



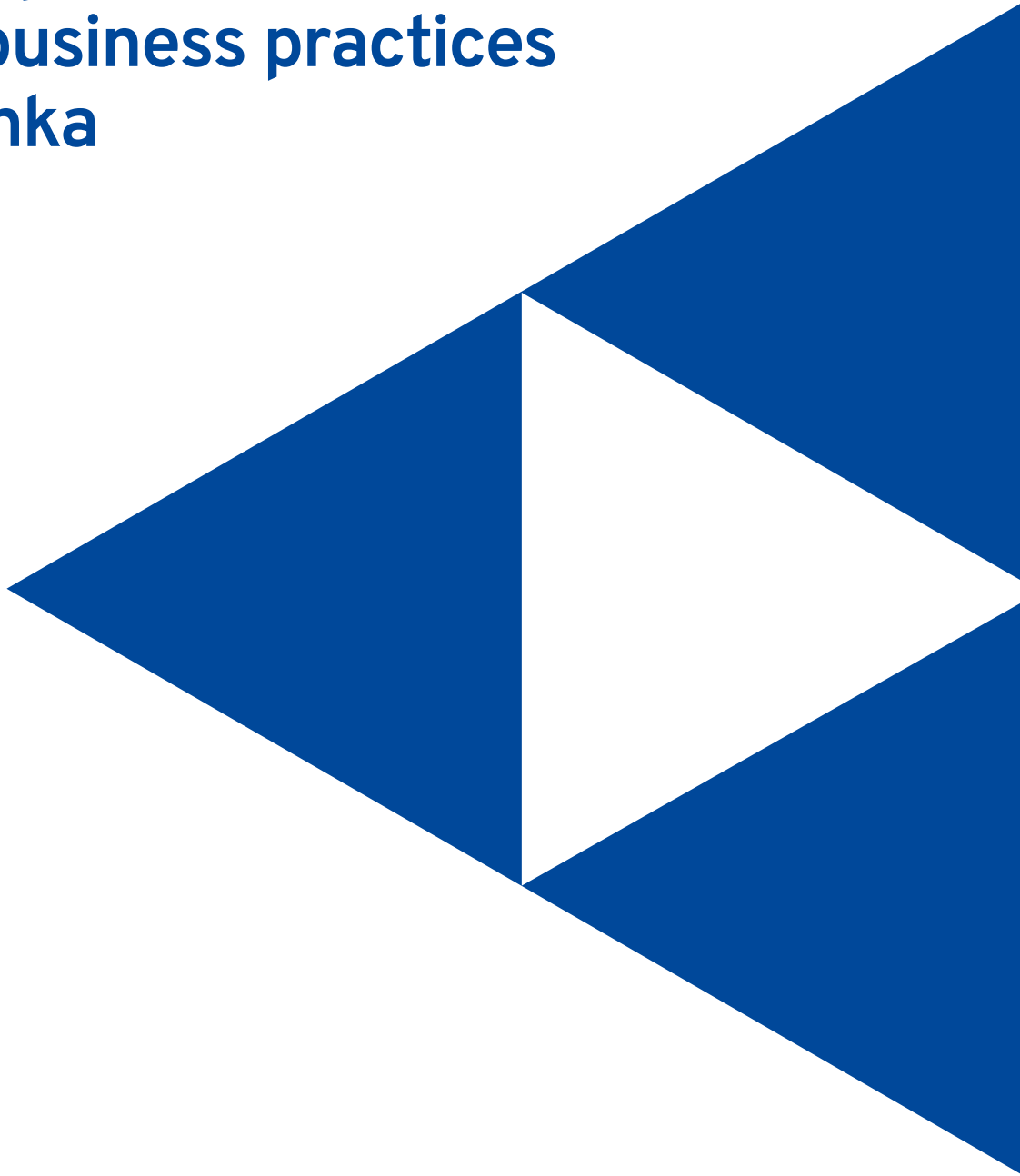
International
Labour
Organization



► Improving recruitment agency business practices in Sri Lanka



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agency business practices
in Sri Lanka**



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Improving recruitment agency business practices in Sri Lanka

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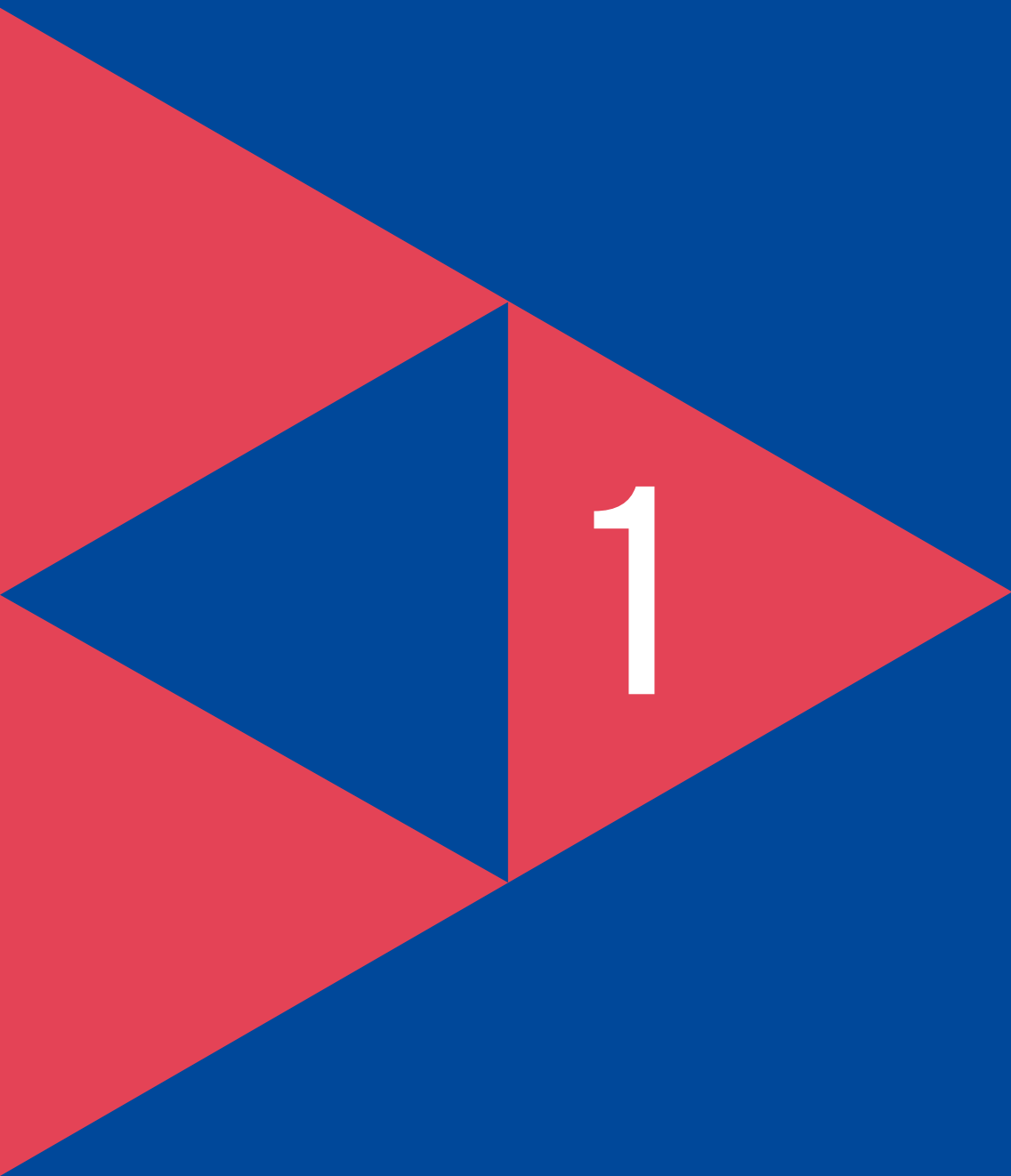
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► Abbreviations and acronyms

A-A	agent to agent
ALFEA	Association of Licensed Foreign Employment Agencies
BEOE	Bureau of Emigration and Overseas Employment (Pakistan)
CBSL	Central Bank of Sri Lanka
COD	country of destination
COO	country of origin
CV	curriculum vitae
EPS	Employment Permit System
Er-A	employer to agency
Er-Ee	employer to employee
FBR	family background report
FGD	Focus Group Discussion
GAMCA	Gulf Approved Medical Centres Associations
GCC	Gulf Cooperation Council
GCM	Global Compact for Migration
G-G	government to government
HR	human resources
ILO	International Labour Office/Organization
IPS	Institute of Policy Studies of Sri Lanka
JO	job order
KII	Key Informant Interview
KWD	Kuwaiti Dinar
LFEA	licensed foreign employment agent
LKR	Sri Lanka Rupee
MoFA	Ministry of Foreign Affairs
MoU	Memorandum of Understanding
MNC	multinational corporation
NGO	non-governmental organization
NPR	Nepalese Rupee
NTB	Nations Building Tax
NVQ	national and vocational qualifications
OEP	overseas employment promoter (Pakistan)
PIBA	Population Authority (Israel)
POEA	Philippines Overseas Employment Administration
PKR	Pakistan Rupee
REFRAME	Global Action to Improve the Recruitment Framework of Labour Migration project
SAR	Saudi Riyal
SDGs	Sustainable Development Goals
SL	Sri Lanka
SLBFE	Sri Lanka Bureau for Foreign Employment
SLFEA	Sri Lanka Foreign Employment Agency
UAE	United Arab Emirates
UNGP	UN Guiding Principles on Business and Human Rights
VAT	Value Added Tax



1

▶ 1. Introduction

1.1 Introduction to recruitment and recruitment costs

Recruitment fees¹ are a critical factor in labour migration. According to the International Labour Organization (ILO) general principles and operational guidelines (ILO, 2019) the terms recruitment fees or related costs refer to “any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection”. In other words, recruitment costs are the financial expenses incurred during the recruitment process. In principal, no part of these costs should be borne by the migrant worker (Colombo Process, 2018; IHRB, 2016). But in practice, when jobs and workers are in two different countries, the ultimate cost of job matching becomes indispensably important, and financial costs incurred in the recruitment process are likely to be borne by the prospective migrant worker (ILO, 2016). In some instances, other stakeholders in the recruitment process such as employers or recruitment intermediaries, or a combination of stakeholders, bear or share the recruitment cost (WEC, n.d.; CGF, n.d.).

The recruitment fees and costs specific to international employment include “government-imposed fees and related costs for contract vetting, exit clearances in the country of origin, and counterpart residence and work permits required in countries of destination” (ILO, 2018a, p. 33). These recruitment fees or costs are paid to multiple stakeholders. As such, given the complicated arrangements in the costs of recruitment, there exist many opportunities for vague and exploitative recruitment cost structures. These often result in unfavourable outcomes for migrant workers such as higher recruitment costs, lack of transparency in the cost structure and related unnecessary payments, low levels of efficiency and of fair and ethical recruitment processes. Additionally, complicated recruitment processes can also lead to deficits in decent working conditions, skills underutilization or mismatches, discrimination, trafficking, and even situations of forced labour.

Several international human and labour rights frameworks argue against recruitment costs being borne by workers. For instance, the ILO’s Migration for Employment Convention (Revised), 1949 (No. 97) spells out that “public employment service in connection with the recruitment, introduction or placing of migrants for employment must be rendered free”, while the Private Employment Agencies Convention, 1997 (No. 181) stipulates that “private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers”.² Hence, the ILO is committed to no fees or costs for workers, and supports avenues to explore and pursue efforts to bring law and practice in line with this principle, while it understands that such efforts should be sufficiently broad to allow an “incremental approach”, i.e. setting a maximum fee, which can be reduced in the future.

For the ILO, the ideal recruitment scenario is where the potential migrant worker does not bear any portion of recruitment fees. A similar view is reflected in the 2030 Sustainable Development Goals (SDGs). Specifically, SDG target 10.7 aims to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies, while indicator 10.7.1. is defined as the recruitment cost borne by the employee as a proportion of monthly income earned in the country of destination (UN, 2018). Additionally, SDG target 8.8, which aims to protect labour rights and promote safe and secure working environments for all workers, including migrant workers and in particular women migrants and those in precarious employment, also can be linked to recruitment costs and the likelihood of these infringing on the rights of the migrant worker.

1 The terms “fees”, “charges” and “costs” are used interchangeably in this report. Where applicable the distinction is made as to who is supposed to pay versus who actually pays such fees, charges and costs.

2 See ILO, 2019, p. 32 for a detailed list of related Conventions and Recommendations.

As identified by the ILO (2018a), public and private employment agencies, when appropriately regulated, play an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers. Nevertheless, recruitment agencies are often associated with the high cost of foreign employment. For instance, Martin (2014) highlights that Gulf Cooperation Council (GCC) country-based recruiters charge about US\$1,000 or more as a recruitment fee from recruitment agencies in South Asian countries to match a “kafala” or sponsorship contract from an employer in country of destination (COD) to employee in country of origin (COO). The literature notes that recruitment agents shift risk and related costs, which lowers migrant workers’ wages, “rather than the heralded role of matching” employees with employers (Fudge and Strauss, 2013, p. 6). Similarly, in the case of Sri Lanka, the cost of migration varies by multiple factors such as recruitment process, destination, sector and occupation, as well as by the geographical location where the recruitment takes place. For instance, Weeraratne, Wijayasiri and Jayaratne (2018) note that based on their qualitative sample of 23 Key Informant Interviews (KIIs) and three Focus Group Discussions (FGDs) in Sri Lanka the average cost to employers to recruit a female domestic worker for Saudi Arabia through an agent can be up to US\$4,750, while the cost for a manufacturing sector job in Malaysia secured through an agent can be up to US\$1,041.

Despite the availability of literature that explores the costs borne by employers and migrant workers when recruited through a recruitment agent, there is a dearth of research in terms of the recruitment and related operational costs that are borne by the recruitment agents themselves. Given the overarching goal of shifting the recruitment cost burden away from workers, it is important to understand the fees charged and costs borne by the recruitment agent. This will aid in understanding whether reducing the recruitment cost burden is best achieved by shifting the burden to the employer to achieve a comprehensive model of “employer pays all”, or by eliminating inefficiencies in the recruitment business process, reducing incentives for exploitation of workers, or a combination of the above.

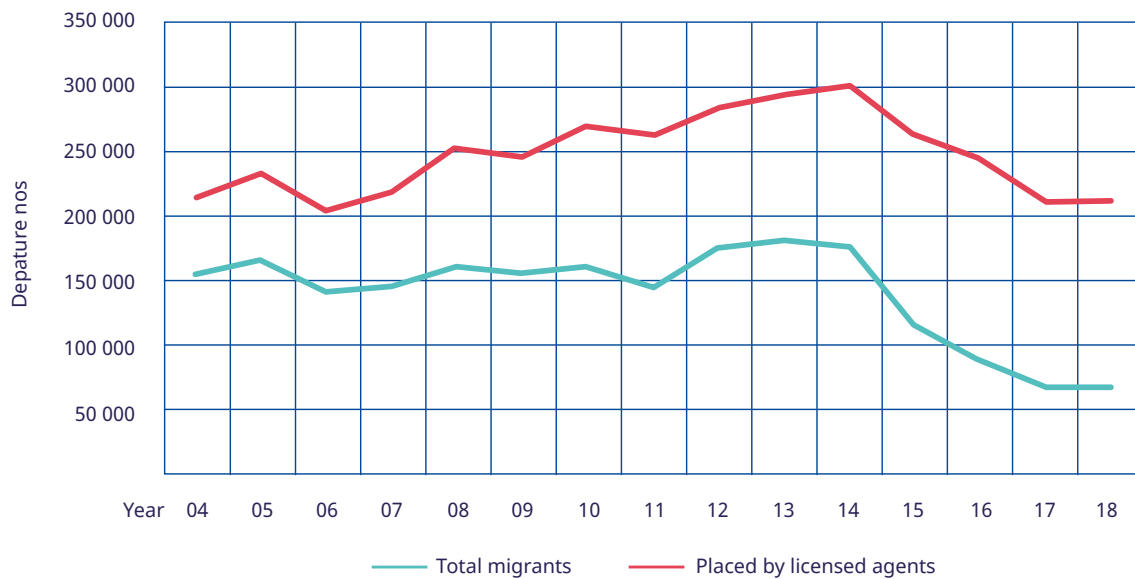
In this context, the overall goal of this study is to provide recommendations for improving business practices in recruitment for foreign employment with a view to reducing the costs for migrant workers. To do so it is important to add transparency to the discussion on recruitment costs from the perspective of the recruitment industry, in order to encourage recruitment agencies to establish and adhere to fair recruitment processes and reduce incentives for exploitation of workers. As such, the three main objectives of this study are: (a) to analyse the existing modalities in the recruitment of Sri Lankan workers for foreign employment; (b) to understand the costs borne by recruitment agencies under each modality; and (c) to provide recommendations/suggestions for agents and others involved in migration governance on how to reduce costs/shift these costs away from workers. To achieve these objectives, the study adopts a qualitative approach where primary data is collected via KIIs in five districts in Sri Lanka spanning five employment sectors. The data collected is analysed in a descriptive approach to highlight dominant themes, patterns and connections.

1.2 Background

In 2018, there were 211,459 departures from Sri Lanka for foreign employment, the lowest recorded in the last ten years. The downward trend in departures for labour migration started in 2015 and has declined since then at an average rate of 8 per cent per annum, with almost equal departures in 2017 and 2018. While there is an emphasis in government policy on promoting skilled migration, this recent decline in labour migration is attributed to policies that focused on minimizing departures of low-skilled workers, lower demand and policies in countries of destination, and increased demand for labour in Sri Lanka (CBSL, 2018). In addition, the establishment of the minimum wage for migrant workers from Sri Lanka also reduced the number of job offers that came from CODs. In 2017, Sri Lankans obtained employment opportunities in 108 countries; nevertheless, reflecting the low level of destination diversification, almost 90 per cent were employed in the Middle East (CBSL, 2018; Weeraratne, 2016).

In 2018, nearly a third of departures found foreign employment via sources other than licensed recruitment agencies (CBSL, 2018). The popularity of recruitment through licensed agencies has experienced a declining trend since 2004. During the last five years, the absolute number of departures for foreign employment via licensed agents has decreased continuously from 180,605 in 2014 to 66,924 in 2018 – an overall fall of 63 per cent across the five- year period (ibid.). In the case of the drop in the relative importance of recruitment agencies (see figure 1), this can be partly attributed to the nuances in the estimation of the number of departures via “own account” recruitment. Own account departures are considered as those migrants who find employment without the involvement of a licensed recruitment agent in Sri Lanka. In the accounting of the Sri Lanka Bureau for Foreign Employment (SLBFE), own account recruitment includes two groups: (i) those who actually find employment on their own account in their current migration; and (ii) rehire migrants whose contract is renewed by the same employer or who are rehired by the same employer. Rehire migrants could include a segment of migrants who were initially hired through a recruitment agent. For such rehires, part of their recruitment credit ought to be associated with licensed recruitment agents for providing the initial foreign employment opportunity, which the migrant served successfully to find repeat employment. In this context, the significance of recruitment agents in departures may not be as low as depicted by their relative importance in SLBFE statistics.

