



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**  
Eleventh session

**Summary record of the first part (public)\* of the 120th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 13 October 2009, at 10 a.m.

*Chairperson:* Mr. El Jamri

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\* No summary record was prepared for the second part (closed) of the meeting.

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports submitted by States parties under article 73 of the Convention** (continued)

*Initial report of Sri Lanka* (continued) (CMW/C/LKA/1; CMW/C/LKA/Q/1 and Add.1)

1. **The Chairperson** proposed to continue with consideration of the initial report of Sri Lanka (CMW/C/LKA/1) and invited the members of the Sri Lankan delegation to take the floor.
2. **Mr. Jauhar** (Sri Lanka) read out replies to questions posed by the members of the Committee. The Sri Lankan authorities had established an interministerial committee to implement the provisions of the national labour migration policy, and the Sri Lanka Bureau of Foreign Employment Act had been amended to provide better protection of the rights of migrant workers and to punish persons who violated those rights. Clear and comprehensive recruitment guidelines had been drawn up requiring employment agencies to declare the amount they charged migrant workers as recruitment fees, and migrant workers to sign their job contracts in the presence of officials of the Sri Lanka Bureau of Foreign Employment. If irregularities came to light, the agencies concerned faced punitive measures. It was planned to increase the number of welfare officers from 28 at present to 56, subject to the approval of the Ministry of Finance. At the current time, nearly 80 per cent of the 1.7 million Sri Lankan migrant workers had individual authenticated contracts. Sri Lanka did not recognize the system of master contracts or other group contracts, and the comment by one Committee member to the effect that the majority of migrant workers in the Gulf were undocumented was thus incorrect.
3. Although most Sri Lankan migrant workers were women, departures in 2008 were predominantly male. That was the result of the introduction of minimum wage standards for women, including higher minimum wages, which had led to a decline in the demand for unskilled female labour, and the identification of markets where skilled labour was required (Republic of Korea, Malaysia, Libya and Japan), which had mainly attracted men. Under repatriation programmes, in 2008 the Sri Lanka Bureau of Foreign Employment had brought home 808 workers at a cost of more than US\$ 200,000. A countrywide survey was being carried out to assess needs in that regard. Those programmes were open to all migrants, irrespective of ethnic origin.
4. Legal assistance for migrant workers was paid for by the welfare fund for migrant workers of the Sri Lanka Bureau of Foreign Employment. Recently, migrant workers had also begun to receive protection under a compulsory insurance scheme which their employers must subscribe to on their behalf. The retirement scheme for migrant workers had been in existence for only two years, and as yet no one had reached 60 years of age, which was required to be eligible for benefits. Sri Lankan migrant workers currently received a pension from only two countries they had worked in (Italy and Cyprus); it was up to the Sri Lanka Bureau of Foreign Employment to facilitate the payment of such pensions.
5. Civil society had not been involved in the preparation of the country report; the Sri Lankan authorities intended to address that matter in the future. In recognition of the adverse impact that the migration of parents, mainly mothers, could have on children, the Government had established a family welfare unit within the Sri Lanka Bureau of Foreign Employment to support such children in every way possible, including by awarding them scholarships or providing them with free school materials.
6. Sri Lanka did not have any statistics on irregular migration. Illegal migration and trafficking in persons were offences under the Immigration Act. Sri Lanka had recently introduced new legislation to strengthen the existing legal framework; in cases of

trafficking, only the traffickers were punished, not the victims. When the victims were children, there were shelters to care for them.

7. Only citizens of Sri Lanka had a constitutional right to join trade unions. In Sri Lanka, there were no restrictions on foreign workers' remittances of legal earnings.

8. Officials of the Sri Lanka Bureau of Foreign Employment must be appointed as peace officers under the Code of Criminal Procedure in order to be authorized to carry out an arrest. Those officials had immunity in the exercise of their duties in good faith.

9. Sri Lanka had not yet ratified International Labour Organization (ILO) Convention No. 97 concerning Migration for Employment but hoped to be able to do so in the near future with ILO technical assistance. As the Readmission Agreement with the European Union stipulated that there must be separate implementing protocol agreements with the member States, Sri Lanka was currently finalizing such instruments with the Netherlands, France and Malta.

