

Country Report

**ILO Regional Office for Asia and the Pacific
Third Regional Workshop on Knowledge Sharing of Good and
Promising Practices to**

Promote Decent Work for Domestic Worker and to end Child Labour in Domestic Work

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Decent Work and Domestic Worker in Sri Lanka

Under its Decent Work Country Programme 2013-2017, ILO together with its constituents in Sri Lanka identified the following three priority outcomes:

- *Enhanced access to more and better jobs in economically disadvantaged and crisis affected areas;

- * Enhanced labour administration and promotion of equitable employment practices;and

- *Improved tripartite cooperation initiatives linking job security, productivity and competitiveness.

In addition, the Programme mainstreams the following cross-cutting themes: informal economy, gender equality, international labour standards and HIV/AIDS in the workplace.

Sri Lanka has worked towards ensuring decent work for all sectors of the labour force in the country keeping with the four pillars of Decent Work Agenda and priority outcomes identified by the ILO.

However one area where decent work practices are heavily violated is the domestic workers sector due to the lack of labour laws governing this sector.

Domestic WorkersSector

Domestic workers of Sri Lanka can be categorized into two groups:Those who are engaged within the country as domestics; **National domestic workers** andthose who are engaged as domestics(Housemaids) abroad :**Migrant domestic workers**.

Migrant domestic workers–

Today Sri Lankan females migrate at a large scale as domestic workers to Middle Eastern Countries as well as Western Countries, especially to European Countries, making it the highest and most stable source of foreign currency inflow to the country.

Labour migration in Sri Lanka is governed by the National Policy on LabourMigration .Currently, theSri Lanka Bureau of Foreign Employment Act No. 21 of 1985 is the main legislative enactment passed by the Parliament to govern this sector . However, the Lankan migrant workers, who are employed overseas, including female domestic migrant workers, are not covered by the national labour law sphere; the SLBFE Act is only a primary piece of legislation applying to Sri Lankan workers migrating for overseas employment.

Many migrant workers continue to be abused and exploited in the countries they are employed in and the SLBFE steps in to provide them redress and even protect them from certain legal actions taken against them .(Imprisonment and death penalty)

Sri Lanka has ratified many ILO conventions to protect migrant workers and ensure decent work. As a party which ratified the UN Convention on the "protection of the rights of all migrant workers and members of their families" Sri Lanka has implemented several programmes for their welfare such as –

- * Pre-migration loans through state banks and free life insurance coverage every for every Sri Lankan employee departing with SLBFE registration,
- * Scholarships for children of migrant workers who achieve the targeted results in the national examinations,
- * Training programmes for prospective domestic sector female workers and non- domestic workers. Skills certification has been identified by the ministry as one of the priority areas with destination countries to implement pilot programmes on mutual recognition of skills.
- * Welfare officers to each of the diplomatic missions in the labour receiving countries to look into the interests of migrant workers, transit home in close proximity to the country's international airport to house destitute workers who return home with different type of sicknesses and harassments. Air tickets for repatriation of stranded workers, safe houses in the host countries to accommodate stranded workers.

Though Sri Lanka has enacted some national laws and adopted a policy, the rights of the female domestic migrant workers are still violated massively.

National Domestic workers –

There are two existing, pre-independence laws applying to domestic workers in Sri Lanka. The laws are:

1. The Domestic Servants Ordinance of 1871 (Amended 1936) and
2. The Chauffeur's Ordinance of 1912.

As these laws are considered obsolete with modern working conditions changing drastically, the sector of domestic work is governed under some applicable provisions of the Industrial Disputes Act, as private work arrangements are also covered under this law.

However, a majority of people, including some trade unions, are unaware that certain provisions of the Industrial Disputes Act can be used by domestic workers. Under this law, verbal agreements can be considered binding and as such, domestic workers, who often do not have written contracts, can seek legal relief. However, this law only provides limited legal rights for domestic workers.