► Figure 1. Departure trends and relative importance of recruitment agents, 2004–17



Source: CBSL, various years.

1.3 History of the institutional framework for recruitment

The origins of recruitment for foreign employment in Sri Lanka stretch back to before the introduction of open economic policies in the late 1970s (IPS, 2018). During the early stages, in the 1960s and up to mid-1973, labour migration was comprised mostly of emigrating professionals, and the literature indicates that recruitment would have been via personal networks rather than through recruitment agencies (ibid.). The oil boom in the GCC in 1973 started to attract more lower-skilled migrant workers from Sri Lanka, and the introduction of open economic policies in Sri Lanka in the late 1970s initiated a more organized process for labour migration via recruitment agencies.

During these initial stages, the agencies were covered under the Fee Charging Employment Act No.37 of 1956, of which Article 8.1 underscores that “no fee charging employment agency shall find employment abroad for persons in Ceylon or recruit persons abroad for employment in Ceylon unless such agency has made a written application to the Commissioner of Labour and such application has been approved by the Commissioner”³. In 1980 the Foreign Employment Agency Act No. 32 was enacted with the purpose of further regulating recruitment for foreign employment, with requirements such as a service contract for labour recruitment and the introduction of a bank guarantee requirement for agents. The new Act was instrumental in establishing dedicated foreign employment agencies in Sri Lanka.

The SLBFE Act (No. 21) enacted in 1985 made SLBFE the primary institution responsible for temporary labour migration and provided a legal framework and administrative infrastructure to ensure a safe environment for migration. In 1985, SLBFE had 139 recruitment agencies licensed and registered under it. Subsequent amendments to the SLBFE Act (No. 4 of 1994 and No. 56 of 2009) revised the Act in terms of recruitment fees and penalties for licensed recruitment agencies.

³ Sri Lanka was known as Ceylon during this time.

The original SLBFE Act of 1985 prohibited any licensed foreign employment agent from charging fees for recruitment in Sri Lanka for foreign employment. As noted by Weeraratne, Wijayasiri and Jayaratne (2018) the amendment made in 1994 to the SLBFE Act introduced a recruitment fee structure, which was linked only to the salary levels of migrant workers. The subsequent amendment in 2009 granted legal authority to recruitment agencies to charge the actual cost of recruitment in addition to the cost of the government levies to be paid. The main aim of this amendment was to protect migrant workers from agents charging arbitrary recruitment fees. Specifically, the 2009 amendment stipulates that: "If any licensee does not receive any commission or any other payment to secure employment opportunities outside Sri Lanka, he may charge the actual expenses to be incurred, in addition to the registration fee from any recruit, after having obtained prior approval for the same from the Bureau." This paved the way for recruitment agents to cover the costs they bear in the recruitment process, and the introduction of the maximum chargeable fee. Until recently, this fee was calculated by taking many variables into consideration. As noted by Weeraratne (2018a), the maximum chargeable amount was a function of monthly salary of the migrant worker, duration of the foreign employment contract, and exchange rate. Within this regulatory framework, different occupations in different destination countries were capped with specific maximum chargeable recruitment fees, all subject to monthly salary, duration of the employment contract, and exchange rate. For example, (Weeraratne, 2018c) shows that recruitment fees for male low-skilled workers in the Middle East were governed by a maximum chargeable recruitment fee of 125,000 Sri Lanka rupees (LKR)⁴, which was about two months' wages for a Sri Lankan male driver in Saudi Arabia. For the manufacturing sector (apparel) workers of either gender in Saudi Arabia, the maximum recruitment fee was set at LKR 35,000. In the case of Israel, the maximum chargeable recruitment fee for any occupation was capped at LKR 300,000. On the other hand, when employers cover the entire cost of recruitment and travel of domestic workers to the Middle East, the recruitment agents are not permitted to charge any fees (Weeraratne, 2018c).

According to the most recent circular issued and implemented on 6 August 2019 on maximum chargeable amount, licensed recruitment agents are allowed to charge workers a maximum amount of LKR 20,000 for expenses related to advertisement, LKR 5,000 for communication, and LKR 3,000 for courier charges. Similarly, they are allowed to charge migrants LKR 15,000, the Nations Building Tax (NTB) and Value Added Tax (VAT) as an SLBFE registration fee and pass it on to the SLBFE. In terms of administrative and promotional expenses, recruitment agents are allowed to charge an amount equal to one month's salary for migrants heading to the Middle East or South Asia, while those heading to Europe and other countries can be charged a maximum equal to two months' salary. Visa endorsement and air tickets can be charged to the migrant as per the actual expense incurred by the recruitment agent. Additionally, agents are also allowed to charge any other actual expenses related to the relevant recruitment, provided documentary evidence can be submitted to SLBFE. The total amount of the above expenses constitutes the maximum chargeable amount by recruitment agents, and if any commission or other payments are received from the foreign employer/agent, those would be subtracted from the total amount (SLBFE, 2019).

⁴ The LKR rate is based on the currency value at the time the research was undertaken. The rate will need to be adjusted for inflation in order to make comparisons over time and internationally.

The institutional framework for labour migration from Sri Lanka includes the Ministry of Foreign Affairs, Skills Development, Employment and Labour Relations in charge of foreign employment, to govern the sector; and the Sri Lanka Bureau of Foreign Employment (SLBFE), to regulate the sector. The key role of the SLBFE includes approvals for foreign employment, registration of migrants and recruitment agents, and predeparture training. In addition to the Ministry and the SLBFE, other key stakeholders include the Sri Lanka Foreign Employment Agency (SLFEA), which serves as the government recruitment agency for foreign employment; and private recruitment agencies. Recruitment agents are also called licensed foreign employment agents (LFEA). These licensed agents have the option to become a member of the Association of Licensed Foreign Employment Agencies (ALFEA) or an alternative association. For instance, the Welfare Association of Licensed Foreign Employment Agencies operates in the Central Province, the Association of North Central Foreign Employment Agents in the North Central Province, and the Association of Wayamba Foreign Employment Agencies in the North Western Province. In addition to these formal stakeholders, the recruitment industry for foreign employment in Sri Lanka also has informal intermediaries commonly identified as sub-agents, mediating between licensed recruitment agents and potential migrants. Unsubstantiated estimates across the available literature for the number of sub-agents has a very wide range, from 10,000 to 200,000 (Weeraratne, Wijayasiri and Jayaratne, 2018; Weeraratne, 2018a; Human Rights Watch, 2007).



2

▶ 2. Recruitment fees and costs in comparative national contexts

This section examines the literature on recruitment fees and costs in the Asian region. As described by Weeraratne (2018), the migration cost paid by the worker varies markedly depending on the worker's skill level, where low-skilled workers pay a higher share of their foreign earnings to recruiters than high-skilled workers. In job categories where the numbers of migrant workers are greater than the jobs available, mainly in low-skilled occupations, workers are "willing to pay high fees to move to the front of the queue of workers seeking foreign jobs" (Martin, 2014, p. 12). For instance, Jureidini (2014) found in KIIs with recruitment agencies and migrant workers to Qatar from Asian origin countries, that migrants quoted a higher recruitment fee range (US\$600–5,000) than did the agencies (US\$600–1,500). For these reasons, many sending countries such as Bangladesh, India and Nepal have established ceilings for recruitment fees (Ratha, Yi and Yousefi, 2016, Weeraratne, 2018c), while many countries have policies that prohibit fees being charged to migrant workers, or regulate fees and related costs (ILO, 2018a).

As highlighted in the literature, migrant workers' "lack of social connections; lack of familiarity with the host country's language, culture, and laws; lack of access to recourse; and too often, weaknesses in local legal frameworks and government policy" (Verité, 2015, p. 2), lead to labour brokers and employers exploiting them in the recruitment process. As a result, the cost of migration has escalated. As mentioned in ILO (2019), recruitment costs consist of medical costs, insurance costs, costs for skills and qualification tests, costs for training and orientation, equipment costs, travel and lodging costs and administrative costs. In the case of Sri Lanka, the average cost for transportation is much higher than other cost components. Specifically, increments in these costs often take place due to the behaviour of the potential migrants, where for instance they refuse to travel by public transportation and preferred to travel by taxis (three wheelers), and demanded more expensive food and beverages (IPS, 2018).

In the case of Pakistan, "a recruitment agency can collect from the workers actual expenses for air ticket, medical, work permit, levy, visa and documentation" (ILO, 2018b). Fees charged by recruitment agents in Pakistan depend on the monthly salary of the worker at destination and length of employment contract. The cost of the worker's return journey (such as air ticket and visa) upon completion of contract is normally paid by the employers. As such, upfront payments in the form of air tickets and visa fees have the capacity to reduce employee turnover and related costs for replacement. In Pakistan, by law, an emigrant who has found foreign employment through a licensed recruitment agent (known in Pakistan as "overseas employment promoter" (OEP)) has to deposit a sum of PKR 5,000 as a service charge. This service charge is fixed by the Bureau of Emigration and Overseas Employment (BEOE) (ILO, 2018a).

In the Philippines, "a placement fee may be charged against the overseas Filipino worker equivalent to one month's basic salary specified in the Philippines Overseas Employment Administration (POEA)-approved contract", except for a few identified categories such as (a) domestic workers; and (b) workers to be deployed to countries where the prevailing system, either by law, policy or practice does not allow, directly or indirectly, the charging and collection of recruitment/placement fees (ILO, 2018a). Additionally, the migrant worker has to pay for costs related to documentation such as passport and police clearance, while the employer is required to pay for "visa including stamping fee; work permit and residence permit; round-trip airfare; transportation from the airport to the job site; POEA processing fee; Overseas Worker Welfare Administration membership fee and additional trade test/assessment if required" (ILO, 2018a, p. 36).

In Nepal, recruitment agencies earn income from activities such as charging fees to migrant workers for services provided, and charging commission from employers and placement agencies in the destination countries (ILO, 2017a). Recruitment agencies charge approximately NPR 20,000 to 40,000 (US\$280 to 560) as recruitment fees from Nepali migrants. This fee is based on the country of destination and the expected salary of the migrant. Better terms and conditions for employment and higher expected salaries are associated with higher recruitment fees. Moreover, in most cases Nepali migrants have to pay a recruitment fee to the recruitment agency so that their visa and employment contract can be released to facilitate travel (ILO, 2017a). Additionally, recruitment agencies are also noted as collecting recruitment fees from employers in countries of destination, where the amount charged is determined based on factors including destination country, type of job, negotiations between employer or recruitment agency, level of demand for Nepali workers, and number of Nepalese recruitment firms competing over the contract. Typically, these commissions are expected to cover the cost of air tickets to the country of destination and the recruitment agents' fee. The ILO (2017a) shows that for employment placement for cleaning and factory employment in Kuwait, a recruitment agent earns a commission of approximately KWD 500 (US\$1,751) per worker recruited, and SAR 8,000 (US\$2,132) per worker for cleaning, domestic work and factory placement in Saudi Arabia. At the same time, empirical evidence from the ILO (2019), on the Nepal–Jordan corridor shows that the payment of recruitment fees is associated with migrants having a lack of clarity about their wages, greater vulnerability to abuse, greater regret over having migrated, and lower productivity, while employers may be adversely affected because workers who have paid fees do not perceive a link between their wages and their effort in the workplace and are therefore less likely to reach production targets.

In a comparison of recruitment fees across three origin countries for employment in garment sector jobs in Jordan, the ILO (2018c) shows that migrant workers originating from Nepal have paid recruitment fees ranging from NPR 10,000 (US\$92) to NPR 28,000 (US\$259) to a private employment agency. In the case of Sri Lankan origin migrant workers to Jordan, the same study shows that the recruitment fees paid to agencies ranged from US\$85 to 700. Such a wide range in fees paid is due to some migrants paying the full recruitment fee upfront, while others arrange with the recruitment agency to pay part of the fee initially and for the balance to be paid in instalments once the worker is in Jordan. In some cases, the outstanding balance of the recruitment fee is deducted from their salary by the factory in Jordan. Interestingly, some Sri Lankan workers migrating to Jordan have reported that they have not paid any recruitment fees. This suggests that there are various recruitment modalities in hiring across the same recruitment corridor.

Using small sample surveys, Abella and Martin (2014) compared worker-paid migration costs for low-skilled jobs across various corridors (see table 1). Though not nationally representative, among the corridors compared Abella and Martin found that the highest monetary cost for recruitment was from Bangladesh to Kuwait, and that visas accounted for the largest component in migration costs ranging from US\$1,675 to 5,154 (or an average of US\$2,324). Indian migrant workers to Kuwait paid on average US\$344 for their visas, US\$46 to obtaining passports and US\$61 for medical tests, while Sri Lankans paid the lowest migration cost in total, with the average cost of the visa being only US\$87.

► Table 1. Worker-paid migration costs, by migration corridor

COUNTRY OF ORIGIN	DESTINATION	MIGRATION COSTS (US\$)	MULTIPLE OF MONTHLY WAGE
Viet Nam	Republic of Korea	1 582	1
Thailand	Republic of Korea	1 466	1.3
Indonesia	Republic of Korea	1 506	1.2
Bangladesh	Kuwait	3 136	9
India	Kuwait	1 248	2.5
Sri Lanka	Kuwait	352	1
Egypt	Kuwait	2 979	4.9

Source: Abella and Martin, 2014.

In recruitment for foreign employment, regardless of the country of origin, female migrant workers tend to suffer discrimination across many dimensions. As noted by Ghosh (2009), women are more likely to be less educated and to have more limited access to information, causing them to seek help in the recruitment process. Nevertheless, the recruitment intermediaries who assist in the recruitment process can contribute to greater vulnerability of female migrants. For instance, female migrants who rely on informal recruitment agents might “have little control over their fate and are more prone to experiencing deceptive recruitment” (ILO, 2015, p. xi). Similarly, restrictive regulations and policies for migration tend to make recruitment costlier and more complex for women, and increases their vulnerability (Pyakurel, 2018). In ASEAN countries, gender-based migration bans – which tend to be imposed on women with the stated aim of protecting them from harm – are found to result in women increasingly migrating irregularly. Often this results in less access to assistance throughout the migration process, including links back to the home country with formal recruitment intermediaries (ILO, 2017b). The ILO study also points out that some restrictions, whereby women are required to obtain spousal or parental permission to migrate as part of the formal recruitment process, deny their right to decide for themselves; they limit women’s livelihood options instead of protecting their rights as migrant workers, and reinforce paternalistic gender norms.

While the recruitment fee is often paid by the migrant worker, there is increasing momentum to change this scenario to a situation where the employer pays. The idea of “employer pays” is upheld by the Dhaka Principles for Migration with Dignity⁵ (Institute for Human Rights and Business, 2019) as well as the UN Guiding Principles on Business and Human Rights (UNGPR) (UN, 2011). In addition to countries, some leading global companies have taken the initiative and successfully implemented the employer pays model in many of the markets they operate in (ICCR, 2017). As such, there is an incipient movement and a positive attitude towards employer pays models, often among large and established companies that are financially stable. The key reasons behind adopting this model include companies’ elevated consciousness about due diligence around recruitment to ensure that they are not inadvertently facilitating forced labour through their recruitment process, and are following due reporting requirements and corporate social responsibility; as well as investors awareness of the risks associated with badly-managed supply chains. For instance, The Coca Cola Company (TCCC) has recognized that “migrant workers are particularly vulnerable to exploitation and human trafficking” (ICCR, 2017, p. 13) and has reviewed its internal policies and due diligence activities to protect migrant workers involved in its supply chain. This resulted in enhancing the Supplier Guiding Principles adopted by TCCC and a public commitment by TCCC to key principles connected to the responsible recruitment and employment of migrant workers. Similarly, Hewlett Packard (HP), which

⁵ The Dhaka Principles for Migration with Dignity (the “Dhaka Principles”) are a set of human rights-based principles to enhance respect for the rights of migrant workers during all phases of the migration starting from premigration and recruitment, through the in-service period, to the return and reintegration phase.

has a massive supply chain that reaches six continents and 45 countries, is adopting an employer pays model. Once HP started hearing reports about migrant workers in their supply chain in Malaysia being charged high recruitment fees (ICCR, 2017), the company developed its own *HP Foreign Migrant Worker Standard* in 2014, which includes the prohibition of the payment of fees by workers. In addition to developing this, HP was also committed to provide practical guidance and support to those in their supply chain to implement the standard. Multinational corporations (MNCs) are also becoming keenly aware of consumer consciousness – which could have an impact on their profitability even in processes in far-removed tiers of supply chains.

In addition to direct hires by companies, recruitment via private employment services is also adopting ethical recruitment models that benefit all parties involved. For instance, the World Employment Confederation (WEC, n.d.) highlights that in India ethical recruitment resulted in positive worker/jobseeker morale, higher efficiency in the workplace, improvement in productivity, reduction in staff turnover and lower hiring costs. Similarly, in the Philippines ethical recruitment translated into attracting higher-quality clients, better talent among referrals, and increased business opportunities; while in Indonesia, providing professional services in recruitment and not charging recruitment fees from workers resulted in a win-win situation for both workers and employers where business opportunities were increased and high-quality candidates were attracted to employers, while higher levels of job satisfaction were experienced by employees. Regardless of the motive behind such initiatives and the stakeholders involved, proper monitoring and follow-up are required to ensure that the Dhaka Principles as well as private initiatives are trickling down to lower-tier suppliers and improving outcomes for workers.

In examining the underlying reasons for companies to employ an employer pays model, it became evident that the responsibility for paying recruitment fees was assumed by many employers as being in their own interest, to rectify the potential threat of human trafficking and forced labour of migrant workers in their own operations and supply chains. As such, the most effective actions tend to be implemented through a business management system. The decisions or policies that they execute at the top levels should be communicated and incentivized appropriately to all targeted groups. Such high-level policies lay the foundation for preventing the exploitation of migrant workers. As noted by Verité (2015) brands must become more aware of the vulnerabilities of migrant workers to trafficking and forced labour, and of the policies that are in place to prevent these vulnerabilities. This can be done through training, distribution of educational materials, webinars, etc.

