

Country Report on the Trade Union Situation in Sri Lanka

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Sri Lanka

Labour force: 7.2 million

25-29	15.5
30-39	16.8
40+	6.5

Labour force participation rate by age and sex

Age	Total %	Male %	Female %
All ages	51.7	67.9	35.9
15-19	25.2	30.6	35.9
20-24	68.7	83.3	54.0
25-29	71.6	95.3	51.6
30-39	71.8	96.9	48.8
40+	54.9	76.5	34.2

Distribution of employed persons by industry (%)

Agriculture	37.0
Manufacturing	16.8
Trade & Hotels	13.5
Services	15.8
Others	17.8

Composition of employed population

Employees	57.9
Employers	3.1
Own account workers	26.9
Unpaid family workers	12.1

Unemployment rate

The official unemployment rate is just under ten percent (excluding war areas, underemployment and the informal sector). The real unemployment rate is much higher

Distribution of unemployed population by age

Age	Percentage
15-19	15.6
20-24	45.6

Average working hours

Basic work-time is eight hours a day (excluding rest and meal breaks), Monday-Friday and half-day on Saturday. Forced overtime is common (average four hours a day in EPZs and in most export sector industries). Many industrial and agricultural workers work even a seven-day week.

Number of registered functioning unions:
Around 1500

Unionisation rate: Around 12 to 15 percent of the total workforce

Number of strikes, workers involved and man days lost, 1996 - 1999

Item	1996	1997	1998	1999
Total				
Strikes(1)	224	156	122	125
Workers involved	75,197	57,632	43,343	42,346
Man-days lost	388,917	325,477	265,145	304,246
Plantation				
Strikes(1)	137	78	63	42
Workers involved	50,982	27,383	15,468	16,018
Man-days lost	220,131	100,406	83,319	41,195
Others				
Strikes(1)	87	78	59	83
Workers involved	24,215	30,249	27,875	26,328
Man-days lost	168,786	225,071	181,826	263,051

Source - Department of Labour

(1) The number of strikes shown against each year relates to the number of strikes that ended during the year.

Legal framework on labour policy

The history of state intervention in industrial relations through law commences from about 1830 with the growth of coffee and tea plantations industries in Sri Lanka. Prior to that the master and servant relationship was regulated largely by custom. The necessity for cheap unskilled labour for the successful operation of plantations, combined with a labour crisis in 1846, led to an Ordinance in that year being introduced to promote State-sponsored immigration of labour from South India, resulting in the formation of the country's first regimented labour force.

Today the scope of labour laws are broad as any other system of labour law and encompasses a wide range of areas involving the employer-employee relationship in addition to the focus on social security, wages, terms and conditions of employment, industrial safety, employment of women and children, etc...

In Sri Lanka as in most developing countries, the tendency is for the State to interfere in industrial relations by setting up standards of conduct for both employers and employees. These standards take the form of legislation or pronouncements of special courts or tribunals set up by legislation. In Sri Lanka the State expresses its policy in both ways. In fact, it would be true to say that the awards or orders of the extra judicial tribunals, which are binding on the parties to a dispute and which constitute a significant source of industrial law, are by far the most important agency through which the State intervenes today in industrial relations in Sri Lanka. This form of intervention is indirect rather than direct.

In view of the growing labour unrest during the early years of the Second World War, along with the expansion of the regimented workforce, as a result of the State and the private sector turning out to be employment generators, it became necessary for the government to introduce an institutionalized industrial relations framework. This situation led to the introduction of the Industrial Disputes Act in 1950, which is considered to be the vital backbone that governs the industrial relations system of Sri Lanka. Since its inception it has gone through a long process of change and reform to make it what it is today. At present, it addresses issues arising out of industrial disputes, termination of services of employees, collective bargaining, labour arbitration, Labour Tribunals and the functioning of Industrial Courts.

However the public sector employees are not covered under the Industrial Disputes Act. Industrial relations issues of public sector workers are governed through a code of rules adopted

by the Cabinet of Ministers named the Establishment Code. It is presumed that the exclusion of the public sector workers from the purview of the Industrial Disputes Act is based on the assumption that the State is expected to perform the role of a model employer and it will rightly discharge all its duties towards its employees. The functioning of the public sector today creates serious questions about this notion and the Establishment Code being highly inconsistent with international conventions and declarations dealing with the rights of workers. The total exclusion of public sector workers through the process of collectively bargaining and restrictions in forming and federating unions among public sector workers are some prominent issues that need to be addressed.

