



LEGAL FRAMEWORK

Section 44, of the Sri Lanka Bureau of Foreign Employment Act No. 21 (1985), gives an overview of how Sri Lankan migrant workers can lodge complaints regarding a contract breach during employment as well as against recruitment agencies.

The Sri Lanka Bureau of Foreign Employment (SLBFE) has a mandate to handle the complaint management mechanism under the SLBFE Act No. 21 (1985).

LEGAL AND INSTITUTIONAL FRAMEWORK

- *Sri Lanka Bureau of Foreign Employment Act (No. 21 of 1985) and its Amendments in 1994 and 2009*
- *The National Labour Migration Policy 2008*
- *Ministry of Telecommunication, Foreign Employment and Sports*
- *Sri Lanka Bureau of Foreign Employment (SLBFE)*

Table 1: Complaints Process for Sri Lankan Migrant Workers (Section 44)

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| <p>(1) When the SLBFE receives a complaint from or on behalf of, any person recruited for employment outside Sri Lanka or employed outside Sri Lanka, or a report from any of its representatives abroad:</p> <p>(a) That the terms and conditions imposed on any employer by the contract of employment in relation to that person have not been observed by that employer</p> <p>(b) That the licensee who recruited him/her for employment outside Sri Lanka has, in breach of the agreement, entered into by the licensee with the SLBFE under section 28 (1) (a) failed to take such steps as are possible to ensure that those terms and conditions are observed by the employer.</p> |
| <p>(2) The officer referred to in sub-section (1) shall, for the purpose of holding an inquiry under sub-section (1) have the power:</p> <p>(a) To require the licensee and the complainant to be present for interrogation in regard to the complaint or report which is the subject of the inquiry</p> <p>(b) To require the licensee and complainant to produce such documents as he/she may consider necessary for the purposes of the inquiry</p> <p>(c) To require any person to give evidence on oath or otherwise before him/her.</p> |

¹ This section received extensive inputs from SLBFE officials.

(3) The officer referred to in sub-section (1) shall, at any inquiry held under that sub-section, give the parties affected an opportunity to be heard.

(4) Any sum of money that the officer referred to in sub-section (1) may direct a licensee to pay to any person under that sub-section to be recoverable by that person or by the SLBFE on his/her behalf by an action instituted in the district court within the administrative limits of which, the place at which the licensee has been licensed to carry on the business of a foreign employment agency is situated, by way of summary procedure. The provisions of the Civil Procedure Code relating to actions, of which the procedure is summary, shall apply to an action under this sub-section.

Source: Sri Lankan Bureau of Foreign Employment Act

NATIONAL LABOUR MIGRATION POLICY 2008²

The National Labour Migration Policy was formulated in 2008, with extensive inputs from ILO, IOM, other UN and international organizations, civil society and other relevant stakeholders and reflects the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The policy describes the process of addressing Sri Lankan migrant workers' complaints and advocates for an overarching mechanism for complaints at all levels of the migration process to receive, investigate and refer complaints arising out of violations of human and labour rights of migrant workers (Ministry of Foreign Employment Promotion and Welfare, 2008).

Complaint handling at airport

*The SLBFE receives complaints of different types from returnee migrants when they arrive **at the airport on their return from countries**. SLBFE provides procedures through the homepage¹.*

Bureau sends over six officials at two entrances (main entrance/before immigration) to respond to Sri Lankan nationals who will head to the destination. Registration to the bureau is required prior to use this service.

LEGAL FRAMEWORK FOR RECRUITMENT AGENCIES

Sri Lanka has an established legal framework to blacklist non-complaint private recruitment agencies in the case of negligence in handling complaints from migrant workers (IOM, 2015).

COMPLAINT CHANNELS

While Sri Lanka's main complaint channel is via the SLBFE, there are multiple complementary channels migrant workers can utilize.

² National Labour Migration Policy adopted by the Cabinet of Ministers in 2009

SRI LANKA BUREAU OF FOREIGN EMPLOYMENT (SLBFE) AND REGIONAL CENTRES/DISTRICT OFFICES/AIRPORT OFFICE

Migrants who encounter problems during the recruitment process can file a formal complaint to the SLBFE during employment or upon return. Section 44 allows representatives (direct family members such as spouse, parents and children) to lodge complaints on behalf of migrant workers. Complaints are directed to the head office of SLBFE in Colombo and regional centres/district offices/airport office. SLBFE provides 24-hour hotline services through telephone, fax and e-mail (SLBFE).³ Investigations should commence within 14 days of receipt of complaints. To lodge complaints, migrant workers should be registered in the SLBFE data system. Those not registered with SLBFE can lodge complaints with consular divisions of the Ministry of Foreign Affairs.

DIGITALIZED SYSTEM

Sri Lanka introduced a computerized system to track complaints and enhance communication between local and foreign agencies as well as Sri Lankan missions overseas to keep parties informed and serve as a pool of information to report from. This system also links safe houses where distressed migrants are accommodated.

MEETING WITH PARALEGALS

SLBFE organizes 'case conferences' with paralegals and village leaders who assist migrants to achieve transparency and trust in handling complaints.

DOCUMENTATION

The SLBFE compiles information, crosschecked against family sources, to ensure each case has sufficient documentation to verify migrants' complaints. Files are made available to paralegals.

OTHER MINISTRIES

The Ministry of Women's Affairs and Ministry of Child Development also receive complaints when related to women and children. The latter ministry has a specific Department of Probation and Childcare where complaints relating to neglect and abuse of children are received. Women migrant workers can lodge complaints with the Gender Complaints Desk at the Ministry of Women's Affairs if complaints are related to violence (Helvetas Sri Lanka).