To facilitate fair and ethical recruitment conditions, every migrant should be provided with a written contract to establish partnerships with all stakeholders including employers, migrant workers, organizations and trade unions. Moreover, developing and strengthening labour migration and fair recruitment will allow migrants to change employers in the country of destination if needed or to modify their conditions of work, the length of their stay, etc., with minimal administrative burdens (McAdam, 2019). For instance, Qatar has been criticized in the run-up to the 2020 *Fédération Internationale de Football Association (FIFA) World Cup* for elements of forced labour and trafficking taking place in recruitment of migrant workers for the construction sector, where these workers were forced to work outdoors for long hours in temperatures of 51 to 56 degrees Celsius, resulting in over 4,000 deaths (Nazarian, 2019). The criticism and the exposé have resulted in Qatar reforming its Kafala system where migrant workers are now allowed to leave the country without exit visas, which were previously tied to the employer, as well as a repayment of recruitment fees for those who can prove they have paid these (Harwood, 2018). Similarly, the Modern Slavery Acts of the United Kingdom (2015) and Australia (2018) ensure that trafficking offences are redressed, keeping businesses in check. Specifically, in the British and Australian Modern Slavery Acts, businesses and other organizations above a certain size (and smaller businesses on a voluntary basis) are required to report annually about the possible risks of modern slavery in their operations and supply chains, any related action taken by the entity to evaluate and arrest such risks, and the effectiveness of their approaches (Redmond, 2018).

Overall, the international literature points to several weaknesses in recruitment processes for migrants, and indicates the potential benefits of shifting recruitment costs to the employer. Drawing from this international context, in order to assess the possibility of reducing the costs or shifting

them towards employers a prerequisite is to understand the recruitment business process and its associated costs, so that appropriate recommendations can be made to streamline the process, making it fairer and less costly for migrants. As such, this study aims to fill this gap in the context of migration literature focusing on Sri Lanka.



3

▶ 3. Sample and methodology

This study is based on primary data collected from five districts: Batticaloa, Colombo, Kandy, Kurunegala and Puttalam, from a sample of agencies recruiting low-skilled migrant workers in five industrial sectors. These five districts were selected based on the high volume of departures for foreign employment in 2017 (see table 2). Specifically, the selected districts are among the seven districts⁶ that recorded the highest number of departures in 2017 (SLBFE, 2017). They are also among the top districts recording the highest share of departures as a percentage of the population. Gampaha was excluded from the list due to the similarity in composition (skill, destinations, operating modalities) of migrants and agencies across Colombo and Gampaha, while Ampara was excluded for its similarity with Batticaloa. Puttalam was included in the list based on the ethnic composition of migrants originating from this district and the availability of licensed recruitment agencies to conduct field work.

The sectors selected for the analysis are:

- ▶ Construction

- ▶ Care sector

- ▶ Hospitality

- ▶ Domestic work

- ▶ Manufacturing

They were selected based on the significance of the involvement of recruitment agencies in the recruitment process for related jobs; the demand for jobs from these sectors in high-demand CODs such as GCC countries, and the ability to represent a gender balance in the migrants served by the recruitment agencies. The construction and hospitality sectors cover agencies recruiting workers across a range of occupations: builders, drivers of heavy vehicles, etc., in the former, and room cleaners, waiters, chefs, managerial staff, etc., in the latter. With regard to the manufacturing sector, there were difficulties in accessing agency contact lists for KIIs from this sector, so the analysis was limited to low-skilled workers: cleaners, manual labour, etc., which represented a large share of workers sent from the available sample of agencies. With regard to the domestic work and care sectors, there is an overlap in the recruitment process as care workers tend to migrate under the domestic worker category. Similarly, most care workers are previous domestic workers who have upskilled themselves via pre-departure training. Nevertheless, the scope of work for the two groups is different. Care workers usually assist individuals such as the elderly and children in social, physical and personal activities, while domestic workers perform domestic tasks such as cooking and cleaning in households.

⁶ Colombo, Gampaha, Kandy, Kurunegala, Batticaloa, Ampara and Puttalam.

► Table 2. Departures as a percentage of the population, by district, 2017

DISTRICT	DEPARTURES (2017)	POPULATION (2016)	% DEPARTURES (2017)	RECRUITMENT AGENCIES (AS OF 16 OCT. 2019)
Colombo	27 822	2 300 000	1.2	408
Gampaha	22 555	2 310 000	1.0	52
Kandy	19 492	1 390 000	1.4	49
Kurunegala	19 063	1 630 000	1.2	163
Batticaloa	15 239	540 000	2.8	15
Ampara	14 521	680 000	2.1	23
Puttalam	11 596	790 000	1.5	10
Kalutara	11 357	1 240 000	0.9	11
Anuradhapura	10 435	870 000	1.2	27
Galle	10 137	1 070 000	0.9	12
Kegalle	7 055	850 000	0.8	17
Trincomalee	6 369	400 000	1.6	0
Ratnapura	5 079	1 120 000	0.5	4
Jaffna	4 840	600 000	0.8	1
Matale	4 557	490 000	0.9	22
Polonnaruwa	4 505	410 000	1.1	6
Matara	4 157	830 000	0.5	1
Badulla	4 096	830 000	0.5	8
Hambantota	3 302	620 000	0.5	3
Monaragala	1 798	470 000	0.4	1
Nuwara Eliya	1 775	740 000	0.2	5
Vauniya	1 234	180 000	0.7	1
Mannar	860	100 000	0.9	0
Kilinochchi	230	120 000	0.2	0
Mullaitivu	61	90 000	0.1	0

From each sector/district combination, two licensed recruitment agencies were interviewed for KIIs. Licensed agencies for these were sampled based on data provided by the SLBFE for those licensed recruitment agents that have sent the highest number of migrants for foreign employment from each district for each sector. In an instance where an agency is among the top-ranked agencies by SLBFE (based on number of departures) for two sectors in the same district, a lower-ranked agency was interviewed to ensure variability of qualitative data collected. If there were no agencies for certain sectors, one agency was interviewed for multiple sectors. This strategy was employed to ensure that variation within a district was retained. While multiple interviews per agent are not ideal due to the risk of double counting, this was the only possible strategy for extracting information on certain sectors in specific districts. For instance, Puttalam district has only one agency covering both the hospitality and care sectors, so it was the only source of information on these sectors within the district. In the rare case where sectors could not be compensated even through this strategy, oversampling from other districts was adopted.

In addition to recruitment agents, KIIs were performed with one migrant or family member of a migrant from each district, six officials from the SLBFE, one official each from the Sri Lanka Foreign Employment Agency (SLFEA) and an NGO/grassroot organization, two officials from the Ministry of Telecommunication, Sports and Foreign Employment (the relevant Ministry at the time of field work), and ten officials from training and testing centres for migrant worker skills, to comprise 72 KIIs in total (see Annex 1 for a detailed list of KIIs).

As seen above, qualitative information was collected from two main groups – licensed recruitment agents, and other stakeholders. Data was collected using open-ended interview guides developed to cover the areas of recruitment modalities, costs and fees, challenges and regulatory framework, after customizing for interview type. Pilot testing of interview guides was conducted in December 2018 and January 2019, while data collection was carried out between 18 March and 27 September 2019, primarily meeting interviewees in person by visiting them, except for video or voice call interviews for agencies in Batticaloa⁷ and a few agencies that could not provide an appropriate timeslot for an in-person interview.

Out of 72 KII respondents, 14 were female (19 per cent). In the agencies, four out of 35 had female respondents (11 per cent) of which only two were licensees. As such, nearly all licensees in our sample were males. In terms of gender and skill composition of migrants covered by agencies, housemaids and care workers were 100 per cent female, while house drivers were 100 per cent male. Construction workers too were 100 per cent male. Low-skilled workers and workers recruited in the hospitality sector were a mix of both male and female workers.

A content analysis has been adopted for data collected from the two groups of KIIs. For each of these groups, the KII transcripts were initially reviewed for data familiarization, coding and categorizing. Subsequently, based on patterns, themes and connections identified, the transcripts were reviewed again to revise coding system(s) and analysis. Following this, the dominant themes, patterns and connections have been interpreted in a descriptive manner. Finally, data from different types of KIIs have been triangulated to ensure the validity of the study's findings. The following sections of this report are based on the qualitative data obtained from KIIs.

⁷ Due to the unconducive environment in Batticaloa following the Easter Sunday attacks on 21 April 2019.



4

▶ 4. Main recruitment modalities in Sri Lanka

There are four main recruitment modalities in Sri Lanka for foreign employment (see figure 2). They are often named after the two key parties (employer and employee) interacting across the COD and COO. Ideally, recruitment for employment ought to take place between the employer and the employee. Nevertheless, different intermediaries are included in the recruitment process for foreign employment for many reasons, such as the trust deficit between the various stakeholders in the recruitment process, economies of scale, and efficiency. This section is based on primary data collected via KIIs and secondary information available in the literature.

4.1 Employer to Employee (Er-Ee)

The most generic/minimal form in the labour procurement process for foreign employment is the Employer to Employee (Er-Ee) direct recruitment, also known as own-account. These arrangements include informal networks, kin and family, and direct recruitment by the employer. Under this modality the employer at the COD and the employee in Sri Lanka negotiate employment-related conditions and complete the recruitment process. Often these Er-Ee arrangements are facilitated by informal networks, kin and family, to introduce and or facilitate the matching process between the two parties. The involvement of such a known contact and the direct link with the employer create the key characteristics of this recruitment process: greater accuracy and trustworthiness of information exchanged as well as greater accountability in the recruitment process; lower uncertainty about terms of employment; and lower recruitment cost. An interesting feature of this recruitment arrangement is the manner in which it covers a wide spectrum in the skills distribution of employees, as well as the scale of employers. For instance, among lower-skilled workers, female domestic workers who are often outside the labour laws in the CODs are recruited via this channel. At the same time, very highly-skilled and professional occupations are also filled by following this modality. As such, single individual employers of female domestic workers as well as large companies such as IT firms who employ software engineers, and hospitals that employ medical doctors, use their own networks to directly recruit workers from Sri Lanka.

Despite this similarity in the recruitment modality across the skills spectrum, there are significant differences in terms of the proportionate cost of recruitment relative to salary, the extent of vulnerability in the recruitment process, and protection by labour laws in CODs, to name a few. The KIIs with SLFBE officials revealed that this modality was more popular among repeat low-skilled migrants in the second and subsequent rounds of migration than among first-time migrants, as the former initially go through an agent and then migrate through own-account recruitment in subsequent rounds as a result of having become familiar with the recruitment process. Similarly, the ease of sharing recruitment information made possible by modern developments in ICT, such as Skype interviews and recruitment portals to browse, has also contributed to higher recruitment under this modality.

4.2 Employer to Agency (Er-A)

For some employers in the CODs, seeking and screening employees from Sri Lanka is challenging. As revealed during KIIs with licensed agents, the reasons for this vary, but can include: the requirement to hire a large number of workers at once, which leads to difficulty in amassing a large pool of

applicants while the employer is operating in the COD; the lack of sufficient networks to engage in the Er-Ee modality; or previous negative experience in the recruitment process. In such instances a recruitment agent in Sri Lanka is appointed by the employer to mediate between the employer in the COD and the employee in Sri Lanka. This arrangement is identified as Foreign Employer to Agency recruitment. Based on the operation structure of the recruitment agent in Sri Lanka, Er-A can take place through either the government recruitment agency or a private licensed recruitment agency in Sri Lanka (see section 4.2.1 for discussion of public and private recruitment agencies).

Recruitment via private recruitment agencies in Sri Lanka has two variations: the involvement or absence of involvement of informal sub-agents in the recruitment process. The involvement of informal sub-agents makes more business sense to an agent due to the greater capacity to scout potential migrants at the grassroots level in villages via the sub-agent (see Weeraratne, 2018a and 2018b for a detailed analysis of informal sub-agents in Sri Lanka). Some licensed agencies also perform a role similar to a sub-agent; as revealed by one agent interviewed, his agency performs only the initial stages of the recruitment process such as assisting with access to medical testing, subsequently passing such migrants to another agent to process the departure under his license. This also shows that there is a spectrum of activities that all licensed recruitment agents and sub-agents engage in, rather than a clear dichotomy between the groups.

KIIs with agents showed that Er-A is a popular modality followed in selected sectors where the employers are large-scale companies such as hotels or construction companies. Typically, such companies directly send job orders (JO) to local recruitment agencies who carry out the groundwork, amassing a large pool of applicants and arranging interviews in Sri Lanka to select candidates. In most cases, a representative of the employer conducts the interview with the employee, either via Skype or by visiting Sri Lanka in person. Employers' interviews in Sri Lanka for sectors such as hospitality and construction may also include a practical test of the applicants' skills for occupations such as chefs in hospitality sector, and tilers and masons in construction sector. When information discerned from KIIs with various stakeholders was triangulated for this study, it converged to the idea that this modality is a more transparent and accountable recruitment mode than others and results in fewer complaints by employers and workers abroad. The KIIs with officials indicated that among all sectors, the hospitality sector receives the fewest number of complaints by workers and that this is mainly due to this more streamlined recruitment process. Similarly, KIIs with agents revealed that there are fewer complaints by employers who directly interview or pick the applicants. This indicates that having fewer stakeholders in the recruitment process ensures that the contractual terms and conditions are fixed with no space for manipulation and miscommunication. To address the few remaining issues, mainly related to migrants attempting to portray that they were misled about employment conditions by the agent in Sri Lanka; one agent indicated in a KII that he takes a video recording of the verbal explanation to potential migrants of working conditions and other employment-related details, and their agreement to work under these conditions; in addition, he obtains a written affidavit of the same agreement, which is subsequently shared with the employer at the time of sending the migrant abroad for the job.

The direct dealing of the employer with the recruitment agent in Sri Lanka leads both parties to be more accountable to each other during the recruitment process as well as during the in-service period of migrants. One KII with an agent revealed an instance where the accountability of the recruitment agent to the employer was tested in a COD when a group of employees from Sri Lanka refrained from reporting to work. The recruitment agent in Sri Lanka then travelled to the COD and met with the employees to understand their grievance and point of view, and mediated between the employer and employee to settle the issue (see box 1 in section 5 below for a fuller description).

4.2.1 Licensed recruitment agencies

There are two types of licensed recruitment agencies operating currently in Sri Lanka – public (government) and private. The requirements to obtain a license include: an interview; meeting specified criteria such as the office being easily accessible by public transport and having a floor area of at least 500 square feet; and having a business registration certificate, to name a few. In terms of the costs involved in obtaining a license, the application fee is LKR 5,000, while the new license fee is

LKR 200,000 excluding Nation Building Tax (NTB) and Value Added Tax (VAT), while the annual license renewal fee is LKR 5,000, excluding NBT+VAT. Additionally, the agent has to provide a bank guarantee of LKR 750,000 when obtaining a license.

In 2018, there were a total of 866¹ licensed recruitment agencies in Sri Lanka, out of which one was a public recruitment agency (Ministry of Telecommunication, Foreign Employment and Sport, 2018).

Public licensed recruitment agencies. The sole government recruitment agency operating in Sri Lanka is the Sri Lanka Foreign Employment Agency (SLFEA), which was established in 1996 by registration under the Registrar of Companies and the Sri Lanka Bureau for Foreign Employment (SLBFE). Even though Section 28.2 of the SLBFE Act lays the foundation for other public entities to be involved in the recruitment for foreign employment, as noted by the ILO, the SLFEA maintains a monopoly as “no other public sector body has been licensed for the purpose of recruitment of Sri Lankans for foreign employment” (ILO, 2013, p. 28). In its operation, the SLFEA aims to function similar to a private recruitment agency in Sri Lanka. Nevertheless, key features such as SLBFE officials holding positions in the SLFEA give rise to issues such as accountability and transparency, while strict adherence to government regulations makes the agency less sensitive to market pressures, setting it apart from private recruitment agencies. In addition, informal practices engaged in by private agencies in order to improve their business competitiveness, such as the use of sub-agents, taking commissions from foreign agents, exceeding maximum chargeable thresholds, etc., are not possible for the SLFEA due to its being a public entity.

Private licensed recruitment agencies. Private recruitment agencies are the predominant recruitment actors operational in Sri Lanka. In order to remain competitive businesses on an international stage, over the years these private agencies have adopted versatile recruitment methods and cost-sharing models. While at one extreme some private agencies adopt the employer-pays-all model – whereby the employer fully sponsors the cost of recruitment (see section 6), at the other extreme there are licensed agencies that pass the entire recruitment cost to migrants. In between there are also agents who are willing to pay additional informal costs in order to compete with other agencies, both local and international (see section 5 for details).

4.3 Agent to Agent (A-A)

In addition to eliminating direct interaction with potential workers in Sri Lanka, some employers prefer to by-pass all interaction in the recruitment process. In such cases, the employer in the COD seeks the services of a recruitment agent in the COD to interact with the recruitment agent in Sri Lanka. The recruitment arrangement is identified as the agent to agent (A-A) modality.

Within the A-A structure, recruitment is spearheaded by two recruitment agencies located in each of the COD and COO. For agencies in the COD to collaborate with agencies in Sri Lanka, a prerequisite is to be registered with the Sri Lankan Diplomatic Mission in the COD. In 2018, there was a total of 566 foreign agencies registered to recruit from Sri Lanka (Ministry of Telecommunication, Foreign Employment and Sport, 2018). Only job orders (JOs) originating from such registered agents in the COD are eligible to be processed by the Sri Lankan Diplomatic Missions and forwarded to the SLBFE for recruitment in Sri Lanka. In processing, the Sri Lankan Diplomatic Mission in the COD should verify the authenticity and assess the previous recruitment of Sri Lankan nationals through the agency concerned before attesting the JO. KIIs with agents revealed that some CODs require their agencies to have a person of Sri Lankan origin on their staff, while a KII with a specific agent revealed that he has a sister agency in operation in Qatar, which is a collaboration between a Qatari counterpart and himself. This agency also has a team of Sri Lankans working there.

Similar to the Er-A modality, under the A-A modality agents in Sri Lanka can be either a government or a private licensed recruitment agency, and private recruitment agencies include both groups – those who do and those who do not involve informal sub-agents in the recruitment process.

Among all alternative modalities, this A-A is the most commonly adopted business model across most agents interviewed for this study and is also commonly adopted across all sectors covered, namely, construction, care work, hospitality, domestic work and manufacturing. Its popularity

is mainly due to being a sustainable business practice, where there is ease of recruitment in the presence of two entities spearheading the components of the recruitment process relevant to their respective countries. At the same time, the involvement of two agents contributes to higher possibilities of miscommunication between the parties involved. These issues are due to a combination of circumstances, including some recruitment agents' inappropriate conduct such as misleading potential migrants, and some migrants fabricating stories of misconduct by agents. In order to minimize allegations that agents mislead or cheat migrants, agents in Sri Lanka adopt various practices, as elaborated in section 7.

