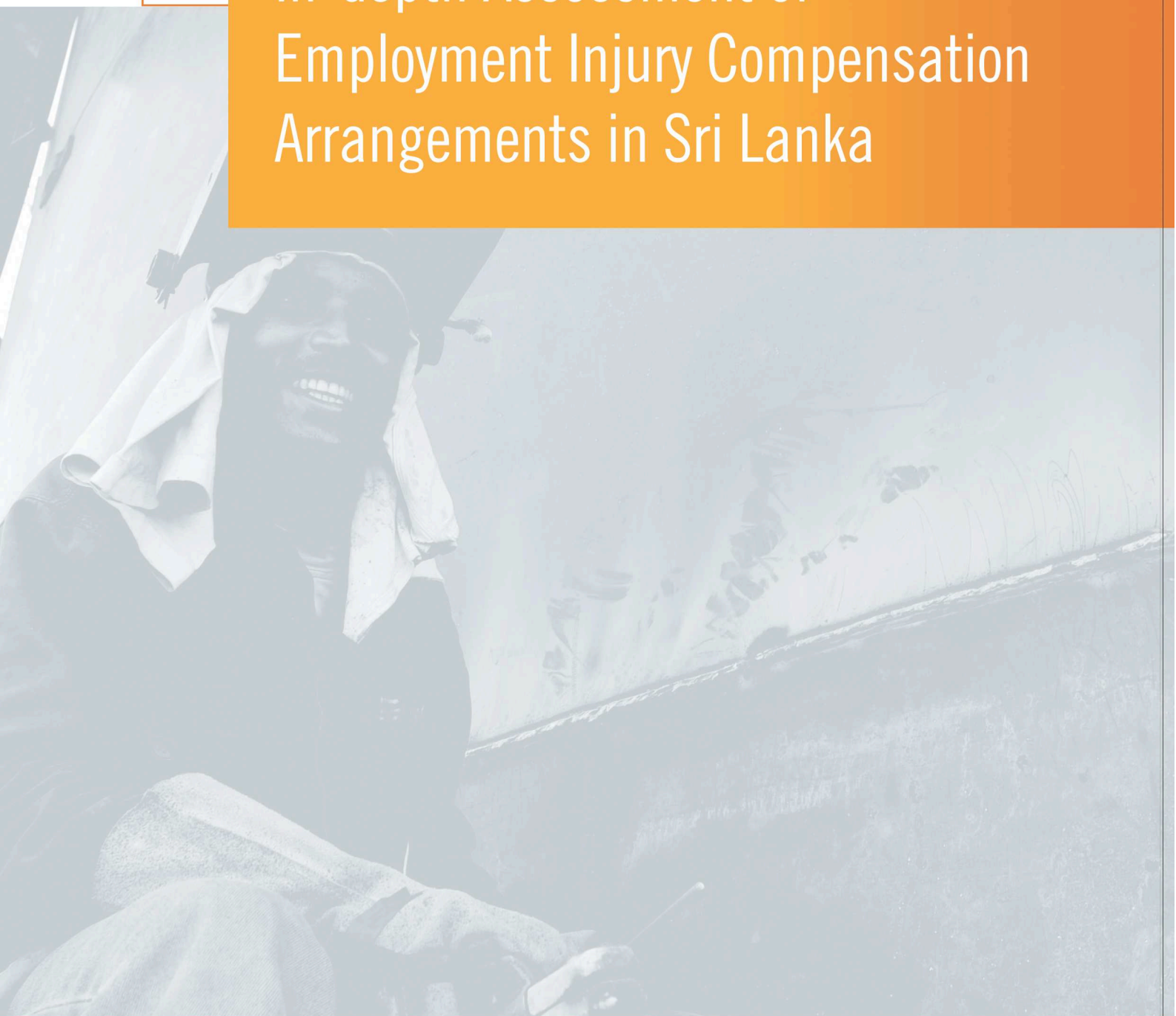




International
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In-depth Assessment of Employment Injury Compensation Arrangements in Sri Lanka



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FOREWORD

Poor safety, health and working conditions are suggested to be widespread at workplaces in South Asia and workplaces in the informal economy, including agriculture, construction etc. Though some information and data about the actual conditions exist for both formal and informal economy, the information on occupational injuries and compensation paid are rather limited. Although appropriate policies and strategies can do much to reduce and prevent their occurrence work related injury and illness are unavoidable aspects of day to day life. Moreover, workers and those who work in the informal economy, which employs the bulk of the labour force, enjoy no or only limited protection under the current labour laws.

ILO Convention No. 102 (Article 32) the flagship convention on social security, defines nine areas of social security including employment injury and sets minimum standards for each branch, Many countries have implemented relevant schemes such as statutory social insurance, but employment injury insurance (EII) has the longest history of all social insurance schemes in the world and can be considered as a more sustainable social protection scheme.

LO has assisted the Government by conducting a study to assess the feasibility of establishing an employment injury insurance (EII) scheme and to estimate financial requirements, explore coordination with other social security schemes, and to provide recommendations for a benefit package. The study has proposed a transformation from the employers' liability scheme to employment injury insurance which is a desirable step in the development process of industrial injury compensation.

Social insurance offers two major advantages: The foremost advantage is that, by pooling risks and finances through a national fund, a scheme can raise its standards of protection so that cash compensation and medical care can be provided throughout an injury or illness on a periodic basis, rather than in the form of a lump-sum payment as is typically provided by private insurance. The rationale most typically offered for lump-sum benefits is that they enable workers leaving the formal economy to make a successful transition back to life in their home village by, for example, purchasing land, cattle, or a piece of farm equipment, or building a home. While this model fits the circumstances and needs of some retiring workers, it is clearly mismatched to those of disabled workers and surviving family members. In their case, the breadwinner's earnings capacity has been lost or extremely limited, making financial need ongoing, not transitional. This group's need for income replacement is therefore more appropriately met through a periodic payment. A second advantage is that social insurance claims are made directly to a national fund and benefits paid directly from it. The fund serves as an intermediary, breaking the link between the worker and employer with respect to employment injury. This intermediary role benefits both parties: it provides workers with greater certainty of receiving benefits, while freeing employers from the financial risks associated with an unexpected costly claim or an atypically large spate of them. These advantages make conversion an essential step in strengthening employment injury protection in the country and justify giving priority attention to the conversion of the existing employers' liability scheme to one that is based on social insurance principles.

I would like to acknowledge the contribution of the Government of Korea and the contribution of the, Expert Team Dr Jinsoo Kim, Dr Gakhee Lee & Dr Hyeok Chang Kwon to the initial study and Dr Ravi-Rannan-Eliya, Executive Director, Institute of Health Policy (IHP) and his team for the further in depth study of the EII Scheme. I also acknowledge the contributions of Mr Markus Ruck, ILO Senior Social Security Specialist and Mr Jooyung Kim, former ILO Social Security Officer in DWT, Bangkok who provided technical expertise throughout the process, and Ms Shafinaz Hassendeen (former Senior Programme Officer, ILO) and Pramodini Weerasekera (ILO Colombo Office) for their input and facilitating and coordinating the whole process.

Donglin Li

ILO Country Director for Sri Lanka and Maldives

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Abbreviations

DCS	-	Department of Census and Statistics
EFC	-	Employers' Federation of Ceylon
EI	-	Employment Injury
EII	-	Employment Injury Insurance
EIPI	-	Employment Injury Protection Index
EPF	-	Employees' Provident Fund
ETF	-	Employees' Trust Fund
ETFB	-	Employees' Trust Fund Board
GDP	-	Gross Domestic Product
HKD	-	Hong Kong Dollar
IHP	-	Institute for Health Policy
ILO	-	International Labour Organization
MOH	-	Ministry of Health
MoL	-	Ministry of Labour and Labour Relations
NTUF	-	National Trade Union Federation
PI	-	Permanent Incapacity
RM	-	Malaysian Ringgit
Rs.	-	Sri Lankan Rupee
SGD	-	Singapore Dollar
SOCSSO	-	Social Security Organization
USD	-	US Dollar
WCO	-	Workmen's Compensation Ordinance

Currency Equivalents

(As of 31 December 2013)

Currency unit	-	Hong Kong Dollar (HKD)
HKD 1.00	≈	USD 0.128
USD 1.00	≈	HKD 7.754
Currency unit	-	Singapore Dollar (SGD)
SGD 1.00	≈	USD 0.788
USD 1.00	≈	SGD 1.268
Currency unit	-	Malaysian Ringgits (RM)
RM 1.00	≈	USD 0.303
USD 1.00	≈	RM 3.291
Currency unit	-	Sri Lankan Rupee (Rs)
Rs 1.00	≈	USD 0.007
USD 1.00	≈	Rs 130.6

Executive Summary

1. Sri Lanka, like Hong Kong, Malaysia and Singapore (all former British Crown Colonies), has traditionally relied on employer liability to provide for employee injury compensation, complementing it through the Workmen's Compensation Ordinance (WCO).
2. We find that the current WCO legislation suffers from several major deficiencies with respect to ILO Convention C121. Most importantly, it fails to provide periodic payments for permanent disability and death, sets too low a ceiling on compensation, and fails to provide a mechanism to adjust benefits for inflation. Analysis of claims indicates that these combine to reduce the average monetary value of benefits to less than 10% of the level required by ILO standards. Sri Lanka provides the lowest level of benefits to covered workers in the Asia-Pacific region.
3. The characteristics of the current WCO means that it fails to protect workers and their families against the catastrophic financial costs of severe injury. At the same time, the WCO performs very well in protecting employers from such financial risks, and so should be properly described as an employer injury protection scheme.
4. Stakeholders agree about the desirability of addressing the current shortfalls in the WCO with respect to the ILO standards. They disagree or lack consensus about how the increase in formal costs should be distributed. However, regardless of any reforms, it is important to note that the full costs are already borne by workers and their families who suffer various hardships as a result of inadequate compensation.
5. We recognize that any decisions to reform the current system should be made by stakeholders or government acting on behalf of all citizens. We recommend to the stakeholders and government that Sri Lanka substantially reforms its employee injury compensation legislation to bring it up to regional and ILO standards, as the current situation should make no Sri Lankan happy or proud, fails to protect workers adequately, and is not consistent with the country's aspiration to reach upper-middle income status.
6. Compliance with ILO standards will require increases in the value of compensation, introduction of periodic payments for permanent disability and death, and the introduction of a mechanism to adjust benefits according to inflation. Improving current levels of coverage are fully consistent with the national goals of expanding industrialization and increasing exports.
7. We recommend that the increased level of benefits be funded through introduction of a formal scheme to distribute costs widely between firms, and to protect individual firms and workers from the financial risks of large compensation events.
8. We recommend on the basis of review of the relative merits and disadvantages, that Sri Lanka adopts the Malaysian SOCSO model and expand ETF to provide the needed coverage. The scheme would require employers to contribute ~1.5% more towards the ETF. This solution has the merit of requiring the least changes in current institutional structures, whilst being the simplest and least costly for employers and workers. It can also be easily coupled with giving ETF a major responsibility for developing and funding risk-reduction and return-to-work programmes.

1. Introduction

1.1 The basis for employment injury schemes

Work-related injury and illness are common, and yet never completely avoidable. Such events can lead to death of workers with consequent implications for their dependents, or result in injury or disability that may be temporary or permanent. Ultimately, society will have to bear the social and economic costs associated, regardless of the formal arrangements that are in place. For example, a family may suffer impoverishment when their sole breadwinner suffers permanent disability and is no longer able to work, or the courts may direct an employer to pay financial compensation to a worker injured as a result of the firm's machinery, or the tax-payer may have to foot the bill for the health ministry to provide the medical care to the injured worker.

Although appropriate policies and interventions can do much to reduce and prevent their occurrence, work-related injury and illness are unavoidable aspects of industry, agriculture and the other productive activities that the country needs to maintain to improve its living standards. From the country's perspective, the issue extends beyond preventing work-related injury and illness, and includes addressing how and who should bear the inevitable costs that accompany as well. Further it is not an issue that employers should bear the full nominal burden of costs that result from their negligence or actions since the default legal position almost universally accept that everyone should be liable for the injuries they cause others.

It is because of this inevitability and the centrality of work itself in the modern economy that countries around the world have intervened to provide specific arrangements to handle compensation for employment injury. The first example of this is the implementation in 1884 by Chancellor Otto von Bismarck of a national scheme for Germany, at the beginning of its development as Europe's leading exporter and manufacturer. Bismarck was particularly concerned with high-risk sectors of the economy such as mining, salt extraction, iron and steel production, stone quarrying, dockyards and railways where accidents were common. Bismarck's initiative brought advantages to workers, who previously had to face the expensive task of confronting their employer in the courts if they wished to seek redress for a workplace injury. But the reform, on the other hand, also benefited employers by providing them greater predictability in their costs, and helped contribute to social peace. It is famously said that, "the origin and fundamental value of workers' compensation rests on the principle of mutual protection arising from the historic compromise in which workers relinquished their right to sue their employer and employers agreed to fund a no-fault insurance system (ILO 2013).

Redress for employment injury is thus the oldest and the most widely adopted form of social protection, dating back to the beginnings of industrialization. Employment injury schemes are a vital element of any country's social safety net, and they can function in a variety of different ways, not necessarily through insurance mechanisms. For the purpose of this report the term employment injury (EI) scheme is used to cover any arrangements that provide specific redress for workplace injury, including social insurance schemes, accident insurance schemes, employers' liability insurance, workers compensation schemes, *etc.*

The core function of any EI scheme is to ensure compensation where individual workers have lost out, through illness or disability. When operating effectively, EI schemes bring benefits to employees, employers and governments alike. They protect workers' living standards, and can help maintain sound industrial relations. By pooling the risks arising from occupational accidents and diseases, they assist individual enterprises to mitigate the risks that they would otherwise face alone. And EI schemes can minimize social costs – as they resolve problems, which, if handled in other ways such as through the legal system, would cost society more. EI schemes can also perform two other linked functions. Firstly, they can help to support preventive activities, so that fewer workplace accidents take place and fewer workers are affected by occupational diseases. Secondly, where accidents and illness have occurred, they can help in the rehabilitation process, so that the individuals affected can if possible return to their original jobs, or if this is not possible to other employment (ILO 2013).

1.2 The involvement of ILO in employment injury policy

Almost since its creation in 1919, the ILO has sought to encourage good practices in the provision of employment injury compensation, in keeping with its core concerns of improving standards of labour conditions. Over the decades, ILO has adopted a number of conventions that govern this area, including the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), and the Employment Injury Benefits Convention, 1964 (No 121).

Although Sri Lanka has not ratified many of these conventions, ILO conventions have the status of international labour standards regardless of their ratification status. As an active member of ILO, Sri Lanka is bound to take due consideration of these in its policies. Further, they provide a basis for dialogue between the ILO and Sri Lankan stakeholders about such issues. Within the context of such dialogue and consultations, Sri Lanka has accepted that the country should improve labour standards and move towards greater compliance with relevant ILO conventions. This report is a product of that dialogue, and the request of the key stakeholders in Sri Lanka – employers, unions and government – for an in-depth assessment of the issues and options.

1.3 ILO Convention concerning employment injury

Various ILO conventions cover the issues of employment injury, but the ones most relevant to the issues in Sri Lanka are the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Employment Injury Benefits Convention, 1964 (No. 121).

1.3.1 C102 Social Security (Minimum Standards) Convention

The Social Security (Minimum Standards) Convention (C102) of 1952 relates to the broader aspect of providing social security, ranging from short-term benefits such as medical care and maternity benefits to long-term benefits relating to old age pensions, survivors benefits and invalidity benefits (ILO 1952). Employment injury is one of the three main branches of this convention providing for both long and short term benefits (ILO 2010b).