10. **Mr. Ruhunage** (Sri Lanka) said that the amendments to the Sri Lanka Bureau of Foreign Employment Act aimed primarily to safeguard the rights of migrant workers, in particular by punishing agencies which illegally recruited Sri Lankan workers. The number of fines for such offences had increased twentyfold. It was important to stress the fact that exploitation began as soon as an agency imposed exorbitant fees on migrants. Under the welfare fund for migrant workers, disabled migrant workers could have free access to housing, depending on the disability and provided that it had resulted from their work abroad.

11. With regard to migrant workers who came back to Sri Lanka for medical care or for any other health reason, the Government had signed an agreement with a public hospital so that they could receive care as soon as they returned. Other programmes had also been put into effect. For example, with the support of non-governmental organizations, psychological and social assistance was provided to female migrants who had been victims of sexual harassment and who discovered upon their return that they were pregnant. Funeral assistance was available for families of migrant workers who died abroad.

12. Replying to comments made on the subject of memorandums of understanding which Sri Lanka had concluded with a number of countries, he informed the Committee that such agreements had been reached in the area of employment following protracted negotiations, and he summarized their main elements. The memorandums were usually signed for a three-year renewable term and covered the following points: expenses for travel to the country of destination and for return travel at the end of the employment contract, which must not be charged to the worker; regular payment of a wage; the drawing up of a formal employment contract, if possible a standard service contract (that was the case in the Sultanate of Oman and in Qatar), authenticated by both parties, namely the Sri Lanka Bureau of Foreign Employment and the competent authority in the country of destination; the right of workers to send part of their wages to their country of origin or to another country of their choice; the settlement of disputes by conciliation or through proceedings instituted with a competent court in the country of destination; establishment of a joint committee, composed of representatives of the two parties, to examine the implementation of the memorandum; and the exchange of competence between the two countries concerned. The Government of Sri Lanka had signed memorandums of understanding or bilateral agreements with Qatar, the United Arab Emirates, Bahrain, Libya, Jordan and the Republic of Korea, and it was currently putting the final touches on bilateral agreements with Lebanon, the Sultanate of Oman and Kuwait.

13. **Ms. Fernando** (Sri Lanka), presenting the plan of action for the promotion and protection of human rights in Sri Lanka, said that the plan, which was currently being drafted, had been conceived for a period of five years and had benefited from the support of

the United Nations Development Programme (UNDP). The Government of Sri Lanka had reviewed the recommendations of the treaty bodies and the special procedures mandate holders and the recommendations stemming from the universal periodic review. Then, in cooperation with the competent administrations and a number of organizations of civil society, it had defined a thematic framework with eight themes: torture, civil and political rights, economic, social and cultural rights, children, labour, migrants, women and internally displaced persons. Currently, joint committees made up of 6 to 10 experts representing the public authorities and civil society were elaborating the content of the plan for each of the themes. Each committee decided on the details of its theme on the basis of a common structure which included the main issues, goals, activities, principal indicators of results, objectives to be attained in the course of the plan and the responsible authority. Each theme gave rise to an assessment of the legal framework, policies and practices.

14. Several issues were currently under consideration with regard to migrant workers, including, for trafficking in persons, amendments to legislation, accession to international instruments, heightening of awareness and dissemination of information for the purpose of prevention, the prosecution of criminals, the establishment of complaints mechanisms, the rehabilitation of victims and the protection of victims and witnesses. Questions concerning the right to vote for migrant workers, better protection for such persons, training and awareness-raising, clandestine migration, social security and insurance schemes, the social situation and rights of families of workers and the situation of foreign migrant workers in Sri Lanka were also being examined. The plan, which was expected to be put into place in the coming months, should not be regarded as an exhaustive list of questions to be taken up, but rather as a list of priorities.

15. **Mr. Taghizade** said that he would like to learn more about major migration fluctuations between 1986 and 2006, as indicated for men and women in table 2 in Sri Lanka's initial report. Whereas in 2006 women had accounted for 55.55 per cent of departures and men for 44.45 per cent, in the 1990s women had made up a much higher percentage of departures than men.

16. With regard to the services offered by the Government of Sri Lanka to migrant workers who were preparing to leave, he took note of the new structures in place and asked what financial and other resources had been earmarked for guidance and training. On agreements concluded with countries of destination, he pointed out that, pursuant to the Convention, migrant workers should not have to pay fees associated with obtaining employment either in the country of origin or in the country of destination; he sought clarification on Sri Lanka's position on that point.

17. **Mr. Sevim** welcomed the elaboration of the national plan of action for the promotion and protection of human rights in Sri Lanka, in particular the part of the plan concerning migrant workers, and he looked forward to seeing the results of its implementation in the next report of the State party.

