

Asia Pacific Labour Law Review

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Workers' Rights for the New Century

Asia Monitor Resource Centre

2003

Asia Monitor Resource Centre Ltd.

AMRC is an independent non-governmental organisation
that focuses on Asian and Pacific labour concerns.

The Center provides information, research, publishing, training, labour networking
and related services to trade unions, pro-labour groups, and other development NGOs.
AMRC's main goal is to support democratic and independent labour movements in Asia and the Pacific.
In order to achieve this goal, AMRC upholds the principles
of workers' empowerment and gender consciousness, and follows a participatory framework.

Published by

Asia Monitor Resource Centre Ltd (AMRC), 444 Nathan Road, 8-B, Kowloon, Hong Kong, China SAR
Tel: (852) 2332 1346 Fax: (852) 2385 5319 E-mail: admin@amrc.org.hk URL: www.amrc.org.hk
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ISBN 962-7145-18-1

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Acknowledgements

AMRC expresses sincere thanks to the following people and organisations for their gratefully received
contributions to this book.

Suchada Boonchoo (Pun) is co-ordinator for the Asian Network for the Rights of Occupational Accident
Victims. We thank her for all the help in organising our conference of authors in Bangkok.

Thanks to the American Center for International Labor Solidarity, Bangkok, Thailand for a financial con-
tribution towards printing the book.

We are indebted to Oxfam Hong Kong for their financial contribution towards the production costs.

Thanks to the International Labour Organisation for allowing us to use photographs from their library free
of charge.

Eugene Kuo, a freelance photographer and designer, a big thank you for contributing photographs and de-
signing the cover free of charge. Look at www.226-design.com for some of Eugene's stunning work and
ideas.

To Tom Fenton, co-founder (with Mary Heffron) of AMRC – thanks a lot for advice, maps, and all the time
devoted to the layout of the book, free of charge. E-mail: tfenton@igc.org.

Finally, we would like to thank the International Centre for Human Rights and Democratic Development,
Canada, for an extremely generous contribution that covered much of the publishing costs of this book.
Without their last-minute financial assistance, it is possible that this book would never have proceeded be-
yond the editing stage. E-mail: ichrdd@ichrdd.ca; URL: www.ichrdd.ca.

