



► Policy Brief

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Aligning Sri Lanka's maternity protection framework with the ILO Convention No. 183

A strategic imperative for gender equality and economic resilience

Key points

- There is a critical need and strategic path for Sri Lanka to modernize its fragmented maternity protection framework to achieve better compliance with the International Labour Organization's (ILO) Maternity Protection Convention, 2000 (No. 183) (hereinafter referred to as Convention No.183, C.183). Full alignment is essential **to boost the persistently low Women's Labour Force Participation Rate (FLFPR) and remove systemic discrimination against women in employment.**
- The legal framework is severely fragmented, resulting in the complete **exclusion of the most vulnerable women workers, notably domestic workers, casual labourers, and home-based employees,** from statutory maternity protection.
- The reliance on individual employer liability for financing private-sector maternity-related benefits creates a direct economic disincentive, fueling systemic discrimination against women of childbearing age in hiring and retention.
- Current framework fails to guarantee the right to return to the same or equivalent position and pay post-maternity. By law, maternity leave is set at 84 working days (12 weeks). Crucially, because leave is offset only against working days (excluding holidays), the actual period of paid absence across all sectors consistently exceeds the 14-week minimum required by the Convention. To further strengthen this framework, the Recommendation No. 191 sets a clear target of 18 weeks as the ideal standard for maternal protection. Furthermore, there is a lack of guaranteed paid leave **for illness, complications or risk of complications** arising from pregnancy or childbirth.
- Effective implementation of existing laws is compromised by **resource gaps in labour inspection,** which allows **non-compliance to persist,** particularly within micro, small, and informal enterprises. Additionally, a critical gap is identified in **managerial sensitization at the middle-level,** particularly in hierarchical environments like the estate sector. Poor communication and lack of training for these managers often lead to misrepresentation of valid medical requests (such as the need for light work) as an intent to quit, resulting in involuntary termination or resignation.

► Background

Context

Sri Lanka exhibits a significant disparity between high social indicators (92 per cent women's literacy, low maternal mortality) and a persistently low Women's Labour Force Participation Rate (FLFPR),¹ which has hovered between 30-35 per cent for two decades, nearly half that of men.² Sri Lanka's population is 21.7 million in 2024, and the population of its labour force was recorded as 8.4 million people in 2024.³ Out of this 8.4 million, only 2.9 million are women, recording a 31.3 per cent FLFPR in the country.⁴ This persistent gender gap is a major constraint on national economic growth and resilience. This disparity is primarily driven by deeply entrenched patriarchal norms that assign a disproportionate burden of unpaid care work and household responsibilities to women, a workload often unaccounted for in official statistics. This extensive engagement in social reproduction significantly limits women's ability to enter, sustain, and return to formal paid employment.

Furthermore, a critical structural barrier exacerbates this issue, *i. e.* the existing fragmented framework for maternity protection, which places the full financial burden of benefits, including the entire cost of paid leave, on employers. This employer liability system creates a direct and measurable economic disincentive for businesses, particularly Small and Medium Enterprises (SMEs), to hire or retain women of childbearing age, inadvertently fueling systemic discrimination in recruitment, retention, and promotion.⁵ A critical implication of this is the suppression of the FLFPR, undermining efforts to achieve gender equality in the

workplace. The ILO Governing Body has classified Maternity Protection Convention, 1952 (No. 103) (the standard currently ratified by Sri Lanka) as outdated and scheduled it for consideration of abrogation in 2033. This mandates that Sri Lanka must modernize its framework and consider ratifying the rights-based and inclusive Convention No.183 to align with contemporary global standards. This policy brief analyzes the compliance gaps between national legislation and C.183 and provides a roadmap for effective reform with the support of tripartite partners.

Methodology of the gap analysis

The findings of this policy brief are derived from a comprehensive, desk-based legal and policy gap analysis. The study systematically compared each provision of ILO Maternity Protection Convention, 2000 (No. 183) against Sri Lanka's existing statutes, administrative circulars, and prevailing practices. A gendered approach was applied throughout the analysis, viewing maternity protection as an essential precondition for gender equality in employment. The study was further informed by Key Informant Interviews (KIIs) conducted with representatives from tripartite partners (workers' organizations, employers' organizations, and government officials) as well as independent labour law and gender experts, ensuring a balanced view of both legal compliance and practical implementation challenges. Further, the research findings and recommendations were validated by a discussion with tripartite partners.