The following is a structural outline of the scope of local labour laws:

1. Terms and conditions of employment
 - The Shop and Office Employees (Regulation of employment & remuneration) Act
 - Wages Board Ordinance
2. Social security
 - Employees provident Fund
 - Employees Trust Fund
 - Payment of Gratuity Act
3. Industrial safety
 - Factories Ordinance
 - Workmen's Compensation Ordinance
4. Industrial relations
 - Industrial Disputes Act
 - Termination of Employment (Special provisions) Act
 - Trade Union Ordinance
5. Employment of women and children
 - Employment of Women, Young Persons and Children Act
 - Maternity Benefits Ordinance

Present trends

At present the entire system of labour law is being subjected to a process of reform amidst protest from various quarters of the society. The government has already liberalised restrictions on

overtime hours permitted on female workers and the need to obtain the consent of workers to perform “over time” has been removed providing more freedom to the employers. In addition, a free hire and fire policy is also being formulated and the payment of compensation is to be done with a fixed formula of calculation based on the years of service of each employee. These provisions are to be effected through amendments to the existing Termination (Special Provisions) Act and if implemented can cause serious threats to union organising in the private and export sector industries, as union activists can easily be fired through victimisation, which may discourage workers taking up the initiative of organising.

The government of Sri Lanka has also sought for the special incentive scheme of the EU GSP in order to have free access to the EU market. This application is still under consideration. Similarly the government has also made an application for the US GSP facility for the export of apparels to the US market. Both these trade regimes put special emphasis on the observance of core labour standards and Conventions No.87 & 98 in particular.

In August 2002, the government signed a Trade and Investment Framework Agreement (TIFA) with the United States in order to gain free access to the U.S market. This trade agreement also warrants the observance of good standards of labour practices on the part of the beneficiary country.

Some key amendments to the Industrial Disputes Act have also been tabled before the Parliament with the aim of introducing a new system named the “4:2:1 Formula” which intends to conclude all unfair termination of service applications before Labour Tribunals within four months, Arbitration processes within two months and involuntary termination of service applications within one month. In principle expecting the resolving of industrial disputes is a positive move and is welcome. However its implications carry serious practical impossibilities and inconsistencies and can affect the chances of justice being meted out equally at all levels, apart from disregarding some principles of the rules of natural justice, which in fact is the live wire of the labour adjudication system in Sri Lanka.

The 4:2:1 formula was almost imposed and had little or no constructive dialogue among the triparties of the process, which left the point of view of organisations of workers completely unincorporated in the exercise.

In short, at present the trend is more towards flexible and liberal labour administration with less government involvement. The government is also more interested in promoting a separate set of labour guide lines for special investment and export processing zones to deal with industrial relations issues in them. Finally, the notable feature of the present labour administration system is the fast declining standards in the labour standards enforcement aspect. Its now gradually marking the beginning of a new labour unrest among employed workers.

Trade Union Structure

Historically trade unions were at the forefront of the movement for independence prior to 1947, and unions therefore fulfilled a political role at that time. This tradition of political involvement has persisted to this day, and political parties continue to seek the support of the working population through trade unions and also manipulate unions to achieve political objectives from time to time. This made it easy for political parties to penetrate unions and ultimately dictate terms to unions, thereby making unions a mere organ of the political machinery. This led towards unions not being able to produce leaders from within their own rank and for the creation of a culture of political hierarchy appointing trade union leaders.

In fact the outsiders who have prepared to assume trade union leadership have invariably been politicians, who are able to highlight in Parliament the grievances of the workers in a narrow political angle rather than addressing the genuine interests of workers in a more constructive manner within the context of the current developments in the global workers' movement. Despite the political involvement of trade unions in Sri Lanka, strikes for purely political purposes are not frequent and unions have never been able to influence the political process. In most unions, characteristics of union democracy are hardly visible and the leadership is naturally being held by an aging set of veterans who are not open for change or ready to accommodate young activists.

The independent unions in Sri Lanka are relatively small and often work in isolation. It is also difficult for them to get on with traditional trade union organisations due to ideological differences. Independent trade unions are also visible in some areas of the private sector, export industries and EPZs, banking sector, teaching and in some areas of the public service. Some of these independent trade unions have also managed to establish affiliations with GUFs.

Local labour laws divide unions as public and non public sector unions and these two categories are not permitted to federate with each other. The non public sector unions represent the private and semi government owned business and industrial enterprises. Sri Lanka does not have a national trade union centre as seen in many countries, due to this segregation of unions by law and the inherent political identities of the unions.