For employment injury protection, C102 prescribes measures to be taken to provide benefits for temporary disability, partial permanent disability, total permanent disability and incidents relating to the death of an employee. The convention extends coverage to non-national

residents as well. Article 33 of the convention states that at least 50% of the workforce must be covered by the schemes in place; this must extend to the wives and children also in case of death of the breadwinner. If a country is given freedom from this Article, the convention states that all employees (and their wives and children) employed in an industrial workplace with more than 20 employees shall definitely be covered by the schemes in place.

The convention specifies the sort of medical care that injured employees should receive; inpatient and outpatient care from general and specialist doctors (allowing for house visits as well), dental care, nursing care and maintenance in rehabilitative institutions, medical accessories (pharmaceuticals, prosthetics *etc.*) and other non-traditional methods of medical care. The goal of the medical care should be to provide relief to the employed person and thus be conducive to his recovery and adjustment to normal life.

In case of employment injury, C102 prescribes that 50% of wages be replaced for temporary and permanent disability for a standard beneficiary, defined to be a “man with a wife and two children”. In case of death of the breadwinner due to employment injury, the standard beneficiary, defined to be a “widow with two children”, should be eligible to receive at least 40% of wages of the breadwinner which would signify the loss of support suffered. The wage replacement benefits should be paid periodically. The convention only allows lump sum payment to be made in case of temporary disabilities and in the special instance in which an authoritative body deems that the amount paid will be utilized properly.

C102 also states that periodic payments made for these contingencies should be adjusted to reflect changes in the cost of living.

1.3.2 C121 Employment Injury Benefits Convention

The Employment Injury Benefits Convention (C121) of 1964 directly relates to the provision of benefits to employees injured due to an “industrial accident”. The convention extends protection to all employees; but members may make exceptions for those employed in a casual nature, those employed not for the purpose of the employers business or trade, out-workers and family workers. However these exceptions can account for no more than 10% of the total workforce (ILO 1964).

C121 also defines the types of cash and medical benefits that injured employees should be entitled to. Medical benefit entitlements are the same as that prescribed by C102. In case of temporary disability the injured employee is entitled to receive at least 60% of wages for the duration of his disability after a waiting period of 3 days. For permanent total disability, the injured employee should receive 60% of his wages “throughout the contingency”. By definition of permanency, this implies that the injured employee is eligible to receive income replacements till his retirement. However the benefits are generally payable throughout the lifetime, a specified duration or until a presumed retirement age.

For the loss of a breadwinner, a survivor, defined in the same manner as C102, is entitled to receive a minimum of 50% of wages of the dead workman on a periodic basis “throughout the contingency”, which can be interpreted as the period for which the beneficiary remains dependent on the dead workman’s income. Benefits to spouses may be suspended if he or she remarries. Survivors should also be eligible to receive a funeral benefit.

It is important to note that C121 states that all income replacement benefits are payable on a periodic basis and that the minimum rates of income replacement are; 60% for temporary and permanent disability and 50% for survivors in case of death of the breadwinner.

Convention C121 has been ratified by 23 countries. Sri Lanka is not among these countries. Sri Lanka has not ratified Convention C102 either.

1. 4 Background to the study

In 2008, tripartite representatives from government, business and labour unions participated in the Employment Injury Insurance (EII) fellowship training held under the ILO-Korea Partnership programme. At this event, all three groups expressed the need to convert the current employer liability system into a social insurance type of workers compensation. In 2012, an ILO expert conducted an initial study of the options available for EII in Sri Lanka. The stakeholders did not accept this as a basis for action, and requested ILO to commission a more in-depth study of the issues, paying particular attention to the local circumstances. This report presents the findings of the second study.

2. Country situation

2.1 Social and economic context

Sri Lanka's economy and society have experienced major structural changes in the past decades, which present the country with substantial challenges and several incomplete agendas in the coming years and constrain the choices for reforming EI schemes.

Following the transfer of power to elected governments in the 1930s, the country invested heavily in several initiatives to improve social protection and social security. Influenced by the British colonial legacy and institutions, and constrained by the limited tax base and prior experience, most of these involved replication or adaptation of British policy models. Healthcare and education was made available to all through government taxation and direct provision of services. One important exception to this was the decision to maintain and continue with employer provided social services for workers in the plantation sector, funded by a cess on plantation exports. Significant investments were also made in establishing a nutritional floor through food subsidies. The creation of these major social protection activities not only embedded the democratic system in the country, but also bolstered it during the various national crises that followed from the 1970s. The expectation that the state will intervene to address key social disparities through direct government spending is an integral part of the social contract and basis of social stability.

The country considered in the 1940s–50s, but did not establish, a contributory social security system to finance or expand social protection, deciding that many of its potential functions were already served by the existing arrangements. For example, access to healthcare was already ensured effectively through the health ministry's delivery system. A statutory scheme of workmen's compensation had already been established in the 1930s, and this was left untouched. The one area where there was no statutory provision was in the case of old age income security, but here the conclusion was that a contributory or tax-financed national pension scheme was both beyond the country's administrative capacity and not fiscally affordable. As an alternative, a compulsory savings based provident fund scheme, the Employee Provident Fund (EPF) was introduced in 1958 for private formal sector workers. These general arrangements have been largely maintained ever since. The only notable changes being that the employer-funded and provided healthcare services for the plantation population were nationalized and integrated with health ministry services from the 1990s, following recognition that they had failed to keep up with the government scheme, and the gradual reduction in spending on food subsidies from the 1970s onwards, as the food subsidies were changed from a universal to a means-tested transfer programme.

The major constraint to introduction of contributory forms of social insurance in the 1950s was the reality that most Sri Lankans were dependent on subsistence agriculture and the small size of the formal sector from which contributions could have been collected. In contrast, the existence of an easily taxed and buoyant plantation export sector made it initially much more feasible to mobilize funding through taxation for social protection purposes. Another important constraint was that the competitive political system the country had created by the 1950s generated a constant pressure to ensure that all social benefits be universal for all citizens. In the Sri Lankan context, this has meant that social insurance

mechanisms that would cover only segments of the population lacked sufficient political support and were likely to engender considerable opposition.

Only since the late 1970s did significant changes in the economy occur. Trade liberalization in 1977 was intended not only to expose the economy to global markets and expand exports, but also to jump-start industrialization of the economy, so as to expand employment and accelerate economic growth. Policy-makers regarded export-led industrialization as the only feasible route to rapidly develop the economy. There was considerable success with these policies through the 1990s. Agriculture has declined in importance, and industry and services have increased their contribution to economic output. Unemployment was also substantially reduced, and the proportion of workers in the formal, modern and foreign employment sectors have significantly increased.

However, the initial hopes of achieving rapid industrialization and economic growth have not been met. Whilst economic growth has been good for a developing country, it has been less than the fast growing economies of East Asia, including comparable economies such as Malaysia and Thailand. Given the initial high levels of human capital in the country and other advantages, the various internal conflicts partially explain this underperformance. In particular, export-led industrialization has faltered. The country's share of global trade and exports has fallen in the past two decades, and the share of exports in GDP is now comparable to those in India and Bangladesh, both much larger economies, and similar to where Sri Lanka was in the 1970s. On the other hand, industry has failed to expand adequately, and accounts for a relatively low share of employment for a middle-income Asian economy. No Asian economy has achieved developed status without first going through a phase with substantial industrialization. This trend has been accompanied by a large outflow of Sri Lankan workers in search of employment to other countries, with remittances from migrant workers emerging as the largest source of foreign exchange, and 17% of the Sri Lankan labour force employed overseas in 2010 (Ministry of Foreign Employment Promotion and Welfare).

The country faces significant challenges if it aspires to complete the development path that it set itself in the late-1970s, match the economic growth of other Asian economies, and provide its people with the high living standards they desire. In particular, the economy needs to substantially deepen industrialization, without which virtually no country has ever become developed. It also has to do this whilst facing the negative and insidious impacts on external competitiveness that arise from the large flow of remittances from the many Sri Lankans who have chosen to work outside the country, because working conditions and compensation are better overseas. At the same time, declining population growth and population ageing means that the workforce is no longer expanding, placing a greater premium on improving labour productivity and increasing labour force participation rates in order to raise living standards.

These challenges imply that the country will need to focus on improving employment conditions and productivity, improving retention of skilled labour, and maximizing labour force participation to overcome labour shortages as the economy expands. All this has to occur in a context where the internal conflict that hampered socio-economic progress of the country for almost three decades came to an end in 2009, making it increasingly likely that the electorate will give further priority in coming years to reducing socioeconomic disparities and expanding social protection.

2.2 Labour force

Sri Lanka has a population of 20.3 million people (2012) with a labour force of 8.5 million, of which 8.1 million is employed: 31% in the agriculture sector, 26% in industries and 43% in services. Sixty one per cent of the employed are engaged in the informal sector, and 63% of them are own account workers and family workers. Fifteen per cent of the employed labour force is in the public sector, which includes government and semi-government establishments. The proportion of employed labour force in the private sector accounts for 41.3 per cent (Department of Census and Statistics 2012).

Outside agriculture and construction, most Sri Lankan workers are employed in small and medium sized enterprises. In 2006, small firms (less than 5 employees) represented 82% of all firms, but employed only 13% of the employed labour force (Table 1). In 2011, formal private sector employees were the sole wage earner in 32% of households, representing 29% of the population (Department of Census and Statistics 2011).

Table 1: Distribution of enterprises and workers by size of firm, 2006

Size (Number of employees)	Number of enterprises	Number of workers
Less than 5	284,277	843,547
5 to 9	253,531	1,629,901
10 to 15	32,886	418,530
16 to 49	42,252	1,390,717
50 to 99	2,672	189,255
100 to 999	4,740	1,520,159
More than 1,000	249	669,074
Total	620,607	6,661,183

Source: Census of Trade and Services 2003/2006 and Census of Industry 2003/2004, Department of Census and Statistics

3. Current employment injury arrangements in Sri Lanka

Other than the rights workers have under the common law, the formal arrangements for EI compensation in Sri Lanka is worked out on the basis of employer liability, which makes employers liable for the costs of compensation. All formal sector employees, both public and private, are covered by the Workmen's Compensation Ordinance (WCO) of 1934. This is an employer liability system.

3.1 Common law

Any injured employee has the inherent right to sue his employer under common law. To do this, the worker must file a case in a district court; this case will be for personal injury caused by the employer rather than a workplace injury. To be successful, the worker will have to prove negligence and liability by the employer, who in turn can defend a claim on the grounds of culpability by the worker in the injury.

Under common law there are a multitude of statutes that can come in to play to determine the ultimate course of any settlement. The value of any settlement will be based on a number of factors. These include previous cases that have similar backgrounds and other factors such as negligence of the employer, the employers' assets and financial capacity, *etc.* It is impossible to say whether an employee will necessarily receive a larger compensation if he sues the employer over opting to be settled under the WCO described below. Nevertheless, this option of redress will be expensive and carries significant risks for the worker of obtaining no compensation. No statistics are readily available on how many workers make use of this approach and how many are successful.

3.2 Government workers

Government workers consist of employees of the government, provincial councils, local governments and government departments. They account for 1 million employees in 2012 (Central Bank of Sri Lanka 2012) representing 11.7% of the labour force. There were also 200,000 semi-government employees in 2012.

The WCO, in its definition of an "employer" includes the Republic of Sri Lanka and all local authorities. Thus, all public servants, whether in a permanent and pensionable post or not, are eligible to receive due compensation for work place injury according to the Workmen's Compensation Ordinance of 1934.

In addition to the above, beneficiaries of government employees in permanent and pensionable positions are also eligible to benefit from the Widows, Widowers and Orphans Pension Fund. The Department of Pensions operates this fund which was established under the Widows' and Orphans' Pension Fund Ordinance No 1 of 1898 and the Widowers' and Orphans' Pension Act No 24 of 1983. It provides a pension to the widows/widowers, orphans and/or dependants of public officers who are in permanent and pensionable positions if they die before becoming eligible to receive the pension. Widows, orphans and/or dependants of armed force personnel who die while on duty are also eligible to receive this pension.

The Department of Pensions also operates the Armed Forces Pension scheme that provides a disability pension to the armed forces personnel if they are injured while on duty. A lump sum of the amount equivalent to 5 years of salaries is paid along with the disability pension until the officer reaches the age of 57 (HPRA 2005).

3.2 Workmen's Compensation Ordinance

The Workmen's Compensation Ordinance (WCO) of 1934 is the first and only legislation passed in Sri Lanka to deal specifically with employment injury. The WCO was influenced and modeled on British Columbia's Workmen's Compensation Act of 1920 which established a similar system in that Canadian province (Chaklader 1998). Prior to its introduction, injured workers (or their dependent survivors) could in theory obtain compensation by suing their employers in the courts. But such action would have required time and money, and also was not guaranteed to deliver redress. Probably most affected workers would not have in fact made use of such an option, given the difficulties. The WCO provided workers with an easier and more automatic mechanism for obtaining compensation, but this was in return for giving up any rights to sue the employer in the courts.

3.2.1 Coverage

The WCO, technically, covers all workers, but our understanding is that in practice the benefits prescribed under it extend to the formal public and private sector employees only. The WCO defines an employment injury as a disablement suffered as a result of an employment related accident that reduces the earning capacity of the workman; so temporary and permanent disability and death due to work related accidents are the contingencies covered.

The WCO defines a workman as "any person who has entered into or works under a contract with an employer for the purposes of his trade or business in any capacity, whether the contract is expressed or implied, and oral or in writing and whether it is a contract of service or of apprenticeship." Accordingly, it is understood that all employees irrespective of whether formal, contractual, out-workers, public or private should be protected by the ordinance. The WCO formally excludes the military and police personnel, workers of casual nature and those employed other than for the benefit of the employers' trade, such as domestic workers. By definition, the self-employed are excluded, due to the absence of an "employer".

We thus estimate that only 35% of the labour force would in reality receive the benefits prescribed by the WCO; specifically 2.9 million employees in both public and private formal sector employment. Those excluded from coverage include self employed persons, family workers and employers in both formal and informal sectors and employees in the informal sector. Together they constitute of 5.2 million individuals accounting for 65% of the labour force (Department of Census and Statistics 2012).

3.2.2 Implementation

The implementation of the WCO is vested in the hands of the Commissioner of Workmen's Compensation, who enjoys the powers of a civil court in this regard. It is the Commissioner's

responsibility to receive claims for compensation, conduct inquiries into accepted applications, settle disputed claims, and to collect compensatory payments from employers and dispense them to the claimants. The Ordinance makes it mandatory that all compensation made in respect of a fatal accident be channeled through the commissioner. However, compensation for non-fatal accidents may be paid directly to the injured employee with notice, through a memorandum to the commissioner that such has been done.

The Ordinance obligates all employers to inform the Commissioner of any fatal and non-fatal accidents that occur to his employees within seven days of such an incident. However, this does not happen in practice and the Commissioner has not established any procedures for submitting such information, so there is considerable under-reporting of work-related injuries and diseases in Sri Lanka. The Ministry of Health estimates that 15% of all admissions in 2011 to the National Hospital of Sri Lanka in Colombo were due to work-related accidents, but relevant statistics are not collected as part of the routine information system. It is presumed that the prevalence of occupational diseases could be higher, but they are rarely recorded as “work related diseases” (Maduruwala 2013).

The current system of employment injury benefits is purely employer liability based. There is no mandatory insurance clause in the WCO that requires employers to be insured against employee injury risks. An employer may opt to insure his liability in this regard at his own discretion. Insurance companies offer workmen’s compensation insurance policies to cover workmen’s compensation liabilities. Further, personal accident insurance policies are available for employers to cover their liability to compensate any person who is injured at the business’ premises, which will include his employees as well.

Under section 60 of Part XII, the WCO indemnifies an employer from legal action if the employee chooses to be compensated according to this ordinance. Employees must therefore choose between common law and the Ordinance when he decides on how he wants to be compensated. The WCO provides a relatively easier method for an employee to receive compensation for his losses. However, the compensation is limited compared to the settlement he may receive if he chooses to sue his employer. It is impossible to say that an employee will necessarily receive a larger compensation if he sues the employer over opting to be settled under the WCO.