¹ World Bank, "Sri Lanka Overview," World Bank, <https://liveprod.worldbank.org/en/economies/sri-lanka>.

² ILO, *Factors Affecting Women's Labour Force Participation in Sri Lanka* (Geneva: ILO, 2016), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-colombo/documents/publication/wcms_551675.pdf.

³ Sri Lanka, Department of Census and Statistics, *Census of Population and Housing 2024, Preliminary Report* (Department of Census and Statistics, 2024), https://www.statistics.gov.lk/Resource/en/Population/CPH_2024/CPH2024_Preliminary_Report.pdf.

⁴ Sri Lanka, Department of Census and Statistics, *Labour Force Survey - Annual Report 2023* (Department of Census and Statistics, 2023), <https://www.statistics.gov.lk/LabourForce/StaticInformation/AnnualReports/2023>.

⁵ *Economynext*, "Sri Lankan Women Discriminated against Because of Mat Leave Benefits – Verité," September 18, 2017, <https://economynext.com/sri-lankan-women-discriminated-against-because-of-mat-leave-benefits-verite-74317/>.

► Existing legal-policy framework

Maternity protection in Sri Lanka is governed by a inequitable landscape for working women and employers fragmented set of statutes, creating a confusing and alike.

► Key Legislation

Legislation	Coverage	Key Provisions
Maternity Benefits Ordinance No. 32 of 1939 (as amended) (MBO)	Women workers in trades, industries, including agriculture/ plantations.	Maternity leave: 12 weeks of paid maternity leave (84 working days), including a minimum of two weeks before confinement. The leave to which a woman worker is entitled under the Act in consequence of any confinement shall be in addition to any holiday or leave to which she is entitled under any other law or regulation.⁶ Cash benefits: Full wages for the entire period of leave, paid by the employer. Periods in respect of which payments of maternity benefits shall be in addition to any holiday or leave to which she is entitled.⁷ Employment protection: Prohibits dismissal during maternity leave, however, enforcement mechanisms are limited. Nursing intervals: A woman nursing a child under one year is entitled to two paid nursing breaks during a nine-hour workday, at times of her choice. Each break must be at least 30 minutes if a crèche is provided, or at least one hour if not. These are in addition to regular meals or rest breaks.
Shop and Office Employees (Regulation of Employment and Remuneration) Act No. 19 of 1954 (as amended) (SOEA)	Women employees in shops and offices.	Maternity leave: 84 working days paid working days (14 days prior to confinement and 70 days after confinement) where the confinement results in the delivery of a live child, and 42 paid working days (14 days prior to confinement and 28 days after the confinement) where the confinement does not result in the delivery of a live child. Leave is in addition to other holidays and leave. Cash benefits: Requires full remuneration during leave,⁸ funded by the employer. Employment protection: Includes protection from dismissal during maternity leave. Nursing intervals: A woman nursing a child under one year of age is entitled to two nursing intervals during a nine-hour work period, at times of her choosing. If a crèche or suitable facility is provided, each interval must be at least 30 minutes. If not, each interval must be at least one hour. These breaks are in addition to legally mandated meal or rest breaks and are counted as paid working time.
Establishment Code, 1972 and 1974	All women public officers (permanent, temporary, casual, trainee).	Maternity leave: 84 working days maternity leave with full pay, 84 working days maternity leave on half pay and 84 working days maternity leave on no pay in respect of every childbirth.⁹ Leave excludes holidays and other leave. Cash benefits: Based on full pay. Paid by the State. Employment protection: Includes protection from dismissal during maternity leave. Nursing intervals: Provides a daily one-hour reduction in working time (early departure) for nursing mothers, available until the child reaches six months of age, provided the officer has not utilized half-pay or no-pay childcare leave. This benefit may be extended up to one year for University staff under specific circulars.

⁶ Sec. 7(5) of the MBO states the leave to which a woman worker is entitled under this Act in consequence of any confinement shall be in addition to any holiday or leave to which she is entitled under any other law or regulation.

⁷ Sec. 5(2) of the MBO states the periods in respect of which payments of maternity benefits shall be made under this section shall be in addition to any holiday or leave to which she is entitled.

