



Rights of Workers

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

UPR Info will provide the language for this sector to each factsheet

NATIONAL FRAMEWORK

Almost 70 per cent of the labour force is in the informal sector. The Wages Board Ordinance, the Trade Union Ordinance, the Industrial Disputes Act, and other laws and mechanisms, including labour inspection, cover the formal or organised sector. Enforcement is weak as is the effectiveness of the tri-partite National Labour Advisory Council; a National Workers’ Charter agreed in 1995 is non-binding and still pending legislation. Not all labour laws apply to the Free trade Zones (FTZs). Workers in the plantation sector are covered by collective agreements. In 2016 Parliament passed amendments to the National Minimum Wage Act

setting a minimum monthly wage of LKR 10,000 per month and a minimum daily rate of LKR 400 for workers in the private sector. In July 2013, Sri Lanka’s Ministry of Foreign Employment issued a circular, making it mandatory for women wishing to migrate abroad for employment to obtain permission from their husbands or fathers. Under the Domestic Servants Ordinance No. 28 of 1871, domestic workers are ‘recognised’ as servants. Sex work per se is not illegal many of its outward manifestations are criminalized under the Vagrants Ordinance and the Brothels Ordinance.

CHALLENGES

IMPACT

Precariousness in the informal sector

Most informal sector workers live below the international poverty line and are engaged in casual wage labour. They are largely unrecognised, outside the purview of state protection and labour laws, mostly unorganized and vulnerable to exploitation. Many, such as women who roll beedis or men working in mineral mines, also face serious health risks or even premature death. More women than men engaged in informal and precarious employment.

Casualisation, precariousness and ‘manpower’ work

Informalisation is increasingly visible in the formal sector, both private and public, with workers increasingly hired through third-party or ‘manpower’ agencies. These workers get lower wages (even for similar work), fewer benefits and are often not unionized or excluded from unions of permanent workers. This phenomenon is also expanding in commercialized agriculture and plantations, which are owned by large companies cultivating for export.



CHALLENGES

IMPACT

Weaknesses in labour laws and serious flaws in implementation

Collective action and strikes are restricted by many conditionalities in law and courts are increasingly restrict standing or the ability to represent workers and issuing injunctions to stop strikes and collective actions without adequate cause. There are limited number of labour officers and inspectors, and a lack of commitment and dedicated resources to ensure effective monitoring and inspections of factories and workplaces. Workers in FTZs are effectively denied freedom of association and collective bargaining and conditions of work and housing are often poor. The minimum wage of Rs. 10,000 is estimated to be almost three times less than what would constitute a decent living wage. The law lacks a clear and effective mechanism for both effective enforcement and periodic revision of the minimum wage and bypasses the massive informal sector. Plantation workers, largely Hill Country Tamil workers, continue to be on daily wages determined by collective bargaining agreements and continue to be amongst the poorest communities in the country.

Women workers disadvantaged and discriminated against even though they form a majority in sectors like FTZs, plantations and migrant work which are key forex earners.

Women workers in FTZs are subject to harassment and abuse, denied rights to freedom of association and decent work and living conditions. Hill Country Tamil women on plantations are marginalised even in trade unions, work in poor health and safety conditions, and their wages and benefits are often not paid directly to them. Prospective female migrant workers now face serious hurdles in leaving the country including having to secure the permission of the husband/father, and enjoy little systematic support on their voluntary or involuntary return from. Domestic work is not recognised and workers highly vulnerable to exploitation and abuse.

Discrimination against LGBTIQ workers

LGBTIQ persons face significant hurdles accessing employment and also discrimination in the workplace as a result of criminalisation in law and social prejudice.

Criminalisation of and violence against sex workers

Sex workers, most and especially women, face police harassment and violence. The Brothels Ordinance and the Vagrants Ordinance coupled with the conflation of sexual exploitation with sex work in the law, further amplifies the precariousness of sex workers.

RECOMMENDATIONS

1. Update and legislate the National Workers' Charter of 1995.
2. Expand protections to workers in the informal sector, especially with regard to wages, social security and working conditions
3. Take concrete steps to ensure a living rather than minimum wage indexed to the cost of living to all workers including an effective monitoring and implementation mechanism.
4. Remove restrictions on the right to strike and freedom of expression and association of workers by ensuring rights that are in keeping with international standards take clear measures to check union busting and undermining of trade unions in the public and private sectors, especially in FTZs.
5. Take concrete steps to stop unfair and exploitative practices, such as the use of manpower workers and unequal pay as well as benefits for work of equal value.
6. Strengthen enforcement of labour laws and enhance effectiveness of mechanisms to monitor ensure compliance in workplaces in FTZs and in places of residence in FTZs.
7. Remove restrictions on women migrant workers and enhance support and protection in host country and upon their return, voluntary or otherwise.
8. Address the disadvantages facing women workers on the plantations and ensure decent conditions of work and living/housing.
9. Recognise domestic work and sign and ratify ILO Convention 189 on domestic workers.
10. Decriminalise consensual adult same-sex relations and take steps to check and penalise discrimination against LGBTIQ persons in employment.
11. Amend laws and institutional prejudices and violence, especially by the police, to protect sex workers.