Many agents interviewed were of the view that the screening process to become a licensed recruitment agent is too simple, leading to a lowering of the quality of recruitment agents in Sri Lanka. For instance, many of these interviewees felt that the absence of any criteria on educational background to become a licensed agent is a weakness in the regulatory system and contributes to corruption in the sector, while the financial requirement (guarantee) is also weak, due to the relatively low amount required compared to the degree of responsibility involved in the recruitment process of migrants. Specifically, many agents interviewed were of the view that the required amount should be higher than the current LKR 750,000, which is considered inadequate to provide one-way air tickets for a group of migrant workers to return home if distressed. At the same time, it was highlighted that the financial requirement was only in the form of a bank guarantee, and that agents' conduct would be better streamlined if the requirement were to be in the form of a deposit instead of a bank guarantee; thus the fear of losing the deposit would encourage better conduct. Additionally, one agent indicated that the ability to transfer the license via a power of attorney to another person to carry out the business also contributed to depleting the quality of recruitment agents in Sri Lanka, because only the original licensed agent (the licensee) is accountable to the SLBFE, while the one operating with the power of attorney is only accountable to the licensee. A licensee wishing to transfer his license via a power of attorney indicates his decreased interest in remaining active in the industry at the given time, and thus would not be fully committed to monitoring the operations of the person actually running the recruitment agency through the power of attorney.

4.4 Government to Government (G-G)

As discussed above, despite the fact that A-A arrangements simplify a more tedious recruitment process for the employer, the involvement of agents in the process opens up opportunities for corruption, mismanagement and lower accountability. For instance, not all interactions between agents are exposed to the migrant – taking commissions, portion of upfront payment (if any) paid to migrant, competitive strategies such as payment for employer visits, to name a few, take place outside the migrant's involvement. In order to address these issues, some recruitment arrangements eliminate recruitment agents, replacing them with government entities in the origin and destination countries to manage the recruitment process (Wickramasekara, 2016). Such government to government (G-G) arrangements are considered to be more effective in governing migration, protecting the rights of migrant workers, and meeting the labour market needs of employers. This is mainly due to the expectation that governments would prioritize the welfare of migrants, thereby lowering migration and recruitment costs, reducing the vulnerability to debt bondage, and minimizing the likelihood of migrants violating the terms of their visas in the destination countries. Moreover, the involvement of governments ensures that their coverage is provided for the entire migration cycle, and encourages registration and protection under the respective labour laws of the two countries (Wickramasekara, 2016). A few examples of G-G agreements that Sri Lanka has entered into are with Israel, Japan, and the Republic of Korea.

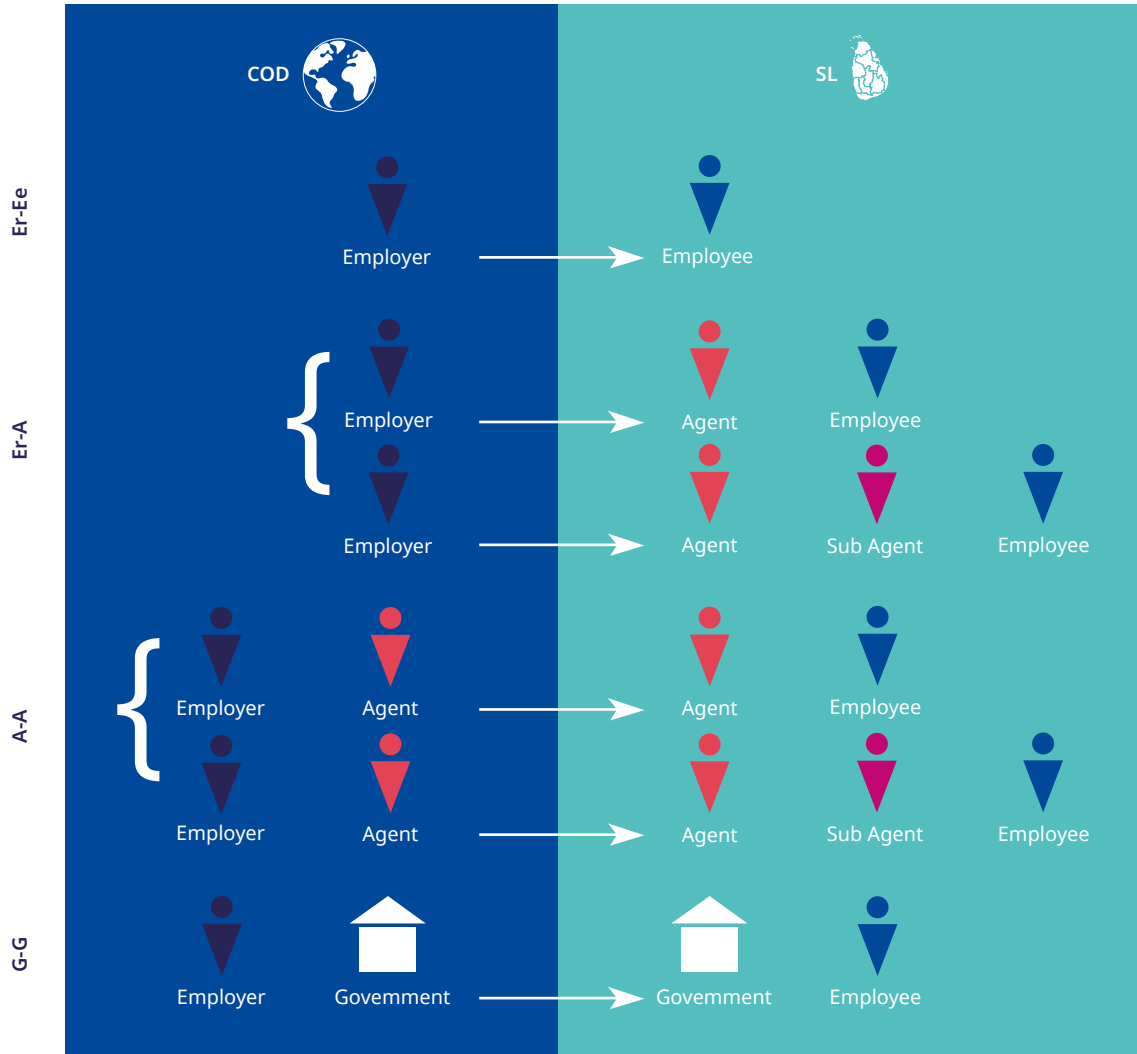
In the latter case, there is an important G-G arrangement, the Employment Permit System (EPS) of the Republic of Korea, which was initiated in 2004 and in which Sri Lanka plays a part. The main objectives of the EPS are to construct an efficient employment management system for foreign workers; apply identical labour and human rights conditions as for native workers; and prevent irregularities in recruitment for labour migration (SLBFE, 2018). As such, in Sri Lanka the recruitment is handled directly by the SLBFE, while in the Republic of Korea it is handled by HRD, a public recruitment agency within their Ministry of Employment and Labour (Weeraratne and Jayatane, 2018). Currently, foreign

employment to the Republic of Korea through the EPS is carried out under five (manufacturing, construction, agriculture, fishing and service) sectors. In order to be qualified to apply under the EPS, potential migrants need to pass the Korean language test. In 2017, a total of 15,992 Sri Lankan applicants sat for TOPIK – the Korean language exam, 5,731 passed, and a total of 3,439 departures took place for employment in the Republic of Korea (SLBFE, 2017). As noted in a previous study, in the more streamlined recruitment process under the EPS the costs of approximately US\$1,389 are borne by low-skilled manufacturing sector workers, and the fee structure does not include any fees or payments to agencies (Weeraratne, Wijayasiri and Jayaratne, 2018).

Another G-G arrangement operational in Sri Lanka is with Israel, in the recruitment of seasonal agriculture workers for from four to eight months of employment (SLBFE, 2010). In 2016, the recruitment process for this arrangement was handled in Sri Lanka by the SLBFE and the SLFEA, and in Israel by the Population Authority (PIBA) (SLFEA, 2016). Under a pilot project, a subsequent G-G agreement was signed in 2016 to recruit 50 caregivers from Sri Lanka to provide round the clock, live-in home care for disabled elderly persons. To qualify, care workers were required to pass the screening process, which included an English test, a personal interview and a training programme. As expected under a G-G arrangement, the recruitment process for these caregivers did not involve a recruitment fee and included only fees agreed by the two governments, which were paid by the migrant worker. Similar to the recruitment of seasonal agriculture workers, in the case of care workers also, all advertising and recruitment activities related to recruitment in Sri Lanka was carried out by the SLBFE, while the responsible entity in Israel for selection of migrant workers from Sri Lanka was PIBA (SLBFE, n.d).

At the time of the KII, the Government of Sri Lanka was in the process of negotiating an overall Memorandum of Understanding (MoU) with Israel covering many sectors, among which seasonal agriculture workers and caregivers were two.

▶ Figure 2. Recruitment modalities in Sri Lanka



Source: Authors' illustration.



5

► 5. Recruitment for foreign employment through agents

This section focuses on the two modalities A-A and Er-A, in which a recruitment agent in Sri Lanka is involved in the recruitment process. These modalities were also those that received most coverage in the KIIs conducted for this study. The recruitment process and the stakeholders involved are more-or-less common across all sectors covered in this study, with most variation arising in visa and documentation requirements which are dependent on the COD. Differences as regards sectors and districts mainly affect recruitment costs (as discussed in section 7) rather than the recruitment process discussed here.

5.1 The recruitment process step by step

Initiation in the country of destination (COD). The recruitment process commences with the foreign employer identifying the need for recruitment. At this point, the employer may either directly or through a recruitment agent in the COD, contact a recruitment agent in Sri Lanka to fulfil this requirement. If an agency from the COD is involved, the employer must first visit that agency and prove his capabilities to hire a migrant worker. The COD agent then contacts an agency in Sri Lanka, and once terms and conditions of the employment vacancies are verbally discussed and agreed between the agency in Sri Lanka and the employer, a formal job order (JO) is developed. A job order is a document specific to an employer or agent in the COD that indicates various job categories needed from Sri Lanka and the number of workers needed for each category by this employer/agent. Once the JO is developed, it is sent to the agent in Sri Lanka, while the same JO is also submitted to the Sri Lankan embassy in the COD. If there is no agent involved from the COD, the employer should contact an agency in Sri Lanka directly and discuss employment conditions, and the JO with agreed conditions should be submitted to the Sri Lankan diplomatic mission in the COD. In locations where there is no Sri Lankan diplomatic mission, the agent or employer in the COD is allowed to directly send the JO to the Sri Lankan agent, with certification of the JO by the Chamber of Commerce or the Ministry of Foreign Affairs in the COD, to ensure the authenticity of the employer/agent.

KIIs with agencies indicated that, when dealing with an agent or employer in a COD for the first time, some agents in Sri Lanka make a visit to the COD to examine the working conditions offered by the employer or to establish an in-depth understanding with the agent or employer there. Additionally, one respondent stated that due to high levels of competition among agents in Sri Lanka, Sri Lankan agents may have to bid for JOs from agents in the COD. Some KIIs revealed that for certain JOs, agents in Sri Lanka need to offer informal kickbacks for foreign employers' representatives, such as human resource managers, of US\$100–150 per selected applicant, and for some companies the number of JOs given to a recruitment agent in Sri Lanka is dependent on the amount paid in this manner to the human resource manager. Such competition exists not only among agents operating in Sri Lanka, but also with agencies in other sending countries as well. As a result, KIIs with Sri Lankan agencies revealed that they lose out on several JOs due to Sri Lanka's minimum wage rate, which is higher than the wages demanded by competing origin countries such as Bangladesh, India and Pakistan. In addition, agents among KII respondents claimed that workers from Sri Lanka have very high expectations about working conditions in the COD. Most respondents had the attitude that Sri Lankan workers should be "more accepting" of the conditions under which they are to work abroad.

First and second approval of the job order. The formal JO has to pass several stages before it is approved and can be acted upon by recruitment agencies in Sri Lanka. In the COD the Sri Lankan diplomatic mission checks the employer's/agent's history of recruitment from Sri Lanka before attesting the JO and sending it to the SLBFE for further processing. Then the SLBFE compares the JO submitted by the agency in Sri Lanka with the JO sent via the diplomatic mission, and the first approval

(also known as the JO approval) is granted by the SLBFE. A JO can include multiple occupations from multiple sectors, and is usually valid for a period of two years after approval. To obtain approval, the agent in Sri Lanka needs to submit a power of attorney document sent by the employer/agent in the COD, the business agreement between the agent or employer in the COD and the agent in Sri Lanka, and the JO letter.

Subsequently, the SLBFE issues the second approval, also known as the Ad approval, which approves content to be published by advertisement to seek candidates; such content includes the recruitment fee, wages, number of vacancies, job categories involved, etc. The recruitment fee to be published in the advertisement is provided by the SLBFE as the maximum amount that the recruitment agent in Sri Lanka can charge to recruit migrant workers under this JO (see section 6 for details on the calculation of the maximum chargeable fee). All advertisements to scout applicants under this JO are required to publish a recruitment fee commensurate with this maximum chargeable amount stipulated by SLBFE.

Nevertheless, as revealed by SLBFE officials, agents in Sri Lanka may submit for Ad approval either a JO with pending approval or an approved JO. This flexibility is granted by the SLBFE mainly to facilitate certain job categories for which the agent in the COD would provide the formal JO only if there are sufficient applicants from Sri Lanka. To facilitate these requirements, based on the content of the JO, the SLBFE grants Ad approval on a pending JO so that agents can source applicants to pursue the JO. However, if the SLBFE finds that an advertisement is published without approval, or if the advertisement is altered after approval – such as by increasing the number of vacancies, adding a new job category or increasing the wages – necessary legal action would be taken resulting in penalties for the recruitment agent involved.

Sourcing. After receiving the SLBFE's first and second approvals, the agency in Sri Lanka has to source the migrant workers for the JO. Agencies use various methods such as advertising via TV/ radio (with approval of the SLBFE), social media, using sub-agents or other licensed agents, job campaigns/giving out handbills to existing CV stocks which migrants have submitted to the agency (as discussed extensively in section 5.3). Additionally, there are also instances where potential migrant workers reach out to licensed recruitment agents in search of foreign employment opportunities. Such inquiries are often based on recommendations from previous migrants who have migrated through the same agency.

Screening, selection and skills testing. Screening of applicants differs by sector. For both the domestic work and the male low-skilled sectors (cleaners, labourers) some agencies in the COD already have bulk CVs which are sent by Sri Lankan agencies. Potential employers will select migrants by screening these CVs. In the case of the construction and hospitality sectors, skills/trade tests are additionally conducted by the agency/employer to screen and select candidates. Construction sector drivers, for example, might undergo a skills test to assess their ability to drive different grades of heavy vehicles. In the case of highly-skilled jobs in the hospitality sector (chefs, restaurant managers), qualifications obtained from hotel schools and other professional qualifications pertaining to the trade are criteria considered in the recruitment process. When it comes to care workers – who are also recruited and employed as domestic workers with the additional duty of child/elderly care work in the employer's household – they are first screened for a few years of experience in non-care related housework (cleaning, cooking) before being recruited as a care worker.

Selected candidates will need to obtain the medical certificate and other relevant documents described in section 5.2.

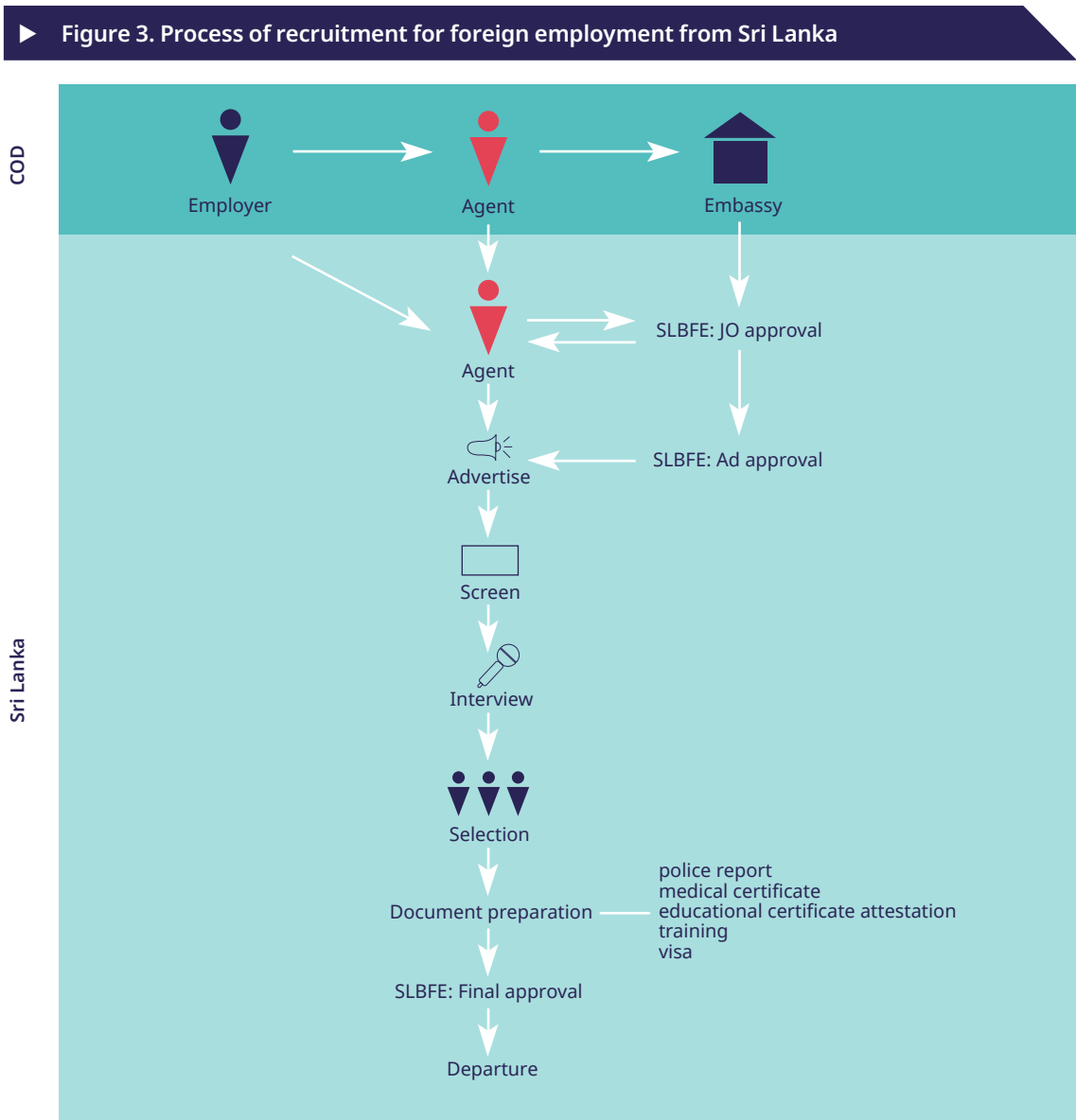
Final approval. Once the entire recruitment process is completed, final approval for departure is granted by the SLBFE. When seeking final approval, the recruitment agent in Sri Lanka needs to submit two main documents – the travel authorization such as visa or work permit⁸ issued for the applicant by the embassy in Sri Lanka of the relevant COD, and the employment contract. The employment agreement submitted for final approval is signed and sent by the employer and comprises all contractual details between the employer and the agent, together with other relevant

⁸ Such approval is contingent upon fulfilling requirements such as medical testing, among others.

information about the job order. This contract/agreement between the foreign employer or agent and the local agent has to be attested by the Sri Lankan embassy in the COD. Following this, both the migrant and the local agent have to sign this document, which is then presented to the SLBFE for registration and final approval.