⁸ Sec. 68 (1) of the Act interprets "remuneration" as "salary or wages and includes- (a) any special allowance determined according to the cost of living, (b) any allowance for overtime work, and (c) such other allowance as has been prescribed; "serving of customers", in reference to any shop, includes- (a) the exhibition to a customer of any goods kept for sale at such shop, (b) the answering of questions or furnishing of information or explanations relating to the price, description or quality of any goods (whether or not such goods are kept for sale at such shop) or to any matter incidental to the matters aforesaid, (c) the acceptance of payment in cash or otherwise for goods sold, whether or not delivery thereof has been or is being made, (d) the taking of measurements for the purposes of compliance with any order placed by a customer, (e) the trial or fitting-on of any article of clothing, (f) the acceptance by telephone of any order for goods, and (g) the delivery at such shop during any time when such shop is required to be kept closed by any closing order, of goods purchased while such shop is kept open;"

⁹ Sri Lanka, Ministry of Public Administration and Home Affairs, *Public Administration Circular: 4/2005: Maternity Leave - Chapter XII of the Establishments Code*, February 3, 2005, [https://pubad.gov.lk/web/images/circulars/2005/E/04-2005\(e\).pdf](https://pubad.gov.lk/web/images/circulars/2005/E/04-2005(e).pdf).

Policy Landscape

Recent policy developments, such as the Women Empowerment Act No. 37 of 2024, which seeks to address rights violations and promote advancement, and the National Policy on Child Daycare Facilities adopted on 5 August 2024, which recognizes quality childcare as an investment for economic growth and women's empowerment, signal a

high-level policy recognition of the care burden. However, these progressive policies operate within a legislative structure that remains highly fragmented. Crucially, the persistence of individual employer liability as the core financing mechanism continues to serve as a major, active source of discrimination, counteracting the gains intended by these newer policy instruments.

► Closing the gaps: compliance with the ILO Maternity Protection Convention, 2000 (No.183)

Scope

Article 1

Defines "woman" as any female person and child without discrimination. The MBO uses the term "woman worker," which does not align with the Convention's terminology. As such, consider aligning MBO terminology with the Convention's broad, non-discriminatory definition (rec 1.1).

Article 2

Applies to all employed women, including those in atypical forms of dependent work. However, National law is fragmented and explicitly excludes vulnerable categories: casual workers, domestic workers, and home-based workers. This is a significant gap, non-compliant with the broad scope of C.183, denying statutory benefits to the most economically vulnerable women. There is a critical need to consolidate laws and extend effective coverage to all excluded workers, prioritizing domestic and informal sector employees (rec 2.1).

Health protection

Article 3

Requires measures to ensure pregnant and/or breastfeeding women are not obliged to perform work prejudicial to their health, based on risk assessment by the competent authority. However, MBO/SOEA prohibit "injurious work" only during the last 3 months of pregnancy and first 3 months post-childbirth. Protection is limited in duration and lacks explicit criteria for hazardous work identified through continuous risk assessment. Extending protection to the entire pregnancy and breastfeeding period is crucial. Further, it is vital to establish clear definitions and mandates for continuous workplace risk assessment (rec 3.1, 3.2).

Maternity leave

Article 4

Although the law mandates 84 working days (12 weeks) of paid maternity leave, which technically falls short of the ILO's 14-week minimum, Sri Lanka is practically compliant with this standard. This is because leave is calculated solely against working days, automatically excluding all weekly holidays and national holidays. This mechanism extends the actual period of absence on full pay to over 14 weeks across most sectors, reaching up to 16 weeks in some cases (as detailed in Annex 3). Given that Recommendation 191 advises extending maternity leave to at least 18 weeks, the framework has a clear mandate to formalize and strengthen this generous existing practice. Furthermore, the compulsory six-week postnatal period is not explicitly legislated, and leave for non-live births is significantly shorter, failing to recognize the universal need for maternal recovery. It is recommended to discuss the increase of leave to a minimum of 14 weeks for all births, irrespective of the birth outcome, and explicitly mandate six weeks of compulsory postnatal leave (rec 4.1 and rec. 4.4).

