled labour employees to Asian countries.

Remittances
Sri Lanka ranks among the top 20 countries in the world in migrant remittances. International remittances play an important role in the Sri Lankan economy, contributing 7 percent of its GDP, 36 percent of its export earnings, and 36 percent of current receipts in the Balance of Payments. Remittances have become the leading source of foreign capital to Sri Lanka.

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12 US State Department, The World Factbook, 2009
13 US State Department, Trafficking in Persons Report 2009.
14 National Labour Migration Policy for Sri Lanka, 2008.
Total foreign remittances in 2008 were US$2.92 billion (LKR316 billion), an increase of 16.6 percent over the previous year. This increase was attributed to an awareness campaign launched by the SLBFE, with the assistance of banks, licensed recruitment agencies, and the media, aimed at increasing the level of foreign remittances from migrant workers.

According to the UNDP Human Development Report 2009, approximately US$2.53 billion in remittances were sent to Sri Lanka in 2007, for an average of US$131 per person. These remittances help support five million Sri Lankans, roughly a quarter of the total population, making it possible for the government to reduce welfare subsidies to low-income families, which become ineligible to receive government welfare transfers once a member of the family migrates.

Not all migrant remittances are processed through the banking system and official channels. Informal transfer mechanisms are discouraged by the government, and the extent of these money transfers is unknown. Earnings are also repatriated in the form of goods brought home by returning migrants.

**HIV/AIDS Situation**

The first case of HIV in Sri Lanka was detected in 1987. As of the end December 2009 the estimated number of people living with HIV was 3,000, and a cumulative total of HIV cases, 1,196, had been reported to the National STD and AIDS Control Program (NSACP), the majority of which were in the 25-49 age group. Estimated HIV

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16 IMO, International Migration Outlook.
17 Current exchange rate US$:LKR (Lanka Rupee) is 108.29.
prevalence among adults (15-49 years) is less than 0.1 percent and the current ratio of HIV positive men to women in Sri Lanka is 1.4:1. Cumulative AIDS cases as at end December 2009 were 326, with 202 AIDS-related deaths. As of the end of 2009, there were 207 adults and 11 children on anti-retroviral therapy (ART), accounting for 40.6 percent of those in need of ART as per cases reported to NSACP.20

Female sex workers and their clients, men who have sex with men, and injecting drug users are identified as the most at risk populations in the country. The probable mode of transmission is known in only two thirds of those 1196 HIV cases reported to the NSACP since 1987. Where mode of transmission is known, unprotected sex among men and women accounts 82.8 percent of cases, while unprotected sex between men or bisexual encounters account for 11.2 percent of cases.21

Table 5: HIV/AIDS Data to 2009

<table>
<thead>
<tr>
<th>Indicators</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIV Cases:</td>
<td>1,196</td>
</tr>
<tr>
<td>Male</td>
<td>706</td>
</tr>
<tr>
<td>Female</td>
<td>490</td>
</tr>
<tr>
<td>Male /Female ratio of infection</td>
<td>1.40</td>
</tr>
<tr>
<td>HIV+ Cases on Anti-Retroviral Therapy</td>
<td>218</td>
</tr>
<tr>
<td>AIDS Cases</td>
<td>326</td>
</tr>
<tr>
<td>AIDS Deaths</td>
<td>202</td>
</tr>
</tbody>
</table>

Modes of Transmission:

<table>
<thead>
<tr>
<th>Mode</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heterosexual</td>
<td>82.8%</td>
</tr>
<tr>
<td>MSM and Bisexual</td>
<td>11.2%</td>
</tr>
<tr>
<td>Mother to Child</td>
<td>5.4%</td>
</tr>
<tr>
<td>Blood Transfusions</td>
<td>0.4%</td>
</tr>
<tr>
<td>Injecting Drug Use</td>
<td>0.2%</td>
</tr>
</tbody>
</table>

Source: UNGASS Country Progress Report, Sri Lanka 2008-09

Sri Lanka remains one of the few countries in the region with a low HIV prevalence rate, despite high-risk groups and behaviour, such as sex work, and networks of MSM. Rapid political, economic, social, and policy transitions also contribute to increased risks. Many of the infections recorded in 2007 are associated with overseas work.22

Data collected in the first Behavioural Surveillance Survey (October 2006 to March 2007) confirmed relatively high levels of risk behaviour among high-risk groups and vulnerable populations, including migrants. The size of the population at risk is difficult to assess, but there are several factors that may fuel an HIV epidemic in Sri Lanka: low condom use; prolonged civil unrest in the country; poverty and gender inequity; increased casual, unprotected sex; misuse of alcohol and drugs, especially among young adults; and proximity to and mobility from AIDS epicentres, such as Tamil Nadu in South India.

