



ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව
இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

මගේ අංකය }
எனது இல. }
My No. }

ඔබේ අංකය }
உமது இல. }
Your No. }

දිනය }
திகதி }
Date }

26th Nov 2020

Mr. Kamal Ratwatte
Chairman
Sri Lanka Bureau of Foreign Employment
234, Denzil Kobbekaduwa Mawatha
Koswatta, Battaramulla

Dear Mr. Ratwatte,

Right of Migrant Workers Stranded Overseas due to COVID – 19 Restrictions to Return to Sri Lanka

We write with reference to the numerous complaints which the Human Rights Commission of Sri Lanka (“Commission”) has received from Sri Lankan migrants and their families who are stranded overseas due to various travel restrictions imposed by the Government to prevent the spread of COVID-19 global pandemic.

The Commission commends all the efforts made by the Government of Sri Lanka to curb the spread of COVID-19 and recognizes the special need to restrict certain rights of people in the interests of public health and public order during this health emergency. However, in line with the functions of the Commission as stipulated under Section 10 of Act No. 21 of 1996, the Commission also recognizes its duty to inquire into complaints and make necessary recommendations to the Government regarding measures which should be taken to ensure that administrative practices are in accordance with our constitution and international human rights norms and standards.

In this regard, the Commission wishes to emphasize that under Article 14 (1) (i) of the Constitution, every citizen has a right to return to Sri Lanka.

This is similar to Sri Lanka’s treaty obligations. For instance, Sri Lanka is a State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (“Migrant Workers’ Convention”). Article 8 of this Convention recognises that all migrant workers and members of their families have the right to enter and remain in their State of origin at any given time. In addition, Article 67 of the said Convention requires State Parties to

adopt measures for the orderly return of migrant workers and members of their families when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation. Hence, the Commission wishes to highlight that Sri Lanka being a party to the Migrant Workers' Convention and served on the UN Committee on Migrant Workers since its inception, it is incumbent on the Government of Sri Lanka to take necessary measures in a timely manner to guarantee the right of Sri Lankan migrants and their families stranded overseas to return to Sri Lanka.

Furthermore, Article 12 of the International Covenant on Civil and Political Rights ("ICCPR") which Sri Lanka has ratified, provides that "no one shall be arbitrarily deprived of the right to enter his own country". In this regard, the Commission notes that the complainants have stated that they have paid the airfare, subjected themselves to PCR tests, and complied with all the requirements and guidelines issued to them. However, although they have been promised that they would be repatriated to Sri Lanka in early November, they state that they are still held in respective countries without even the basic amenities to survive. Further, many of them have either had their visas canceled or visas have expired, thereby converting them into illegal immigrants. They also complain that they have not had assistance from the Government during this ordeal.

As specified under Section 15 of Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 (as amended), one of the fundamental objectives of the Bureau is to undertake the welfare and protection of Sri Lankans employed overseas. The succeeding provision, Section 16 expressly grants power to the Bureau to do anything that is necessary for the carrying out of the above objective. Moreover, under National Labour Migration Policy of Sri Lanka, which is also highlighted in the Corporate Plan of the Bureau for the years 2017 to 2021; the State has, whilst recognizing its primary responsibility for the protection of migrant workers and their families, pledged to ensure the protection and wellbeing of them from the day of departure to the day of return to Sri Lanka. The Commission views this as a serious issue which requires immediate attention.

Thus, the Commission urges the Bureau to take immediate action to secure the safe repatriation of the migrants and their families stranded overseas in fulfillment of Sri Lanka's national and international human rights obligations.

Dear Chairman, as you are aware, Central Bank of Sri Lanka stated that Sri Lanka's current economic situation is being stabilized by workers' remittances which, in August 2020, grew by 30% from the remittances in August 2019. Given the impact of the pandemic on worldwide migration, this is indeed a commendable effort by our fellow citizens. Our migrant labour has been the back bone of our foreign exchange earning capacity, exceeding the foreign income from investments, exports and our more traditional export oriented produce. Their services to our economy and country cannot be ignored and they deserve the strongest support in their current hour of need. Therefore, in line with the plea made to the governments by the UN Migrant

<p>ප්‍රධාන කාර්යාලය பிரதான அலுவலகம் Head Office දුරකථන தொலைபேசி Telephone</p>	<p>14, එ.ඒ. ජී. ඩී මාවත, කොළඹ - 04. 14, ஆ.ஏ.த. டீல் மாவத்தை, கொழும்பு - 04. 14, R. A. De Mel Mawatha, Colombo - 04.</p>	<p>සභාපති தலைமனி Chairperson</p>	<p>011-2505451</p>	<p>ෆැක්ස් தொலைநகல் Fax</p>	<p>011-2505541 / 74</p>	<p>විද්‍යුත් තැපෑල மின்னஞ்சல் e-mail</p>	<p>sechrc@gmail.com</p>
	<p>94 -11- 2505580 / 81 / 82</p>	<p>ලේකම් செயலாளர் Secretary</p>	<p>011-2505521</p>	<p>ජූර්නල් අංඛණය துரித அணுகல் Hotline</p>	<p>1996</p>	<p>වෙබ් இணையம் Web</p>	<p>www.hrcsl.lk</p>

Workers' Committee to ensure an orderly, safe, and dignified return for the migrant workers to their home countries, we appeal to you take immediate steps to repatriate them.

The Commission also wishes to emphasize that nothing in this letter should be taken in contrary to health guidelines and procedures that need to be followed to mitigate the spread of COVID-19 pandemic. Thus, the Commission recommends the Government to subject the migrants to all the necessary medical tests and quarantine procedures upon their arrival to Sri Lanka to protect the health interests of the general public and maintain public order.

We have also written to the Ministry of Foreign Affairs in this regard, and a copy of which is enclosed herewith for your perusal.

Thanking You,



Ramani Muttettuwagama
Commissioner in charge of Investigations and Inquiries
Human Rights Commission of Sri Lanka

ENCL: Letter of 26 November 2020 to Minister of Foreign Affairs