Employers who have chosen to insure their liability using workmen’s compensation insurance will be insured against the legal costs as well, if the injured employee decides to forgo compensation and pursue a lawsuit against the employer in civil court.

3.2.3 Compensation benefits

The WCO provides in its Schedule IV the exact compensation liable to be paid to an injured employee. This varies according to the wage class of the employee and the degree of the disablement he has suffered: permanent, permanent partial, temporary or death. The ordinance also specifies the method in which the compensation should be paid: periodic payments for temporary disabilities and lump sums for permanent disabilities and fatalities.

In case of a temporary disability, half monthly payments should be made to the injured employee after a minimum three day waiting period. This amount ranges from a minimum of

Sri Lanka Rupees (Rs.) 1,320 half monthly for a victim earning less than Rs. 2,500 a month to a maximum of Rs. 5,500 half monthly for a victim earning more than Rs. 20,000 a month.

In the case of total permanent disability, the prescribed lump sum payments range from a minimum of Rs. 196,083 to a maximum liability of Rs. 550,000. The minimum lump sum payment for a death claim is Rs. 181,665 and the maximum is Rs. 550,000. This amount is split among the dependants according to the ruling of the Commissioner, and for funeral expenses up to a maximum of Rs. 20,000 may be deducted from this payment.

3.4 Other relevant legislations and schemes

3.4.1 Medical treatment for injured workers

All citizens of Sri Lanka are provided free healthcare services by the government, financed by workers and tax payers through general revenue taxation and provided through direct government delivery (Rannan-Eliya, et al. 2008). The Ministry of Health (MOH) operates an extensive network of hospitals and healthcare facilities throughout the country, which is in practice accessible to all. Various indicators show that Sri Lanka achieves high and equitable levels of access to healthcare services compared with comparable countries (O'Donnell, et al. 2007), and a high degree of financial risk protection against the costs resulting from medical treatment (van Doorslaer, et al. 2006).

Available MOH services are provided without consideration as to the cause of any injury or disease. In this sense, injured workers have access to treatment when needed. However, what services are made available to all citizens is determined by MOH taking into account availability of financial resources. This implies that it is possible for the workers to experience injuries for which treatment is not adequately provided. However, creation of a separate funding arrangement to deal with such gaps would be contrary to the national policy that uses general revenue taxation to finance healthcare service for all without restriction or discrimination. It would also be undesirable in terms of international recommendations, where fragmenting risk pools for healthcare would obstruct and make attainment of universal healthcare coverage more unfeasible (World Health Organization 2010)

There is only one government hospital in Sri Lanka that provides specialized rehabilitative services in the form of physiotherapy and occupational therapy, located in Ragama in the Western Province. Other tertiary level hospitals too provide rehabilitation services to patients. Whilst there are many private fee-levying hospitals that provide such rehabilitative care, this, however is a relatively expensive option that is not affordable for the majority of Sri Lankans, and certainly for the typical low-skill and low-wage workers.

3.4.2 Employees' Trust Fund Act

The Employees' Trust Fund Act No 15 of 1980 established the Employees' Trust Fund (ETF) to supplement the functions of the Employee Provident Fund (EPF) (described below). Employers must contribute three per cent of payroll to the ETF on behalf of their employees; who do not contribute to this fund. All employees from the private sector and all public servants who are not entitled to a civil pension (or till such an employee becomes eligible to receive a civil pension) are necessarily covered by this act.

Section 18 of the ETF Act extends eligibility of membership to self employed persons as well, and a subsequent amendment to the act in 1988 extends eligibility of membership to migrant workers. Self employed and migrant workers who obtain membership with ETF must make a minimum monthly contribution of Rs. 200 to maintain membership. Though these provisions exist it is unlikely that many self employed or migrant workers have obtained membership with the ETF.

The ETF Act established the Employee's Trust Fund Board (ETFB) to administer and manage the ETF. Initially, the ETFB came under the purview of the Ministry of Labour. However, in 1997 it was brought under the Ministry of Finance and Planning. The ETFB consists of a board of nine members; six members appointed directly by the minister in charge of the ETF, two members representing employees appointed with consultation of the minister and one member to represent the employers nominated by the Employer's Federation of Ceylon (EFC). The EFC is the largest employer representative in Sri Lanka, with a membership base of over 500 companies.

The ETF Board collects contributions and is required to invest them prudently on behalf of its beneficiaries. At the age of retirement or five years after complete cessation of employment, employees can claim their account balances with accumulated interest from the ETF in lump sum form. This serves as ETF's main statutory benefit. The ETF also provides certain non-statutory benefits to its active members (currently employed), including death benefits, permanent disability benefits, and financial assistance for medical emergencies and educational purposes.

The ETF provides the following benefits with relation to injury, which may not necessarily be work-related:

- Its permanent disability insurance scheme provides benefits to active members in case of permanent disability resulting in incapacity to work. The disability must result in more than 50% loss of earning capacity of an injured employee for him to be eligible to receive this benefit. The benefit offered is subject to a ceiling of Rs. 200,000. In 2012 the ETF spent Rs. 5.6 million on forty permanent disablement benefit claims.
- In case of death of an active member, his legal heirs are entitled to claim the employee's account balance and accumulated interests along with a life insurance benefit offered by the ETF. This life insurance benefit is subject to a maximum of Rs. 100,000 and is automatically offered by the ETF to all beneficiaries who make a death claim within one year of the death of the member. However, the contributions should have been made regularly for the 12 months preceding his death except during the period when the member was terminally ill, in which case a minimum of 2 months contributions should have been made. In 2012 the ETF spent Rs. 49 million on a thousand life insurance benefits claims.

The figure of thousand life insurance benefit claims is far less than the number of deaths that would be expected in a given year out of an ETF membership of 2.2 million employees. The reason for the low claim rate is unclear, but may include lack of awareness of this benefit on the part of the beneficiaries who fail to make the claims within the one year period, thus

forgoing the insurance benefits that they are entitled to. If so, it implies that if all potential claims were filed that the costs would increase several fold.

3.4.3 The Employees' Provident Fund Act

The Employees' Provident Fund Act of 1958 established the Employees' Provident Fund (EPF) for the benefit of all private and public sector workers who are not eligible for a civil pension. The EPF is a contributory old age income security scheme. The EPF is a contributory old age income security scheme; upon reaching the age of 50 for females and 55 for males the active contributors are eligible to claim their account balances along with all accrued interest payments. Unlike the ETF, both employees and employers contribute to the EPF; employers contribute 12% of the employee's earnings while the employee contributes 8% of his earnings to the fund.

The benefits EPF offers include provision of refunds of account balances due to the employee in case of occurrence of a permanently disabling injury. This provides some short-term income security to the injured employees who are active members of the EPF. The account balances can be claimed before reaching the retirement age if the member has to leave work owing to permanent disability, or by the beneficiaries in the event of death of an active member, immediately.

3.4.4 Termination of Employment of Workmen (Special Provisions)

The Termination of Employment of Workmen (Special Provisions) Act No 45 (1971) states that an employer cannot terminate the services of an employee for non-disciplinary reasons without the prior written consent of the Commissioner of Labour or the workman. This act applies to all Wages Board employees, Shop and Office employees and factory employees. An employee who feels that he is unfairly dismissed can make an application regarding it to the Labour Tribunal.

An employee who is disabled due to a workplace injury is protected against dismissal as long as he is able to provide his services to the employer. In conjunction with laws such as the Shop and Office Employees (Regulation and Employment and Remuneration) Act of 1954 and the Public Sector Establishment Code, an employee who has provided more than one year of service is entitled to receive seven days of paid medical leave. This has practical application when the injured employee suffers a temporary or partial permanent disability and is unable to attend to his work immediately or prefers to continue in the employers' service.

3.4.5 Payment of Gratuity Act

The Payment of Gratuity Act No 12 (1983) mandates employers to make gratuity payments to those employees who have served for over five years at the time of their resignation. Section 3 (1) of the Act stipulates that the gratuity payment for a daily wage labourer be calculated on the basis of seven days of wages for his each year of service. As per Section 3 (2), the workmen (defined for the purpose of paying workmen's compensation) will be entitled for a gratuity payment at "the rate of a sum equivalent to one month's gross wage or salary of that workman for each year of completed service" (Payment of Gratuity Act 1983).

If an employee with over five years of service sustains injury due to a work related accident and decides to leave his current employment then he too will be entitled to receive this gratuity payment. Thus, this also serves as a form of short-term income security for the workers who voluntarily leave work consequent upon work related injury.

4. Arrangements for employment injury compensation in other countries

Arrangements for EI schemes vary widely across countries. Generally, there are two main forms of EI scheme: (i) social insurance and (ii) employer liability. A third approach that is found in only a few countries, such as New Zealand, is where the state establishes a fund through taxation or contributions that pays compensation for all injuries incurred by citizens, regardless of cause.

Social insurance-based EI schemes involve the creation of a national fund for employment injury and disease. Such a scheme is usually held under public administration, and often administered by a tripartite board including the social partners. Contributions into the fund generally come from the employers and sometimes from the employees as well. There may also be a contribution from general revenue, *i.e.*, taxes. A government agency usually takes responsibility for collecting the contributions, assessing claims, making compensation payments and generally overseeing the financial sustainability of the fund. An EI scheme may be specific or it may be a component of a broader system, with benefits payable in the event of unemployment, sickness, disability, maternity, retirement and death. Japan, Korea, Germany and China are examples for this approach.

Employer-liability systems, on the other hand, are based on the premise that employers are liable in some circumstances for disabilities caused to their employees. Individual employers are therefore responsible for the compensation measures for work-related accidents and illnesses. In most cases, employers are legally obliged to have liability cover, although in some jurisdictions this remains voluntary. Employers obtain cover by purchasing an insurance policy (or less commonly by placing a deposit with the government). In some countries, the government will also determine what insurance policies are acceptable, or regulate the prices that insurers can charge. Examples of this more interventionist approach include Australia, Thailand, Hong Kong and Singapore.

Both social insurance and employer-liability private insurance schemes share some of the same characteristics. Both involve pooling of risks. Both define the benefits to be provided, and the rules for entitlement for claims. Both set contributions for employers to pay (ILO 2013). Which scheme countries have adopted tends to reflect their institutional histories, and whether they have broader contributory social insurance systems.

Many of those with employer liability systems are ex-British colonies, such as Bangladesh, Hong Kong and Singapore. All of these, like Sri Lanka, started from a position where all employers were liable for compensation under the common law, with workmen's compensation legislation being introduced to facilitate claims and regulate liabilities in return for releasing employers from their liabilities under common law. In most of these countries, contributory social insurance schemes are not the norm, which makes a switch to such an approach not only difficult in terms of worker and employer familiarity, but also more demanding because of the lack of experience and capacity in running social insurance agencies.

As countries with systems and institutional contexts similar to Sri Lanka they are the most relevant in terms of what is likely to be feasible in Sri Lanka. Consequently, the following sections review the schemes in Hong Kong, Singapore, New South Wales in Australia and Malaysia. These are based on the material found in the publication series of the Social Security Administration and the International Social Security Association titled *Social Security Programs throughout the World* and other publications by the authoritative bodies of each country reviewed. In addition, information was obtained from a visit to the offices of SOCSO in Malaysia that was arranged with ILO facilitation.

4.1 Hong Kong

Hong Kong has a similar legislative history to Sri Lanka in the field of EI schemes, having legislated a workmen's compensation ordinance in 1953. However, it has extended this by mandating employers to purchase a private insurance policy, and regulating the standards that a qualifying policy must meet.

The Employees' Compensation Ordinance (ECO), Chapter 282 defines the rights of employees with regard to incidents of injury, disease and death occurring during the course of employment as well as the obligations of the employers to provide compensation for such incidents (Employees' Compensation Ordinance, Chapter 282 1953). The ordinance covers all full and part time workers who are employed under contractual service. It excludes casual workers (though not domestic workers), out workers and family workers. Work related commuting injuries that result in loss of earning capacity are grounds for compensation. Under this Act, insurance is mandatory for employers only to cover permanent incapacity and fatal cases, whereas for providing compensation for temporary incapacity the employer may decide to insure his liability at his own discretion. Table 2 lists out the benefits that injured employees are entitled to receive under the ECO.

Table 2: Benefit entitlements for workplace injuries as defined by the Employees' Compensation Ordinance (ECO) Chapter 282 of 1953 in Hong Kong

Contingency	Condition	Compensation
Death	Under 40 years	84 months' earnings
	40 to 56 years	60 months' earnings
	More than 56 years	36 months' earnings
Permanent incapacity (PI)	Under 40 years	96 months' earnings
	40 to 56 years	72 months' earnings
	More than 56 years	36 months' earnings
Partial permanent incapacity	Under 40 years	96 months' earnings x %PI
	40 to 56 years	72 months' earnings x %PI
	More than 56 years	36 months' earnings x %PI
Temporary incapacity	7 days	Normal wages
Medical expenses		HKD 200 to HKD 280 a day
Medical accessories	Initial fitting	HKD 33,460
	Repair	HKD101,390

Note: HKD = Hong Kong Dollars.

Source: Labour Department (2012)

The Act provides statutory minimums that the employer must consider when purchasing an insurance policy. For an employer with less than 200 employees, his insurance policy must provide coverage for at least Hong Kong Dollars (HKD)100 million an event and for an employer with more than 200 employees, at least HKD 200 million per event. Insurers are not pre-defined and the premiums are not price regulated.

4.2 Singapore

Singapore shares a similar history to Sri Lanka and Hong Kong in its approach to EI coverage. It introduced a Workmen’s Compensation Ordinance in 1933, and followed an identical approach to Sri Lanka until the introduction of the Work Injury Compensation Act of 2008, in which private insurance was made mandatory in order to cover the employer’s liability (Work Injury Compensation Act 2008). This also introduced the system of “no-fault”, in which an employee can seek compensation regardless of who caused the injury; be it the employee’s or the employer’s fault. The employee has the option to either take the due compensation and forgo legal action or vice versa.

Under the Work Injury Compensation Act of 2008 (WICA) all employees engaged in manual work and all non-manual workers earning less than Singapore Dollars (SGD) 1,600 a month must be covered by an insurance policy purchased by the employer. However, this does not mean that the employer is relieved of his liability if a non-manual worker earning more than SGD 1,600 a month is injured, merely that the employer is not required to insure this liability, which he may do at his own discretion. The Act exempts self-employed persons, independent contractors, domestic workers and security personnel from its coverage.

WICA specifies the medical benefits and wage replacements that an injured employee is entitled to. Table 3 provides the rates and amounts that employers are liable to pay as compensation for workplace injuries. In case of total permanent incapacity the injured employee is also eligible to receive an additional 25% compensation to cover his costs of care.

Table 3: Benefit entitlements for workplace injuries as defined by the Work Injury Compensation Act of 1975 in Singapore

Contingency	Method of payment	Amount
Death	Lump sum	SGD 57,000-170,000
Permanent incapacity	Lump sum	SGD (73,000-218,000) x %PI
Medical expenses	Ad hoc	Up to SGD 30,000
Medical leave wages	Periodical	2/3 of salary for a period of 1 year

Note: SGD = Singapore Dollars.

Source: Ministry of Manpower (2013)

The insurance policy obtained by the employer is not price regulated, neither does WICA predefine companies eligible to provide workmen’s compensation insurance, it is up to the employer to source out a competitive policy. One negative aspect of this feature is that it can lead to high-risk firms facing very high premiums, making it difficult for them to purchase insurance.

4.3 New South Wales, Australia

Australia has eleven main workmen's compensation schemes: eight state-territorial and three commonwealth schemes. The national system is one of employer liability with mandatory insurance either with a public or private provider (depending on the state) with regulated premiums. As the various state arrangements are similar, we describe here details for one state.