National Response to HIV/AIDS

In 1992, the Government of Sri Lanka initiated HIV-prevention and control efforts through the NSACP of the Ministry of Health, under the Director General of Health Services. NSACP integrates services for STIs and HIV/AIDS and the National Reference Laboratory for STI/HIV. NSACP is responsible for coordination of the national HIV/AIDS response through planning, monitoring, and coordination of all stakeholders. The NSACP, in collaboration with the provincial governments, has undertaken HIV-prevention activities, such as a mass-media communications strategy, to improve knowledge and awareness of HIV and to provide care and treatment to people living with HIV and AIDS (PLHIV).

Sri Lanka has a well established sero-surveillance system; and a second-generation behavioural surveillance among vulnerable groups was conducted in 2006. NSACP oversees a network of 30 STI clinics, while 11 branch clinics are conducted on an outreach basis from five provincial hospital clinics. NSACP also oversees scaled-up voluntary counselling and testing (VCT) and HIV clinical management services, pilot programmes for prevention of parent-to-child transmission (PPTCT), and the development of HIV/STI clinical management guidelines. The National Blood Transfusion Service is responsible for ensuring blood safety in Sri Lanka. No cases of transfusion related HIV infections have been reported to the NSACP since 2000.23

The National AIDS Council, formed in 2006, is the highest governing body, chaired by the President and with relevant ministers as members. The National AIDS Committee (NAC) formed in 1988, is the main body for coordinating HIV prevention and control initiatives

21 Ibid.
23 UNGASS, Country Progress Report
and for overseeing implementation of programmes to prevent the spread of HIV. It is chaired by the Secretary of the Ministry of Health Care and Nutrition, and members include other ministerial secretaries, NGOs, PLHIV, representatives of the private sector, and donors.

Voluntary Counselling and Testing services are provided free of charge at government clinics. Counselling services are undertaken by NGOs such as the Migrant Service Centre (MSC), Lanka+, the Salvation Army of Sri Lanka, and Community Development Services. Anti-retroviral therapy is given freely to persons registered at STI clinics, although less than 10 percent of the 3,000 people in Sri Lanka who are estimated to be HIV positive regularly call at clinics to receive therapy.24

Within the health sector, several departments provide HIV/AIDS-related services, such as the Family Health Bureau, Health Education Bureau, National Blood Transfusion Service, National TB Programme, and the Health Services Department (clinical care). Other government sectors also respond to HIV, including the Ministry of Education (school-based life-skills education), Ministry of Labour, and the Foreign Employment Bureau (pre-departure education for migrants). NSACP supports several ministries and departments to build their competence, such as defence (prevention and VCT), youth affairs, fisheries, and the police department. In line with on-going efforts of decentralization and devolution, the provincial, district, and municipal AIDS committees coordinate local responses with support from the NSACP.

The World Bank and UN agencies have provided financial and technical assistance to the government and NGOs in carrying out targeted interventions among vulnerable groups and the general public. In the past World Bank have funded projects to strengthen STI treatment services by refurbishing clinics and laboratories, providing equipment, and training health staff. International NGOs support several local NGOs and trade unions in HIV-prevention programming, providing information sharing experiences, conducting HIV-awareness programmes, and offering prevention and care services. Civil society organizations are encouraged to conduct campaigns against stigma and discrimination.