Sri Lanka

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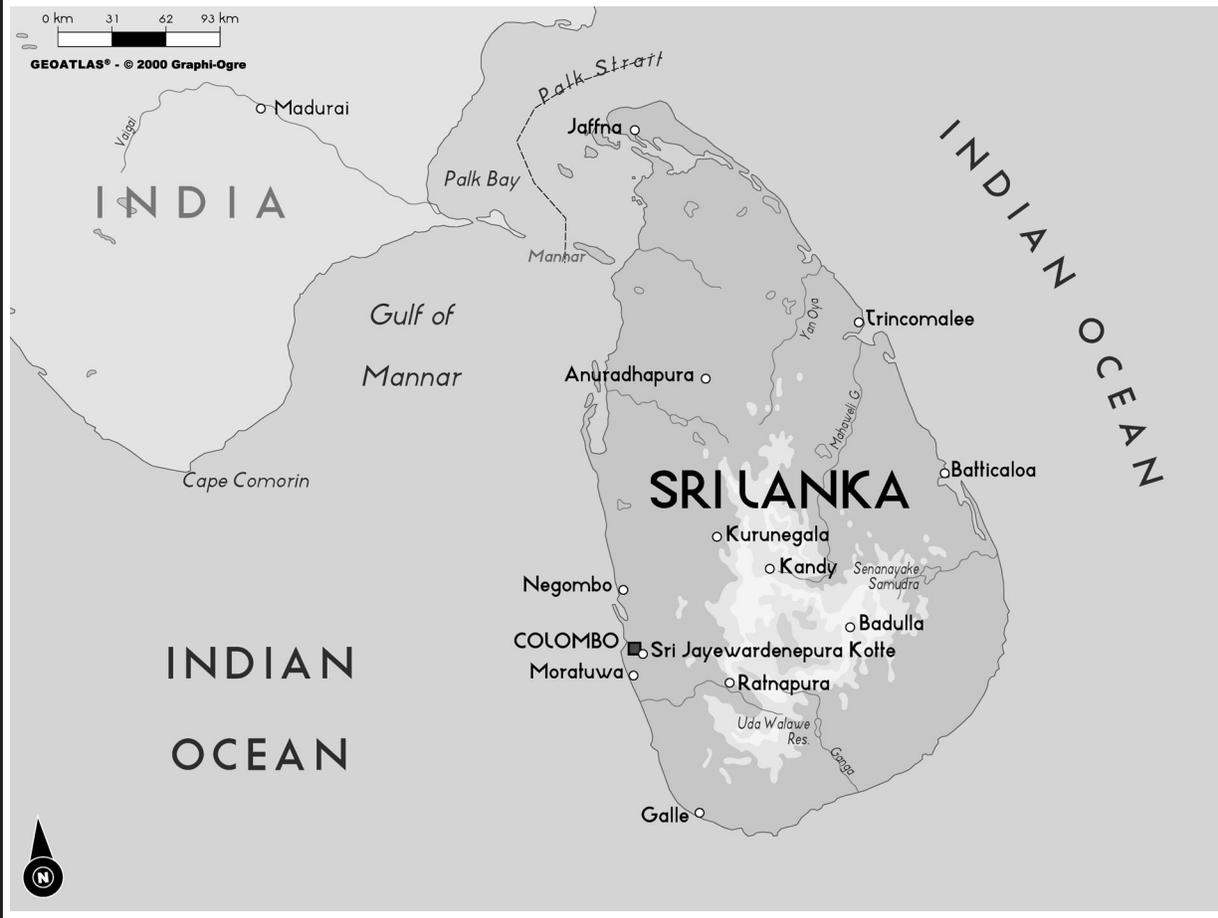
History of labour law

The labour laws of Sri Lanka are considered to be some of the most liberal when compared with other South Asian countries. Nevertheless labour law is complex, drawing its influence from the British. Colonial influences are also found in Sri Lanka's common and criminal law, which is derived from the Dutch; some laws are shaped around the Indian legal system. Labour laws cover issues including social pensions, retirement funds, overtime, minimum wages and hours, sick leave, termination, unfair dismissal, workers compensation, workplace safety, industrial disputes, arbitration, and trade union rights.

For the most part labour laws are applicable only in the private sector.

The public sector is governed by the Establishments Code.

These laws have long been under threat from employers pressuring the government to amend legislation to suit their needs. This threat is further compounded by the fact that labour law is not implemented in the first place.



The liberal nature of labour law is due in part to the strong agitation by the working class in the 1920s in lobbying government for changes to legislation.¹ During British times the left movement started a campaign against colonial regimes, developing trade unions to fight the cause. After independence in 1948, the left parties joined the Parliament. By forming a coalition with Mrs Srimavo Bandaranaike's government in 1964 they gave up class politics and became more reformist. This was a turning point for the working class movement; a betrayal. From this time onwards the left parties took part in class collaboration politics, rather than class struggle politics.

The opening up of the economy and the rapid moves towards globalising the economy have been felt in Sri Lanka's political economy, which has in turn had an impact on labour relations, and a breakdown of democracy.

In 1977 the newly elected United National Party (UNP) government, which ousted Mrs Bandaranaike's party, unlocked the doors for foreign investment, changing to an 'export-orientated economy', under World Bank and International Monetary Fund (IMF) 'structural adjustment policies', when free trade zones (FTZ) were established. At the same time, the government changed the constitution to introduce the executive presidency system. The free rice rationale enjoyed by the people for more than 50 years was lost and the cost of living went up rapidly. When 14 unions went on strike in 1980 demanding Rs10 per month wage increase, the government declared all industries as essential services and called for emergency regulations to be implemented. Under the emergency 75,000 workers were dismissed, weakening the trade union movement and the opposition.