In the state of New South Wales (NSW) the government body known as WorkCover provides the insurance policies for insuring workmen's compensation. It is the aim of the scheme to provide financially sustainable workmen's compensation systems that are equitable and affordable to employees (WorkCover Official Website 2013). The NSW WorkCover policies provides 100% wage (and overtime) replacements for temporary disabilities up to a year. For permanent disabilities it provides 100% of wage (and overtime) replacements for permanent disabilities along with fixed amounts of spousal and child support, lump sum payments and medical and hospital expenses reimbursements. It provides a fixed weekly allowance for the spouse in case of the death of a workman and a fixed weekly allowance for each dependent child (SafeWork Australia 2013).

WorkCover NSW is funded by the premiums paid in by the employers. Premium rates are revised yearly by the Insurance Premiums Orders (IPO) which provides guidelines to all state and private insurers for calculating premiums for workmen's compensation. Premiums vary according to the risk rating of the industry in which the employer operates, the total wage bill of the employer and the employers own experience rating (value of claims made by his workers in the past) (WorkCover Official Website 2013).

The Australian system is very advanced in terms of resource usage and management and the welfare it provides to injured employees and their families.

4.4 Malaysia

Malaysia, similar in its colonial heritage to Sri Lanka, initially provided workmen's compensation through an employer liability system, legislated by the Workmen's Compensation Act of 1952. This is similar in its features to the WCO of Sri Lanka. However, subsequent to the introduction of the Employee's Social Security Act (ESSA) in 1969 and the establishment of the Social Security Organization (SOCSCO) the Workmen's Compensation Act was made void for all resident workers of Malaysia. The Workmen's Compensation Act still remains effective and provides coverage to certain classes of foreign workers.

At the time that ESSA was introduced in Malaysia in the 1970s, it was relatively easy to do so due to low levels of political mobilization and low social awareness (employers were indifferent due to unawareness of cost implications). Such is not the case anymore. Although both Malaysian workers and employers see SOCSCO positively, it has become increasingly difficult to expand coverage into other branches of social protection (one of the objectives of SOCSCO), such as maternity benefits, due to resistance from employers.

The Social Security Organization (SOCSCO) was set up to administer and implement the ESSA. This is a method of social insurance scheme that provides medical and cash benefits and financial assistance for medical accessories and rehabilitation to employees who are

unable to work. Employment injury is one of many contingencies that SOCSO provides for through invalidity pensions, survivor benefits, rehabilitation programmes, funeral benefits, etc.(Employees' Social Security Act 1969).

SOCSO covers all Malaysian and permanent resident workers, all foreign and manual workers earning less than Malaysian Ringgits (RM) 500 a month, and all employees earning less than RM 3,000 a month. SOCSO excludes self-employed persons, family workers, domestic workers, military, public servants and foreign worker earning more than RM 500 a month.

There is a special scheme in place to provide coverage to public servants and military personnel whereas for higher income foreign workers it is mandatory to obtain coverage for employment injury through an insurance policy with one of eleven pre defined insurers.

For EI, SOCSO operates two schemes: the employment injury scheme (EII) only and the EII and invalidity pension scheme combined. The EII and invalidity pension scheme is compulsory for individuals who are below the age of 60 while the EII scheme is compulsory for those who are above 60 years of age and still employed, to those who are aged 55 and over at the time of first becoming registered with the SOCSO and for those employees who are already receiving an invalidity pension from the SOCSO.

Both the employee and employer subscribe to the SOCSO. SOCSO contributions are mandatory only for employees earning less than RM 3,000 a month, so higher income earners can choose to be excluded from SOCSO contributions. However SOCSO adopts a “once a contributor, always a contributor” approach, so that if an individual was ever in the less than RM 3,000 category or has opted in once, he is required to contribute throughout his lifetime. Contributions are made at amounts fixed against the wage earned by the employee. Table 4 shows the amount of RM contributed by the employer and the employee for each of the schemes under select wage categories.

Table 4: Employer and employee contributions for SOCSO schemes in Malaysia by selected monthly wage categories for 2013

Monthly wage	Employment Injury and Invalidity Pension (EI&IP) scheme		Employment Injury (EI) scheme
	Employers contribution (RM)	Employee's contribution (RM)	Employer's contribution (RM)
Less than 30	0.40	0.10	0.30
500-600	9.65	2.75	6.90
1,500-1,600	27.15	7.75	18.10
More than 2,900	51.65	14.75	36.90

Note: RM = Malaysian Ringgits.

Source: Social Security Organization (2013)

Under SOCSO, the EI scheme provides medical care, income replacements and constant attendance allowances for temporary and permanent disablements. Income replacements are provided throughout the duration of the disability or till his death, whichever comes first. The scheme also provides rehabilitative care to injured employees in the form of medical accessories such as prosthetics and orthopaedic equipment. It provides dependants benefit and funeral costs in case of death of a workman. The dependent benefit is paid throughout the life of the spouse, even if he or she were to remarry.

The EI scheme also offers a comprehensive return-to-work programme geared to encourage and assist injured employees to re join the work force.

The EI&IP scheme provides round the clock coverage to the contributing employees. The scheme offers a pension, grants, constant attendance allowances and facilities for dialysis and rehabilitation for employees who have suffered incapacity of more than 66%. The invalidity pension is paid throughout the duration of the disability or till death. Upon death the pension is transformed in to a survivor's pension. In case of death it provides a survivor's pension to spouse, funeral benefits and education grants to orphans.

One of the most commendable operational goals of SOCSO is to ensure that valid claims made by injured employees are processed and compensation paid in a speedy fashion, usually within three to four days of application.

5. Assessment of the Workmen's Compensation Ordinance

5.1 Gaps in nominal compliance

All stakeholders are in agreement about the desirability of revising the current legislative framework in Sri Lanka to ensure better compliance with the applicable ILO conventions. The current Workmen's Compensation Ordinance (WCO) in Sri Lanka fails to meet the requirements of the ILO Convention C121 in several key aspects, specifically:

- (i) The wage replacement rate for temporary disability is set at 50% compared with the convention standard of 60%.
- (ii) Lump sums are prescribed for several benefits (permanent and survivor), when the convention requires the use of periodic payments.
- (iii) Benefits are not inflation-adjusted, as required by the convention.
- (iv) Too low a ceiling set on all benefits.

5.1.1 Rate of wage replacement

According to the Schedule II of C121, the minimum prescribed rate of wage replacement for temporary incapacity is 60%. However, under the WCO, this is set at approximately 50% of wage up to a monthly wage level of Rs. 22,000. Above this level the rate of compensation is capped at Rs. 11,000 a month, implying that the workers with higher wages receive rates less than 50%.

5.1.2 Lack of periodic payments of compensation for permanent and fatal cases

Although C121 specifically states that all compensation with regard to permanent disabilities and fatal accidents should be payable periodically, this is not the case in Sri Lanka. Instead compensation is usually paid in one-off lump sum. According to the convention the compensation could be paid in a lump sum only if the authorities are convinced that the money will be utilized in a proper manner by the beneficiaries.

5.1.3 Cost of living adjustments

Article 21 of C121 stipulates that all benefits payable shall be "reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living". This means a mechanism to adjust benefits in parallel with the inflationary effects. Neither the WCO nor the general legislative practice in Sri Lanka provides such a mechanism. Since inflation is a constant reality, the lack of inflation adjustment means that the real value of most benefits is reduced over time far below the level they seem to provide at the start of payment. The temporary benefit, though paid periodically, is not inflation indexed either.

5.1.4 Existence of a “premature” ceiling on benefits

C121 allows a maximum limit to be placed on the total (or annual) benefit or on the earnings. However, the maximum limit should be fixed in such a manner not to restrict or reduce the ability of the beneficiary to provide for his dependants.

The ceiling that exists in Sri Lanka is set too low as it restricts benefits, especially those due for permanent disability and death. For example, the ceiling of Rs. 550,000 for an injured employee earning Rs. 20,000 a month will be equivalent to only two and half years of his nominal income, which is far less than the envisaged in C121.

5.2 Employer-employee injury compensation costs

Although there is a statutory obligation for employers to report all work-related injuries to the Commissioner of Workmen’s Compensation, this does not usually happen. This is further compounded by the system failing to have mechanisms for reporting and enforcing legal requirements. Consequently, there is no system to monitor and track work-related injuries and the costs associated with them.

As no statistics are available, IHP conducted a sample survey of employers to obtain information on current costs of employment injury compensation (Box 1). In addition, a survey of all insurance companies was conducted to collect details of relevant insurance policies issued by them. According to the employer survey, the average cost of employment injury borne by the employers in 2012 was on average no more than Rs. 954 per worker, which also includes the cost of insurance premiums. This means that the total employment injury costs represented less than 0.35% of total wage costs in 2012.

Box 1 – IHP Survey of Employer Social Benefits in Sri Lanka 2013

To estimate current EI costs, a mail survey of employers was carried out. A list of employers was first compiled by combining the membership list (557 firms) of the Employers’ Federation of Ceylon (EFC), the membership list (431 firms) of National Chamber of Exporters (NEC), the list of all regional plantation companies (21 firms), and a sample listing of 850 manufacturing and service enterprises from the Department of Census and Statistics (DCS) Census of Trade and Services 2003-2006 and the Census of Industry 2003/2004. The listing provided by DCS was stratified by sector, size of workforce and district and was obtained from the listings developed for the Census of Trade and Services 2003-2006 and the Census of Industry 2003/2004.

Questionnaires were sent to the sampled firms by mail, with supporting cover letters from the Ministry of Labour and Labour Relations, and from the EFC in the case of EFC members. The questionnaires asked firms to report details of their business activity and turnover, any expenses incurred for employee injury during 2012, and how these expenses were financed. Other questions were also asked about maternity leave benefits and employee health benefit expenditures.

Out of 990 enterprises surveyed, a total of 262 responses were obtained, giving an overall response rate 26.5%, which can be considered an acceptable response rate for a mail survey of this kind. The survey forms were returned undelivered from 172 out of 850 firms selected using the listings provided by DCS, indicating that many of these firms were no longer operating at the given addresses. During analysis, the actual responses received were then weighted by size of firm and type of industry so as to match the profile of firms in the DCS Census of Trade and Services 2003-2006 and the Census of Industry 2003/2004, as reported to IHP by DCS.

The response rate for small firms was much lower than the overall, so the reweighting was not enough to completely remove any response bias. In addition, the evidence suggests that firms who purchase insurance were more likely to respond, as the net frequency of insurance policies was higher than reported by the insurers themselves. As the DCS sample was from its 2006 Census, both the weighted and un-weighted samples under-represent new firms that were established since 2006. Only one construction firm responded, partly because these firms were not included in the DCS 2006 listing, and this firm was excluded from the survey analysis, as it was judged not to be representative of its industry. Consequently, the survey estimates only reflect the costs of manufacturing, service and plantation enterprises, and our estimates are probably over-representative of medium and large firms, and those firms who are more likely to purchase insurance. This means that our final estimates of employer costs are almost certainly over-estimated.

Table 5 provides the cost per worker of total EI (premiums on insurance policies and compensation paid) and the cost as a percentage of pay roll for selected industries. It is interesting to note that regional plantation and manufacturing companies reported very low employment injury costs, both per worker and as a percentage of pay roll. One might expect plantation and manufacturing workers to be at a higher risk of exposure to occupational injuries and diseases compared to workers in the “white collar” industries such as banking and finance. However, the former reported much lower costs in comparison. This may be because employees in certain low risk industries, such as banking, are entitled to better employment injury benefits than those of high-risk industries. Firms in the relatively high-risk industries, such as electricity, gas and water, reported the highest rupee cost per worker and a cost of 0.5% of pay roll.

Table 5: Survey estimates of current costs of employment injury for selected industries in Sri Lanka, 2012

Industry	Cost per worker (Rs.)			Cost as a % of pay roll
	Total	Direct claims	Insured claims	
Plantations	124	19	14	0.09
Manufacturing	373	92	26	0.19
Electricity, gas and water	2520	64	0	0.50
Banking and financial services	1315	979	30	0.24
Transportation and communication	387	12	2	0.06
Total	954	674	103	0.35

Source: IHP Survey of Employer Social Benefits in Sri Lanka 2013

Many firms reported that they purchase private insurance policies, either for workmen’s compensation or personal accident risks. The workmen’s compensation policy covers only the statutory obligations and possible legal costs incurred by employers under the WCO. On the other hand, the personal accident policy covers a wider range of contingencies and usually pays higher on claims as opposed to workmen’s compensation policies. Although medium and large firms tend to purchase such policies, there is a slack on the part of small firms going for such schemes. Amongst medium and large firms, up to 94% of overall EI costs were accounted for by insurance premiums, and insurance policies financed 71% of actual compensation payments made to the employees. Less than 25% of small firms (less

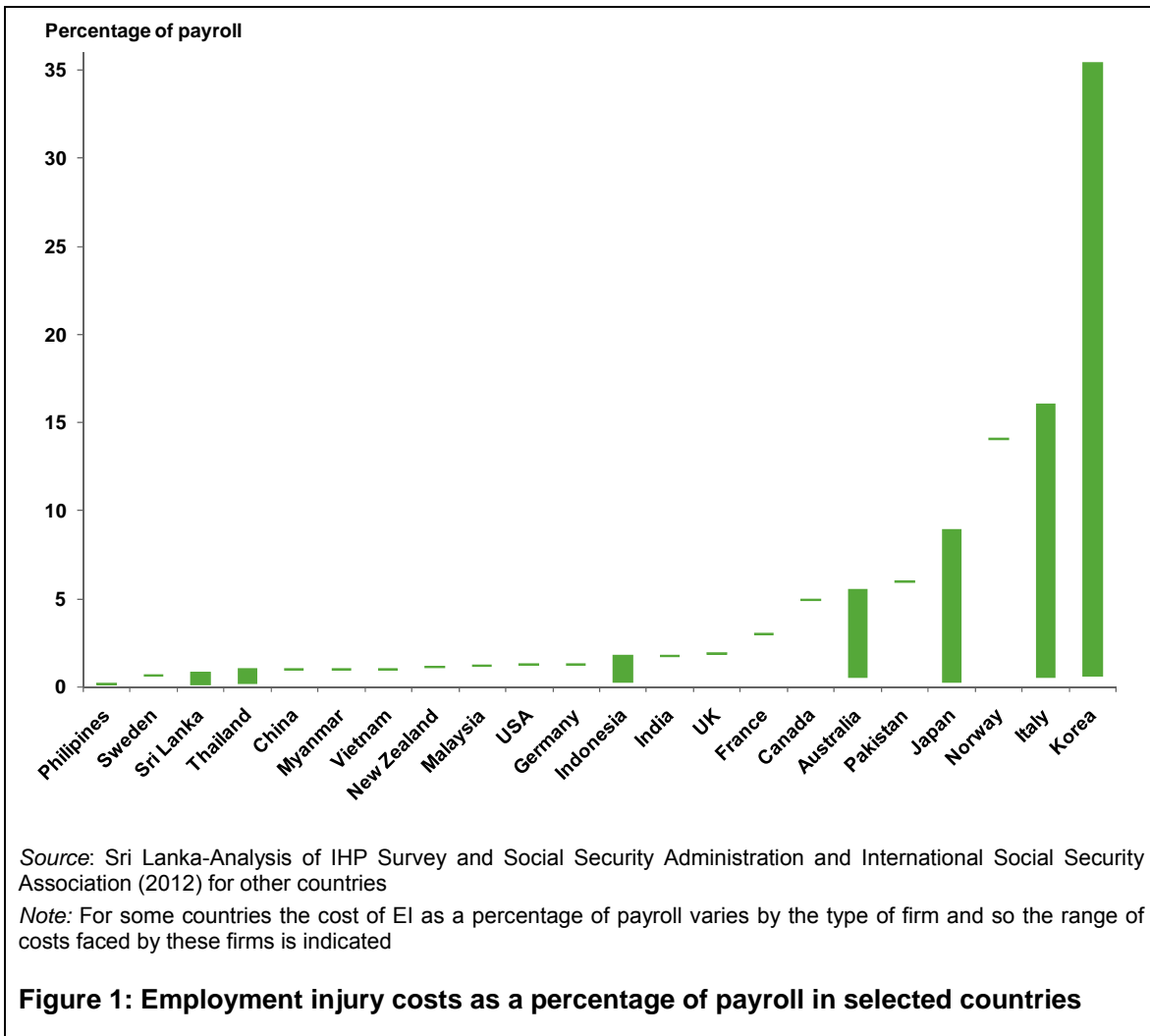
than 49 employees)¹ compared with 87% of medium (150 to 499 employees) and 77% large (more than 500 employees) firms had any type of insurance coverage for EI.