Illness/complications

Article 5

Leave must be provided before or after maternity leave for illness, complications, or risks arising from pregnancy or childbirth. However, in the Sri Lankan context, no explicit legal provision provides for additional paid leave due to complications. As such, recourse could be limited to general sick leave or stringent, unpaid special leave provisions, which often fail to cover the mother's recovery or adequately support her financially. Hence, there is a need to discuss the incorporation of explicit provisions for paid leave extensions for maternal illness, complications or risks of complications, separate from general sick leave (rec 5.1).

Benefits

Article 6

Cash benefits must be at least two-thirds of previous earnings. Benefits can be provided through compulsory social insurance or public funds under Article 6.8 to prevent labour market discrimination. However, a fundamental gap exists within the Sri Lankan framework where the MBO/SOEA place sole liability on the individual employer. This employer liability model is the core structural barrier and directly contradicts the ILO's recommended model. Further, under Article 6.6, while social assistance exists, measures must ensure all unqualified women have effective access to benefits sufficient for a suitable standard of living. As such Sri Lanka should consider prioritizing shifting financing from employer liability to a common social security fund. Further, it is vital to discuss all unqualified women have to effective access to adequate social assistance.

Employment protection

Article 8

Prohibits wrongful termination of employment during pregnancy, maternity leave, and a legally prescribed period following the return to work. In other words, the grounds for termination during this period must not be related to the pregnancy or birth of the child and its consequences or nursing. Further, guarantees the right to return to the same or equivalent position at the same pay. However, the national law lacks a prescribed post-return employment protection period against wrongful dismissals and does not explicitly guarantee the right to return to the same or equivalent position at the same pay, leaving women vulnerable to demotion or discriminatory transfers upon re-entry. As such, legislation of a defined post-return protection period and guarantee the right to return to the same/equivalent role and pay is vital (rec 7.1 and 7.3).

Non-discrimination

Article 9

Prohibits maternity-related discrimination in employment and access to employment. However, discriminatory migration policies, such as the gender-discriminatory Family Background Report (FBR) requirement for female migrant workers with young children, unfairly penalizes women based on their maternal role, constituting direct discrimination. It is recommended to eliminate the gender-discriminatory FBR requirement for women seeking foreign employment (rec 8.1).

Breastfeeding breaks

Article 10

Convention guarantees the right to one or more daily breaks or a daily reduction of working hours, counted as paid working time. MBO/SOEA provides breaks to children under one year and only mandate fixed breaks. Public sector entitlement is even more restrictive (6 months). The national framework fails to explicitly offer the reduction of daily hours as a flexible alternative. This restriction also conflicts with common medical practice and local culture, as breastfeeding is widely accepted and practiced in Sri Lanka for a longer duration. Further, this lack of flexibility limits the practical utility of the breaks for working mothers, especially those with long commutes. It is vital to consider the option of reducing daily working hours as an alternative and consider extending the age limit for breaks beyond one year, based on the needs of the mother and child.

Periodic review

Article 11

Mandates periodic review of leave duration and benefits in consultation with tripartite partners. Sri Lanka lacks an institutionalized, statutory mechanism for periodic review of maternity protection provisions, preventing the framework from evolving in line with changing realities. There is an option to designate the National Labour Advisory Council (NLAC) as the mandatory review mechanism to ensure continuous, evidence-based reform (rec 10.1).

Implementation

Article 12

The convention shall be implemented by means of laws, regulations, or other means such as collective agreements, arbitration awards, and court decisions. While the framework recognizes supplementary mechanisms, effective implementation is significantly compromised by enforcement deficits, including critical lack of monitoring. Further, constraints regarding effective labor inspection is also an issue. Collective Agreements (CAs) serve as a progressive mechanism often exceeding statutory minimums. This avenue for implementation can be sufficiently promoted or leveraged across all organized sectors. Actively promote and facilitate the use of CAs and collective bargaining, particularly in highly organized sectors to establish and exceed statutory minimums.

► Key Policy Responses and Recommendations

The path to C.183 ratification and full compliance require three strategic, interlinked interventions that are supported by consultation with tripartite partners to ensure sustainability and shared responsibility.

Discuss the possibilities of shifting financial liability to social insurance

The sole reliance on individual employer liability for financing maternity cash benefits in the private sector is the single most significant structural barrier leading to gender discrimination and low FLFPR, placing an unjustifiable cost burden on businesses that hire women of childbearing age.