In addition to these two main documents, (travel authorization and employment contract) in the case where the applicant needs to be trained or experienced in the specific field, documents to establish that such training or experience is fulfilled required by employer also need to be provided for final approval from the SLBFE. Additionally, documentation on pre-departure training, and for female migrant workers the family background report (FBR), also have to be produced for final approval.

See figure 3 for a schematic diagram of the process described above.



Source: Authors' illustration.

5.2 Document preparation

Family background report (FBR). In June 2013 the SLBFE implemented a regulation banning women who have children under the age of five years from migrating abroad for work, and allowing women with older children to migrate only after fulfilling certain conditions. The FBR has two objectives: first, to ensure that women with children under five years old cannot migrate abroad; and second, to secure the well-being of children over the age of five years who are left behind, by assigning an appropriate female guardian during the mother's absence. FBR reports are required for all women migrant workers – which implies that this requirement tends to delay the recruitment procedure in the domestic and care work sectors. Although the legal processing time is two weeks, agents state that this is never met – KIIs revealed that it takes a period of a month to two months to process an FBR. This significantly prolongs the entire recruitment process for eligible women. For women rejected from foreign employment, it also translates to a lost opportunity. This is also a lost business opportunity for the agency in Sri Lanka, because the upfront incentive payment⁹ for female domestic work in the Middle East is a high profitability sector under the free recruitment model (see section 6 for further details).

At the same time, the added layer of regulation targeting only women has opened up opportunities for corruption. Agents were of the view that misconduct – such as falsification or forgery of FBRs – on the part of some recruitment agents were tarnishing the reputation of all recruitment agents in the field, including those who conduct themselves in a highly professional manner.

Police report. Kuwait and Saudi Arabia, as well as Cyprus and most other European countries require a police clearance report for migration. According to agents, two to four weeks is required to obtain this clearance, as it must be issued through police headquarters. This has to then be attested by the Ministry of Foreign Affairs (MoFA) in Sri Lanka before it can be presented in the recruitment process.

Medical certificate. Medical testing is a requirement for all candidates migrating in all sectors to any destination. Employers require a medical certificate to screen candidates along with the CV and other documents. These are generally uploaded online to be viewed by the foreign agent, as well as the SLBFE for approval. All certificates should be attested by the MoFA in Sri Lanka. For those migrating to Middle Eastern countries however, medical certificates have to be obtained through the Gulf Approved Medical Centres Associations (GAMCA). Processing time is between one and two weeks. Some agencies complained that there are delays at GCC centres due to bulk applications.

Pre-departure and other training certificates. Requirements for these vary from sector to sector. Migrant workers formally departing from Sri Lanka require pre-departure training (of varying levels) with national and vocational qualification (NVQ) certification as mandated by the SLBFE, across all sectors. The SLBFE has broadly categorized pre-departure training for Sri Lankan migrant workers into two groups: domestic workers and non-domestic workers. A 21-day and 45-day training is required for female domestic workers and caregivers respectively, while a 5-day non-domestic workers training is required for both male and female workers of any occupation other than female domestic workers.

In KIIs with agents and migrant workers, there was criticism levelled against certain features of the training programme. Some complained about the length and rigidity (rules such as no use of phones in this period) of the domestic worker training. However, trainers at the SLBFE stated that the objective is to emulate the harsh and disciplined conditions that domestic workers may have to face abroad. This training covers domestic work skills such as cookery, care work, travel-related skills (how to travel by plane) and other features relevant to the destination such as culture and language. Most training centres focus on training for the Middle East, while two centres focus on Israel and Japan.

Criticism levelled against the domestic worker training in KIIs – including that by the trainers themselves – indicated that it was too generalized. That is, workers of all non-domestic worker occupational categories must attend this training, but specific information related to their trade

⁹ In employing female domestic workers to some CODs, some employers or “sponsors” pay an upfront lump sum to recruitment agents to cover the recruitment costs for the selected migrant.

cannot be obtained. Currently, the training covers lectures on personal development, how to deal with issues in the COD, etiquette, health and safety, and money management. It was suggested during KIIs that a more targeted approach for training by occupation category or COD would be more useful. This would allow a focus on targeted language training (since language proficiency is a crucial skill required to adapt to the COD) and targeted learning based on the worker's job and destination.

In addition to pre-departure training, sectors such as hospitality and construction have specific training requirements depending on the employer's requirements and qualifying trade testing. For instance, in the construction sector drivers of heavy vehicles require trade testing while chefs in the hospitality sector might require trade testing and related hospitality qualification certification. For other sectors in the study, the SLBFE training usually suffices.

Additionally, those who are migrating for driving jobs have to certify their license through the Registrar of Motor Vehicles (RMV) in Sri Lanka. Furthermore, most European countries require all educational certificates to support the application. All certificates must be attested by the MoFA in Sri Lanka. This process is usually carried out by the applicants themselves using their own funds.

Visa. After the applicant obtains all relevant documents, the agency in Sri Lanka will apply for the visa on behalf of the applicant. The visa process differs from country to country. For instance, Saudi Arabia has a centralized application system, whereby the agency has to submit the medical report, police report, FBR and a fingerprint scan of applicants. Additionally, in the case of Saudi Arabia large job orders are provided with bulk visas or power of attorney (known as *Wakala*), which are granted to the agent rather than in the individual migrant's name. According to the ILO, this form of recruitment under a "block visa" system is considered to be a gap in the recruitment process, since the recruitment of a batch of workers under one permit leaves room for various malpractices, including but not limited to bargaining for commission recruitment agents both at receiving and sending points (ILO, 2013). For other countries such as Oman, Qatar and the United Arab Emirates (UAE), visas will be received under the individual migrant's name.

5.3 Recruitment agents' modalities for sourcing migrants

Recruitment agents operating in Sri Lanka adopt different modalities to scout potential migrants for foreign employment. The SLBFE-approved mechanism is via advertising in various media outlets as outlined in Section 37A of the SLBFE Act of 2009. Specifically, the Act states: "No person shall print or publish or cause to be printed or published in any media, any advertisement or notice submitted to it by a licensee or any other person, calling for applications from persons for employment outside Sri Lanka, without satisfying himself that such advertisement or notice has been approved by the Bureau for such publication under section 37." Moreover, among the three approvals provided by the SLBFE to licensed recruitment agents for recruitment, the second approval is for advertising. Operating both within and outside the ambit of this Act, agents are adopting various advertising techniques to find a sufficient pool of potential migrants to set up interviews, as discussed below.

Working independently. This includes sourcing through previous clients via connections and trusted networks. Many agents interviewed indicated that their previous clients continue to come to them for subsequent migration as well as recommending the same agency to their friends and relatives who wish to migrate.

Advertising. As noted previously, approval must be obtained from the SLBFE for advertising via any media channel such as newspapers, television and radio. The conditions specified in the JO and the recruitment fee must be stipulated in the advertisement, and an approved format must be adhered to. Advertisements for recruitment for foreign employment in Sri Lanka have been carried in these traditional channels, but KIIs revealed that agents have been recently placing a greater importance on advertising via social media channels such as Facebook and WhatsApp, as well as in online job portals such as Ikman.lk. Field work finds that these modern forms of advertising are becoming popular, especially among young agents, mainly due to their effectiveness in reaching prospective candidates in an efficient and speedy manner, often without waiting for the SLBFE Ad approval.

A close examination of the amendment to the SLBFE Act of 1985 in 2009 shows that its Section 37A largely refers to advertisements published in third-party media such as a newspaper or television channel, and does not directly cover modern forms of advertising via one's own channels, such as posting on one's own Facebook page or communication via forwarded messages in media such as WhatsApp. As such, in regulating advertising for sourcing potential migrants, the SLBFE may have to actively consider regulating advertising via social media.

Job campaigns. These are organized in targeted areas, whereby job opportunities are publicized and explained to people. Similarly, some agents hand out handbills containing information on vacancies, while some also mentioned making announcements at events such as musical shows where people gather.

Sub-agents. Using informal sub-agents to recruit migrant workers is commonplace among licensed agents. A variety of payment arrangements exist between agent and sub-agent (as discussed in the next section) when sub-agents are involved in the recruitment process. Agents find sub-agents to be a convenient recruitment modality, as the latter share part of the burden of the recruitment operation with the former. However, the involvement of sub-agents also has downsides, as sub-agents can mislead migrants and vice versa, but the lead agent still has to take responsibility if issues arise between employer and worker. The use of sub-agents is more prevalent in recruitment for female domestic work than in other sectors. Across employment categories, workers applying to lower-skilled job categories are more reliant on sub-agents for recruitment than skilled workers such as chefs in the hospitality sector. However, some agents revealed that they no longer use sub-agents due to previous bad experiences in dealing with them.

Other agents. In addition to informal sub-agents, there are also licensed agencies that collect applicants, partially follow the recruitment process and feed such applicants to another licensed recruitment agent in Sri Lanka during the final stages of the process. In such arrangements, the migrant's final departure is recorded under the other agent. However, during an interview with an agent who uses other agencies to source migrants, it was not clear whether or not he paid any money to other agents for this partial service provided.

Another agent, during his KII, indicated discontent with this practice. Referring to such agents as "licensed sub-agents", he hinted that such agents (who mainly feed to other licensed agents and send only a few migrant workers through his agency) are running their agencies as a cover-up for unlicensed activities they are involved in. Recruitment agents who do not resort to this practice feel that their reputation is compromised by some agents who perform these tasks, often with the support of informal sub-agents. This indicates the awareness among some recruitment agents about the value of fair and ethical recruitment and the reputational recognition associated with it.

At the same time, the field data also revealed that some agents who send large numbers of workers from some occupational categories but are not involved in others may refer such potential migrants to other agencies as a free service to the migrant or other recruitment agent. Such licensed agents do not involve themselves in the recruitment process at all, but simply pass on the applicant to the other agent.



6

▶ 6. Operational costs of agents

This section focuses on the various cost components included in the total costs incurred by recruitment agents in Sri Lanka. It focuses on the two modalities A-A and Er-A in which a recruitment agent in Sri Lanka is involved in the recruitment process, as this was the modality that received predominant coverage in the KIIs conducted thus far.

6.1 Fee or free

The costs borne by private recruitment agents in Sri Lanka vary based on whether the “free recruitment” or “recruitment for fee” approach is adopted. Free recruitment is where the foreign employer covers the full cost of recruiting the migrant worker, such that the migrant bears no cost. This is usually the model adopted for female domestic workers migrating to Gulf (GCC) countries and a few low-skilled occupations by a limited number of agents. Under free recruitment for domestic workers the employer provides an upfront ‘maintenance fee’ to the agent in Sri Lanka, who has to then budget this amount between recruitment fees and commissions charged by the licensed recruitment agent in the COD, any sub-agent, other recruitment fees, and potential upfront incentives for migrant workers. The agent usually provides the cost of document preparation and training, as well as the recruitment incentive amount in instalments to the migrant in the lead up to departure. As found in the KIIs with licensed recruitment agents and migrants, in the case of other occupations which offer free recruitment, the employer bears the recruitment cost upfront, or the migrant is reimbursed by the employer on arrival at destination.

The recruitment for fee approach requires that the migrant bears a part or the full cost of recruitment, though for some sectors the employer may send a fixed amount to contribute towards these costs. Many respondents claimed that this approach is becoming predominant due to increasing competition among recruiting agencies, as well as the changing geopolitical context in the Middle Eastern region, a key destination for Sri Lankan migrant workers. Demand nevertheless remains high for migrants, and origin countries are trying to do what they can to make migration remain attractive. Under this approach, the agent usually charges a lump sum (or instalments) to the migrant to cover all fees pertaining to the recruitment process.

In the case of A-A arrangements, often the migrant worker and the employer both end up paying a recruitment fee to the two agencies involved, while in some instances only the agent in the COD is paid by the employer, while the agent in Sri Lanka is not paid by the migrant. For instance, as noted by Weeraratne, Wijayasiri and Jayaratne (2018), for recruitment in Malaysia the agency in Sri Lanka charged migrants between US\$917 and US\$1,145, while the Malaysian agent charged the employer approximately US\$2,291.

When sub-agents are involved in an A-A arrangement, they are paid either by the licensed agent or by the migrant, or both. For instance, in the case of recruitment of female domestic workers to Saudi Arabia, the licensed agency pays approximately US\$694 to the sub-agent, while the recruitment of low-skilled manufacturing sector workers to Malaysia is associated with the licensed agency paying approximately US\$69 to sub-agents (Weeraratne, Wijayasiri and Jayaratne, 2018). Similarly, as noted by Weeraratne (2018), some female domestic workers to the Gulf countries pay fees themselves to the sub-agents involved in the recruitment process.

The Institute of Policy Studies of Sri Lanka (IPS) highlights that there are various possible payment arrangements between licensed agencies and sub-agents, as shown in table 3. They include upfront incentives, flat rates and variable rates. For instance, the average commission received by recruitment

intermediaries for female migrant recruitment was LKR 33,522.08 in contrast to LKR 20,108.23 for male migrants. Similarly, the average commission received by male sub-agents was LKR 30,250.57, while for female sub-agents it was LKR 31,370.19 (IPS, 2018).

6.2 Maximum chargeable fees

▶ Table 3. Payment arrangements between agencies and sub-agents

PAYMENT ARRANGEMENT	FEATURES
Upfront incentive included	Paid by agent to sub-agent to manage and expend. Sub-agent aims to minimize cost in recruitment process.
Flat rate	Flat rate per migrant paid by agent to sub-agent. Normally, differs by gender of migrant.
Variable rate	Paid by agent to sub-agent depending on certain migrant characteristics such as age, experience and gender of migrant, and gender of sub-agent.

Source: Field data.

As outlined above, data from KIIs indicate that the recruitment cost burden falls entirely on the employer under free recruitment or entirely on the migrant under the recruitment for fee model. There are also arrangements where certain components of the recruitment costs are paid for or reimbursed by the employer in the COD. The maximum amounts that recruitment agents can charge migrants to facilitate the recruitment process and to make payments for the various costs/fees on the migrant's behalf are stipulated by the SLBFE. The most recent circular issued in this regard is the Chairman's Circular No. 14/2019. As specified in this circular, licensed recruitment agents are not allowed to charge any fees related to components such as trade testing, training, obtaining the police clearance certificate, medical testing, and document attestation by the MoFA, as the migrant can pay such fees directly to the service provider.

Careful examination of the above circular (see Annex 2) indicates that components 2.a. to 2.c. are flat rate maximum fees, where recruitment agents sending more migrants under a given JO might tend to benefit from economies of scale. For instance, a recruitment agent who sources and sends 50 migrants by placing one advertisement on Ikman.lk for LKR 3,000 would make LKR 965,000 in excess of his actual advertisement expenses. However, as indicated by most agents during interviews, more than one type of media is used for advertising, and it is difficult to apportion the advertisement expenses per migrant. Similarly, component 2.f. in the circular corresponds to administrative and promotional expenses. This leaves room for double counting seemingly similar expenses through the inclusion of advertisement expenses under 2.a. and again in 2.f.

During the field work for this study, Circular No. 14/2019 had not yet come into effect. The maximum chargeable fee was calculated by the SLBFE, based on monthly salary, duration of the employment contract, and exchange rate (Weeraratne, 2018c). Nevertheless, as an illustration in table 4, the terms of the circular are applied to the cost figures that were provided by agents during the field work to arrive at examples of maximum chargeable fees. As shown, LKR 225,100.00 is estimated for a female domestic worker to Singapore going through a recruitment agent in Kandy, and LKR 150,418.00 for a construction worker in Qatar recruited by a recruitment agency in Kurunegala. According to this maximum chargeable fee calculation, female domestic workers to the Middle East countries are declared as zero chargeable due to the full payment of recruitment fees upfront by the employer in the COD.

► Table 4. Illustration of maximum chargeable fees based on Chairman's Circular No. 14/2019 and field data (in LKR)

DETAILS	DOMESTIC WORKER IN SINGAPORE: RECRUITMENT BY AGENT IN KANDY	CONSTRUCTION WORKER IN QATAR: RECRUITMENT BY AGENT IN KURUNEGALA
Advertisement expenses	20 000	20 000
Communication	5 000	5 000
Courier charges	3 000	3 000
Translation of visa/ <i>wakala</i>	2 000	2 000
SLBFE registration fee	17 837	17 837
Administrative and promotional expenses	131 263	59 581
Visa endorsement charges	Nil	13 000
Actual cost of air ticket	46 000	30 000
Total	225 100	150 418

Source: Authors.

6.3 Costs

The actual cost components incurred by recruitment agents in Sri Lanka do not necessarily align with those outlined in the maximum chargeable fee calculation. The costs that must be borne in the recruitment process are summarized in table 5, where the ranges of fees/charges are based on information provided by all the agents interviewed for this study. The table indicates whether costs vary by sector/country of destination or whether these generally apply across all sectors. The cost components include medical fees, SLBFE registration fees, visa fees, flight tickets, training fees, attestation fees, police report, and FBR (where applicable).

With regard to the registration fee paid to the SLBFE, KIIs with its officials indicated that out of the LKR 15,000 registration fee paid on behalf of migrants, agencies are reimbursed 70 per cent when the agent confirms the departure of the worker. This refund is provided to agencies on the basis that agencies cannot legally take commissions, and can only charge a maximum fee from migrants to cover costs. Nevertheless, the circular for maximum chargeable fees includes "administrative and promotional activities" (2.f), which again leaves room for double counting.

While the travel and visa fees vary by the country of destination and training fees vary according to the occupational sector, other charges such as medical fees and registration fees tend to be common across destination/sector and can be directly paid by the migrant to the service provider. Another variable cost is the service charge or maintenance fee taken by some agents from the migrant, over and above the recruitment cost. While this is strictly outside the legal framework, some agencies openly claimed that their businesses could not be profitable if they were to remain within the maximum limits specified for different job categories by the SLBFE. Others became somewhat offended when they were asked if they charged above the maximum chargeable amount outlined by the SLBFE; these took a more defensive approach in responding, going to great lengths to demonstrate that they are not charging any extra fees from migrants. Among these alternative costs, the cost of the air ticket, visa-related fees, SLBFE registration fees and payments to sub-agents are usually paid by the recruitment agent on behalf of the migrant worker. In the case of female domestic workers, for whom the employer sends the entire recruitment fee to the recruitment agent in Sri Lanka, in addition to above fees, fees associated with pre-departure training, obtaining passports, medical testing and police clearance are also paid by the recruitment agent on behalf of the migrants, using employers' funds.