The goal of National Strategic Plan (NSP) 2007-2011, prepared in collaboration with relevant stakeholders, is to maintain low HIV prevalence in the country and provide care and support for those infected and affected. The NSP 2007-2011 is implemented by all sectors of government and civil society, under the technical guidance of the NSACP and with high-level leadership from the NAC, accelerating scale-up of HIV testing, prevention, care, and treatment services, and ensuring collection of robust strategic information to monitor and guide the national response to the HIV epidemic.25

On April 3 2007, Sri Lanka signed a National Tripartite Declaration on Prevention of HIV/AIDS in the workplace. It was signed by the Ministries of Labour, Health, Child Development, Women's Empowerment, Vocational and Technical Training, and the SLBFE, as well as representatives of employer organizations and large trade unions.

The Declaration states:

Trade Union and Employer Organizations who are signatories will encourage development of HIV/AIDS workplace policies and programmes in collaboration with the employer/employees and take the lead in protecting workers and their families from HIV/AIDS. Workers Organisations and Employers Organisations will contribute to the prevention of HIV/AIDS by developing their own policies and programmes in this regard and include HIV/AIDS awareness raising in their education and training programmes focusing on employees, their families paying special attention to vulnerable communities and taking into consideration the special needs of women and children.

Worker Organisations will also raise awareness on HIV/AIDS amongst the workers in the informal sector in collaboration with their subsidiary units at all levels.

All three constituents being signatories to this National Tripartite Declaration firmly dedicate themselves to cooperate and support each other in all activities related to HIV/AIDS in the workplace.

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24 Ibid.

Migration and HIV/AIDS

Mandatory Testing

Most destination countries require compulsory medical tests and re-tests at regular intervals during employment. If migrants test HIV positive, they are deported, often without explanation. Where mandatory testing is a requirement of the host country, it is done without Sri Lanka Government supervision or involvement and neither the testing centres nor the government offer pre-test or post-test counselling to migrant workers. Generally there is also a lack of access to condoms.

Blood and urine tests (for HIV and pregnancy, respectively) are mandatory prior to departure for women migrating through official channels. The test results are provided directly to the agents. Many of the women tested admit not knowing the nature of these tests. A VDRL test, screening for syphilis, is also required, and is provided by the NSACP.

The Government of Sri Lanka allows Gulf countries to conduct mandatory testing at sites approved by the Gulf Cooperation Council Approved Medical Centres Association (GAMCA). GAMCA has approved 13 testing centres in Sri Lanka: 10 based in the district of Colombo and 3 in Kurunegala district. Migrants tested do not receive the results and no pre-test or post-test counselling is provided. GAMCA is not obliged to provide test results or statistical information to the Ministry of Health, Ministry of Foreign Employment Promotion, or the SLBFE. Migrant workers travelling to countries not covered by the Gulf Cooperation Council may also be required to undergo testing, and recruiting agents direct these recruits to a GAMCA centre for testing. Although government hospitals can do full medical examinations more cost-effectively, testing at private hospitals is encouraged by recruiters.

While abroad, many documented migrants avoid testing, or upon detection disappear, becoming undocumented workers to avoid deportation. Many HIV-positive migrants returning to Sri Lanka hide their HIV status for as long as they can in fear of stigma and discrimination.

Increasingly, Sri Lankan migrant workers tested in the Arab States are infected with HIV; and more than 40 percent of women who have tested positive, both abroad and in Sri Lanka, are or have been international migrants. It is unclear how many of these women acquired HIV infection abroad, and how many within Sri Lanka.26 As most migrant workers are screened for HIV prior to departure and retested abroad, they are over-represented in HIV testing data.

None of the recently concluded bilateral agreements with destination countries contain provisions for ensuring protection of the health rights of migrants at destination and in the workplace. Recruitment to Republic of Korea is a monopoly of the SLBFE. Medical testing for migrants leaving for Republic of Korea is done at Sri Jayawardenapura Hospitals in Colombo, Thalapathpitiya, and Nugegoda as approved by the Government of Korea. No private medical laboratories are permitted to conduct these medical tests.

All these factors point to the need to strengthen the evidence linking high-risk behaviour among migrant workers to structural deficiencies in the migration process. Generating data on the HIV vulnerability of migrant workers, with specific focus on women and on responses in both origin and host countries, will provide insights for the scaling-up of existing programmatic responses and the development of new interventions.27

Pre-departure Orientation

A significant number of Sri Lankans employed abroad are not reached by existing national sexual and reproductive health programmes at departure, in transit, on arrival in receiving countries, or on return to Sri Lanka.