After 25 years of globalisation and so-called economic development, in July 2002 Prime Minister Ranil Wickramasinghe made a statement saying the government is operating with money that is 98 percent of Employees Provident Fund (EPF) contributions. His statement clearly shows the government's failure. Yet, in spite of this the government continues with economic liberalisation policies ordered by the IMF and World Bank.

The Sri Lankan government has ratified 39 International Labour Organisation (ILO) conventions including:

- Convention No. 29 on Forced Labour;



May Day 2002. Postal Workers Union members worked to rule for five days in 2001 (Credit: Kelly Dent, TIE-Asia)

- Convention No. 87 on Freedom of Association and Protection of the Right to Organise;
- Convention No. 98 on the Right to Organise and Collective Bargaining;
- Convention No. 100 on Equal Remuneration;
- Convention No. 111 on Discrimination (Employment and Occupation);
- Convention No. 103 on Maternity Protection;

Though Sri Lanka is a signatory to these conventions it means little for workers as the conventions are not implemented or effectively monitored.

Major labour laws in Sri Lanka

Legislation/laws designed to provide or protect workers' welfare

- Employees Provident Fund Act No. 15 1958 plus amendments; lump sum payment upon retirement, for men 55 years, women 50 years or when they marry. EPF contributions come from the employer (12 percent) and the worker (eight percent).
- Payment of Gratuities Act No. 12 1983 plus amendments: applicable to workplaces with more than 15 employees and have worked for more than five years. Upon resignation or termination, workers are entitled to half a month's salary for each year of service.
- Employees Trust Fund (ETF) Act No. 46 1980 plus amendments: at workplaces with more than 15 employees, the employer must contribute 3 percent of the worker's earned salary to the ETF. Employees may withdraw from this fund after five years.

iv) Workers in the public sector are included in a pension scheme: minimum 10 years service to be eligible for pension at retirement (men – 55 years, or extension up to 60; women – 50 years). Salary contributions between four and seven percent are made to the Widows and Orphans Fund Scheme.

v) Wages Board Ordinance 47 1988 plus amendments: legislation covers working hours, minimum wage, overtime, holidays, and paid leave etc. Wages boards exist for 39 industries under the Ordinance. Industries not covered are provided for in Part 1, a general section of the Ordinance.

vi) All matters relating to the above (v) for the public sector fall under the Establishments Code.

vii) Shop and Office Employees Act No. 19 1954: regulation of employment and remuneration for shop and office employees.

viii) Termination of Employment of Workmen Act No. 45 of 1971: safeguards against unfair dismissal, except for disciplinary grounds. Employers retrenching or terminating workers must gain workers' consent or permission from the Labour Commissioner.

Collective labour rights

i) Trade Union representatives (Entry into estates) Act No. 25 1970: allowing trade union representatives into plantation sector.

ii) Employees Councils Act No.32 of 1979 plus amendments: participation of employees' representatives in planning process of public enterprise.

iii) Industrial Disputes Act No.43 of 1950 plus amendments: the Commissioner of Labour, appointed by the Labour Minister, has power to intervene in an industrial dispute. The role of the Labour Commissioner is to try and resolve disputes by conciliation with all parties. If it cannot be resolved, the Commissioner has the power to refer the matters in dispute to the Labour Minister for either voluntary or compulsory arbitration. The Minister decides if the matters in dispute will proceed. If so the Minister appoints an arbitrator from a panel of the Industrial Courts. Under voluntary arbitration both parties must accept the ruling of the arbitrator. Compulsory arbitration both parties can challenge the findings through an appeal process.

Once a dispute has gone to arbitration it is illegal for workers to continue to strike. Likewise it is illegal for an

employer to refuse to provide workers with employment if the strike has been called off.

The Commissioner may also call a referendum in a dispute, which is conducted by secret ballot.