18. On the question of social security, he sought clarification on the countries with which Sri Lanka had concluded agreements and on the content of those agreements. Regarding the status of the Convention in national law (question 21), he noted that, according to the reply of the State party, international legal texts were not directly applicable in domestic law.

19. On the right to organize (question 24), he recalled that Sri Lanka had signed International Labour Organization (ILO) Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, which recognized the right of foreigners to organize. According to the reply given, that right was granted only for Sri Lankan citizens, but not for foreigners.

20. He wondered whether the readmission agreements signed or in the process of elaboration contained procedural guarantees such as those provided for under article 22 of the Convention. All agreements should contain provisions protecting migrant workers from expulsion measures. Yet according to the reply given, there were “arrangements” and not guarantees for Sri Lankan nationals returning from other countries.

21. **Mr. Brillantes** (Country Rapporteur) would like to know when the national plan of action, which had already been presented during the State party’s universal periodic review in 2008 but was still being drafted, might begin to be implemented. At the same time, he warned the State party not to be tempted to see in that ambitious project a panacea for resolving all the problems raised by the Committee.

22. **Ms. Cubias Medina** asked whether illegal residence on the territory of Sri Lanka constituted an offence.

23. **Mr. Ruhunage** (Sri Lanka) explained that, contrary to the situation before 2008, men now constituted a majority (52 per cent) of migrant workers. There were at least two reasons for that: the imposition of new conditions, and in particular a minimum wage for women, which had probably led some countries to turn to cheaper domestic workers from other countries, and the opening of new markets for male workers, notably in the Republic of Korea and Malaysia. On no account should that be interpreted as meaning that the Sri Lankan authorities deliberately discouraged the employment of women abroad.

24. All candidates for migration could obtain information on recruitment fees in information structures available to them in the capital and in 23 regional offices. Information was also published in the press to acquaint potential migrants with such fees. Pre-departure guidance sessions were mandatory for women, who were more vulnerable and at greater risk of becoming victims of abuse or exploitation. Sessions open to men were organized for persons planning to go to the Republic of Korea, Japan, Cyprus, Israel or Malaysia. It was true that, according to the latest statistics, only 10 per cent of migrant workers had attended such guidance sessions, but the sessions were usually meant only for women, and in any case were solely for persons with no prior migration experience, whereas nearly 40 per cent of women who went abroad to work had already done so in the past and had thus already attended the sessions.

25. Sri Lanka had not yet concluded a readmission protocol. His delegation had taken note of the Committee’s opinion and suggestions in that regard, and the authorities would consider the possibility of including them in agreements currently being negotiated with three countries. On social security, no agreement had been signed other than the memorandums of understanding concluded with a number of countries of employment. For that reason, Sri Lanka planned to introduce its own social protection measures in the framework of the social insurance programme of the country of origin.

26. **Ms. Fernando** (Sri Lanka) said that six of the eight parts of the national plan of action had been more or less completed. The process was long, because it involved identifying all provisions of domestic legislation which must be amended to bring them into line with international obligations. It should be possible to submit the initial finalized draft to the Cabinet for consideration by the end of November, and there was every reason to believe that the plan would be implemented in early 2010. She confirmed that illegal migration and trafficking in persons were two distinct offences and that the victims of trafficking were not regarded as criminals.

27. **Mr. Brillantes** (Country Rapporteur) thanked the delegation for its direct and frank replies, although it would have been better if they had been illustrated by more statistics. He pointed out that migratory questions were now discussed in all treaty bodies, and he expressed the hope that the State party would continue to give high priority to the Convention.

28. **The Chairperson** said in closing that he had appreciated the State party's global vision of migration policy, which could be seen in the commitment of many public stakeholders, and the fact that it took into account different categories of migrants, including as a function of their ethnic background. He welcomed the establishment of a new ministry responsible for the promotion and protection of workers abroad and the signature of several memorandums of understanding with countries of destination, and he encouraged Sri Lanka to continue its initiatives, even if the impact would probably not be felt until later on. Paying tribute to the active role played by Sri Lanka in the Colombo Process and the Abu Dhabi Dialogue, he urged it to continue to serve as a catalyst at regional level for consultation on migration issues. Given the political, economic and social situation in Sri Lanka and in the countries of destination, further efforts were needed to improve the exercise of the rights of migrant workers.

*The first part (public) of the meeting rose at 11.50 a.m.*