The SLBFE conducts training and pre-departure orientation programmes for migrants, both male and female. In 2005 it began offering HIV education as part of pre-departure training that domestic migrant workers are required to attend. In 2009 the SLBFE took steps to integrate HIV/AIDS education into pre-departure training for female migrants in all 34 SLBFE training centers.28 However there is no clear policy or requirement to provide pre-departure information to all migrants on STI and HIV prevention and care.

Programmes recently launched by the SLBFE on information sharing on HIV/AIDS lack sufficient material to increase knowledge about health, labour rights,

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27 UNDP Colombo, “HIV Vulnerabilities Faced by Women Migrants.”
28 UNGASS, Country Progress Report
and services available in receiving countries through Sri Lanka missions abroad or through overseas NGOs. While pre-departure sessions vary in length, a pre-departure orientation session which runs for 13 days (72 hours) includes only 2 hours devoted to discussion of HIV-prevention and protection issues. At destination, Sri Lankan missions are not equipped to handle the sensitive health issues of migrant women.

Policies, Legislation, and International Conventions

International Conventions

In 1996, Sri Lanka ratified the *International Convention on the Protection of all Migrant Workers and Members of their Families*, which facilitated the creation of a normative framework on which national migration legislation and practices can be developed. However, Sri Lanka has yet to pass legislation to give effect to this instrument and its provisions.

Sri Lanka is also a signatory of *The Protocol on Preventing, Suppressing and Punishing Trafficking in Persons especially Women and Children* under the UN Convention against organized crime, though it has not ratified the convention. Once ratified, the government intends to develop a comprehensive set of rules governing trafficking, and to communicate these throughout the country with the support of relevant stakeholders. Sri Lanka has ratified other associated international conventions, including *Convention on the Elimination of All Forms of Discrimination against Women* and *the Convention on the Rights of the Child*.

Sri Lanka adopted the *Declaration of Commitment on HIV/AIDS* at the United Nations General Assembly Special Session on HIV/AIDS (UNGASS) in June 2001. However, there has been limited follow-up by authorities on many of the commitments made at UNGASS, particularly access to HIV/AIDS programs for all migrant and mobile populations. In addition, Sri Lanka has yet to ratify relevant ILO conventions, including *Migration for Employment*, the convention concerning migration in abusive conditions, the promotion of equality of opportunity and treatment of migrant workers, and recommendations concerning migration for employment. Though Sri Lanka is a party to the *International Covenant on Economic, Social and Cultural Rights* and has an obligation to protect the health rights of all Sri Lankans, no specific interventions, including the promotion of the health rights of migrant workers, have been undertaken.

Regional and Bilateral Agreements

Sri Lanka is a member of the South Asian Association for Regional Cooperation (SAARC) and has ratified the *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*. This convention enables a High Court in Colombo to hear, try, and punish offences committed outside Sri Lanka if either the accused or the victim is a citizen of Sri Lanka. This law is restricted to women and children victimized or forced into prostitution by traffickers using deception, threat, coercion, kidnapping, sale, fraudulent marriage, or other unlawful means.

Sri Lanka has signed a MoU on migration with a number of countries in the Middle East and Asia. These MoU, unlike bilateral agreements, indicate the type or category of workers required; physical characteristics and skill requirements rather than minimum standards for wages, working hours, and conditions; contract enforcement; health rights; insurance; compensation; and anti-trafficking/welfare measures. By their nature, MoU do not ensure the comprehensive protection and welfare of migrants during their stay in foreign countries.

On May 7, 2009, the leaders of Sri Lanka trade unions and their counterparts from Bahrain, Jordan, and Kuwait signed major cooperation agreements to protect the rights of Sri Lankan migrant workers in these countries, granting Sri Lankan migrant workers “the full panoply of labour rights included in internationally-recognized standards.”

National Policies and Legislation

The protection and welfare of Sri Lankan migrant workers is the joint responsibility of the Sri Lanka Bureau of Foreign Employment and the Ministry of

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Labour. The National Law on Overseas Employment regulates migration and has specified protective measures against illegal operations. All migrant workers are now required to register with the SLBFE in an effort to prevent illegal recruitment and to provide migrants with essential services. The SLBFE seeks to promote and regulate migration of Sri Lankans and provide for welfare and protection of migrants. It is generally perceived as migrant-friendly in terms of facilitating emigration and inflow of remittances.