On the other hand it is common to find several trade unions in one trade or industry and in the same workplace. Many of the local unions have affiliated themselves to GUFs. Most of these unions that have established affiliations with GUFs are direct wings of major political parties. These unions are major affiliates of many GUFs.

The growth of trade unions in the fast growing private sector or the export sector is sluggish and the traditional politically-oriented unions have failed to adopt themselves to the new challenges in these areas. The isolation of the local union movement from the contemporary developments of the global trade union movement also has contributed towards these unions not being able to cope with the emerging challenges.

Cooperation with GUFs

Over the last couple of decades unions have worked together with many GUFs. Their activities have often taken the form of seminars, training workshops and regional conferences. The cooperation between local unions and GUFs focusing on constructive issues of workers rights, workers occupational concerns related campaigns, action oriented programmes and activities is very minimal.

At present Sri Lanka is in the midst of a labour reform process apart from the serious lapses in the enforcement of statutes dealing with basic workers rights and ILSs. Unions have failed to bring such volatile issues to the notice of GUFs and make GUFs involved in the campaign against such arbitrary, unfair practices and policies. Similarly GUF-Union cooperation has not expanded to cover areas such as promotion of effective policy dialogues on labour policy or worker rights issues.

Some GUFs and the ICFTU attempted to facilitate unions to raise issues of labour standard violations in view of Sri Lanka's application to the Special Incentive Scheme of the EU GSP. In

spite of the preliminary effort undertaken by GUFs, the local unions failed to respond to these initiatives. It is mostly due to the sheer ineffectiveness of unions and its inability to effectively raise concrete issues at global forums and muster the support of GUFs.

On the other hand there was also hardly any attempt in any of the GUF cooperation with local unions, which sought to promote a democratic, workers' concern oriented transparent and accountable union movement, which in fact is a serious issue pertaining to most of the GUF affiliates in Sri Lanka.

In spite of all these failures to ensure the effective participation of GUFs in to the local labour cause, affiliate unions have always been a regular non-absent participant of all international conferences, congresses, meetings and forums organised by GUFs. The return trickle-down effect of all these activities towards the improvement of local trade union movement is still unforeseeable.

The affiliates are yet to address key issues that are of workers' interest such as ILSs, elimination of unfair labour practices, lack of interest of the government in enforcing principles of core ILO conventions, etc. Therefore it certainly needs to go beyond the traditional routine training workshops, seminars and focus on key issues that concern workers. More emphasis needs to be put on action oriented programmes, activities and campaigns which can rationalise a positive and concrete outcome.

It is worth conducting an in-depth study on the outcome of the past GUF union cooperation in order to assess its real impact on the local trade union movement as affiliates are still to take up issues of ILSs and workers rights as key issues.

Local affiliates of GUFs

IUF

Ceylon Mercantile, Industrial and General Workers' Union (CMU)
Lanka Jathika Estate Workers' Union (LJEWU)
The Ceylon Estates Staff's Union (CESU)

ITF

The Ceylon Mercantile Industrial & General Workers' Union (CMU)
Sri Lanka Nidahas Sewaka Sangamaya
Flight Attendants' Union
Jathika Deewara Kamkaru Sangamaya (National Union of Fishermen)
Sri Lanka Nidhas Rajaya Vurthiya Samithi Sammelanaya (Sri Lanka Independent State Employees' Federation)
Air Traffic Engineering Officers' Association

IMF

Jathika Sevaka Sangamaya Metal Workers Federation
Sri Lanka Nidahas Sewaka Sangamaya

PSI

Ceylon Workers Congress
Labour Officers' Association
Public Services United Nurses' Union
Sri Lanka Accountants' Service Association
Sri Lanka Nidahas Rajaya Vurtheeya Samithi Sammelanaya

EI

All Ceylon Union of Government English Teachers, ACUGET
All Ceylon Union of Teachers, ACUT
All Ceylon Union of Teachers (Government), ACUT (G)
Ceylon Tamil Teachers' Union, CTTU
Sri Lanka Independent Teachers' Union, SLITU

IFBWW

National Estates Services Union
Ceylon Mercantile Industrial General Workers' Union

ITGLWF

Sri Lanka Nidahas Sewaka Sangamaya
The Ceylon Mercantile Industrial & General Workers' Union (CMU)

IFJ

Federation of Media Employees Trade Unions

ICEM

The Ceylon Mercantile Industrial & General Workers' Union (CMU)
Diamond Workers Union

UNI

Sri Lanka Graphical Federation
Telecom Officers Union
United Post and Telecommunications Union (UPTO)
Federation of Media Employees Trade Unions