The right to collective bargaining exists, even if a worker is not part of a union.

iv) Public sector worker grievances not resolved through the head of department are referred to the Public Service Commission (PSC). If the workers are not satisfied they can take the case up with the Cabinet of Ministers.

Trade union rights

i) Trade Union Ordinance No. 3 1946 plus amendments: minimum of seven workers to form and register a union. To register, a union must: have a constitution formulated according to Labour Department guidelines; hold a meeting and elect office bearers; submit forms to the Labour Department; submit its returns each year and inform the Labour Department of any changes in office bearers.

Until December 1999 there was no legal requirement to recognise unions, or unions as collective bargaining agents. An amendment to the Act was made at this time stating that unions must be recognised as a bargaining agent in a workplace if 40 percent or more workers belong to a union.

The right to strike is legal, but not a fundamental right.

ii) Unions are recognised under the Establishments Code for the public sector, and also by the Labour Commissioner under the Trade Union Ordinance.

Public sector workers cannot join a private sector union.

Federation union officials can apply for release for full time union work, and return to their post once finished.

Occupational health and safety legislation/law

i) Factories Ordinance - No.45 of 1942 plus amendments: Labour Department factory inspectors are employed to check employers are complying with workplace safety regulations. The department can prosecute if regulations are violated.

ii) Workmen's Compensation Ordinance – No. 19 of 1934 plus amendments

Worker's compensation exists for accident or injury. For permanent injuries there is a formula to determine how much compensation should be paid.

If employees are not permanently injured, but require leave for more than three days they receive paid leave and medical expenses.

iii) Public sector workers can get accident leave on full pay for six months, followed by a further six months on half pay.

Gender-related labour law

i) Maternity Benefits Ordinance No. 32 1939 plus amendments: women are granted 12 weeks maternity leave (including weekends) for their first and second child; six weeks thereafter. Maternity pay is at 6/7 of normal salary. Women working under the Shops and Offices Act receive three months leave, excluding weekends – i.e. 90 working days.

ii) Women in the public sector must serve a minimum of nine months to be eligible for 84 working days maternity leave at full salary, additional to owed holidays etc.

iii) Employment of Women, Young Persons and Children's Act No. 47 1956: there are limits on overtime hours for young people; some sectors prohibit employment of young people. A 'young person' is between 16-18 years. The minimum age for employment of workers is 16 years.

iv) Employment of Women at Night Act No. 32 1984: legislation for night work: women cannot be employed after 10 p.m. without their consent. The employer is required to obtain prior permission from the Labour Commissioner. Women should only work overtime 10 days per month, and they should not have already worked the day shift. Employers are required to provide women with an evening meal, and they should be paid 1.5 times the usual rate of salary.

v) There is no menstruation leave.

There is no policy for discrimination

There is no paternity leave, though the government is considering it.

Legislation aimed at dealing with discrimination

The Constitution of Sri Lanka refers to discrimination:

Article 12 (2): no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, or place of birth.

Article 12 (4): nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children, or disabled persons.

Key trade union federations

Few new trade unions have formed in the last two years. The atmosphere throughout the country is distinctly anti-union. Government policy is to discourage unions and encourage investment.

One exception was the formation in January 2000 of the FTZ Workers Union (FTZWU). Restrictions placed on workers to prevent them from organising in factories has led to creative forms of organising in boarding houses and elsewhere within the FTZs. This new, democratic, independent trade union has been formally recognised at the national level. The union, the first of its kind in the FTZs, has a majority of women on the Executive Committee and as members. While this has been a positive step, branch unions of the FTZWU have not been recognised.

During its struggle the FTZWU witnessed: Board of Investment (BOI) intimidation of workers, harassment of workers by management; the loss of 1,500 jobs; police harassment and assault; threats from local politicians; threats from factory personnel; and 10 women unionists arrested.

The Progress Union has also been formed within the FTZs.