The *Sri Lanka Bureau of Foreign Employment Act* 1985 includes protective measures to reduce irregular migration and clearly articulates provisions for regulated migration. However, lack of suitable enforcement measures results in frequent contravention of these laws during the migration process. Recent amendments to the *Foreign Employment Act* 1985, were passed by the Parliament in September 2009, increasing the punishment and fines imposed by the courts for violations of the provisions. A Parliamentary Select Committee was established to investigate complaints and grievances of migrant workers regarding recruitment procedures, training, education, language proficiency, service agreements, welfare, and security of employment, primarily in the Middle East. Enforcement of laws and regulations related to migration for employment is complicated by the fact that most of the harassment and exploitation of migrant workers takes place outside the country and offenders are not held accountable.31

In February 2006, Sri Lanka passed an amendment to the Penal Code that gives a broader definition of trafficking to include buying, selling, bartering, recruitment, transportation, transfer, harbouring, or receipt of persons, and makes trafficking a criminal offence. To protect female expatriate workers, a policy was framed to discourage recruitment of domestic workers and replace domestic work with new occupations for women migrants, such as nursing, computer-based employment, and other jobs requiring special skills that women can fill after appropriate training.

In 2006, the Ministry of Labour Relations and Foreign Employment, at the time responsible for all foreign employment, requested assistance from the ILO in preparing a National Labour Migration Policy for Sri Lanka. In its Advisory Report, the ILO recommended that a multi-stakeholder dialogue on the National Labour Policy for Sri Lanka provide the following:

- Improved governance and regulation of labour migration based on a consultative process with social partners and civil society in formulating migration policy.
- Effective service provision to migrant workers and their families.
- Maximized development opportunities given the benefits of labour migration, migrant remittances, and reintegration of returnee migrants.
- Linkages with trans-national communities and effective communication of policies.

In 2007 a new Ministry of Foreign Employment Promotion and Welfare was established and was mandated to introduce structural changes to ensure Sri Lankan workers were trained to meet the international demand for skilled workers; ensure improved working conditions for migrants through regional cooperation and signed international agreements; promote equitable treatment and higher salaries for skilled workers and minimum wage agreements for domestic workers; and strengthen the services provided overseas by Sri Lankan embassies and embassy welfare officers.

The National Labour Migration Policy for Sri Lanka was officially launched by the Ministry of Foreign Employment Promotion and Welfare on February 24, 2009, and approved by the Sri Lanka Cabinet on April 30, 2009.32

The *Ten Year Plan for Development* and the *National Action Plan for Decent Work* recognizes the importance of labour migration in Sri Lanka. The Ten Year Plan highlights safe, skilled migration as the best strategy for guiding overseas labour migration.

The Sri Lankan Government has taken measures to enhance migrant worker welfare by introducing a pension scheme in August 2007; setting up training centres to teach Korean, Japanese, Arabic, English, and Hebrew languages; and conducting pre-departure training to better facilitate information dissemination on the laws, culture, and social values of host countries.

Recruitment agencies have taken a creative approach

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to contract negotiations for migrant workers by developing a Memorandum of Understanding on Minimum Working Conditions. The agencies have organised under the Association of Licensed Foreign Employment Agencies (ALFEA), proposing to assist the government in negotiation of service contracts. An ALFEA milestone was the negotiation with their counterparts in Saudi Arabia for a uniform policy on HIV testing, which was subsequently approved by the SLBFE.

Key Stakeholders

Government Agencies and Networks

The main institutional framework for the labour migration process is handled by the Ministry of Foreign Employment and Welfare. The other key government institutions and agencies involved in the migration process are the Ministry of Labour Relations and Manpower, Ministry of Internal Administration, Department of Immigration and Emigration, Department of Registration of Persons, Ministry of Foreign Affairs, Ministry of Child Development and Women's Empowerment, and the National Child Protection Authority.