A separate survey of insurers revealed that in 2012, Rs. 349 million was collected in premiums for workmen's compensation insurance and Rs. 753 million on personal accident covers, which add up in excess of Rs. 1 billion on injury-related insurance policies. Rs. 411 million was paid out during the year in actual claims, implying that only Rs. 37 in every Rs. 100 paid by employers for insurance premiums was actually spent on compensating injured persons.

5.2.1 Comparison of employer costs in other countries

A cost of 0.35% of payroll for employment injury compensation, which itself is an overestimate, as found in Sri Lanka is very low in comparison with other countries. Figure 1 shows employment injury costs as a percentage of payroll (or the range of costs if applicable) in selected countries. In most other countries, actual costs are 1.0–2.0% of overall payroll costs.

¹For reasons indicated earlier, our estimates probably over-estimate the frequency of firms purchasing insurance policies to cover these risks



5.3 Analysis of workmen’s compensation claims filed at the Office of the Commissioner of Workmen’s Compensation

5.3.1 Data on workmen’s compensation claims

The analysis of the WCO legislation indicates considerable shortfalls with respect to ILO convention standards. However, a textual analysis does not tell us how significant these shortfalls are in practice, since that will depend on the distribution of injury events across different types of worker, and the associated distribution of compensation costs.

In order to better understand the impact of these shortfalls, we collected and analyzed data on cases settled at the Office of the Commissioner of Workmen’s Compensation. These consisted of all cases that were settled during the period January 2012 to July 2013. Access to the case files was kindly given by the Commissioner’s office, and data extracted through manual record review by IHP staff.

It is important to note that these cases are not representative of all employment injury cases in the country. In particular, cases that did not result in a dispute between the employer and

worker would not be reported to the Commissioner, and cases where the employee took no action would also be unknown. It is also likely that these cases result in higher than average compensation claims, since cases that are taken to the Commissioner are thought more likely to be settled in the favour of workers. However, these cases represent the only readily available sample of injury events, which can shed some light on the profile and distribution of likely costs faced by employers.

The case records were maintained in non-electronic form, with files being kept in a record room arranged by the region the case took place in. The case files contained medical examination/post mortem examination reports, claim applications, court proceeding transcripts, and any letters of communication between the Commissioner, the company and the claimant. The case files also had copies of the bank statements that certify the transfer of monies after the case is closed and the Commissioner has announced the date of award.

The medical examination reports produced by the claimant and issued by a registered medical practitioner provided the following details about the claimant's condition: age, the employment at the time of injury, the date of the accident, a brief description of the accident that led to the disability, the type of injury (permanent or temporary) the claimant is deemed to have suffered and a description of the bodily harm caused. If the medical practitioner surmises the injury to be is a temporarily disabling, he would have to specify the probable duration of disability. If he surmises a permanent disability, the percentage loss of earning capacity that is caused by the injury, assessed according to the schedule I of the Workmen's Compensation Ordinance of 1934, has to be given and is recorded in the files. A postmortem report is provided by the claimant in case the claim is made due to the death of a workman.

The application for workmen's compensation claims has the following particulars of the injured workman: the name, age and sex, residential address and name and address of employing business, the previous month's wages, the compensation amount sought and whether the claim for compensation was argued by the employer.

Of the 95 claims included in the analysis, 19 (20%) involved claims for temporary disability, 42 (44%) for permanent disability and 34 (35%) for death. The average value of claims awarded was Rs. 308,777 (95% confidence interval Rs. 237,430 and Rs. 380,125), with only a few claims (4%) being more than Rs. 550,000.

5.3.2 Methodology of comparison

For each case, we extracted information on the date and type of injury (temporary or permanent disability, death), the age and sex of the worker, the type of industry, and the amount of the final compensation award. We then calculated what the award should have been if the WCO was fully or partially compliant with ILO Convention C121. In order to compare the value of periodic payments required by the ILO standards with the lump sums awarded in Sri Lanka, we computed their net present value in current rupees, applying the average GDP deflator for the previous 20 years as the estimate of future inflation. We also estimated the cost if inflation was not taken into account, by assuming an inflation rate of zero.

This then yields two estimates for each claim and also for all the claims combined, of the ratio of the monetary value of the award given to the monetary value of the award if

compliant with ILO standards. One estimate is adjusting for expected future inflation, and the other not. The overall level of costs we summarize by using what we term the Employment Injury Protection Index (EIPI), which is defined as:

$$EIPI = \frac{\text{Net present value of compensation actually paid}}{\text{Net present value of compensation if ILO Standards are applied}} \times 100$$

If the EIPI is 100, it indicates that the average value of compensation benefits matches the values that would be required by the ILO standards, whilst values less than 100 indicates a proportionate shortfall in benefits.

The EIP Index takes account only of the value of income replacements. Other cash benefits such as medical expense allowances, funeral allowances, orphan allowances and death grants are excluded because these benefits usually depend on parameters that our dataset does not have, such as number and ages of orphan children, minimum cost of a funeral, age of widow/widower, etc. Medical expenses are ignored, since all workers are entitled to free medical care at MOH facilities. Box 2 illustrates an example of how the EIPI is derived.

Box 2– Illustration of the computation of the EIPI

Consider a 35 year old, male construction worker who has suffered a total permanent disablement (100% loss in earning capacity, known as the percentage incapacitated, PI) due to a workplace accident. On the date of the accident, March 2011 he was earning a monthly wage of Rs 18,000.

At this point, since we cannot predict his future lifetime, we assume that benefits are paid till retirement and that all workers retire at the age of 60 (the official retirement age for public employees in Sri Lanka is 60; however, there is no official retirement age for non-public sector employees). For those employees who were more than 60 years of age, the EIPI was calculated on the assumption that compensation would need to be paid for a period of 5 years.

According to the Schedule IV of the WCO in Sri Lanka, his employer is obligated by law to pay him a lump sum compensation of Rs 550,000. We will assume that his employer did so. That is

$$\text{Life time compensation under current WCO} = \text{Rs } 550,000$$

Let the current age of the victim, which is 35 in this case, be denoted as N.

If Sri Lanka were ILO compliant then the following formula is applied to calculate the total compensation that would have been payable by the employer:

$$\text{Life time compensation under ILO} = 18,000 \times 12 \text{ months} \times 60\% \times \text{PI}\% \times (60-N)$$

Accordingly, his compensation under ILO compliance would have been Rs 3,240,000.

Therefore,

$$\text{EIPI without inflation adjustment} = \frac{\text{Rs } 550,000}{\text{Rs } 3,240,000} \times 100 = 16.9$$

Since Sri Lanka experienced inflation of 9.53% on average over the last 20 years, we next take into account R, the expected future inflation rate, which we assume will be equal to the average past inflation experience. Under ILO compliance there must be an inflation adjustment mechanism, so the net present value of the compensation will remain unchanged from the above value of Rs 3,240,000.

$$\text{Net present value of compensation under the current WCO} = \frac{\text{Rs } 550,000}{(1+R)^{(60-N)}} = \text{Rs } 56,498$$

Therefore,

$$\text{EIPI with inflation adjustment} = \frac{\text{Rs } 56,498}{\text{Rs } 3,240,000} \times 100 = 1.74$$

This calculation is performed for each of the workmen's compensation cases in our sample, and an average of all relevant cases across the three injury classes: temporary, permanent and fatality was taken as the EIPI score for that injury class. The average across all the cases is presented as the EIPI score for the country in Figure 2, Figure 3 and Figure 5. Annex Table 1, Annex Table 2 and Annex Table 3 provide the scores for individual injury classes.

To understand the relative impact of the various shortfalls in the WCO legislation, we also estimated the EIPI if each element of the WCO legislation was kept as now, whilst the other elements were revised to ensure compliance. This allows us to estimate the relative contribution of each identified deficiency to the overall shortfall in benefits.

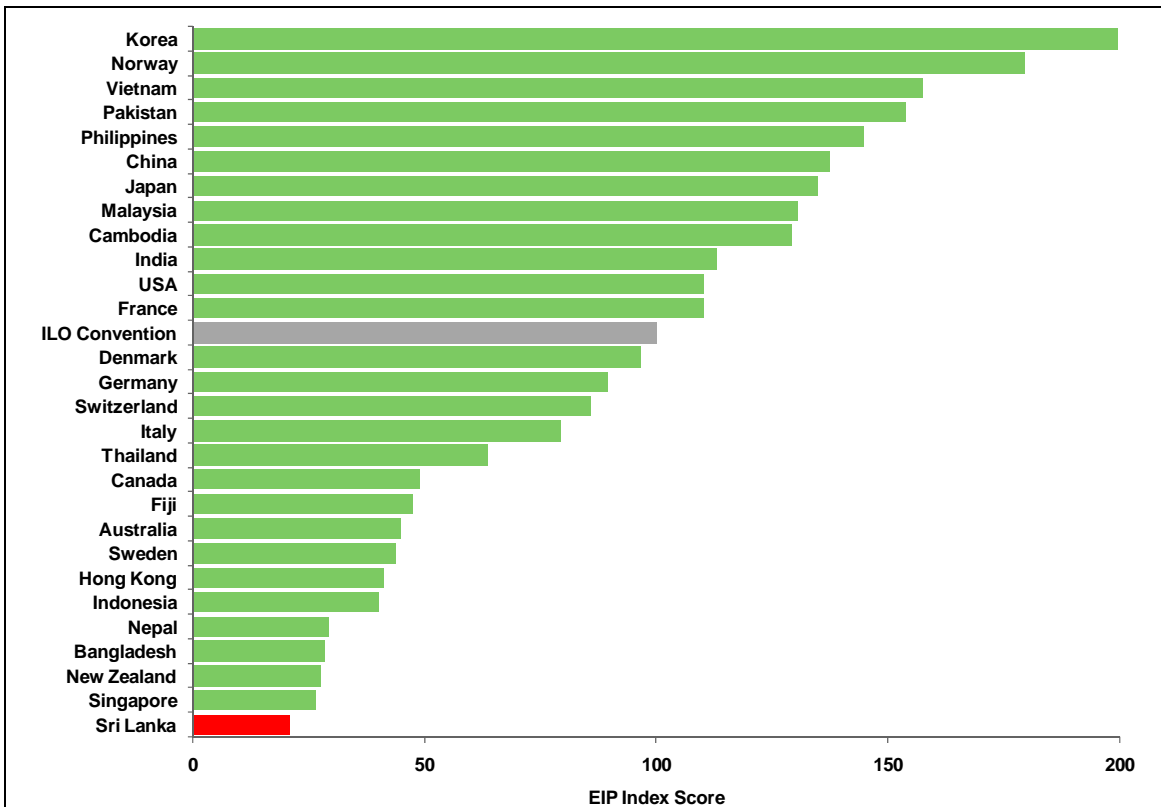
In a further step, we computed using the same approach what the monetary value of the awards would have been if the regulations in selected other countries were applied instead of what was actually awarded in Sri Lanka, and computed the overall EIPI under those regulations. Two sets of values were estimated, one adjusting for expected future inflation and one not. The average inflation in the past 20 years as reflected in the GDP deflator reported by the *World Development Indicators* of the World Bank (2013) was used as the estimate of future expected inflation. This gives an estimate of the relative value of EII scheme benefits in other countries compared with the ILO standards and Sri Lanka, assuming that the mix of claims was similar to that observed at the Commissioner's department. The following countries were selected for the comparison, categorized by income level as determined by the World Bank Atlas Method (World Development Indicators 2013):

- High income economies – Norway, Switzerland, Denmark, Australia, Sweden, Canada, USA, Japan, Singapore, Germany, France, Hong Kong, Italy, New Zealand and South Korea.
- Upper-middle income Asia-Pacific countries – Malaysia, China, Thailand and Fiji.
- Lower-middle income Asia-Pacific countries – Indonesia, Philippines, India, Viet Nam and Pakistan.
- Low income Asia-Pacific countries – Cambodia, Bangladesh and Nepal

As discussed in Section 5.1, there are four aspects that an employment injury scheme should comply with in order to meet ILO standards. Annex Table 1, Annex Table 2 and Annex Table 3 provide more details on the areas of compliance for each country. A green circle represents compliance with that feature, and red a failure to comply. The estimated EIP Index of each country for each type of benefit (injury class) is also included for easy reference.

5.3.3 Relative value of EI compensation benefits awarded in Sri Lanka compared to ILO standards and other countries

When inflation is not adjusted for the estimated value of periodic payments the EIPI tends to be larger in most countries. Figure 2 represents the estimated EIPI for Sri Lanka and other countries when inflation is not taken into account. Many countries achieve index values greater than 100, indicating that they provide levels of benefits greater than the ILO standards (not adjusting for inflation). These include China, Korea, Norway, France, Viet Nam, Pakistan, Philippines, Japan, Malaysia, Cambodia, India and the USA. Korea achieves the highest level of awards with an EIP Index score of 200, whilst Norway scored the second best with a score of 179.



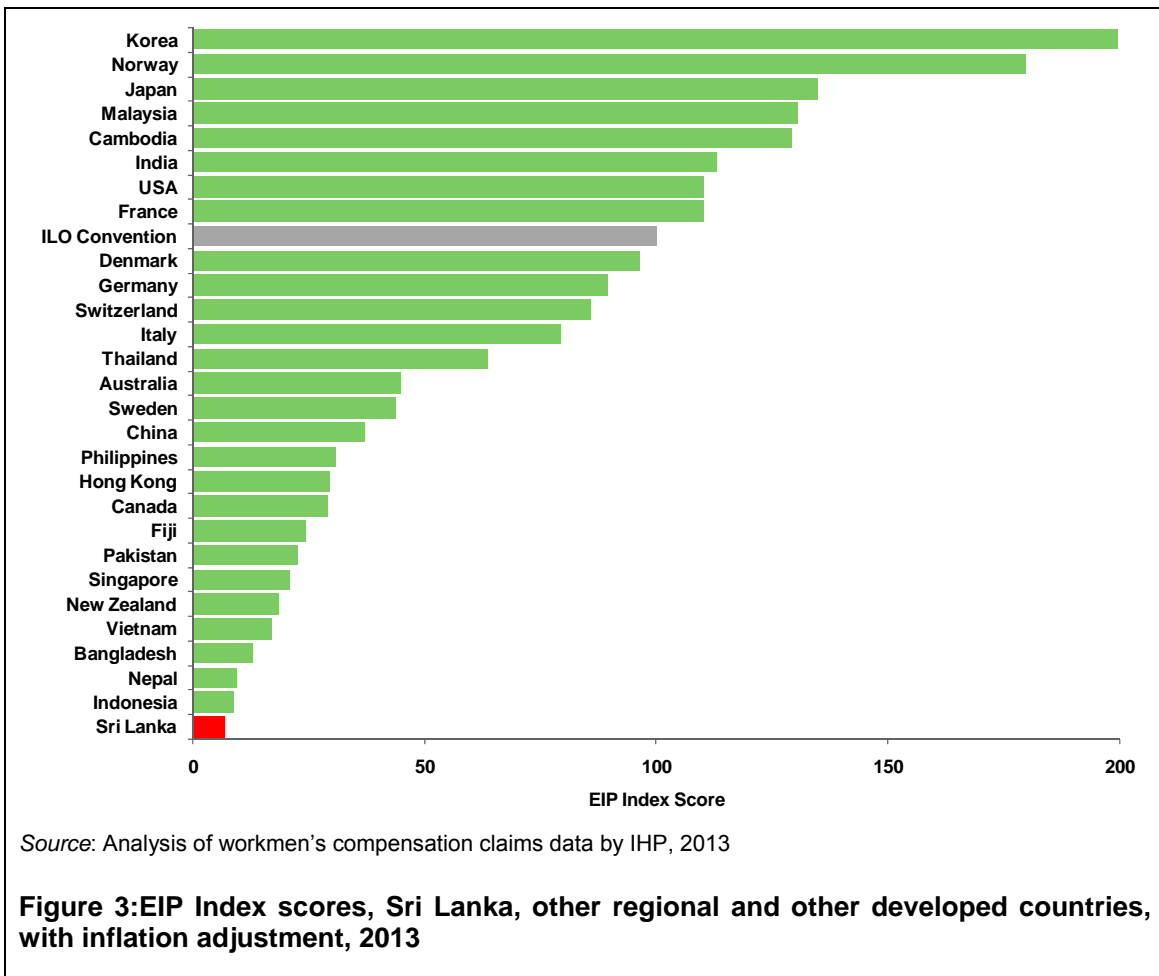
Source: Analysis of workmen’s compensation claims data by IHP, 2013

Figure 2: EIP Index scores, Sri Lanka, other regional and other developed countries, without inflation adjustment, 2013

Sri Lanka’s performance is the worst with an EIP Index of 21, indicating that average nominal value of benefits is only 21% of the value that should have been awarded if Sri Lankan regulations met ILO standards.