HUMAN RIGHTS COMMISSION

Migrants can also lodge complaints with the Human Rights Commission of Sri Lanka, about migrant issues within the purview of its director of monitoring and reviews.

ASSOCIATION OF RECRUITMENT AGENCIES

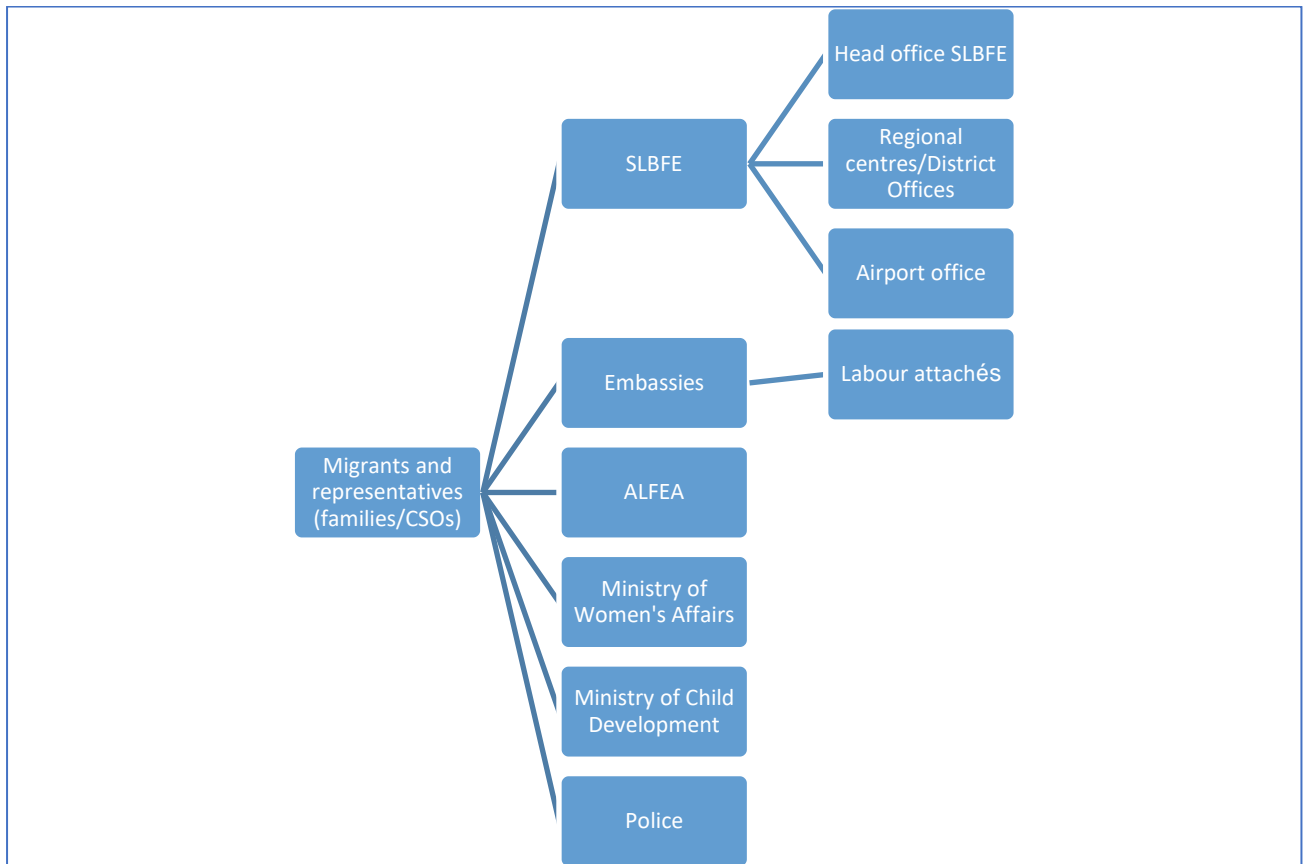
Complaints can also be filed with the Association of Licensed Foreign Employment Agencies, which can investigate ethical breaches among its members and revoke membership by a four-fifths majority vote.

³ SLBFE runs a shelter home called 'Sahana Piyasa' for returnees in need of care and support, within close proximity to the airport. Such returnees are first brought to 'Sahana Piyasa' to meet their basic needs and record any complaints or hardships for follow-up action, before assistance is provided with transport to respective homes (ILO, 2013).

DESTINATION SIDE

Migrant workers can submit complaints to either labour or consular sections of Sri Lanka diplomatic missions in destination countries as well as head offices in the Ministry of Telecommunication, Foreign Employment and Sports/SLBFE or External Affairs through visits or sending complaint letters along with relevant documents by post. Sri Lanka appoints labour attachés in countries where more than 25,000 migrants are employed, such as Gulf Cooperation Council nations. The functions of labour attachés include following up complaints or referrals from employment agents. They also provide shelter and medical services for runaway workers, repatriation, assistance in issuing passports and legal services (Siddiqui, Rashid, & Zeitlyn, 2008).

Box 1: Complaint Channels for Sri Lankan Migrant Workers



Source: SLBFE, 2014

PROCEDURES TO MAKE COMPLAINTS

Government information centres provide detailed procedures for making complaints. SLBFE responds within 14 days of a complaint received through a legal inquiry officer within the investigation division and a lawyer from the legal division.