



Targeted Surveys on application of core labour standards Sri Lanka

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Targeted Surveys on application of core labour standards, Sri Lanka

This report has been developed to provide a picture of the application of core labour standards in Sri Lanka. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Child labour – declining incidence and innovative, effective public policy initiatives
- Protections for migrant workers overseas (forced labour / trafficking)
- Government proposals to extend labour legislation to domestic workers
- Improved protections for Sri Lanka migrant workers overseas

Challenges

- Low and declining unionisation rates
- Deteriorating tripartite dialogue, including within the NLAC
- No specific legislation on discrimination in employment
- No public sector dispute settlement machinery
- Anti-union practices, especially in EPZs
- Inconsistent enforcement of labour laws; particularly weak in the informal economy

Key context

The legacy of civil war shapes key aspects of Sri Lanka's political and social context, with implications for the application of core labour standards. The conflict left many families in poverty or internally displaced, increasing their vulnerability to various forms of labour exploitation. Stakeholders report numerous abuses, including child and forced labour, experienced by conflict-affected communities. More recently, increasing political and ethnic tensions raise the prospect of further social violence, which would inevitably risk deteriorating the wider human and labour rights situation. Electoral setbacks and fractures in the ruling coalition have also delayed the government's legislative agenda, including constitutional and labour law reform, leaving some labour rights un- or under-protected. As a beneficiary country of the EU's GSP+ scheme, Sri Lanka is required to implement effectively all ILO fundamental conventions on the core labour standards.

In the economic domain, slower growth and government cutbacks may increase financial pressure on public and private sector employers. There are fears that such conditions may accelerate the trend of employers hiring short-term, contract workers instead of permanent employees. Temporary workers, often contracted via third-party 'manpower' agencies, face de facto and de jure barriers to unionisation, as well as inferior working conditions, compared to permanent employees. More generally, the location of key industries in export processing zones (EPZs) is a significant structural factor given that stakeholders report particular concerns about worker and trade union rights in EPZs.

The high level of informality in Sri Lanka's labour market also poses challenges to the application of core labour standards. Enforcement of labour laws is difficult in the informal sector, while the limited presence of trade unions leaves workers vulnerable to

exploitation by employers. Many short-term contract workers face a similar predicament. The concentration of women in informal employment, as well as their segregation in lower-paid occupations in the formal economy, are further labour market factors that affect (and reflect limits to) the application of core labour standards in Sri Lanka.

In general, Sri Lanka's legal framework provides adequate protections for core labour standards, albeit with some exceptions (e.g., public sector dispute settlement, non-discrimination). However, uneven enforcement is an overarching concern, especially in the informal economy, with a lack of resources and capacity in key institutions identified as a significant constraint.

Freedom of association and collective bargaining

Sri Lanka's legal framework concerning freedom of association and collective bargaining is generally adequate, although there are some restrictions affecting the public sector (e.g., no mechanism for dispute settlement). However, there remain issues with the application of legislation in practice, including uneven enforcement of pertinent laws by labour authorities (e.g., official inaction in responding to complaints); delays in processing labour complaints, often rendering immaterial the eventual ruling; and insufficient penalties imposed for violations, undermining any deterrent effect.

In practice, trade unions allege employers adopt various union-busting measures that undermine workers' rights, including harassment, dismissals, and blacklisting of union officials; promoting employer-friendly Employees' Councils that undermine trade unions; and impeding trade unions' registration as legal bargaining agents. Judicial interference (e.g., pre-emptive injunctions) may also impair the impact of strikes, while discretion to designate 'essential services' offers authorities another means to limit industrial action.

Nevertheless, there are areas of progress, including proposals to extend labour legislation to domestic workers, development of public sector dispute settlement mechanisms, and recruitment of labour inspectors. Informality and extensive subcontracting (and related declining unionisation rates) remain overarching constraints on freedom of association and collective bargaining.