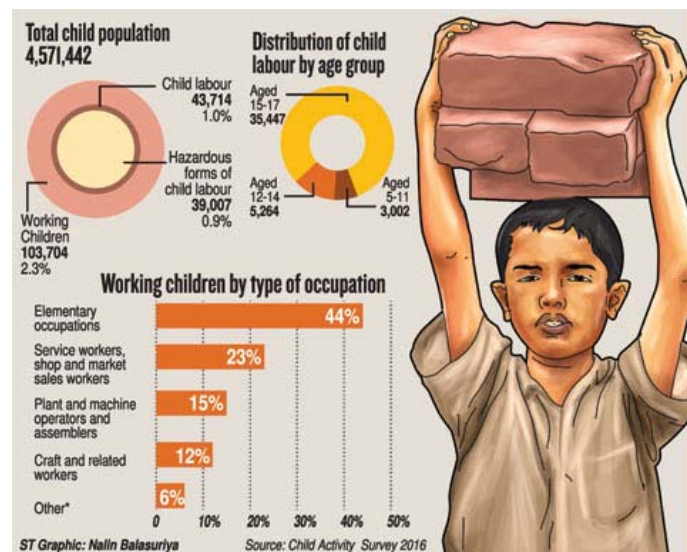
Under the Industrial Disputes Act even non-regular work within the domestic/household context can be considered domestic work as long as an employment relationship can be established. In the event there is under payment or any other problem, domestic workers can complain to the Department of Labour and/or the Commissioner of Labour and under the Industrial Disputes Act, can bring a case to the Labour Tribunal. In the case of physical abuse domestic workers can use the standard laws of the country and can complain to the police and resort to legal action, if desired.

Legal rights not available to domestic workers

Even though domestic workers, can come under the Industrial Disputes Act, they do not benefit from the Wages Board ordinance. As a result there is no minimum wage officially stipulated for any category of domestic workers and they generally have to bargain for their salary. They are also not covered under any of the national social security laws and means employers are not obligated to contribute to the Employees Trust Fund for the worker or they pay gratuity even after many years of work.

Child labour situation in Sri Lanka

Not all children's work is bad.



It is difficult to define child labour as most children in all parts of the world are engaged in some form of non-economic or economic work within their own homes or outside. Not all work is considered bad for children as doing chores around the house, helping in the farms /paddy fields, shops etc. enables them to learn new skills, manage resources, and develop a sense of responsibility.

What is considered in general as harmful or child labour is work that deprives them of their basic rights and exploits them physically, mentally and morally.

Child labour was rather high in Sri Lanka at one time ,especially in the domestic sphere,with many parents,especially from poor families in villages sending their children to work in houses in the cities .Today the country has come a long way in eliminating this problem and achieving significant progress in this sector. In fact, going by recent statistics Sri Lanka has a

potential to become a role model for other developing countries in terms of addressing child labour and its worst forms.

According to a recent survey the number of children between the ages 5-17 engaged in child labour is only 1.0% or approximately 44,000 children . (Between 2008/09 and 2016, the proportion of 5-17 year-old children in employment has fallen from 12.9% to 2.3%).

The national labour laws, political commitment, (the adoption of policies in the areas of poverty reduction, basic education, and human rights, eradication of child labour etc) and the countrywide awareness programmes etc., to create a new generation of more educated parents who are less inclined to send their children to work, are identified as reasons for the decrease in child labour in the country.

Recent Research/Surveys Conducted

At the request of the Ministry of Labour and Trade Union Relations, the Department of Census and Statistics (DCS) conducted the country-wide household Child Activity Survey (CAS) 2016 and launched its report on 21st of February, 2017.

The survey was conducted with the technical assistance of the ILO and financial support of United States Department of Labour. This is the third in the series of Child Activity Surveys conducted by the DCS. The previous rounds were conducted in 1999 and 2008/09 with the assistance of the ILO.

Areas Covered by this survey-

The CAS-2016 report covers data on demographic characteristics of children, their school attendance, economic activities, health and safety, housing, and household characteristics. It also presents information on perception of parents/guardians on their children working and other characteristics pertaining to the children aged 5-17 years.