See Appendix 2 for details of trade union federations.

Case study: unfair dismissal

This case dragged on for more than four years. The worker, Ms Karunawathi (Karuna) was first dismissed in 1997, and fought her case with the support of the Joint Association of Workers and Workers' Councils of the FTZ. (The Association was the precursor to the FTZWU formed in January 2000.)

The Managing Director of Sky Sports Lanka, Mr Ulriche Kurrle, assaulted Karuna, a sewing machine operator, while at work in the factory in October 1997. Sky Sports Lanka is a German owned company operating in Katunayake, Sri Lanka's largest FTZ. Many workers witnessed the assault, which management claimed occurred because of an alleged mistake in production.

Karuna was dismissed without a domestic inquiry. While not a legal requirement, it is considered standard practice in the private sector. Among the charges levelled at Karuna was her failure to report for work on the Saturday following the assault. She was seeking medical treatment for injuries sustained in the assault. Karuna made a complaint to the police, who referred the case to the Mediation Board, a board appointed by the government for resolving minor offences. At the same time, with the support of the Joint Association, Karuna filed a case with the Labour Tribunal.

The Joint Association launched an international campaign to canvass support, which management claimed was an attempt by the union to sabotage their operations. During Mediation Board proceedings the managing director's lawyer tried to get Karuna to sign a bogus apology letter, which made false statements claiming the incident was her fault. She refused. Sky Sports management further victimised Karuna by contacting other factories, discouraging them from employing her.

Meanwhile the case before the Labour Tribunal did not even reach the inquiry stage.

Sky Sports management continually stalled proceedings by not attending scheduled hearings. After more than four years the case was abandoned in 2001 when Karuna was forced to give up the fight and return to her village to care for her ill mother.

Effectiveness of labour law

Labour laws in Sri Lanka, while relatively progressive, are not implemented. There are a myriad of issues contributing to the non-implementation of labour law in Sri Lanka. Employers continue to hold the view that labour laws are restrictive and act as a deterrent to investors. One important factor is the government's lack of commitment in upholding the law, and its focus on the civil war. While a ceasefire agreement is in place at the time of writing, the government has spent the last 19 years involved in a civil conflict with the LTTE (Liberation Tigers for Tamil Eelam) who are fighting for Tamil rights and a separate state in the north and east of the country. The government's priorities lie with the 'war effort' and little else.

In Sri Lanka the Labour Department is responsible for the implementation of labour law. The head of this

department is the Commissioner General of Labour, appointed by the Labour Minister. The principle of the Labour Department is to monitor employers, however the department is grossly under resourced and unable to fulfil this duty. Corruption is also a contributing factor. The workforce continues to grow, yet the Labour Department has not been upgraded by successive governments.

With the election of a new government in December 2001, the department has undergone a name change. Previously known as the Labour and Vocational Training Department, it is now known as the Employment and Labour Department. The emphasis has moved away from labour, to employment. The practices of the department have essentially remained the same. Though the department has the power to take action, more often than not it remains silent. Employers do not regard the Labour Department as an authoritative body. They know they can flout labour law with very little chance of punishment. Employees too are aware of this fact, however, often it is their only course for justice so they must persist with the system despite its shortcomings. For example, cases before the Labour Tribunal takes an extraordinarily long time to be resolved, if at all. Some unresolved cases have been ongoing for more than 10 years. This is due not only to a backlog in the system, but also because of the time demands on lawyers appearing on behalf of employers.

Lawyers juggle extreme caseloads across industrial and criminal sectors, therefore fixing a date to hear cases that suits both parties is problematic. All available dates are engaged and the case is postponed time after time. However the union, or the worker is required to pay even when the lawyer only appears to ask for an adjournment. It is a frustrating process for employees when they cannot even have their cases heard.