Forced labour

In general, the law prohibits all forms of forced and compulsory labour, primarily through provisions in the Penal Code. However, laws allowing compulsory labour as part of prison sentences may violate C29 in some cases. In practice, there are reports of forced labour linked to human trafficking (of Sri Lankan workers internally and overseas), in domestic work, and commercial sexual exploitation. There are related concerns about high recruitment fees that increase migrants' risk of debt bondage.

Authorities generally apply the law in forced labour cases, although resource and capacity limitations constrain broader investigative, preventative, and remediation efforts. Limited capacity means victims of forced labour and trafficking are not consistently identified, with reports of victims being prosecuted under vagrancy and prostitution laws. Some penalties may be unduly lenient where prosecutors pursue lesser charges, allegedly due to inadequate police investigations. Some stakeholders claim that the government fails to protect adequately Sri Lankan migrant workers overseas, although there have been recent advances in this area. Other areas of progress include the adoption of an anti-

trafficking National Strategic Plan, legislation to protect domestic workers, and capacity-building of officials involved in combating forced labour/trafficking.

Child labour

The government has adopted numerous measures to address child labour both at the strategic/policy level (e.g., proposals to raise the minimum age of employment, a National Policy on the Elimination of Child Labour), as well as important on-the-ground initiatives (e.g., district-level Total Child Development Plans that coordinate a multi-stakeholder, integrated approach to addressing child labour). These and similar measures are viewed as key factors in reducing the incidence of child labour in recent years.

However, despite some progress, child labour continues to occur in Sri Lanka. High poverty rates in conflict-affected areas and the plantation sector make children from these households especially vulnerable, while there are also concerns about the sexual exploitation of children (especially in tourism) and child labour in domestic service (including bonded labour). Because child labour occurs mostly in the informal sector (domestic work, small family enterprises), there are specific detection challenges; labour inspections focus on the formal sector, while the out-of-view nature of domestic work impedes detection by child protection services. A perceived lack of resources and inter-agency coordination are broader constraints on enforcement.

Discrimination

There is no specific legislation covering employment discrimination, which results in the inconsistent application of non-discrimination principles in national law (reliant on broad constitutional provisions and numerous laws on specific issues). Constitutional non-discrimination provisions are not only inadequate for capturing key aspects of employment-related discrimination, but they also omit colour, sexual orientation, gender identity, and disability from the expressly prohibited grounds of discrimination.

In practice, discrimination affects employment opportunities for women, ethnic minorities, people with disabilities, and LGBTI people. There is a marked gender pay gap, attributable to both women's concentration in lower-paid roles and direct wage discrimination (women paid less than men for identical work). Gender norms that place a disproportionate share of household and caring duties on women, as well as stereotyped ideas about the relative aspirations and aptitudes of men and women, are cited as underlying contributing factors. Tamil workers also face ethnic and language-related discrimination on the part of employers and authorities, including a lack of Tamil-speaking officials that impedes workers' access to remedy.

Other working conditions

Informality and the casualisation of employment, including the use of 'manpower' agencies, are key factors depressing working conditions and prospects for Decent Work. These labour market trends leave many workers in precarious forms of employment with low and fluctuating wages, irregular work hours, limited social security benefits, and few employment protections. The ILO's Decent Work Country Programme (2018-2021) focuses, *inter alia*, on labour law reform, migrant worker protections, labour inspections, and promoting tripartite dialogue. Other specific issues are outlined below.

Occupational safety and health. The lack of an overarching OSH law leaves around 70 per cent of the workforce unprotected, while injury compensation laws fall well below ILO standards. Enforcement is uneven across sectors, with no OSH inspections in the informal sector. Data on workplace accidents is limited.

Working time. Enforcement is weak in some sectors, including EPZs. Reports note routine violations of overtime laws, including protections for women and adolescents. Draft reforms will remove discriminatory limits on women's working hours.