Observations and findings -

- * Sri Lanka has witnessed a major decline in child labour.
- * In order to enable policy makers to make informed decisions to address the issues of child labour and its worst forms, the need to apply an evidence based approach has been identified.
- * Sustainable Development Goal 8, Target 8.7 addresses the issue of child labour and the UN organizations and stakeholders are encouraged to make a collaborative effort, known as Alliance 8.7.
- * The total number of children in the age group of 5-17 years in Sri Lanka in 2016 is estimated at 4.6 million.

* Hazardous form of child labour which is a subset of working children, is as low as 0.9% in 2016 compared to 1.5% in 2008/2009.

The total household population in Sri Lanka at the time of the survey is estimated as 20,580,517 and the percentage of children in the age group of 5-17 years is 22.2 % of the total population. (*Shows a 0.2% decline over a period of 8 years - compared to the 22.4% recorded in 2008/09*) Out of the total estimated child population (about 4.6 million) in the survey, 103,704 children were reported to be engaged in economic activities or identified as working children.

Laws covering child labour

The engagement of children is regulated by various statutes and also by educational, cultural and social factors . However the definition of child labour may appear inconsistent with the existing laws in Sri Lanka with regard to the age of the child. According to the Employment of Women, Young Persons and Children's Act No.47 of 1956, a 'child' is described as "a person under the age of fourteen years". Therefore it would be more appropriate and consistent to treat only those aged 14 and under as children for the purpose of identifying "child labour" in Sri Lanka.

In addition to the above, child labour or the employment of children is controlled through the Education Ordinance, the compulsory school attendance regulation in 1988. The compulsory attendance regulations were promulgated by a Gazette Notification under the name and authority of the Minister of Education and Higher Education. According to the Gazette Notification, every parent is required to send his/her child to a school if the child is not less than 5 and not more than 14 years. Every parent contravening the regulation will be guilty of an offence. It is envisaged that the upper age limit will eventually be extended to 16 years. The National Child Protection Authority (NCPA) and the Labour Department can be cited as the main law enforcement authorities engaged in the control and eradication of child labour in Sri Lanka.

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* According to the Factories Ordinance, normal working hours for workers between 16-18 years should not be more than 12 hours per day.

* The Mines and Minerals Law no. 4 of 1973 prohibits young person less than 16 years of age from working underground in any mine.

* The Shop & Office Employees Act prohibits the employment of children under the age of 14 years in a shop or office.

* Government has also issued a list of hazardous occupations/activities where employment of young person is prohibited. Employment of young person is also prohibited at night. The Government has a hazardous work activities list that includes the 51 occupations and/or working conditions in which employing children under the age of 18 years is prohibited.

These include slaughtering of animals; manufacture or use of pesticides; production, transport or sale of alcohol; work in liquor bar or casino; manufacturing, transport or sale of explosives; fishing in deep waters; mining or underground work; transportation of passengers or heavy goods; diving; and working at night between 08 p.m. and 06 a.m.

Domestic Child Workers -

The employment of children, particularly little girls, as domestic workers, in Colombo and other major cities, has reduced sharply over the last few years. The strict implementation of child protection laws has greatly assisted in reducing this number. However, many children between the ages of 14 and 18 years continue to be employed in domestic service in urban households. According to the National Survey on Child Labour conducted in 1999, the number of Child Domestic Workers (CDW) in Sri Lanka was estimated to be 19,111 of which a majority were girls from rural areas.

The incidence of domestic child labour reported to the Labour Department has steadily declined due to extensive awareness campaigns, according to the National Child Protection Authority.

In addition to existing domestic laws, Sri Lanka has signed the:

- ILO Worst Forms of Child Labour Convention (No. 182);
- ILO Minimum Age for Employment Convention (No. 138);
- ILO Forced Labour Convention (No. 29);
- ILO Abolition of Forced Labour Convention (No. 105);
- UN Convention on the Rights of the Child (CRC).
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Going by the statistics revealed by the recent survey, it seems that a future without child labour is within the grasp of Sri Lanka.

Trade unions need to play a more active role to not only conduct awareness programmes and educate the workers of their rights as domestic workers to ensure decent work but also compel the government to introduce more stringent laws to protect child workers and ensure decent work for all domestic workers to help Sri Lanka eradicate child labour in the near future.

Sources: Courtesy- Internet