The International Organization for Migration (IOM) concentrates on building the capacity of government agencies and NGOs working on trafficking prevention, prosecution of cases of trafficking, and providing assistance to victims. For example, IOM trains law enforcement personnel, such as the police, immigration officers, and officers of the SLBFE, to identify and prosecute cases of trafficking. IOM also raises awareness together with these agencies on the risks of irregular migration.

The National Resource Centre to Counter Trafficking was opened in May 2009 by the Immigration and Emigration Department (IED) of Sri Lanka with the support of the IOM. This centre is housed at the IED and intends to offer comprehensive training to IED staff on human trafficking, promote research, and enhance information sharing among stakeholders. It will also provide appropriate assistance and redress to victims of human trafficking and facilitate the development of a referral system.

Non-government Organizations

Migrant Services Centre (MSC) is a service organization established in 1990 to act as the migrant services arm of the National Workers Congress, a registered trade union in Sri Lanka with a migrant worker membership. MSC membership is open to migrants, returned migrants, and prospective migrants, including refugees. The main services provided are: stakeholder meetings with policy makers; training of trainers; information, counselling, and orientation programs for prospective migrants; health education, HIV prevention and care for migrants with AIDS; assistance with training and skills development; counselling on health problems of migrant returnees; resettlement and reintegration of HIV-positive migrant workers; and intervention in the trafficking of women and children under the pretext of migration for employment and referral of victims to relevant authorities for assistance.

Community Development Services (CDS) is an active local NGO launched in 1991 and offering capacity building and advocacy on HIV awareness and prevention to a range of stakeholders, including NGOs and community-based organizations (CBOs), private sector organizations, and international NGOs. CDS formed the first commercial sex worker (CSW) micro-credit programme in Sri Lanka and helped to form Lanka+. CDS works with CSWs, MSM, youth, and prospective migrant workers in several districts. It recently worked with three CBOs in the south, and has educated 333 migrant domestic workers and their families on issues such as dealing with a licensed recruiting agency, STIs, HIV and AIDS, medical testing procedures, post arrival behaviour, international labour laws, human and health rights, host country labour laws, reintegration, human trafficking, and coping strategies for people/families left behind.

Community Strength Development Foundation (CSDF) is a non-profit organization registered with the Department of Social Services in 2002 under the national Secretariat of NGOs. CSDF utilizes a group of dedicated, educated, and experienced government and non-government personnel to serve the community irrespective of social, economic, or political position. Activities include issues of unemployed youth, HIV prevention programmes, entrepreneurship training and counselling programmes, drug prevention, education quality improvement, and community empowerment programming.
National Workers Congress has undertaken an anti-trafficking project to establish a victim centre, monitor detection of trafficking, provide legal assistance, and design anti-trafficking intervention programmes. The centre received information on 78 cases of trafficking in 2007, mainly from external migrants, and 46 persons received further assistance. The National Workers Congress is a signatory to the Tripartite Declaration on Trafficking.

Recommendations

The following recommendations are made within the context of the foregoing analysis of Sri Lanka’s migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations, it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons and other relevant ILO conventions essential to the protection of migrants.

2. Expand and strengthen the data-gathering system for both immigration and emigration.

3. Expand the evidence base and research to increase understanding of the issues created by international migration, such as: the impact on families, particularly children left behind by migrant women; the nexus between migration and human trafficking; and HIV vulnerability.

4. Ensure comprehensive migrant-friendly voluntary HIV testing that protects the rights of migrants in a process governed by best practices: consent, confidentiality, and pre-test and post-test counselling.

5. Improve the quality of education and access to skills-based training for youth and women at the grassroots level and areas prone to high migration, with a view to foreign employment as skilled workers.

6. Ensure that pre-departure orientation and training programmes are accessible to migrant populations, particularly women migrating as domestic workers; and expand programming to include HIV and STI awareness and prevention through safe behaviour choices, such as condom use and access to health services.

7. Regulate and monitor recruitment agencies and their sub-agents; impose ceilings on fees; and blacklist agencies indulging in unlawful, fraudulent, and corrupt practices.

8. Continue to actively implement and follow-up on the commitments made at UNGASS, particularly improving access to HIV/AIDS programmes for all migrant and mobile populations.
Bibliography – Sri Lanka