- Consider the establishment of a mandatory, contributory social security fund to finance maternity benefits, potentially utilizing or adapting existing mechanisms such as the Employees' Trust Fund (ETF). This move will effectively neutralize the economic risk associated with hiring women by distributing the financial responsibility across the entire workforce (including male workers) and all employers. This measure must ensure benefits meet C.183 standards (at least two-thirds of previous earnings) and be non-discriminatory, covering all workers regardless of sex to normalize care costs (rec 6.5).
- Consider strengthening the safety net to cover women who do not qualify for benefits (primarily in the informal sector, who represent a highly vulnerable cohort) have effective and simplified access to social assistance benefits at a level sufficient to maintain themselves and their children in proper health and living conditions (C. 183, Art. 6.6). This requires reducing administrative hurdles and continuously assessing the adequacy of the benefit amount against national minimum subsistence levels (rec 6.3).

Consider harmonizing and modernizing the current legal framework and policies

There is a critical need to consolidate and standardize maternity protection laws to ensure uniform, rights-based entitlements for all working women, irrespective of their sector or employment arrangement.

- Discuss the harmonization and consolidation of laws to guarantee a minimum of 14 weeks paid leave for all births recognizing the mother's universal need for recovery. Furthermore, explicitly mandate a six-week compulsory postnatal leave period for all sectors to ensure the mother's minimum health recovery (rec 4.1 and rec 4.4).
- Discuss with tripartite partners the legislative extension of coverage to all excluded and vulnerable categories,

including domestic workers, casual workers, and home-based workers, in line with C.183's broad definition. This is vital for promoting inclusive development (rec 2.1 and rec 4.3).

- It is vital to guarantee a woman's right to return to the same or an equivalent position with the same rate of pay at the end of her maternity leave, thereby protecting her career progression and economic status from being penalized due to maternity (rec 7.3). Further, it is useful to initiate a tripartite discussion to legally prescribe the length of a defined post-return employment protection against wrongful dismissals period following maternity leave (Art. 8). This period, during which termination would be prohibited provides a necessary safeguard for nursing mothers as they transition back to work (rec 7.1).
- Consider introducing explicit provisions allowing additional paid leave for illnesses, complications, or risks arising from pregnancy or childbirth, establishing clear rules on the maximum duration and ensuring this is separate from general sick leave entitlements.
- Initiate discussions to reconsider/modernize the present legal framework (e.g., fixed nursing breaks, fragmented leave durations) to reflect current life and work environments. Introduce the option to reduce daily working hours as a flexible alternative to standard fixed nursing breaks. This is a vital adaptation for working mothers, especially those with long commutes, and supports sustained breastfeeding in line with public health goals (rec 9.3).

Consider investing in awareness raising and sensitization

Develop a mindset that maternity is a social function and is not a penalty for career progression. Strengthening practical implementation through better enforcement and awareness.

- Invest in mandatory sensitization and training programs for middle-level employees and managers across all sectors. This training must focus not just on legal compliance but on fostering a culture of sensitivity, preventing poor communication and misrepresentation of medical needs (as seen in the estate sector), and actively challenging regressive gender norms that lead to subtle discrimination (rec 7.5).
- Removing discriminatory policies such as the gender-discriminatory FBR requirement for women seeking

foreign employment, which unfairly penalizes women based on their maternal role and violates the principle of non-discrimination in access to employment (rec 8.1).

Further, it is critical to sensitize all stakeholders on the adverse implications of gender-discriminatory laws and policies on gender equality.

► Conclusion

Sri Lanka's aspiration for economic recovery and sustainable development hinges on fully mobilizing its women's labour force, especially given the rapid demographic transition towards an ageing population which necessitates high FLFPR to maintain economic productivity. Modernizing the framework to align with ILO Convention No. 183 is not merely a legal compliance exercise; it is a strategic economic and social investment. By shifting the financial burden of maternity benefits to a common social insurance fund and guaranteeing comprehensive, universal rights for all working women, Sri Lanka can remove the primary

structural barrier to women's employment, reduce the gender gap in the labour market, and foster a more equitable and sustainable society. This comprehensive approach ensures that maternity protection serves its dual function, *i.e.* safeguarding maternal and child health while acting as an accelerator for gender equality and economic resilience. The path forward requires immediate and coordinated action from the government, employers, and workers' organizations through a robust tripartite dialogue.