► Table 5. Recruitment-related costs per migrant (LKR unless otherwise specified)

Paid by ^a	Paid to	Cost	General/specific to COD	General/specific to sector
Agent ^a	Airline	Flight tickets	GCC – 35 000-40 000 Europe – 100 000 & above	General
Agent ^a	Embassy	Visa fee	Saudi Arabia – 8 000 Dubai – 12 500 Kuwait – 11 000 Qatar – 10 000 Romania – US\$500	General
Agent	SLBFE	Bureau registration and other fees	Registration fee - 17 837 Insurance (refundable) – 9 000 Cess tax – 500	General
Agent ^a	Relevant embassy	Fingerprint report	Only for Saudi Arabia and UAE – 1 500	General
Agent and/or migrant	Sub-agent	Sub-agent fees ^b	Unspecified	Unspecified
Migrant	Migrant	Medical fee	GCC – 13 000-15 000 Europe – 7 500-12 500	General
Migrant	Department of Immigration & Emigration	New passport	General fee: 10 500	General
Migrant	Police headquarters	Police report	Only for Kuwait and Europe - 250	General
Migrant	MoFE	Document attestation by MoFE ^c	Police report – 500 Educational qualifications – 1 000 per document	Mainly required by European countries for care and construction sectors
Migrant	SLBFE training centre	Training fees	Europe specific caregiver training (outside SLBFE) – 350 000-400 000	21-day bureau training for female domestic workers – 45 000-55 000 2-day bureau training for other sectors – 1 500
Migrant	Agent	Agency service/maintenance fee ^d	Varies Agents with low usage of sub-agents – 25 000-50 000 Agents recruiting only through sub-agents – 100 000-150 000	Varies Mainly for female domestic workers and low-skilled workers
Migrant	Department of Motor Traffic	Driver's license	May vary	Construction/hospitality/low-skilled sector drivers – 5 000 for driver's license

Notes:

a. "Paid by" does not always equal "borne by", as some payments made by agents are recovered from the migrant or employer.

b. For cases where migrants directly deal with sub-agents, a commission is taken from the migrant without the involvement of an agency. It was not possible to discern a clear fee range from the KIIs.

c. Cost of attesting documents for the job order from the foreign embassy is covered by the foreign agent. d It was not possible to discern a clear fee range from the KIIs.

Source: Based on primary data collected for this study through KIIs.

Under free recruitment or employer-contributed recruitment models, the employer provides a fee to the agent to cover expenses related to recruitment, on behalf of the migrant. This amount varies by employer, COD and sector. In the KIIs conducted, a local agent dealing with large hotel chains in the Middle East stated that an amount of LKR 100,000 is provided by the employer per worker as recruitment fees under the E-A arrangement. Similarly, agents recruiting low-skilled labourers quoted around LKR 75,000 as the upfront recruitment fee for this sector, paid by the employer. Several other agents recruiting housemaids stated that a standard amount of US\$1,500 (approximately LKR 250,000) is usually provided by Middle East employers as the recruitment incentive to the female domestic worker. Findings by Weeraratne, Wijayasiri and Jayaratne (2018) show that when the recruitment incentive provided to a female domestic worker is LKR 225,000, the recruitment-fee-related costs amount to LKR 129,882, while the fee retained by the recruitment agent is LKR 50,000 and the sub-agent fee/commission is LKR 100,000. As mentioned by agents during the KIIs, this is one of the most profitable sectors for private agencies due to the high incentive payment. Outside these two sectors, most other agents interviewed follow the for-fee recruitment model.

In addition to the cost per migrant in recruitment, there are other operational costs borne by the recruitment agent, such as advertising costs, license/license renewal fees, interview fees (venue, hosting interviewers from abroad), transport fees to visit the SLBFE and embassies, and informal commissions to foreign agents (see table 6). Additionally, some recruitment agents visit employers in the COD to inspect their working conditions. Apart from these costs, agents must bear the recruitment cost of replacing migrants who leave jobs within the first six months of their contract – loosely referred to as “runaway” migrants¹⁰ in the industry.

▶ Table 6. Operational costs borne by agent

Item	Details and costs (LKR unless otherwise specified)
Advertising	TV/newspaper ads – 100 000-200 000 per month Radio ads – 35 000-40 000 per month Online portal ad (i.e. Ikman.lk) – 35 000 Job campaigns/ handbills – 25 000 per day
Interview costs	Venue fees – up to 200 000 for hotel hall (if large numbers) Hosting interviewer from abroad (including food/accommodation/flight tickets) – 200 000-500 000
Informal kickbacks	To human resource managers from employing company – US\$100-150 per migrant
Commission to agents in COD	Commissions to foreign agents
Travel cost to Colombo	For agencies based out of Colombo - five visits accompanying migrant to Colombo – up to 25 000
License fee	Initially 5 000 application form fee, 200 000+NBT+VAT new license fee, and 750 000 as bank guarantee. For annual renewal the fee is 75 000.
Office maintenance cost in Sri Lanka	Staff cost and building rental
Office maintenance cost in COD	Staff cost and building rental cost representation of the Sri Lankan agency in COD
Replacement cost	Recruitment cost borne by employer/agent on behalf of migrant
Sub-agent fees	Variable

Notes: There was no clearly discernible variation across sectors/districts except for the travel cost component.
Source: Based on primary data collected for this study through KIIs.

¹⁰ Terminology used by agents to describe migrants who depart from their job prematurely; this could be due to benign personal reasons or issues of abuse faced at the workplace.

In the case of free recruitment, if a migrant refuses to stay beyond the probationary period (e.g. three months in the case of female domestic workers) the recruitment agent is required to either repay the recruitment fee or replace with a new migrant worker. In the case of female domestic workers, repayment involves the entire amount provided upfront by the employer, which includes recruitment fees, the upfront incentive to the migrant worker, as well as commissions to the sub-agent and licensed agent. In the case of non-free recruitment, any expenses borne by the agent to recruit the migrant is a loss. In cases where the migrant needs to return to Sri Lanka before the end of the contract, the agent also has to bear the cost of the return ticket in addition to the cost of replacing the worker with a new migrant, the. As noted above, premature returns could include benign cases where migrants want to return home for personal reasons, but also other cases where migrants may be subject to unfair working conditions or abuse. However, the agents interviewed felt that it is especially the case of female domestic workers departing before the term of contract ends that leads to a problematic financial burden on the agency. One agent from Puttalam mentioned that in such cases the sub-agent and the agency split the cost 50/50. Nevertheless, a majority of agencies interviewed stated that they had discontinued the use of sub-agents due to the many issues encountered in their business interactions with them. Instead, they rely on other methods to source potential migrants, and deploy their own staff to take potential migrants through the recruitment process.

With regard to informal commissions and bribes, one agent from Puttalam who openly revealed that he took an informal commission commented that he requested US\$3,000 from the sponsor for domestic worker recruitment, as US\$1,500 is “insufficient” to cover expenses for the migrant. He went on to state that they give 70 per cent of this US\$3,000 to the migrant to cover expenses, and keep 30 per cent as their commission. On the other hand, some agents revealed that commissions varying between US\$75 and 200 must be paid by them to the foreign agent, per migrant. An agent in Kurunegala stated that they keep a 20 per cent share of the incentive for office maintenance fees. As such, it is clear that commissions are taken by both parties under A-A arrangements. However, commission amounts were not always openly revealed by most agents, so it was not possible to arrive at conclusive cost ranges at a sectoral level.

Few agencies revealed that they bribed HR managers in foreign agencies to be able to secure job orders, under increasing competition. Agencies who do not engage in this were critical of agencies that do, saying that nowadays agencies resort to “cheap tricks” to secure a market for recruitment. It was also mentioned that actions such as paying for air tickets of HR managers (on top of costs to host them in Sri Lanka) was considered a way of bribing, since foreign agents are expected to incur this cost.

An agent from Colombo stated that they take a service charge from the migrant, as shown in table 5. This is over and above the amount required to cover expenses stated in the Chairman’s Circular. The service charge is included in the full recruitment fee charged by the agent to the migrant. In addition, some agents charge an advance payment of LKR 30 000-40 000 to cover the costs for the medical test, visa and passport. Nevertheless, according to the Chairman’s Circular such costs should not be charged by the recruitment agent, as the migrant can pay them directly to the service provider.



7

▶ 7. Issues and challenges in adopting an “employer pays” model

The analysis of the recruitment business process carried out by licensed recruitment agencies in Sri Lanka underscores a few key issues and challenges faced by them. Some of these issues are created by stakeholders involved in the recruitment process, while some others are created by the procedures or the regulatory environment, they function in. Where possible these recruitment agents have developed their own strategies to overcome the various issues and challenges they face. Linked to the issues faced by recruitment agents, is the overarching issue of overburdening the migrant with the recruitment cost. As such, this section explores these issues faced by the recruitment agents and the issues related to freeing up the migrant from the recruitment cost, and the possibility of passing cost burden to employers whilst also creating fair and ethical recruitment practices.

7.1 Operational and cost issues

7.1.1 Training, FBR and gendered recruitment process

Pre-departure training is a mandatory requirement for formal recruitment for foreign employment. Nevertheless, there is a significant difference in the duration of the training period for female domestic workers and caregivers compared to other sectors. Specifically, these potential migrants are required to attend a 21- and a 45-day residential training respectively, conducted at SLBFE training centres. Many agents felt that the 21-day training for female domestic workers is too lengthy and does not fulfil its purpose, while some components were deemed as unnecessary. In comparison, first-time migrants heading to jobs in other sectors (non-domestic) are required to undergo a five-day non-residential training. Due to this difference in training time, the average period of one month taken from selection of the worker to the actual departure of the worker is much longer in the domestic worker sector; it can extend beyond two months. Additionally, agents felt that the need for a passport/passport number of registers for training delayed the process. One agent was of the view that this requirement, together with the scheduling of training, delays migrants from attending training or meeting departure deadlines set by employers. Furthermore, training dates are often changed by the training centres without the agents being updated about these.

This extension in recruitment time is also attributed to the requirement of the FBR for female applicants. Most agents noted that this requirement is a hindrance to the recruitment process as it extends the recruitment period by about a month. Moreover, some agents were of the view that officials used the FBR as an opportunity to screen for various other personal/family issues, and sometimes approval for migration is rejected on these grounds. Agents also felt that the minimum age limit of 23 years was a barrier, as it restricts young female migrants who value working abroad and earning some money before having children. There is a notable decline in departures of migrant housemaids via formal channels on account of these rules and regulations which are deemed excessive. Furthermore, several agencies complained of the inefficiency of the FBR committees and officers, who frequently postpone appointments and fail to submit their report within a two-week period as required. It can take up to two months to process the FBR, which severely delays the recruitment procedure for agents. In addition, although the FBR is free of charge, there are indirect costs such as travel and documentation costs which may add up to LKR 10,000 in some cases. Moreover, as suggested by Weeraratne (2016), these restrictions on female labour migration also have the capacity to promote migration via irregular channels, which could increase the vulnerability of female migrants in the country of destination.

While these are agents’ legitimate concerns, they should also be considered with the caveat that most agents are against moves by the Government to discourage housemaid migration, due to profitability concerns; recruiting female domestic workers is one of the most profitable sectors in migration due to the high incentive payments provided by the employer, which are shared between the migrant, licensed agent and sub-agent.

Most agencies interviewed for this study indicated that due to the two categories of recruitment specified by the SLBFE (domestic and non-domestic), there is an automatic gender categorization in recruitment. Due to the mandatory requirements, recruitment for domestic work (and the associated training and documentation such as FBR) is female-specific, so agencies taking on domestic recruitment must engage in a lengthier recruitment process associated with training/documentation for female domestic workers. For this reason, some agencies stated that they preferred to stay away from recruiting females, especially into the domestic sector, and instead focus on male-dominant sectors such as construction, low-skilled labour and hospitality. Many agencies indicated that they no longer accept recruitment of female domestic workers due to the excessive time burden associated with handling complaints in this sector. Hence, the recruitment process in Sri Lanka is heavily gendered. At the same time, some agents indicated that they avoid low-skilled occupation categories due to the complications involved in recruiting such workers and higher complaints after arriving in CODs, creating issues with employers, and other such issues.

7.1.2 Need for branch offices

For licensed recruitment agents, setting up branch offices is prohibited by law. For agencies located in districts other than Colombo, there is an additional resource burden in terms of staff time and cost to facilitate recruitment. For each migrant, the agency located outside Colombo is required to facilitate five trips on average to Colombo – for various SLBFE approvals, obtaining medical clearance, visiting embassies, and certifying documents, among others. Including travel time, this means that staff must be deployed out of office for longer hours/days than agencies in Colombo. It is perhaps for this reason that many licensed recruitment agencies adopt a business model in which they work in close collaboration with another licensed agency located elsewhere. For instance, most agencies from Batticaloa indicated that they operate from their “Colombo office”, while one agent indicated that he has “another” license under his son’s name. In addition to assisting in the process of dealing with SLBFE activities, these “pseudo-branches” are also helping recruitment agents source migrants. For instance, one agent in Kandy indicated that they also work with an agency in Kurunegala for this purpose.

According to the SLBFE regulations, the office of the licensee should display the license issued by the SLBFE, and this serves as the restriction that bars licensees from having branch offices. Nevertheless, as evident from the KIIs, this requirement by the SLBFE has an impact on the sustainability of licensed agents, as they need branch offices to efficiently and profitably navigate the recruitment process or source migrants. To address this business need, licensed recruitment agents have found a way to operate within the existing regulatory framework by obtaining a new license and having a new recruitment agency established in the location where they need a branch. This ensures the SLBFE requirement of having the license displayed at the office. As far as the SLBFE requirements are concerned they are independent licensed recruitment agencies. Nevertheless, subsequent to fulfilling this regulatory requirement, the two agencies integrate their business operations and function as a main agency and the branch/sister office.

7.1.3 Economies of scale and regional effects

Another facet of regional variation observed in the qualitative data collected is that compared to other districts, more agencies operating in Kurunegala are closely associated with other agencies in the same area, such as in recommending other agencies for sectors they do not cover. Perhaps this is facilitated by the large ecosystem of licensed recruitment agents existing in Kurunegala, with 163 licensed agencies serving the area as of October 2019. This large ecosystem for recruitment for foreign employment also attracts more aspiring migrants to Kurunegala from neighbouring districts. To some extent, this large demand and supply environment has enabled agencies in Kurunegala to find their own niche in labour migration and focus on specific sectors. Conversely, in districts with few licensed agents, the existing agents tend to serve multiple sectors as it is advantageous for them to diversify across sectors to attract more clients. For instance, even though Puttalam is a district with a high number of departures, its vicinity to Colombo and Kurunegala, where there are more popular agencies, means that migrants go to agencies in such areas. Hence, for the few agencies operating in Puttalam, it makes more business sense to expand their customer base by recruiting across multiple sectors. In terms of recruitment fees and costs, there are no significant differences noted when compared to agencies specializing in one or just a few sectors. However, high-volume agencies tend to have larger offices and higher numbers of staff, so have higher maintenance costs, which might trickle down to the migrant (for instance in the service fee taken by some agencies). Nevertheless, such higher costs are more likely to be evened out, as the costs per migrant in these high-volume agencies are more likely to be lower.

7.1.4 Changes in migration decisions

Many licensed agents mentioned that migrants change their mind about foreign employment during various stages of the recruitment process and the in-service period. Apart from some who have genuine reasons, some migrants allegedly disappear or refuse to go to the destination once the recruitment process is over, or after collecting upfront incentives. Many recruitment agents interviewed indicated that they continue to hold bundles of passports provided by such potential migrant workers, who are no longer interested in migration and do not contact agents to reclaim their passports. Some other migrants intentionally arrive at their destination intending to return before the completion of their contract.

To address these issues, licensed recruitment agents have adopted various approaches. In the case of female domestic workers, who are provided an incentive by the employer, some agents do not disburse the final instalment of this payment to the migrant (or the family) until the migrant has left Sri Lanka. In some cases, this final instalment is paid after three months, to align with the time period where the recruitment agent would need to provide a replacement worker to the employer. Many agents reported their experience of having to replace migrants who leave employers or return to Sri Lanka before the end of their contract, with a new worker from Sri Lanka at the agent's own cost. Additionally, many agents said that migrants who wish to return to Sri Lanka before the end of their contract often provide erroneous information to their family in order to blame their sudden decision to return on either the agent in Sri Lanka or the employer in the COD. In turn, the family will make a formal complaint to the SLBFE. For both scenarios, it is the licensed agent in Sri Lanka who is held accountable by the SLBFE. To avoid such undue complaints, recruitment agents have

adopted methods such as video recording the verbal agreement with the migrant about the working conditions and benefits involved in the job before departure, which they use as supportive evidence when they have to convince migrant’s families or the SLBFE conciliation division of the true facts about the employment agreement. Similarly, some agents channel all complaints by migrants and families through telephone numbers where conversations are recorded, which they use at the SLBFE’s conciliation board inquiries to defend themselves. Most agents revealed that retaining video clips of migrants’ understanding and agreement to working conditions is an effective business strategy to minimize issues raised by migrants after reaching the employer. Agents who are using these strategies reported that they have faced fewer issues after adopting them.

Nevertheless, it is important to note a caveat: this analysis is based mainly on the recruitment agents’ point of view. The literature shows that migrant workers are often abused in various ways at the COD, necessitating their decision to leave the employer or the COD altogether (Ukwatte, 2012; Caritas, 2012; Bruce, 2013; Gunasinghe, 2013).

In addition, many agents felt they were not treated fairly compared to migrants, as the SLBFE procedures only facilitate the banning of licensed agents proven of wrongful conduct, but no similar mechanism was available for agents to complain against migrants and ban their attempts to continue scams cheating recruitment agents or employers in CODs. Such migrants continue their scams related to recruitment and add to the agents’ costs. Nevertheless, KIIs with other stakeholders in recruitment showed that there is a way to temporarily ban migrant workers by their passport number following an agent’s complaint. This indicates that licensed recruitment agents are not fully aware of the channels available to redress their issues or complaints about clients.

7.1.5 Complaints by employers or agents in CODs

Agents in Sri Lanka are also facing challenges when employers/agents in a COD complain that the candidate sent to them is not ideal for the job. Such complaints reflect that the screening and selection process in Sri Lanka for migrants’ conduct is sub-optimal. In order to avoid such issues from employers in CODs, one agent revealed during a KII that his agency video records recruitment interviews conducted in Sri Lanka, and emails these clips to the agent in the COD to review and make the final recruitment decision. As mentioned by this agent, sending video clips of shortlisted clients’ interviews is an effective strategy to avoid allegations that unsuitable candidates have been sent.