In cases where a resolution has been reached and the employer must pay compensation, the situation is often no better than had it not been resolved at all. In many instances the Labour Commissioner will order an employer to pay compensation or to re-instate workers. Either way, employers will often ignore the order. As a result workers may place an appeal with the tribunal and the merry-go-round continues with the employer again avoiding punishment. As it is a long struggle to bring action against employers, and the likelihood of compensa-

tion being paid minimal, many workers cannot afford to keep following the case. Their primary concern is with seeking new employment to make ends meet. Unofficially, Labour Department officials say they do not want to antagonise investors by implementing the laws.

One example where the Labour Department relaxes labour law is with regard to Employees Provident Fund (EPF) payments. The EPF Act requires that employers make payments into the Central Bank of Sri Lanka every month. Despite it being illegal, the Labour Department allows employers to make deposits up to every six months. Employers collect the eight percent of workers' salary to be deposited, yet do not put it in the bank, also defaulting on the 12 percent contribution they must make. Often this money is used for other business purposes, and on some occasions foreign investors may leave the country altogether within this time frame without fulfilling their obligations and statutory requirements.

The unionisation rate is 12 percent including public and plantation sectors. Public sector workers have no right to collective bargaining, however unions are recognised. In the private sector there are collective agreements in industries where trade unions are strong, for example: tea plantations, Ceylon Tobacco Company, and government doctors.

A worrying development is the government's proposal to convert EPF into a pension scheme, while abolishing public sector pensions in favour for the EPF system. The concern is that these funds will be used by government for investment and workers' savings will not be safe. Workers' anxiety is increased as the government proposes to invest in the private sector, rather than through the central bank. This type of high-risk investment could present workers with futures that are even more uncertain.

Where labour law does not apply

Labour law does not cover domestic workers, health aides, nannies, and other forms of 'home help'. Legal redress is only through the criminal court.

Workers in the informal sector have limited coverage under labour law. The difficulty lies in the definition of the worker: whether they are deemed to be in an employee-employer relationship, or whether they are deemed to be self-employed. Workers who are considered to be self-employed have no labour rights.

Industries not specified in the Wages Board Ordinance are covered for under Part 1 of the Ordinance. However, Part 1 only stipulates working hours, a 48-hour week, and workers' rights to public holidays. Workers covered by Part 1 have no other rights.

Influences on labour law

Groups influencing labour law in Sri Lanka are the business community, particularly those with foreign investment interests, the World Bank and the IMF. Business dictates that if government does not amend its labour laws, Sri Lanka cannot compete with countries like China and Vietnam in the manufacturing (mostly garments) industries for export. The government, regardless of who is in power, currently the United National Front (UNF), continues pandering to foreign investors. This means there is little regard for the workers, who entice investors to the island in the first place. Business leaders are of the view that the labour laws are outdated and rigid, and as a result investors do not like to come and invest money. However, as there is already significant foreign investment, Rs141 million (US\$148 million) by the end of 2001, and employers carry on disregarding the labour laws currently in place, it is a curious argument for them to put forward.² The Central Bank of Sri Lanka stated in its annual report for 2001 that labour laws need to be reviewed for the benefit of the economy.

Complementing the demands from business, the government is placed under pressure by the IMF and World Bank. The IMF insists that the Government agrees to a 'package' of law reforms as a condition for granting the latest loan due in October 2002. As a result the government has promised to pass 36 different laws by September. The package includes, changes to overtime legislation, 14 days notice of strike (currently no notice is required), changes to the Termination of Employment Act, making it easier for workers to be dismissed, and replacement of tripartite wages boards with productivity councils.³

Already the government has amended overtime legislation for women from 100 hours per year, to 60 hours per month, or 720 hours per year. Originally proposed at 100 hours per month, unions opposed this move and had some success in having the hours reduced to 60. Business leaders claimed it was necessary to change the leg-

islation for Sri Lanka to remain competitive on the world market. During talks between employers, trade unions, and government, the unions proposed that the legislation should stipulate that overtime is voluntary. Employers agreed that workers could refuse to do overtime on reasonable grounds (although 'reasonable' was not defined), and agreed that the monthly average should be 48 hours. This was agreed at the National Advisory Council (a government initiated tripartite body) on 8 August. The following day employers withdrew their support for this move, and on 13 August, Cabinet passed the amendment.