Figure 3 presents the estimated EIP Index scores for the same country when inflation is taken into account. In many countries, the relative value of benefits falls as benefits are inadequately adjusted for inflation. However, several countries were able to maintain their scores as they have built inflation protection into their benefit structures, Korea, Norway, France, Japan, Malaysia, Cambodia, India and USA. Philippines, Viet Nam, Pakistan and

China, who previously scored well, fell below the ILO standards because they lack adequate benefit adjustment mechanisms.



Viet Nam and Pakistan recorded the largest percentage changes in their EIP Index scores, because of relatively high inflation in these economies, with scores dropping from 157 to 17 and 154 to 23 respectively. There is also a large drop in the EIPI score of both Indonesia and Philippines because of a high inflation rates, and inadequate adjustment in the benefits.

Sri Lanka historically also has a relatively high inflation rate, and so its EIP Index falls substantially from 21 to 7. This implies that failure to adjust for inflation reduces the apparent value of compensation in Sri Lanka by two-thirds. This still leaves Sri Lanka at the bottom with the worst level of employee injury compensation compared to other regional and other developed nations.

Countries that performed better than required by ILO standards tend to have more comprehensive employment injury protection schemes than others, and also included mechanisms to adjust benefits with inflation or increases in the wage level. It is also quite clear that countries, particularly those with high inflation rates, should have some sort of a benefit adjustment mechanism. This mechanism is most beneficial to injured employees who suffer from permanent disabilities and survivors who are dependent on a continuous flow of

income in the future. If benefits are not adjusted according to inflation, the compensation provides very little protection in the long run.

Countries such as South Korea, Malaysia and France perform well in the EIP Index despite having ceilings on permanent and/or survivor benefits. This indicates that a ceiling can be imposed on the benefits without reducing the welfare it provides to the injured employees and their beneficiaries.

5.3.4 The relative contribution of current gaps to the overall shortfall in benefits in Sri Lanka

In order to isolate the impact of the key deficiencies in the current Sri Lankan legislation to the overall shortfall in benefits, the EIP Index was recomputed for the same workmen's compensation claims sample applying the relevant Sri Lankan regulation, but adjusting all the others to meet ILO standards. When this was done, the three key factors – non-compliance with the replacement rate, non-compliance with a benefit adjustment mechanism and the existence of a “premature” ceiling, each had a significant individual impact on the overall shortfall from ILO standards. Non-compliance with the replacement rate contributed to 23% of the shortfall, non-compliance with a benefit adjustment mechanism contributed to 42% of the shortfall and the premature ceiling contributed to 35% of the shortfall.

This indicates that all three deficits in the current legislation need to be addressed in order to bring Sri Lanka in line with ILO standards.

6. Implications for reform options

6.1 Views of stakeholders

6.1.1 Views of stakeholder representatives

Discussions were held with representatives of the three stakeholders: the employers, the employees and the government to obtain their views and suggestions on the proposals previously made to introduce a new employment injury insurance scheme (Annex Table 4). The representatives were identified with the assistance of the Ministry of Labour and Labour Relations and the ILO Colombo office. IHP expresses its appreciation to all stakeholders for making time to meet with its team, and for their candid and helpful sharing of views.

Employers Federation of Ceylon (EFC)

The EFC, the main representative of the large employers in the country, strongly opposes any new scheme that would result in higher labour costs for its members and other employers. Its representatives expressed the view that their members already bore a high cost in providing benefits such as medical insurance, maternity leave, and contributions to employee provident and trust funds for their employees, and so, it would be unfair to burden them further by setting up an employment injury scheme to which the employers would either solely or partly be responsible to fund. Instead they suggested that the payment of workmen's compensation be taken over by the ETF who would utilize their existing fund balances, which in their view were substantial, to provide the benefits.

Notably, they indicated that the employers they represent did not oppose the fundamental desirability and value of recent proposals, but merely that they do not want to fund it.

They expressed the idea that increasing employer costs would contribute to making Sri Lankan exports less competitive and thus insisted that exporter interests be given high priority in conducting the feasibility of the EII system. The employer representatives also indicated that most employers have no faith in a system in which the state would handle the funds.

National Trade Union Federation (NTUF)

The NTUF is an umbrella organization of eight affiliated trade unions and other associations that represent over 400,000 workers combined. These include two trade unions that represent informal sector workers and an association representing the self-employed.

Informal sector workers have no coverage according to the present system and the NTUF felt this was very unfair since injury rates were very high in the sector. The NTUF was of the opinion that the government should not be completely absolved of financing responsibility by passing on the burden to employers alone. They also did not think it right for employees to bear any part of the cost of the scheme, however, they also felt that employees would not completely shy away from such a responsibility, if it were to be funded by all three representative groups.

NTUF expressed the view that one of the main faults of the present social protection systems in Sri Lanka is that they are not beneficiary-oriented. Due to various political reasons unsustainable schemes are set up that are not able to last for long, so they too have no faith in a system in which the state would manage the fund.

6.1.2 Opinion survey of employers regarding mandatory insurance scheme

As part of the IHP Survey of Employee Benefits in Sri Lanka 2013, firms were asked their views on introducing a form of insurance to cover EI compensation costs. To make this proposal concrete, they were told the scheme would be operated by the ETF, and would be financed by a mandatory levy on wages to be collected as current ETF contributions. They were asked to give their opinions on two alternative scenarios: (i) a levy of 0.5% of wages, and (ii) a levy of 1.0% of wages. These suggested contribution levels were based on those seen in other countries with social insurance schemes. For example, in Malaysia, SOCSO levies a contribution of 1.25%, whilst in Korea contributions range from 0.6 to 35.4% of wages.

The overwhelming majority of firms surveyed opposed both versions of the proposal. This amounted to 40% for scenario (i) and 47% for scenario (ii) of those who responded. Upon reweighting, opposition increased to 51 %in case of scenario (i), while falling to 10% in case of scenario (ii). Interestingly those opposing either of the scenarios often included firms whose previous year's EI costs were actually a higher share of payroll than proposed in the two scenarios.

However, the opposition of employers to the proposed levies is rational given the current legislative framework and actual cost experience of firms. As observed earlier, the actual costs that employers currently face is far less than 0.5% of payroll costs, and the value of benefits provided by Sri Lankan legislation is far below those in other countries, so the cost experience of other countries was not a good guide to what a contribution scheme would cost in Sri Lanka based on the current policy framework.

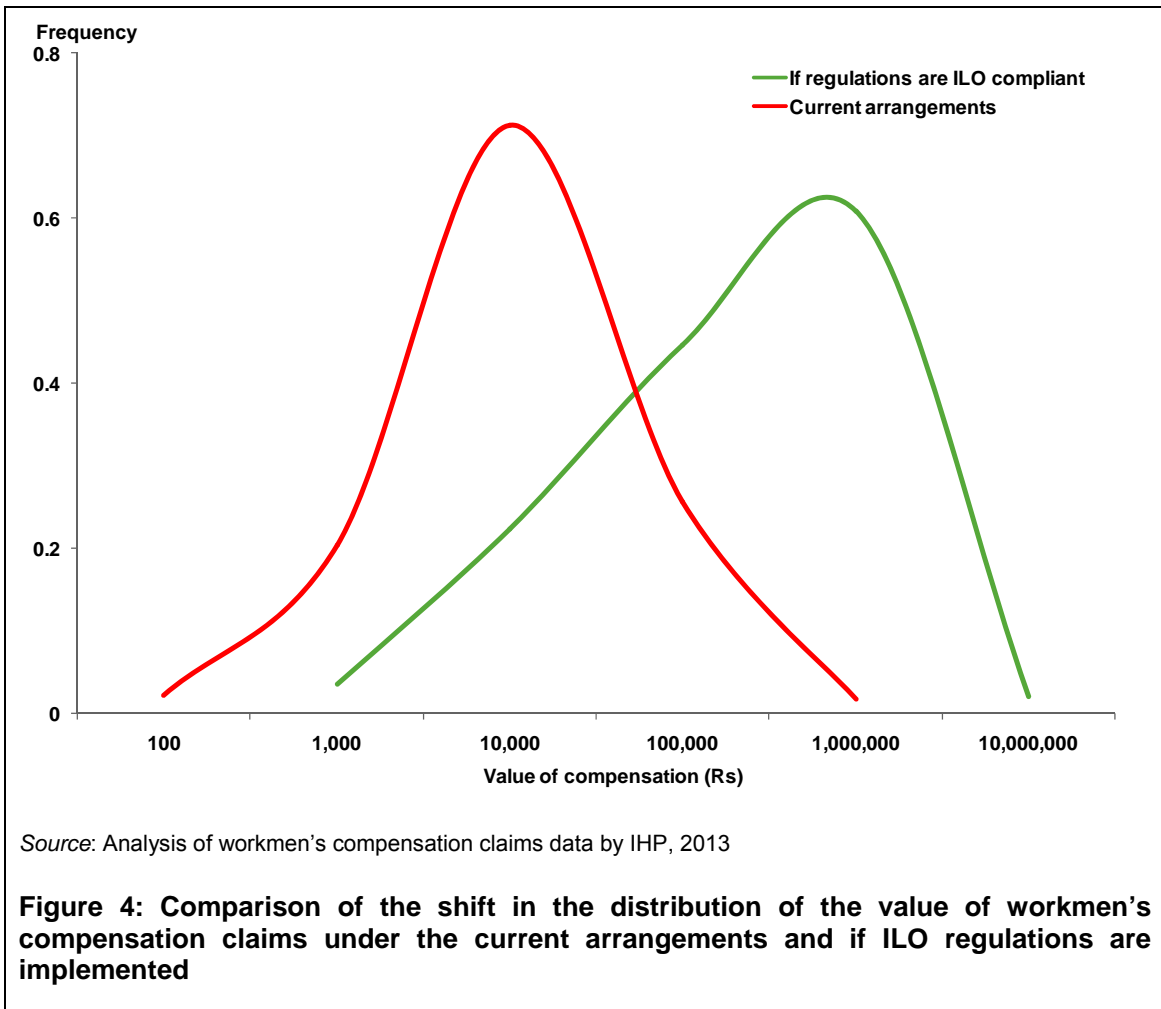
6.2 Potential costs of revising Sri Lanka legislation to meet ILO standards

6.2.1 Financial costs for employers

At the current time, our analysis indicates that the WCO provides injured workers or survivors with only 5–10% of the value of benefits that are required by the relevant ILO convention. This is associated with actual employer costs being far less than in most other countries: 0.1–0.8% of payroll compared with 2–4% that is seen in other countries. This implies that if the WCO is revised to meet ILO standards or to match those seen in other Asia-Pacific countries, costs will rise substantially. This will involve not only an increase in aggregate costs, but also a substantial increase in the frequency of large claims.

The implications are explored in Figure 4 which shows the distribution of claims by value in the workmen's compensation claims sample we analyzed, and the predicted distribution of claims by value if Sri Lanka was to ensure full ILO standards compliance. The average compensation claim value under the WCO is Rs 100,000 whilst under full ILO compliance it

is expected that the average compensation claim would increase in value to as much as Rs 1.5 million. Further analysis shows that currently, the majority of actual compensation claims cost less than Rs. 200,000, and only 5% of awards cost more than Rs. 1 million. However, with full compliance with ILO standards, the median value of a claim will increase to approximately Rs. 250,000, and 48% of awards will cost more than Rs. 1 million, with 6% costing more than Rs. 5 million. The substantial increase in large value claims is driven by the removal of the ceilings on claims, and also the increased cost implicit in providing periodic payments for permanent disability and death.



For these 95 cases, the actual compensation paid was Rs. 28 million in total. Under ILO standards, the compensation payable could have increased to Rs. 135 million. This represents an almost five-fold increase in compensation costs.

6.2.2 Financial risks faced by employers

What the findings indicate is that the current WCO does a good job in protecting employers against the financial risks associated with employee injury. It substantially reduces the incidence of very large claims that might bankrupt a small enterprise, and reduces overall

costs. Given that the scheme does badly in providing workers with adequate protection, the WCO would be better described as an employer injury protection scheme.

However, if the current arrangements were reformed to meet ILO standards, firms will face the prospect of paying out compensation claims substantially larger than the maximum they face now. Claims in excess of Rs. 5 million could become common, and such claims are likely to be unaffordable for many small companies, potentially precipitating bankruptcy in some cases. Of course small firms could obtain private insurance policies to cover such risks, but our surveys of both insurers and employers indicate that this generally does not happen in the case of small firms, as the price of private insurance is a likely impediment. From an employee perspective, the prospect of such large claims in the current scenario should also be worrying, since it makes less likely that workers will actually benefit in terms of improved compensation. Both workers and employers have a mutual interest in arrangements that do not destabilize firms and yet provides adequate levels of compensation.