Wages. The new National Minimum Wage Act (NWWA) does not establish periodic review mechanisms, while enforcement is weak in the informal sector. Trade unions consider current minimum wage levels as inadequate.

Social security coverage. Several key social security schemes are employer liability, leaving informal and 'manpower' workers lacking adequate protections. The social assistance programme, though extensive, fails to target effectively those most in need. However, proposed legislation will extend protections to domestic workers.

Status of ratification and reporting

Sri Lanka has ratified all ILO fundamental (core) conventions and three governance (priority) conventions (except C129). Reporting is generally adequate, although delays in submitting some regular reports and exceptional requests from the ILO's Committee of Experts (CEACR) have led to several out-of-cycle reports in recent years.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	<p>(2016): Welcomed the government's intention to align the minimum age of employment (14) with that of trade union membership (16). Also requested legislative action to permit public sector unions to form federations; prohibit dissolution of trade unions while judicial appeals are pending; and limit officials' discretion to compel arbitration in industrial disputes. Hoped the government will soon adopt public sector dispute settlement mechanisms.</p> <p>Requested the government take steps to prohibit excessive force by police in controlling workers' protests, citing reports of police violence and arbitrary arrests. Also requested legislative action to ensure penal sanctions are not applied to punish workers in essential services who violate procedural strike laws.</p>
	C98	<p>(2017): Urged amendments to permit workers and trade unions to file complaints directly to courts, noting that in practice only the Commissioner General of Labour (CGL) can submit cases of unfair labour practices to judicial authorities.</p> <p>Also requested measures to ensure collective bargaining can occur if a single trade union fails to meet legal representational thresholds (40%) and sought comment on collective bargaining for public sector workers, noting the IDA's lack of coverage.</p> <p>Reiterated concerns about collective bargaining in EPZs, citing limits on site visits by labour inspectors and the potential of non-union</p>

		Employees Councils to undermine trade unions' position.
Forced Labour	C29	<p>(2018): Requested the government improve protection of Sri Lankan migrant workers overseas, citing reports of abuses including forced labour. Noted penalties in trafficking cases may be insufficient to deter violations and requested the government ensure robust prosecutions and dissuasive penalties in such cases.</p> <p>Requested the government repeal the Compulsory Public Service Act, which provides for compulsory public service for up to five years for graduates. Also sought clarification on the application of legal provisions granting the President discretionary power to block individual resignations in the armed forces, and the operation of the government's 'work release scheme' for prisoners.</p>
	C105	(2018): Sought clarification on the use of compulsory labour for prisoners, citing concerns about its use for prisoners convicted of offences linked to political views or illicit (but peaceful) strike activity.
Child labour	C138	(2018): Welcomed the government's intention to raise the minimum age of employment from 14 to 16 years. Requested measures to improve the labour inspectorate's coverage of the informal sector, where most child labour occurs.
	C182	(2018): Noted decline in child labour in hazardous industries, but requested the improved enforcement in the informal sector. Noted concern at limited prosecutions for child prostitution offences.
Discrimination	C100	<p>(2015): Reiterated concerns that current laws do not fully establish the principle of 'equal pay for work of equal value' and urged appropriate legislative action. Requested measures to ensure non-discrimination concerning emoluments, citing the reported practice among rural workers of offering meals to men only.</p> <p>Noted gender wage discrimination in the plantation industry and the lack of a wages board for palm oil workers. Requested the government indicate steps taken to ensure equal pay for 'equal value' (not only 'similar') work in these sectors.</p>
	C111	<p>(2015): Requested the government address concerns about the high burden of proof in sexual harassment cases (given the reliance on criminal law) and clarify an apparent restriction of harassment to behaviour involving 'a person in authority'.</p> <p>Indicated the need for more specific legislation addressing discrimination in employment, noting reliance on broad non-discrimination provisions in the Constitution and other laws.</p>

References

ILO CEACR [Observations and Direct Requests for Sri Lanka](#)