Similarly, many recruitment agents interviewed for the study revealed that they host a representative of the foreign employer in Sri Lanka, such as the human resources manager, to personally interview and select candidates from the pool of clients screened by the Sri Lankan recruitment agent. Those agents who facilitate the employer in conducting interviews in Sri Lanka also revealed that this absolves them of the responsibility of having selected any recruits who may end up breaching the contract, such as by quitting before the period stipulated. Nevertheless, it is also important to understand that not all migrant workers who refuse to work or who quit before the agreed contract period do so out of a lack of commitment. In fact, some migrant workers are compelled to take such drastic measures due to genuine issues faced in the COD, such as when the employer fails to provide the work package and working (and living) conditions promised (see box 1 for an example).

► **Box 1. Solving migrant issues in the COD: The experience of one Sri Lankan agent**

A rare example of an instance where an agent in Sri Lanka had to visit the COD to solve an issue between employees and employer was revealed in one KII. In 2003, a road cleaning project in Saudi Arabia had recruited a total of 2,100 Sri Lankan workers from multiple agencies, and the agent interviewed for the KII had recruited 600 of them. However, among the employer’s responsibilities, the accommodation and mess facilities promised as part of the living conditions under this employment contract had not been ready, resulting in workers being offered inappropriate accommodation and meals. Additionally, the migrants also complained that sub-agents had given false information about the job description. As a result of these two issues, all 2,100 workers had gone on strike and refused to report for work. Unable to resolve this issue, at the request of the employer in Saudi Arabia the agent who had recruited the 600 workers had to visit the COD and spend a week there to resolve this issue. He carried out discussions and negotiations with the employer as well as with the Sri Lankan employees, which resulted in assigning some workers to other projects of the same employer, and arranging for the return of 187 workers. The agent had to incur a cost for returnee migrants varying between LKR 5,000 and 15,000 per migrant. This reflects the preference of foreign employers to involve a local agent, given the possibility of sharing responsibility for solving employee issues.

7.1.6 Negative perception towards agents

During the KIIs many agents revealed that they are perceived negatively by the SLBFE and Ministry officials as well as the media, and often referred to in an unprofessional tone (frequently as agency *kaarayo* – which is a derogatory way of referring to recruitment agents). While acknowledging that some agencies do engage in unfair practices, agents claimed that the services of the genuine agencies are undervalued. Many agents highlighted that lack of an education qualification requirement, insufficiency in the amount (LKR 750,000) required as bank guarantee, and the requirement of a bank guarantee instead of a cash deposit are key limitations in the process of becoming a licensed recruitment agent. Such limitations have contributed to a deterioration in the quality of recruitment agents in Sri Lanka.

7.1.7 Unprofessional marketing by competing agents

There is currently no regulation of recruitment agent’s conduct towards or dealings with the foreign agent or employer. This has created a situation where employers – who during the early years paid recruitment fees when recruiting workers from Sri Lanka – have collected kickbacks from recruitment agents in Sri Lanka. As mentioned by one agent, employers previously provided visas and air tickets as well as the value of one month of salary as commission to the recruitment agent. In an attempt to undercut competition, agents in Sri Lanka have over time agreed with employers to forgo many of the benefits previously offered to both the migrant and the agent, to a point where the employer only needs to provide the visa, while all related costs are borne by the stakeholders in Sri Lanka and ultimately are passed on to the migrant. Going even further, some agents have started the practice of hosting representatives of employers in Sri Lanka and offering cash bribes for recruitment, which increases under competition. Such competitive marketing is not limited to agents only in Sri Lanka, but has expanded to include competitor agents from other origin countries.

In hosting employer representatives in Sri Lanka, mainly to facilitate interviews, these agencies incur an additional cost in terms of accommodation, food and transport, as well as venue hire costs, to name a few. Nevertheless, some agents feel that hosting employers for interviews is an unfair practice that adversely affects the competitive structure among agencies in Sri Lanka. As such, one agent identified the practice of hosting employers for interviews as a “cheap trick” adopted by certain agencies to attract more job orders. Some agents were of the view that the minimum wages imposed on Sri Lankan migrant workers makes agents less competitive against agents from other origin countries.

7.1.8 Maximum chargeable recruitment fee

The maximum charges specified in the job order approved by the SLBFE cannot always be met practically by recruitment agents. Specifically, many agents noted that the maximum chargeable fee calculation formula applicable (at the time of data collection) did not reflect the seasonality of air tickets. One agent indicated that they delay departures of migrants during peak periods, waiting for airline ticket prices to decline. Almost all agencies interviewed admitted to exceeding the amount approved by SLBFE to cover expenses, owing to price hikes in air tickets and informal kickbacks to employers’ representatives. This indicates that the formula followed to calculate the maximum chargeable fee needs revisiting. The Chairman’s Circular 14/2019 issued by the SLBFE, after the field work was completed for this study, seems to have addressed some of these issues, such as by allowing the “actual cost of air ticket” to be considered (see Annex 2). However, with the formula operational at time of data collection, some agents reported that they were adopting measures such as issuing receipts for recruitment fees only for the maximum chargeable fee provided by SLBFE but still charging higher recruitment fees to migrant workers. This issue can only be addressed by making the actual cost borne by recruitment agents transparent to all parties concerned, including employers, regulators and migrants. Such transparency would encourage employers to streamline excessive costs from their end, i.e. kickbacks to HR managers; and would alert regulators in Sri Lanka to the transactions and interactions between Sri Lankan recruitment agents and others involved both within and outside Sri Lanka.

7.1.9 Strategic marketing of Sri Lankan workers

Some agents were of the view that the SLBFE needs to adopt a more effective international marketing strategy to promote migrant workers from Sri Lanka. The Annual Performance Report of the Ministry of Telecommunication, Foreign Employment and Sport, 2018, indicates that the SLBFE has not recently carried out activities directly related to finding employment opportunities outside Sri Lanka for Sri Lankan employees. The activities carried out in 2018 were only local efforts, such as conducting various awareness programmes, establishing “partnership with vocational training institutes, local employers and other stakeholders aiming at unemployed youth for foreign employment” (Ministry of Telecommunication, Foreign Employment and Sport, 2018, p. 102). In terms of broad strategic partnerships outside Sri Lanka, the same report indicates that so far, the Ministry and the SLBFE have signed 20 agreements or MoUs, out of which two were signed in 2018. Similarly, Sri Lanka has participated in many regional dialogues and international forums. Overall, the report shows that there is a dearth in direct promotional activities concerning Sri Lankan workers in the global labour market, and somewhat validates the request by agents for better promotion and marketing of Sri Lankan workers globally. The corporate plan of the SLBFE for 2017 to 2022 identifies sector promotion and development as strategic focuses to accrue increased economic and social benefits. This shows that the necessary framework for an effective marketing campaign is available within the SLBFE and the Ministry of Telecommunication, Foreign Employment and Sport.

7.2 Challenges to adopting an “employer pays” model

As indicated in the above discussion, recruitment agents face various issues and challenges in the recruitment process, for some of which they have devised their own coping mechanisms. For most of the issues that relate to sustainability, profitability and costs, the recruitment agent bears an extra cost. In addition to direct recruitment-related costs, agents also have to bear operational costs. Ideally, the maximum chargeable fee should cover all related recruitment costs when these costs are disaggregated to the migrant level. Nevertheless, as shown some cost items are not directly covered in the maximum chargeable fee, while some operational cost components cannot easily be

disaggregated at the per migrant level. For instance, the legislative deficits in terms of prohibiting recruitment agents in Sri Lanka from having branches paves the way for hidden business operations, and related costs and profits for those who can afford to operate sister agencies. As such, larger agencies may benefit from economies of scale, discouraging small players’ growth in the sector. Some agents lump some of these additional costs with other costs or hide them inside other cost components and pass them on to the migrant. Other agents do not resort to such practices but charge the maximum chargeable amount plus an additional amount, being open to migrants about charging over and above the maximum chargeable amount. For instance, some agencies charge the migrant a “service fee” which is usually to cover the costs of maintaining a decent office space and staff. This kind of comment came from agencies which have relatively better office facilities (air conditioning, well-furnished, etc.).

There are also agents who absorb some component of the maximum chargeable amount when the migrant is unable to pay. For instance, as noted by one agent during field work, migrants are sometimes unable to pay the full recruitment fee. In such cases, the recruitment agent would arrange with the migrant to pay back in instalments after securing the employment in the COD, or in some cases the agent would bear the deficit, because rather than losing the business of that client altogether, subsidizing the recruitment fee is in the interest of the sustainability of the business. This means that the reputation and rapport with the employer or agency in the COD remains untarnished, and also that the migrant will have high regard for such an agent and recommend him to other potential migrants.

The examination of recruitment agents’ additional costs, and the dynamics of agents hosting employers for interviews, shows a high likelihood of these costs being passed on to the migrant, and a slim possibility of the recruitment agent in Sri Lanka absorbing them. The likelihood of passing these costs to the employer in the COD never emerged from the qualitative data collected. Nonetheless, one of the aims of this study is to assess the possibility of transferring recruitment costs to the employer. Before attempting to pass the entire cost to the employer, an ideal testing ground is to pass to the employer the above-mentioned extra costs. However, the analysis shows that the natural business practice of recruitment agents in Sri Lanka is either to pass such additional costs to the migrant or in rare cases absorb it themselves.

The underlying reason for not considering passing the additional cost to the employer is the heavy competition faced from other agents in Sri Lanka as well as other countries, and the fear that increasing the cost to the employer would result in losing the JO as well as jeopardizing future ones, which would affect the sustainability of the business. Moreover, for most sectors the recruitment culture is such that the employer bears a minimum burden, and there is very limited scope for changing this status quo. For instance, as noted by one agent during the KIIs, before labour migration from Sri Lanka became so competitive, employers were willing to provide the air ticket and pay the related recruitment fees to recruit a worker from Sri Lanka, but this model has changed due to the extreme competition to secure JOs among agents both in Sri Lanka and other sending countries. One strategy to address this competition is to better understand the nuances of the costs involved. This involves identifying the cost components that have emerged as a result of the competition to attract JOs, such as providing kickbacks to HR managers in an employer’s company in the COD; and introducing mechanisms in COOs to discourage recruitment agents from transferring auxiliary costs to the potential migrant. The same better understanding about cost components across countries of origin can be used collectively in forums such as Colombo Process to lobby for changes in the recruitment culture in CODs.

Sri Lanka already has one well-established employer pays model – the case of female domestic workers going to the Middle East. Many other sectors sporadically operate on this model. These success cases of the employer pays model are at two ends of the spectrum. At one extreme, a single individual operating as the employer recruits a female domestic worker by paying all recruitment-related costs, while at the other extreme, large companies in selected sectors bear the full recruitment cost of migrant workers. This indicates that adoption of the employer pays model is not a matter of employers’ scale or financial ability, but more to do with commitment. The expansion of the employer pays model to the entire sector of female domestic workers for the Middle East corridor is the end result of employers being committed to pay the recruitment fee upfront to source their preferred domestic workers from Sri Lanka. Similarly, large-scale companies are committed to

cover the recruitment fees for their foreign employees due to their interest in the well-being of their workers (which ultimately has economic value) as well as their interest in the preference of their final customers.

Another reason for the success of the employer pays model in some sectors is the employer’s level of involvement in the recruitment process. In recruiting female domestic workers the employer is closely linked to the recruitment process; while in sectors where high recruitment costs are passed on to the migrant worker, an additional stakeholder (human resource manager) representing the interest of the employer is involved. Often the actions of the human resource manager reflect his own personal interest rather than that of the employer, which is known in microeconomic theory as the principal-agent problem.¹¹ As such, one important challenge to overcome in passing the cost to employer is lack of transparency between representative and employer.

Another contributory factor to the employer pays model for female domestic workers from Sri Lanka to the Middle East is the guarantee of replacement of a worker during the first three months, if the chosen candidate is unable to serve the employer. This continued commitment by the recruitment agent in Sri Lanka towards the employer in the COD can be considered as among the attractive features that have enabled the recruitment fee to be passed to the employer. For the employer, this can be translated into keeping the overall cost of recruitment low. In the case of large-scale multinational companies, the employer pays model sits well with the level of consciousness of their final consumers, that can be translated into greater overall profitability and sustainability of their business.

To conclude this section, the two key challenges to passing the recruitment cost to the employer is the limited transparency in the recruitment process and the high level of competition and related absence of a level playing field in recruitment. In exploring the possibility of transferring the recruitment cost burden to the employer, two aspects to consider are the related overall cost and the employer’s profitability.

¹¹ The principal-agent relationship is where one individual (principal) hires another (agent) to make economic decisions. The asymmetry in information leads to the principal-agent problem when the action of the agent is focused on his self-interest and not on the best interests of the principal.



8

▶ 8. Summary and recommendations

8.1 Summary

Recruitment for foreign employment has been operational in Sri Lanka since the late 1970s, and recruitment agents have been formalized and licensed by the SLBFE since 1985. Ever since, licensed recruitment agents have played a crucial role in the recruitment of migrant workers from Sri Lanka. Nevertheless, studies that focus on recruitment from the perspective of licensed recruitment agents in Sri Lanka are limited. In order to address this lacuna, this study has focused on the recruitment business processes of licensed recruitment agencies in Sri Lanka, with the objective of examining the viability of relieving workers of the burden of recruitment costs.

The study finds that there are four recruitment modalities operational in Sri Lanka, namely employer to employee direct employment (Er-Ee), recruitment via only a recruitment agent in Sri Lanka (Er-A), recruitment via recruitment agents both the COD and Sri Lanka (A-A), and government to government (G-G). The examination of these different recruitment modalities via KIIs revealed that they have come into effect mainly to solve efficiency and trust issues in the recruitment process. For instance, in the Er-Ee arrangement, the employer and employee do not have any third party to vouch for each party's conduct or trustworthiness. As such, the two parties often already know each other through personal contacts to an extent that the employer is willing to take the risk of sponsoring a work visa for the potential employee, and the potential worker is willing to trust that the employer will honour his or her commitment in terms of the agreed work package. Nevertheless, often employers have previous experience of employees not honouring the work contract, or it is more efficient for large-scale employers to outsource the recruitment process to a recruitment agent in Sri Lanka to centralize large recruitment runs. This paves the way for the Er-A arrangement. Despite being more favourable to the employee than the Er-Ee model, the employer still needs to trust a recruitment agent in Sri Lanka and navigate the recruitment aspects in the COD by himself. In order to eliminate this component, the employer can outsource the recruitment process to an agency in the COD, who will contact an agency in Sri Lanka and carry out the recruitment process. The involvement of agents can also be seen as a labour supply chain issue, which opens up opportunities for corruption, mismanagement and lower accountability in the process. In addition, the migrant worker and the employer may each end up paying a recruitment fee to the two agencies involved. To eliminate these issues, some employers or governments prefer recruitment to be handled only by a government administration, which paves the way for G-G arrangements.

The recruitment process followed by licensed agents in Sri Lanka broadly involves initiation of the process by liaising with counterparts in the COD, obtaining JO and Ad approval from the SLBFE, sourcing, screening and selecting migrants, fulfilling documentation requirements, and obtaining final approval from the SLBFE. Throughout each stage of the process recruitment agents incur associated costs. The SLBFE stipulates a maximum amount that the recruitment agent can charge the migrant worker. However, not all cost components incurred by recruitment agents are covered under the maximum chargeable fee calculation. As such, some recruitment agents interviewed in this study informally charge the migrants fees in excess of the maximum chargeable fee declared by the SLBFE. In addition to this cost-related issue, other challenges faced by recruitment agents include migrants not following through with the recruitment process, complaints by agents and employers in the COD, negative perceptions of recruitment agents, the restrictive nature of the FBR, issues with the pre-departure training, excessive competition and related unprofessional marketing by recruitment agents, and the absence of a national marketing campaign/strategy for migrant workers from Sri Lanka. To address some of these challenges, agents have devised their own strategies. However, the overall challenge of freeing up the migrant from the recruitment cost burden still remains a challenge in most foreign employment recruitment sectors in Sri Lanka.

In analysing the possibility of passing the recruitment cost to the employer, two key challenges are the limited transparency in the recruitment process, and the high level of competition and the related

absence of a level playing field in recruitment. However, an aspect that shows promise and thus is worth exploring is the impact of such a move on the overall costs and profitability of the employer.

8.2 Recommendations

This section proposes some recommendations directed towards licensed recruitment agents, the SLBFE, and the industry itself, with the objectives of curbing the tendency of recruitment agents to charge fees beyond the maximum chargeable amount stipulated by the SLBFE, and of moving towards a model of employer pays all in recruitment for foreign employment.

8.2.1 Licensed recruitment agents

- ▶ Many recruitment agents interviewed for this study attached a high value to their reputation in terms of being fair and ethical recruiters in their business operation. Such agents should create a niche for themselves as fair and ethical recruiters who do not charge recruitment fees from migrant workers.
- ▶ Agents should create a momentum to stop hidden payments to employers' representatives such as HR managers, and as a first step encourage recipients of such payments to include and disclose them in the total recruitment cost. As a second step, licensed recruitment agents should complain about such hidden payments to the police or the SLBFE.
- ▶ Agents should advocate to employers and recruitment agents in CODs about the success stories of recruitment under the employer pays model, their greater sustainability, and fewer issues with migrant workers while in the COD.
- ▶ Agents should offer continued commitment to employers in CODs with regard to replacing workers if needed, in return for negotiating an employer pays model.

8.2.2 Industry

- ▶ Interviews with recruiters showed that the costs incurred by recruitment agents are often above the maximum chargeable fee that the law currently allows workers to be charged. In fact, under the latest Chairman's Circular No, 14/2019 most costs incurred by agents are likely to be put into the administrative and promotional fee component in the maximum chargeable fee calculation. This creates an environment for many costs components to go unregulated and thus hidden within chargeable components or passed on to the migrant outside the maximum chargeable guidelines. The ILO General principles and operational guidelines for fair recruitment (2019) clearly reiterate the principle, already provided for under the Private Employment Agencies Convention, 1997 (No. 181), that no fees or related costs should be charged to workers. In this context, avenues to bring the current law and practice more into line with international standards and guidelines should be further explored. Further dialogue should be promoted to better assess the impact of costs for all parties involved and hence seek ways to reduce recruitment costs for all and redistribute them across different parties including employers, taking into account both the operational costs of agencies and the risks that fee charging can cause to workers.
- ▶ Even though the ILO (n. d.) notes that recruitment agents favour the FBR for its capacity to hold back potential migrants who are more of a "flight risk" in the COD (i.e. through premature return), resulting in a lower financial cost to agents, those interviewed for this study were of the view that the FBR requirement adds to the recruitment cost for females who are eligible to migrate for employment. Additionally, respondents of this study also felt that the FBR requirement eliminates the income they could have earned from those held back. As such, it is recommended that the FBR requirement is revisited to make it complementary to the migration and recruitment process rather than being overly restrictive. One suggestion in this connection is to integrate the welfare goals of FBR into the existing Family Care Plan implemented by the District Officers under the Shramika Surakuma programme, and address and revise the recruitment-related rules and regulations of FBR accordingly.