Unions say while previous legislation was routinely violated, it at least had provisions stating there should no more than six hours of overtime per week, at 100 hours per year, within 25 weeks of the year. The new amendments makes no such provisions, meaning women can be forced to work 60 hours per month, every month of the year. The FTZWU is leading a campaign among women workers to raise awareness of this amendment. The government claims it is doing the women a favour by providing them with more overtime and has not explained the real implications. The real issue is lack of a living wage. At the same time during the debate, the Labour Minister said Marks and Spencer and the Gap had raised this issue with investors. This is confirmed in the Parliamentary Hansard. 'Codes of conduct' for these two companies and all labels associated with them, say overtime should be voluntary. The involvement of these two companies is a violation of their own codes of conduct and unions are going to take up the issue with buyers.

The Termination of Employment of Workmen Act has been under threat since its establishment in 1971. Under the Act if an employer wishes to terminate a worker on non-disciplinary grounds, the employer must get permission from the Commissioner of Labour and an internal inquiry must be held. If the Commissioner gives permission, normally some compensation will be granted to the worker. The intended purpose of this Act, to prevent arbitrary termination and arbitrary closure, has been lost.

Foreign companies operating in Sri Lanka frequently close down factories and/or dismiss workers without prior warning and without reason, disappearing without trace and not facing any responsibilities for their actions.

The BOI, the body responsible for enticing foreign investment, refuses to get involved in such incidents. Requests from trade unions to the BOI to follow up these cases receive the reply that it is out of the BOI's control once the company has left the island. Unions argue that the BOI does not encourage, nor monitor companies while they are in the country, to ensure they uphold labour law, a requirement for any company wishing to operate in Sri Lanka.

The Government proposes to introduce a compensation formula whereby employers will have the right to terminate any worker, as long as they pay compensation. Under this arrangement there will be no room for hearings or appeals. However ineffective the current system is, the proposed changes to the Termination Act will leave employees with no protection and no redress.

In August 2000 business leaders in the private sector formed a joint umbrella organisation urging the government 'to make termination of employment easier, cut red tape related to employing casual and contract workers and allow temporary lay-offs'.⁴ One year later, in a newspaper interview employers said labour laws were in need of reform and the Labour Department should protect employers, not only workers. They claimed it was too easy for workers to strike.

Such claims are not supported by many cases where workers involved in strike action are victimised or dismissed. The right to strike is legal. Yet workers who participate are often locked out of their workplaces when they return after the strike. Employers use police, private intimidation, and harassment against striking workers. The situation is the same for union members, especially office bearers. There may not even have been any strike action, but any worker associated with a union can be labelled a 'trouble maker' and targeted by management for punishment as a result.

There are however, moves afoot to have changes in the legislation whereby unions would be required to give 14 days prior notice to an employer of a proposed strike. This amendment is proposed under the Industrial Disputes Act and has not been passed in Parliament after more than two years. The delay is due in part to the pro-guoging of Parliament shortly after the proposal, followed by the change in government at the end of 2001. The slowing down of this process can also be attributed to the opposition presented by unions to the amend-

ments. It is interesting to note that the BOI has stated in its latest draft Labour Relations Manual for investor companies (i.e.: guidelines to observe) that 14 days prior notice of strike is required by workers' councils, even though such legislation is yet to be brought before the Cabinet.

Fighting for workers' rights

Trade unions are the primary group fighting for workers' rights. Unions have the greatest potential for being effective in supporting workers, placing them in a position to face any challenge. The union movement is male dominated. Young leaders, especially women, need to be recruited to benefit workers across all industries. Women make up close to 32 percent of the workforce, yet are grossly under-represented in unions.