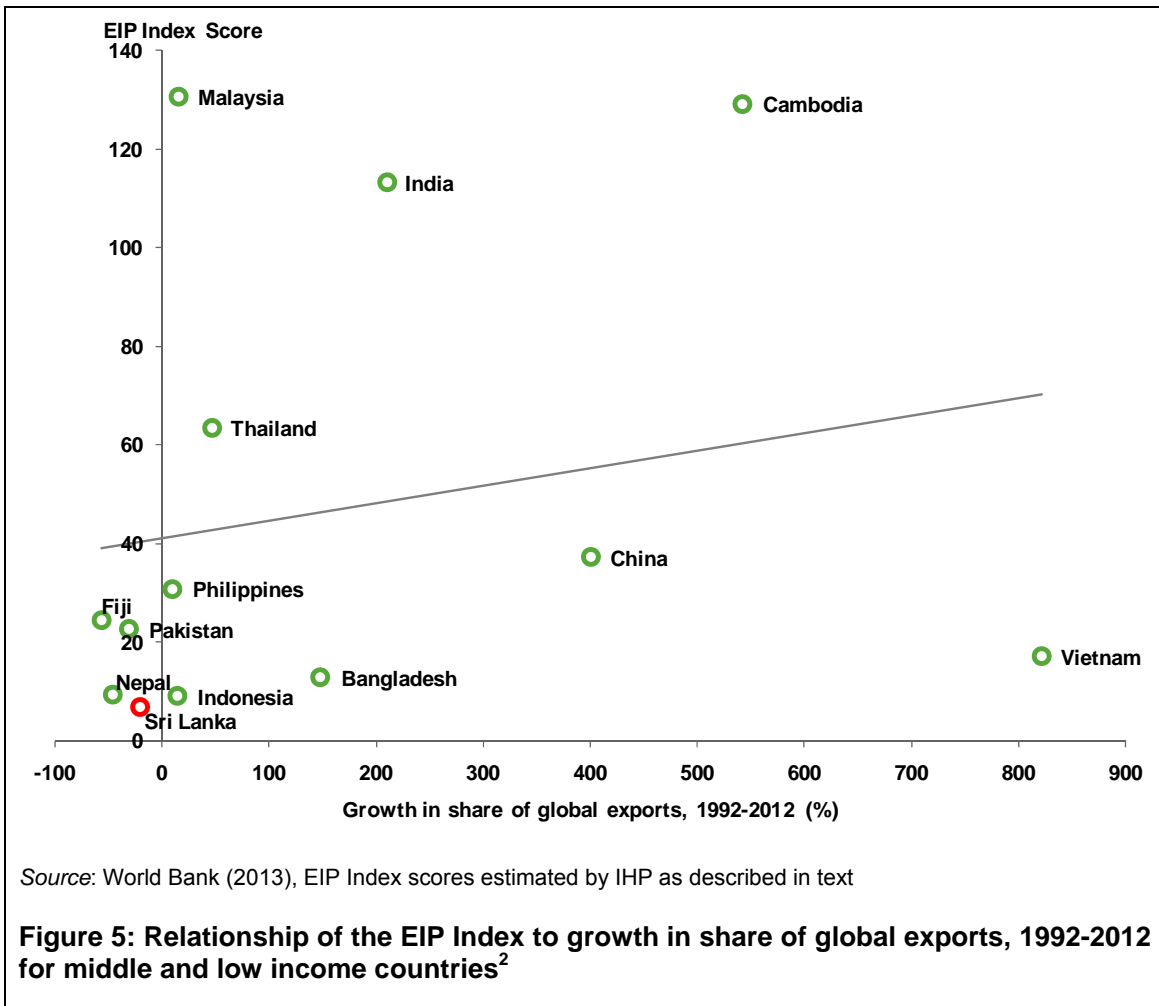
6.2.3 Possible impact on exports

Stakeholders expressed concern that the higher costs brought about any new scheme might have a negative impact on exports, that is higher EI compensation costs would make Sri Lankan exports less competitive globally. This is a legitimate national concern given that Sri Lanka's export performance has been mediocre at best in the past two decades.

However, the evidence does not support the notion that a higher level of EI costs will negatively impact exports. Figure 5 shows the relationship between the level of EI costs faced by employers (measured using the EIPI) and growth over the past two decades in the share of global exports of relevant regional countries. No such statistical relationship is observed, and if anything countries with higher export growth tend to have better EIPI scores. Sri Lanka's poor export performance (it experienced negative growth in global market share) has been achieved despite having the lowest level of EI compensation costs.

Cambodia enjoyed relatively high growth in the global export shares while maintaining a high EII protection score. Cambodia has been moving towards better social protection for their citizens since adopting its first National Social Security Law in 2002; employment injury insurance is one of the 3 main pillars of this scheme (ILO 2010a). India, China and Viet Nam also experienced high growth in exports shares, despite better levels of EI compensation than Sri Lanka.

This finding is not surprising. First, economic theory and also the evidence shows that the apparent cost borne by employers in any payroll scheme which mandates an employer contribution is eventually borne fully by workers in the form of lower wages. This is particularly so in countries with significant inflation, like Sri Lanka, since it makes it easier for employers to adjust the real level of wages. Second, a significant factor behind Sri Lanka's poor performance in exports and negative external balance in trade in the past two decades is the over-valuation of the rupee compared to its main export competitors. For export-oriented firms, a very small devaluation of just 0.5–1.0% would be sufficient to compensate them for even an increase in EI compensation costs equivalent to 1.0–2.0% of payroll costs.



Looking into the future, better social protection arrangements for workers are more likely to have a positive impact on firms. Sri Lanka is more advanced than most of its competitors in its demographic transition, so it will face the challenge of slowing labour market growth earlier than others – this is already happening. In this context of only a limited supply of workers, and as the economy increases its knowledge intensity, the ability of firms to retain better-skilled workers will become important, making improved social protection arrangements a competitive advantage. Of course, German, Japanese and Korean policy-makers appreciated this point very early in their export-led development.

²The income level categorization is based on the World Bank grouping. The countries presented were middle and low income countries in the year 2000.

7. Conclusions and recommendations

7.1 Key findings

The current legislation and policy framework for employee injury compensation in Sri Lanka does not meet ILO standards. The level of protection and compensation benefits provided to workers is the lowest in the Asia-Pacific region, with workers entitlements being worth less than 10% of those recommended by ILO.

The main factors behind the low level of compensation benefits provided by the WCO are its lack of periodic payments for permanent disability and death, its lack of a mechanism to adjust for inflation, and its low ceiling on most benefits. Workers and their families who experience permanent disability or death in most cases will not receive adequate compensation to replace the lost wages and income. The current arrangements are effective only in protecting employers from significant costs, and so act in practice as an employer injury protection scheme. Overall average costs faced by employers are less than 0.3% of payroll costs, far lower than in most other comparable Asia-Pacific economies (2-4%).

7.1.1 Consensus on need for reform, but disagreement about who should bear the burden

All stakeholders recognize that shortfalls exist in the coverage provided by the existing legislation, and agree on the desirability of reforms to improve levels of coverage. Where there is potential dispute is over how much costs can increase and over who should pay for the costs of increased compensation levels, and how.

On the issue of how much and who should pay for costs, it is important to stress two points. First, regardless of what schemes are put in place, families of injured and dead workers already bear the real costs in the form of loss of earnings, reduced living standards and financial hardship when a family's breadwinner is no longer able to work or needs continuous life-time tending. The critical question is whether these costs should be borne by them alone or shared by all workers and employers. Sharing not only implies solidarity but is also necessary if individual workers or employers prefer to have some degree of risk protection. Second, regardless of whether legislation for any contributory scheme states that employers or employees should pay the contributions, the ultimate costs will be borne by workers in the form of reduced wages, and not the employers.

Consequently, the concern over increased costs should be seen more correctly as one over who should bear the costs, and how.

7.1.2 Meeting ILO standards will increase current employer costs, and the risk of high cost cases

Substantial compliance with ILO standards implies significant increases in the formal costs of EI compensation, perhaps as much as five to ten fold above current levels. However, they will still remain a small proportion of overall labour costs (<4%), and employers are likely to be able to shift costs to workers through reduced wage growth. The real challenge posed by

such reforms is that it will substantially increase the risk that some firms, especially small firms, will face catastrophic compensation claims. Bankruptcy of firms is one outcome, and does not serve workers' interests.

It can also be speculated that any scheme that substantially increases the value of potential claims will also increase the frequency of claims, since more workers will see a benefit in going through the costs of making a claim.

7.1.3 Private insurance protects some firms against current costs, but small firms are less likely to have such coverage, and all firms pay a large premium for such coverage

There is a reasonable supply of private insurance products that insure employers against EI compensation costs, with 18 insurers providing such policies. However, coverage of small firms is limited, with most firms not being covered nationally. We estimate that only 52% of the employees in private sector work for firms with such coverage. Private insurance coverage is also expensive, with employers having to pay Rs. 266 in coverage in order to obtain Rs. 100 in eventual cash compensation claims. If the liability of EI compensation increases with reform of the current WCO, it is likely that small firms will find it harder and substantially more expensive to obtain such coverage. This is because insurers face significant problems of adverse selection with small firms, which will induce increases in policy pricing to protect insurers against the risk.

7.1.4 Sri Lanka's major export competitors provide much higher levels of EI compensation benefits

We find no evidence to support the view that a high rate of EI costs hinders export competitiveness. Sri Lanka's export performance in the past two decades has been poor despite its employers facing much lower EI compensation costs than other countries. Other policies, including more competitive exchange rates, would more than compensate exporters for any immediate impacts on labour costs. This also does not take into consideration the positive value that improved social protection arrangements can make in terms of reduced industrial strife and marketability of exports to customers in advanced nations who are concerned about levels of social and labour rights.

7.2 Potential solutions

7.2.1 Does Sri Lanka need a formal scheme?

The critical immediate question for stakeholders is whether to improve Sri Lanka's level of EI compensation to meet ILO standards. Because of the potential divergence of interests between key stakeholders, government, with its mandate to act on behalf of all citizens, ultimately must settle this question.

If the choice is to improve levels of protection, the objective can be met by simply lifting the ceilings given in the WCO, converting the current lump sum benefits into periodic payments, and introducing a mechanism for ensuring inflation adjustment of benefits. However, this is

likely to be neither practical nor feasible. The main reason is that the WCO will no longer be able to insure employers against catastrophic financial risks of employee injury, which in practice is what it does currently. Without government intervention, private insurance will also not be able to provide this protection to all firms, and firms by themselves cannot guarantee long-term periodic payments.

Given the need to protect employers (and ultimately also workers) any revision in the WCO requirements will need to be accompanied by introducing new arrangements. The main purpose of any such arrangements is to ensure that both workers and firms have access to affordable risk protection. Other desirable objectives might include:

- (i) Creating a mechanism that allows firms to credibly offer long-term periodic payments in permanent disability and death cases. Currently, without involvement of a third party most firms are not in a position to ensure this.
- (ii) Protecting workers from the risk that a liable employer will go out of business and be no longer able to pay the required compensation.
- (iii) Protecting individual firms against the risk of very high insurance premiums that price them out of access to formal insurance.
- (iv) Ensuring that any new arrangements minimize administrative and other operational costs, since these must also be borne by employers and employees.
- (v) Creating incentives for stakeholders to invest in and promote preventive policies and interventions that aim to reduce the incidence of employment-related injury and death.

7.2.2 Potential solutions

There are five potential solutions available that might be adopted to facilitate revision of the WCO so as to meet ILO standards:

- (i) Mandating that all firms purchase private insurance to cover their statutory liabilities.
- (ii) Mandating that all firms purchase private insurance, and regulating the market by imposing minimum product requirements and setting minimum and maximum prices for policies.
- (iii) Establishing a contributory social insurance scheme, financed by payroll levies, with the annual rates of deduction determined actuarially for each industry.
- (iv) Expansion of the ETF scheme to cover EI compensation costs, financed by an increase in ETF contributions.
- (v) Expansion of ETF scheme to cover EI compensation costs, financed through existing fund balances.

7.2.3 Mandatory private insurance with no insurance regulations

The mandatory private insurance approach helps firms by reducing the extent of adverse selection in the insurance market, and thus reduces premium costs. It also protects workers by ensuring that firms are actually insured for potential costs.

The disadvantage of this approach is that some firms may face very large premium costs in order to access insurance. This will particularly affect small firms and firms in high-risk industries, such as construction. Since the insurers have discretion to determine premiums based on risk assessments and past claim experiences, it is likely that the insured employers will be discouraged from accepting injury cost liabilities and making claims in order to prevent upward pricing pressure in subsequent re-insurance. In order to implement this approach effectively, the government will also need to significantly invest in expanding its inspection and enforcement capabilities, and a system of large fines may be needed to improve compliance.

The private insurance option is also the most expensive, since on the basis of current costs firms will need to pay private insurers Rs. 266 to obtain Rs.100 in coverage benefits. If employers need to purchase coverage equivalent to 2% of current payroll costs to meet ILO standards, this implies that they will need to pay on average 3–4% of payroll in insurance premiums.

Differential pricing may encourage employers of high-risk industries to engage in better occupational safety measures and reduce possibilities of injury. But since the insurance market is unregulated, whether they will be adequately rewarded for such behavior is uncertain. The problem of free-riders will reduce the incentive for individual firms to invest in such risk reduction activities.

7.2.4 Mandatory private insurance with market regulation

This is similar to the previous approach, but the government could regulate the types of insurance product available in the market, and also their pricing. For example, the government might specify the maximum prices for policies covering a specific sector. This could make insurance policies more affordable for high-risk firms and reduce price variability. It will also solve the problem of under-claiming that the unregulated market faces.

This approach will require significant government investment, as it implies that the relevant agencies will need to monitor the insurance market, and also employ actuarial expertise to set price levels. The latter is particularly difficult in Sri Lanka, as the country lacks significant domestic actuarial expertise. This approach is also liable to be a cause of disputes between insurers, employers and the government over pricing tariffs.

Overall costs are likely to be similar to that of the unregulated mandatory private insurance option.

7.2.5 Contributory social insurance scheme

This approach resembles that seen in countries such as Japan and Korea. The collection of mandatory payroll contributions from workers is certainly feasible in Sri Lanka, since both the

EPF and ETF already do this reasonably efficiently. Contributions would be collected and deposited to a new insurance fund that would manage the funds and make payments. In most countries with this model, this agency would also have to monitor claims expenditures, and set the rate of payroll contributions by industry.

Whilst this scheme is technically feasible, it would face significant challenges in Sri Lanka. First, the country lacks experience in managing social insurance schemes, so it will require significant investment in new skills and expertise. Second, the stakeholders are not familiar with this approach, and are likely to be suspicious and resistant to any such reforms. Third, this approach implies the establishment of a new governmental body that would collect the contributions and manage the funds, together with all the necessary initial investment. At the current time, this is likely to engender considerable opposition from stakeholders, given the lack of trust by all stakeholders in government, and in its ability to operate funds competently and without political interference.

The social insurance approach would reduce the inter-firm variability in costs, since contributions could be set as a fixed percentage of wages, but would normally not reduce the inter-industry variability in costs, since most schemes usually end up linking contribution rates to overall industry risks.

7.2.6 Expansion of the ETF to provide EI compensation coverage funded through an increase in contributions

Many of the disadvantages associated with a full social insurance solution can be avoided by building on the existing ETF mechanism, as demonstrated by Malaysia with its SOCSO experience. SOCSO is functionally the Malaysian equivalent of ETF.

This approach would involve increasing the current ETF contribution, with the same flat rate charged on all firms. A flat, uniform rate is better suited to Sri Lankan setting since it is administratively less complicated. Sri Lanka also lacks the necessary expertise to conduct actuarial valuations, so differential rates are currently not a feasible option. Uniform rates will encourage employers not to hide claims since rates are not based on risk or experience.

Our survey finding an average employer cost as a percentage of pay roll as 0.35% is underestimated due to reasons discussed previously, in addition, if a social insurance scheme is introduced, it can be anticipated that claim rates would increase, which implies that a levy of 0.35% will in fact not be adequate. Therefore, if full compliance with ILO standards is the goal, the findings reviewed in this study and the experience of Malaysia and other regional countries suggests that the required increased contribution would be 1.5–2.0% of wages. There would be no increase in the cost incurred by the ETF to collect the additional funds, however cost of processing and making payments for compensation claims would increase. Based on the experience of SOCSO in Malaysia we estimate that the increase in contribution would be sufficient to cover administrative costs of 3-4%.

The funds would be collected by ETF, which in turn would take over the legal liability for paying compensation claims. This approach would be cheaper than the full social insurance model, since it will not require creation of new agencies or new financial collection mechanisms, plus would not require the technical resources required to set contribution rates separately for each industry. As there would be one contribution rate, it will reduce the

inter-firm and inter-industry variability in costs. It will also result in less opposition, since the ETF is an agency that stakeholders are already familiar with, and more likely to trust in managing their funds, although concerns do exist about its management.

One other benefit of the ETF approach is that it would be possible to give ETF scheme responsibilities for developing risk-reduction policies and interventions. In Malaysia, SOCSO actively pursues such policies and also invests in programmes designed to return injured workers to full-time employment, since it has a vested interest in reducing the number of overall claims, plus the number of long-term dependents.