- ▶ Following the example of the Philippines, the recruitment industry in Sri Lanka ought to introduce mandatory requirements for employers to pay some pre-determined cost components such as visa fee, air fare and transportation from the airport to the job site, to name a few.
- ▶ An effective international marketing strategy to promote migrant workers from Sri Lanka should be adopted and implemented, so that recruitment agents are relieved of resorting to unfair competitive behaviour with agents from other COOs, which leads to additional costs for the agent and is highly likely to be passed to their clients – the migrant workers.

8.2.3 Industry-wide via the SLBFE

As the regulator of the recruitment process for foreign employment and given its role of ensuring the welfare and well-being of migrant workers and their families, the SLBFE is in a unique position to impact the industry via both licensed recruitment agents and migrant workers, in the effort to reduce recruitment fees and shift the cost towards employers. Transferring recruitment costs away from migrants and towards employers cannot be achieved overnight. On the one hand, efforts by the SLBFE should be made to help recruitment agents bring down their business operational costs. At the same time, the SLBFE should also focus on curbing recruitment agents from charging beyond the maximum chargeable amount, so that the cost of violating the maximum chargeable fee via penalties or blacklisting is higher than the potential financial benefit. For recruitment business to adopt these changes, the following are some recommendations that need to be implemented via the SLBFE:

- ▶ The procedure and requirements for obtaining a license to become a recruitment agent is not stringent enough to ensure high-quality applicants nor high-quality service delivery. The inclusion of a few undesirable recruitment agents in the field forces high-quality recruitment agents to incur an additional cost to set themselves apart from the former group. As such, it is recommended that the SLBFE revisit the regulatory requirements by consulting relevant stakeholders to review the required education qualifications to become a licensee, the appropriateness of a bank guarantee versus a security deposit, and the adequacy of the required amount in a bank guarantee or bank deposit. In addition, to minimize quality issues among licensed recruitment agents, those interested in running a recruitment agency via a power of attorney should be encouraged to fulfil the criteria to become a licensed recruitment agent. At the same time, licensees should be given the option to voluntarily freeze their license for a temporary period of time.
- ▶ At the same time, it is recommended that the SLBFE revive the annual national awards scheme to provide recognition to licensed recruitment agents' good conduct in the recruitment process. This would contribute towards agents being viewed in a positive manner and enable them to set themselves apart as those who practise fair and ethical recruitment.
- ▶ The SLBFE regulation that restricts the establishment of branch offices by recruitment agents is limiting the capacity of recruitment agencies located further away from Colombo to run an efficient business operation and gives an undue advantage to agencies located close to and in Colombo. The latest statistics indicate that migrant departures from districts such as Batticaloa are rising. As such, the additional recruitment cost brought about by this restriction falls mainly on the migrants; the SLBFE should therefore revisit this regulation and adopt necessary revisions to enable agents to branch out if needed.
- ▶ Licensed recruitment agents are not fully aware of channels available to redress their problems when dealing with migrant workers' issues. Due to the absence of widespread and updated knowledge about handling issues with migrants, recruitment agents incur extra costs in the recruitment process. The SLBFE should work to educate recruitment agents about the available mechanisms to report issues about migrants to the SLBFE, in order to help agents to keep their related recruitment costs low.

- ▶ Moreover, the cost components under the Chairman's Circular No. 14/2019, 2.a. Advertisement expenses, and 2.f. Administrative and promotional expenses, are likely to be similar expenses and can lead to double counting. As such, it is important for the SLBFE to clearly define and identify what expenses can be listed under each component.

- ▶ The current regulatory framework of SLBFE does not capture advertising via modern forms of media such as social media. It is recommended that the SLBFE update the regulatory requirements to include social media to ensure a level playing field for agents in terms of the advertising costs they can charge clients.

- ▶ Overall, it is recommended that the SLBFE create an environment that increases transparency about the recruitment process and the fees charged by agents, and that thereby the maximum chargeable fee calculation be broadened to encompass realistic detailed cost components. Regulations on recruitment agents hosting employers for recruitment interviews in Sri Lanka should be introduced.

- ▶ For Sri Lanka to effectively reduce recruitment costs for migrant workers, the SLBFE needs to develop a mechanism to regulate the business models adopted by licensed agencies in Sri Lanka with employers and agents abroad. It appears that this cannot be achieved by the SLBFE or the Sri Lanka Government working in isolation. Instead, Sri Lanka would have to work with other sending countries and CODs to successfully address this. To this effect, the existing MoU needs to be effectively utilized, and future MoUs should include clauses relevant to regulating business models adopted by licensed agencies in Sri Lanka with employers and agents abroad.

8.2.4 International efforts

The above recommendations are aimed at decreasing the recruitment costs incurred by the recruitment agents and thereby reducing their need to pass an additional cost burden beyond the maximum chargeable amount to the migrant. These are recommendations to be applied in Sri Lanka that will aid in understanding how to reduce the recruitment cost. Nevertheless, recruitment for foreign employment involves players beyond the geographic boundaries of Sri Lanka. Specifically, adopting an employer pays model for recruitment fees involves the key stakeholder – the employer based outside Sri Lanka. In reaching the overarching goal of shifting the recruitment cost burden away from workers, understanding about the actual fees charged and costs borne by the recruitment agent is only one part of the strategy. The other part involves the employer in the COD.

- ▶ Focusing on Sri Lanka alone offers limited scope. To successfully adopt an employer pays model, destination countries' policies and regulations can have great influence. Specifically, CODs can adopt rules and regulations on the recruitment process of foreign employees and the proportion of the cost to be borne by employers, making the recruitment process and payments more transparent.

- ▶ At the same time, the international consumers of the products and services offered by these foreign employers of Sri Lankan workers can influence hiring decisions of employers to trigger a move towards an employer pays model. The growing awareness among consumers about unfair recruitment and its close link to trafficking and forced labour can encourage employers to become more responsible about sourcing their workers throughout their value chain. As such, a comprehensive strategy should be adopted to engage consumers in the goal of shifting recruitment fees to employers.

- ▶ In order to make a move towards an employer pays model, commitment by employers and consumers alone is insufficient. Individual employers' commitment has to be escalated to the level of an industry-wide dialogue. Similarly, migrant workers also need to be informed and educated to value, expect and demand recruitment under the employer pays model, and they should be provided with the required support to collectivize through organizations or unions. Moreover, international experience shows that once an employer decides on a course of action to adopt the employer pays model, he/she has to engage with external stakeholders ranging

from employees, government, NGOs, worker organizations, unions, international organizations, investors and competitors to address the issue on multiple levels. Therefore, a global strategic partnership should be developed across these stakeholders to develop this ecosystem that facilitates an employer pays model.

These global strategies to shift the recruitment cost to the employer would require a strong global partnership from various influential stakeholders. Thus, finally this study recommends that a globally accepted international organization, such as the ILO, should mediate between employers and employees to drive this agenda through its General principles and operational guidelines for fair recruitment (ILO, 2019), with the support of global initiatives such as the Sustainable Development Goals (SDGs) and the Global Compact for Migration (GCM) (UN , 2019).

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▶ ANNEX 1

Details of 72 KIIs conducted for the study, by district and sector

No	KII code/ name	KII NUMBER	DATE	GENDER	DISTRICT	CATEGORY	SECTOR	SAMPLING TYPE
1	Agency 1	KII 1	26.03.2019	M	Colombo	Agency	Construction	Single
2	Agency 2	KII 1	02.05.2019	M	Colombo	Agency	Construction	Single
3	Agency 3	KII 1	27.06.2019	F	Kurunegala	Agency	Construction	Single
4	Agency 4	KII 1	01.04.2019	M	Kurunegala	Agency	Construction	Multiple
5	Agency 5	KII 1	09.04.2019	M	Puttalam	Agency	Construction	Multiple
6	Agency 6	KII 1	16.05.2019	M	Puttalam	Agency	Construction	Oversampled
7	Agency 7	KII 1	04.07.2019	M	Kandy	Agency	Construction	Multiple
8	Agency 8	KII 1	01.04.2019	M	Kandy	Agency	Construction	Oversampled
9	Agency 9	KII 1	10.07.2019	M	Batticaloa	Agency	Construction	Multiple
10	Agency 10	KII 1	17.06.2019	M	Batticaloa	Agency	Construction	Multiple
11	V-test.com	KII 1	22.05.2019	M	Colombo	Sector-specific	Construction	Single
12	Sanken	KII 1	22.05.2019	M	Colombo	Sector-specific	Construction	Single
13	Agency 11	KII 1	08.05.2019	M	Colombo	Agency	Care	Multiple
14	Agency 12	KII 1	19.03.2019	M	Colombo	Agency	Care	Single
15	Agency 13	KII 1	01.04.2019	M	Kurunegala	Agency	Care	Single
16	Agency 14	KII 1	27.06.2019	F	Kurunegala	Agency	Care	Single
17	Agency 15	KII 1	09.04.2019	M	Puttalam	Agency	Care	Multiple
18	Agency 16	KII 1	06.08.2019	M	Puttalam	Agency	Care	Oversampled
19	Agency 17	KII 1	04.07.2019	M	Kandy	Agency	Care	Single
20	Agency 18	KII 1	21.06.2019	F	Kandy	Agency	Care	Single
21	Agency 19	KII 1	10.07.2019	M	Batticaloa	Agency	Care	Single
22	Agency 9	KII 2	10.07.2019	M	Batticaloa	Agency	Care	Multiple
23	Pannipitiya Training Centre 1	KII 1	24.05.2019	F	Colombo	Sector-specific	Care	Multiple
24	Lanka Hospital	KII 1	24.05.2019	M	Colombo	Sector-specific	Care	Single
25	Agency 20	KII 1	18.03.2019	M	Colombo	Agency	Hospitality	Single
26	Agency 21	KII 1	22.03.2019	M	Colombo	Agency	Hospitality	Single
27	Agency 22	KII 1	01.04.2019	M	Kurunegala	Agency	Hospitality	Single

No	KII code/ name	KII NUMBER	DATE	GENDER	DISTRICT	CATEGORY	SECTOR	SAMPLING TYPE
28	Agency 23	KII 1	27.06.2019	F	Kurunegala	Agency	Hospitality	Single
29	Agency 15	KII 2	09.04.2019	M	Puttalam	Agency	Hospitality	Multiple
30	Agency 6	KII 2	16.05.2019	M	Puttalam	Agency	Hospitality	Oversampled
31	Agency 24	KII 1	11.06.2019	M	Kandy	Agency	Hospitality	Single
32	Agency 7	KII 2	04.07.2019	M	Kandy	Agency	Hospitality	Multiple
33	SLBFE	KII 1	27.05.2019	F	Batticaloa	Official	Hospitality	Oversampled
34	Agency 10	KII 2	17.06.2019	M	Batticaloa	Agency	Hospitality	Multiple
35	SL Hotel & Tourism	KII 1	22.05.2019	M	Colombo	Sector-specific	Hospitality	Single
36	Swiss Lanka	KII 1	22.05.2019	M	Colombo	Sector-specific	Hospitality	Single
37	Agency 11	KII 2	08.05.2019	M	Colombo	Agency	Housemaid	Multiple
38	Agency 25	KII 1	26.03.2019	M	Colombo	Agency	Housemaid	Single
39	Agency 26	KII 1	01.04.2019	M	Kurunegala	Agency	Housemaid	Single
40	Agency 27	KII 1	01.04.2019	M	Kurunegala	Agency	Housemaid	Single
41	Agency 5	KII 2	09.04.2019	M	Puttalam	Agency	Housemaid	Multiple
42	Agency 28	KII 1	09.04.2019	M	Puttalam	Agency	Housemaid	Single
43	Agency 29	KII 1	18.06.2019	M	Kandy	Agency	Housemaid	Single
44	Agency 30	KII 1	11.06.2019	M	Kandy	Agency	Housemaid	Multiple
45	Agency 31	KII 1	17.06.2019	M	Batticaloa	Agency	Housemaid	Single
46	Agency 32	KII 1	27.09.2019	M	Batticaloa	Agency	Housemaid	Multiple
47	Pannipitiya Training Centre 1	KII 2	24.05.2019	F	Colombo	Sector-specific	Housemaid	Multiple
48	SLBFE	KII 2	27.05.2019	M	Colombo	Sector-specific	Housemaid	Single
49	Agency 33	KII 1	21.03.2019	M	Colombo	Agency	Low-skilled	Single
50	Agency 34	KII 1	27.03.2019	M	Colombo	Agency	Low-skilled	Single
51	Agency 35	KII 1	27.06.2019	M	Kurunegala	Agency	Low-skilled	Single
52	Agency 4	KII 2	01.04.2019	M	Kurunegala	Agency	Low-skilled	Multiple
53	Agency 15	KII 3	09.04.2019	M	Puttalam	Agency	Low-skilled	Multiple
54	Agency 6	KII 3	16.05.2019	M	Puttalam	Agency	Low-skilled	Oversampled
55	Agency 30	KII 2	11.06.2019	M	Kandy	Agency	Low-skilled	Multiple
56	Agency 7	KII 3	04.07.2019	M	Kandy	Agency	Low-skilled	Multiple
57	SLBFE	KII 3	27.05.2019	F	Batticaloa	Official	Low-skilled	Oversampled
58	Agency 32	KII 2	27.09.2019	M	Batticaloa	Agency	Low-skilled	Multiple
59	Pannipitiya Training Centre 2	KII 1	24.05.2019	M	Colombo	Sector-specific	Low-skilled	Single
60	ACTFORM	KII 1	24.05.2019	F	Colombo	Sector-specific	Low-skilled	Single
61	SLBFE	KII 4	16.01.2019	M	Colombo	Official	Not applicable	Single

No	KII code/ name	KII NUMBER	DATE	GENDER	DISTRICT	CATEGORY	SECTOR	SAMPLING TYPE
62	SLBFE	KII 5	30.04.2019	M	Colombo	Official	Not applicable	Single
63	SLFEA	KII 1	30.04.2019	M	Colombo	Official	Not applicable	Single
64	MoFE	KII 1	17.12.2018	F	Colombo	Official	Not applicable	Single
65	MoFE	KII 2	15.05.2019	M	Colombo	Official	Not applicable	Single
66	SLBFE	KII 6	09.05.2019	M	Colombo	Official	Not applicable	Single
67	CARITAS	KII 1	23.05.2019	M	Colombo	Official	Not applicable	Single
68	Migrant 1	KII 1	05.07.2019	F	Colombo	Migrant	Not applicable	Single
69	Migrant 2	KII 1	27.06.2019	F	Kurunegala	Migrant	Not applicable	Single
70	Migrant 3	KII 1	10.07.2019	F	Puttalam	Migrant	Not applicable	Single
71	Migrant 4	KII 1	04.07.2019	F	Kandy	Migrant	Not applicable	Single
72	Migrant 5	KII 1	10.07.2019	M	Batticaloa	Migrant	Not applicable	Single

Note: Agencies' and respondents' names have been anonymized. Organization names are indicated where possible. Oversampling has taken place by substituting agencies from other districts, or with official KIIs. "KII number" refers to the number of KIIs conducted within each organization/entity.

Key: Single – agencies that have been interviewed only once. Multiple – agencies that have been interviewed twice or three times. Oversampled – oversampled from another district or category.

ANNEX 2

Chairman's Circular 14/2019

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Chairman's Circular No. 14/ 2019

To: All Licensed Foreign Employment Agencies

Recruitment charges permissible to be charged as per the provisions of section 51 of the SLBFE Act No.21 of 1985 as amended by Act. No 56 of 2009.

This refers to Chairman's Circular No. 05 /2019 dated 02.04.2019 issued to all Licensed Foreign Employment Agencies on the above subject.

Considering the representations made by the Licensed Foreign Employment Agencies, the SLBFE has decided to revise the method of calculating the maximum ceilings for the recruitment charges permissible to be charged from the Sri Lankans recruited by the Licensed Foreign Employment Agencies for employment outside Sri Lanka, on the following basis;

1. Not to permit the Licensed Foreign Employment Agencies to charge the following expenses from the persons whom are recruited by them for foreign employment since such expenses could be directly paid by the relevant worker to the relevant service provider;
 - a. Trade Test Fees
 - b. Training Fees
 - c. Fees payable to obtain Police Clearance Certificate
 - d. Cost of Medical Test
 - e. Document Attestation Charges payable to the Ministry of Foreign Affairs
2. To permit the Licensed Foreign Employment Agencies to charge the following expenses from the persons whom are recruited by them for foreign employment subject to the following maximum ceilings. The amount of commission or any other payment received from the foreign employer/agent (if any) will be subtracted from the total amount of following expenses;

	Expenses	Maximum Ceiling (Rs.)
a.	Advertisement expenses	20,000.00
b	Communication	5,000.00
c.	Courier Charges	3,000.00
d.	Translation of Visa/Waqala	2,000.00
e.	SLBFE Registration Fee	Applicable Fee + Taxes (Currently Rs. 15,200.00+NBT+VAT=17,837.00)
f.	Administrative & promotional expenses	<u>For Middle East & South Asian countries:</u> An amount equal to one (01) month's salary <u>For European and other countries other than Middle East and South Asian Countries.</u> An amount equal to two (02) months' salary*
g.	Visa endorsement charges (through Embassy/Visa Centre)	Actual visa endorsement fee
h.	Actual cost of Air ticket to join the employment, if the employer does not provide the air ticket or cost of air ticket	Actual cost of air ticket
i.	Any other actual expenses related the relevant recruitment.	To be considered as per the nature of recruitment and the expenses (Documentary evidence should be submitted)

Accordingly, the above method of calculating the maximum ceilings for the recruitment charges permissible to be charged from the Sri Lankans by Licensed Foreign Employment Agencies will be implemented with immediate effect, instead of the method of calculation of recruitment charges given in Chairman's Circular No 05 /2019 dated 02.04.2019.

Under the above circumstances, please submit your requests for approval of Job orders along with amended form F2 which is enclosed herewith (Annex 1).

- ▶ This report was produced by the ILO Global Action to Improve the Recruitment Framework of Labour Migration project (REFRAME), supported by the European Union. The REFRAME project aims at preventing and reducing abusive and fraudulent recruitment practices, and maximizing the protection of migrant workers in the recruitment process and their contribution to development.

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