7.2.7 Expansion of the ETF to provide EI compensation coverage funded from existing fund balances

It was also suggested by employer representatives that the idea of utilizing existing fund balances of the ETF scheme to fund workmen's compensation payments be explored. This would mean that employers were no longer financially responsible for paying workmen's compensation; this responsibility would then be enveloped in the ETF's broader responsibilities.

The ETF reports current fund balances of Rs. 154 billion in 2012, an increase of 13% from 2011. However when IHP met with the ETF to discuss the possibility of utilizing these funds for workmen's compensation it was determined that the current fund balances could not be used for these proposed additional provisions. The funds are required to meet future account reimbursement obligations, so if ILO standards are to be met though the introduction of social insurance under ETF, which as mentioned before is likely to increase claim rates as well, an increase in contribution rates is a necessity.

7.2.8 The depth and extent of the coverage offered by the proposed scheme

If Sri Lanka were to fall in line with the ILO standards; and the ETF were to take over the payment of workmen's compensation it must be noted that the scheme would not provide coverage to informal sector workers and to those who do not contribute to the ETF (due to non-mandatory contribution status or due to deliberate disobedience of the law). It is expected that the government, as an employer, will have sufficient funds and capacity to provide these new levels of benefits to its employees as well.

It can be expected that the promise of financial risk protection in case of employment injury that the scheme offers to employers and the self-employed may encourage non-contributors to comply with or to join the ETF. So addition of EII benefits to ETF would serve to improve ETF and EPF compliance.

The scheme could eventually be used as a basis to provide coverage to the entire labour force (excluding civil servants), but expanding coverage to the informal sector will almost certainly involve setting a lower level of benefits and significant financing by the government budget.

Another issue arising is that of lost old-age income receipts for injured employees, specifically those who have suffered a severe permanent disability or death. If an employee was an ETF contributing member before the injury and is unable to work and contribute to

the ETF following the injury/death, he (or his survivors) would lose out on a proportion of the retirement benefit that he would receive otherwise. This is not a concern for civil servants and other employees who are eligible to a government pension.

The Malaysian SOCSO scheme, under its employment injury scheme (workers aged 60 and above), offers disability pensions throughout the duration of the disability till the death of the worker. The invalidity pension for permanent disabilities under the employment injury and invalidity pension scheme (workers age below 60) transforms into a survivor pension upon the death of the workman. Both schemes provide lifetime survivor pensions to the spouse in case of death of the worker. Therefore the employee and his survivors are covered throughout their life.

Considering the welfare of employees and his beneficiaries upon reaching retirement age it would be possible for the new scheme under ETF to provide an old-age pension benefit for permanently disabled workers and survivors upon cessation of the disability/survivor pension at retirement age. Based on the experience of SOCSO we predict that these benefits would account for 10% of benefit expenditures.

7.3 Overall recommendations

1. We recommend that Sri Lanka substantially reform its employee injury compensation legislation so as to ensure full or near compliance with ILO standards. This will include increases in the value of compensation and introduction of periodic payments for permanent disability and death. The current shortfall in coverage should not make any Sri Lankan happy about what it implies about the hardships experienced by countless workers in the country, nor proud about being number one in the region in terms of providing the least benefits. Improving current levels of coverage should be regarded as being fully consistent with the national goals of expanding industrialization and increasing exports.
2. We recommend that the increased level of benefits be funded through introduction of a formal scheme to distribute costs widely between firms, and to protect individual firms and workers from the financial risks of large compensation claims.
3. We recommend on the basis of review of the relative merits and disadvantages, that Sri Lanka adopts the Malaysian model of expanding ETF to provide this coverage. This solution has the merit of requiring the least changes in current institutional structures, whilst being the simplest and least costly to introduce. It can also be easily coupled with giving ETF a major responsibility for developing and funding risk-reduction interventions. Detailed features of the possible employment injury scheme under the ETF are presented in the following section.

7.4 Key elements of a possible ETF Employment Injury Benefit Scheme modeled on Malaysia's SOCSO approach

The scheme would impose a mandatory contribution rate of 1.5% of wages on all existing ETF members, to be paid by employers. Contributing employers would then contribute a total of 4.5% of payroll towards ETF. The contributions will be collected using the existing

administrative structure and mechanisms. The funds collected from the 1.5% contribution would be managed and dispensed separately from the funds utilized for the existing statutory and non-statutory benefits of the ETF, *i.e.*, the scheme funds would be segregated in practice and in law.

The cost experience of this scheme cannot be accurately quantified, but the estimate of a contribution of 1.5% of wages is consistent with experience in the Malaysian scheme and other comparable programmes. This rate may be towards the upper end of estimates and will ensure rapid build up of fund reserves in the first year itself, which will be required to meet the expected influx of claims. While changes in pricing can be considered later once the system gains momentum, any excess funds accumulated can be utilized for introducing additional benefits such as funeral benefits, constant attendance allowances, rehabilitation and return to work programmes, occupational health and safety activities and for better protection of existing benefits against inflation.

It is also recommended that the self-employed be covered by the new injury scheme on a voluntary basis. The ETF already allows self-employed persons to enrol, with a minimum monthly contribution of Rs. 200. The injury benefits could be paid out in relation to the contributions paid in by the member. This could also be coordinated with the Self Employed Persons' Pension and Social Security Scheme operated by the Sri Lanka Social Security Board (SLSSB).

Under this scheme monthly periodic payments to ETF members who suffer death or disability due to work-related injuries will be made. The employer will be responsible for submitting the benefit claim to the ETF, but the payment itself will be made directly by the ETF scheme to the injured worker or his/her dependents. An employee is eligible to receive the benefits from the first day of commencement of his employment. A self-employed person will be eligible to receive the benefit only if he has been a regular contributor for the twelve months preceding the accident. Any employee who chooses to receive the compensation benefit under this scheme will automatically give up his/her rights to claim compensation from the employer under common law.

The national health system will provide for any medical needs of the workers with no expense to the injured worker.

The scheme would provide three sets of benefits:

- (i) An employee who suffers from temporary disability caused by a work-related accident, which lasts for more than 3 days, will be entitled to receive a benefit that is equivalent to 80% of the monthly wage at the time of the accident. The wage level will be determined according to the wages documented in the employer's previous ETF submissions. The benefit shall be payable for as long as the disability lasts or till it is declared to be no longer a temporary disability.
- (ii) An employee who suffers a total permanent disablement due to a work-related accident will be entitled to receive a monthly periodical payment equivalent to 80% of his monthly wage at the time of the accident. The injured employee will receive this monthly payment till the age of 65. An employee who suffers a partial permanent disability will be entitled to receive a percentage of the full disability benefit according to the degree of disability (*i.e.*, loss of earning capacity) as assessed by a medical

board established by the ETF scheme. Upon retirement, his monthly wage replacement would cease and be replaced with a monthly pension equivalent to 60% of the monthly wage on which his permanent disability benefit was calculated on. In case of partial disability the pension too will be a percentage of the full pension. This disability retirement pension will be payable throughout his life.

- (iii) In case of the death of a covered employee due to a work-related accident, his dependents will receive a monthly survivor's pension equivalent to 80% of the monthly wage of the employee at the time of death. Dependents may be a spouse, children under the age of 25 years, parents (if the deceased was unmarried at the time of death) and disabled siblings who were dependent on the income of the deceased. Fifty percent of the total benefit will be paid to the deceased workers' spouse and will cease upon either death or remarriage, while rest of the benefits will be paid in equal amounts to each of his children and dependent siblings. Orphaned children will receive 75% of the total benefit in equal amounts, with rest of the benefit apportioned equally among any other dependants (100% in equal amounts if the orphans are the only dependants). Children will be entitled to receive the benefit till they reach the age of 25 or throughout their life if they are disabled, while disabled, dependant siblings will receive the benefit till death.

All benefits would be adjusted annually to take into account changes in the cost of living: this may be done through linkage to wage inflation rates or to the consumer price index, taking into account fund balances and liabilities. A maximum and a minimum amount on which benefits are calculated might be imposed; but care should be taken not to adversely affect beneficiaries in the process.

The ETF will be authorized to utilize the funds collected for the employment injury benefit scheme to invest in rehabilitative activities and programmes conducted to encourage injured employees to return to work.

The scheme will establish an independent board of medical reviewers who will conduct reviews on claimants and assess the type (temporary or permanent) and the degree of the disability suffered. Those receiving benefits for temporary and permanent disabilities will have to present themselves on a monthly or yearly basis for medical tests for verification of the continuation of the disability. Those who do not present themselves for verification will forfeit the compensatory benefits they were entitled to. The benefit may be reinstated once the beneficiary presents himself for a test at a later date.

The existing life insurance benefit offered by the ETF will be abolished after the introduction of the employment injury scheme.

The existing lump sum payment mechanism (according to Schedule IV of the WCO) will be phased out over a period of five years; the claimant will receive the lump sum and a periodic payment as compensation. The lump sum amount will be recovered through reduced periodical payments for the period of time the lump sum is deemed to provide enough to cover the monthly wage of the employee. A claimant may opt to receive only periodic payments (without the lump sum payment) from the inception throughout this phase.

Annex tables

Annex Table 1: Compliancy of temporary disability benefits with ILO standards, selected countries

Income level	Country	GNI Per capita (Constant US\$) 2012	Uncapped	Meets ILO Replacement rate	Paid periodically	EIPI Score
High	Norway	98,860	✗	✓	✓	144
\$12,616 and more	Switzerland	82,730	✗	✓	✓	119
	Denmark	59,770	✗	✗	✓	78
	Australia	59,570	✗	✓	✓	130
	Sweden	56,210	✗	✓	✓	83
	Canada	50,970	✓	✓	✓	115
	USA	50,120	✗	✓	✓	96
	Japan	47,870	✗	✓	✓	168
	Singapore	47,210	✓	✓	✓	103
	Germany	44,010	✗	✓	✓	120
	France	41,750	✗	✓	✓	212
	Hong Kong	36,560	✓	✓	✓	115
	Italy	33,840	✓	✓	✓	96
	New Zealand	30,620*	✗	✓	✓	121
	Korea	22,670	✗	✓	✓	181
	Upper Middle	Malaysia	9,800	✗	✓	✓
\$4,086-\$12,615	China	5,680	✓	✓	✓	144
	Thailand	5,210	✗	✓	✓	87
	Fiji	4,200	✗	✓	✓	95
Lower Middle	Indonesia	3,420	✓	✓	✓	127
\$1,036-\$4,085	Sri Lanka	2,920	✗	✓	✓	75
	Philippines	2,470	✗	✓	✓	154
	India	1,530	✓	✓	✓	127
	Vietnam	1,400	✓	✓	✓	144
	Pakistan	1,260	✓	✓	✓	106
Low	Cambodia	880	✓	✓	✓	101
\$1,035 and less	Bangladesh	840	✓	✓	✓	127
	Nepal	700	✓	✗	✓	72

Note: * GNI Per Capita (Constant US\$) for 2011

Source: GNI Per Capita figures from the World Development Indicators 2013 of the World Bank

Annex Table 2: Compliancy of permanent disability benefits with ILO standards, selected countries

Income level	Country	GNI Per capita (Constant US\$) 2012	Uncapped	Meet ILO Replacement rate	Paid periodically	Adjustment mechanism	EIPI Score
High \$12,616 and more	Norway	98,860	✗	✓	✓	✓	187
	Switzerland	82,730	✗	✓	✓	✓	111
	Denmark	59,770	✗	✓	✓	✓	108
	Australia	59,570	✗	✓	✓	✓	39
	Sweden	56,210	✗	✓	✓	✓	101
	Canada	50,970	✓	✓	✓	✗	65
	USA	50,120	✓	✓	✓	✓	92
	Japan	47,870	✓	✗	✓	✓	129
	Singapore	47,210	✗	✗	✗	✗	30
	Germany	44,010	✓	✓	✓	✓	92
	France	41,750	✗	✓	✓	✓	142
	Hong Kong	36,560	✗	✗	✗	✗	33
	Italy	33,840	✓	✓	✓	✓	67
	New Zealand	30,620*	✗	✗	✗	✗	11
	Korea	22,670	✗	✓	✓	✓	243
Upper Middle \$4,086-\$12,615	Malaysia	9,800	✓	✓	✓	✓	124
	China	5,680	✓	✓	✓	✗	48
	Thailand	5,210	✗	✓	✓	✓	96
	Fiji	4,200	✗	✗	✗	✗	42
Lower Middle \$1,036-\$4,085	Indonesia	3,420	✓	✗	✓	✗	8
	Sri Lanka	2,920	✗	✗	✗	✗	3
	Philippines	2,470	✓	✓	✓	✗	22
	India	1,530	✓	✓	✓	✓	125
	Vietnam	1,400	✓	✗	✓	✗	27
	Pakistan	1,260	✓	✓	✓	✗	24
Low \$1,035 and less	Cambodia	880	✓	✓	✓	✓	101
	Bangladesh	840	✗	✓	✓	✗	10
	Nepal	700	✓	✗	✗	✗	10

Note: * GNI Per Capita (Constant US\$) for 2011

Source: GNI Per Capita figures from the World Development Indicators 2013 of the World Bank

Annex Table 3: Compliancy of survivor benefits with ILO standards, selected countries

Income level	Country	GNI Per capita (Constant US\$) 2012	Uncapped	Meet ILO Replacement rate	Paid periodically	Adjustment mechanism	EIPI Score
High \$12,616 and more	Norway	98,860	✗	✓	✓	✓	175
	Switzerland	82,730	✓	✗	✓	✓	69
	Denmark	59,770	✗	✗	✓	✓	89
	Australia	59,570	✓	✗	✓	✓	48
	Sweden	56,210	✗	✗	✓	✓	4
	Canada	50,970	✗	✗	✗	✗	4
	USA	50,120	✓	✓	✓	✓	123
	Japan	47,870	✓	✗	✓	✓	138
	Singapore	47,210	✗	✗	✗	✗	14
	Germany	44,010	✓	✓	✓	✓	88
	France	41,750	✗	✗	✓	✓	88
	Hong Kong	36,560	✗	✗	✗	✗	26
	Italy	33,840	✗	✓	✓	✓	88
	New Zealand	30,620*	✗	✓	✓	✗	23
	Korea	22,670	✓	✓	✓	✓	170
	Upper Middle \$4,086-\$12,615	Malaysia	9,800	✗	✓	✓	✓
China		5,680	✗	✓	✓	✗	29
Thailand		5,210	✗	✓	✓	✓	41
Fiji		4,200	✗	✗	✓	✗	12
Lower Middle \$1,036-\$4,085	Indonesia	3,420	✓	✗	✓	✗	9
	Sri Lanka	2,920	✗	✗	✗	✗	9
	Philippines	2,470	✗	✓	✓	✗	36
	India	1,530	✓	✓	✓	✓	105
	Vietnam	1,400	✗	✗	✓	✗	9
	Pakistan	1,260	✗	✓	✓	✗	21
Low \$1,035 and less	Cambodia	880	✓	✓	✓	✓	149
	Bangladesh	840	✗	✗	✗	✗	14
	Nepal	700	✓	✗	✗	✗	8

Note: * GNI Per Capita (Constant US\$) for 2011

Source: GNI Per Capita figures from the World Development Indicators 2013 of the World Bank

Annex Table 4: Stakeholder meetings held for the EII study, 2013

Date	Organizations involved	Meeting venue	Participants
22-Mar-13	EFC IHP	EFC offices, Rajagiriya	Mr Kanishka Weerasinghe Mr Ravi Peiris Mrs Ayomi Fernando Dr A T P L Abeykoon Ms Janaki Jayanthan Ms Rehana Thowfeek
28-Mar-13	NTUF IHP	NTUF Offices, Rajagiriya	Mr K Velayudam Mr Malalasekera Dr A T P L Abeykoon Ms Janaki Jayanthan Ms Rehana Thowfeek

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