Political party affiliations and internal wrangling are the biggest impediments facing union unity. There is also division over the ethnic issue. Almost all the left parties, except the JVP (Peoples Liberation Front), take the position that though they do not support a separate state as agitated for by the LTTE, they support the cause of the struggle. Independent trade unions take a similar line, but have difficulty convincing their members because of some of the actions of the LTTE (e.g. planting bombs in factories, killing workers).

The United National Party, the Sri Lanka Freedom Party and other rightists make use of this situation for racist policies to divide the people.

Freedom of expression for trade unionists is not as bad as it once was. During 1987 to 1994 because of the repressive situation in the country there was no freedom of speech. The situation was so tense, anyone who spoke against the government was either assaulted or disappeared, including Buddhist monks, lawyers, and trade unionists.

Momentum is building with unions coming together to form stronger alliances. A campaign by 30 unions against the IMF 'package' of labour law reform is currently underway, gaining in popularity and support. Started in 2001, the campaign has included submitting a memorandum opposing the proposals to the Labour Ministry and ILO, press conferences, a poster campaign, and international lobbying.

Major events and actions

Sri Lanka's political, social, and economic structure has remained in place over the past two years. In this environment the situation for workers has improved little. A downturn in the economy in 2001 was officially blamed on the 'terrorist' bombing attack on Colombo airport in July. Unofficially, floating the rupee at the start of 2001, and the ongoing civil conflict are pertinent issues to economic performance.

Successive governments continue the push for privatisation of public services. The new government elected in December 2001 is pressing ahead with this agenda, combined with labour reform, without any consultation with unions. There are discussions with unions on a tripartite basis, but they are merely window dressing. Some unions took strike action at Colombo Port in 2001, against government moves to hand over operations of one jetty to a private company. Unfortunately the handover took place, however unions were successful in having some of their demands met by the new owner.

The union does not agree to privatising the Water Board, however it is not in a position to take action due to union weakness.

Postal workers worked to rule for five days in August 2001 as a protest measure against the reduction of available overtime hours.

In April this year there was a doctors' strike for five days. Doctors, supporting a colleague who was assaulted on duty by a member of the public (alleged to be a member of the underworld), demanded greater protection for their safety. The Government Medical Officers Association (GMOA) began the strike at Colombo General Hospital. They were supported by minor staff unions, finally forcing the government to meet the doctors' demands.

In 2000 the business community, whose profits began to be affected by the war, issued a nine-point plan for peace. Included in these points was the need for labour law reform, privatisation, and educational reform. The same group launched a 'Sri Lanka First' campaign in August 2001, with a human chain supporting peace formed during lunchtime on 19 September 2001.

Government's intent for labour law reform is shown with its most recent amendment. The Labour Minister

has devised a scheme called the 4-3-2 formula, to expedite resolving disputes and labour tribunal procedures. Using the formula all labour tribunal matters will be resolved within four months, arbitration within three months, and termination applications within two months. Unions are opposed to the formula, saying it is not realistic for cases now taking 10 or more months to be miraculously solved in just four. They argue that rather than trying to speed up the process, looking to minimise disputes in the first place needs to be addressed. Unions see the real agenda for this formula as a way of processing cases without workers receiving a proper hearing.

At an ILO tripartite meeting held in May 2002, it was again highlighted that employers refuse to recognise trade unions. Organised by the Ministry of Labour as a follow up to a workshop held in January 2001, it was attended by government, employers, and trade unions. At the workshop a recommendation was made to encourage employers in FTZs to recognise unions. It was ignored. Unions argued employers were not complying with the Industrial Disputes Act and were violating core ILO Convention No. 87 on freedom of association, and No. 98 on the right to organise and collectively bargain. Employers refuted this claim stating Convention No. 87 does not specifically mention trade unions, rather workers' organisations. Employers claimed employees' councils provided the same opportunities as trade unions. This is not true. Employees' councils are clearly against all principles of the ILO conventions and the Industrial Disputes Act.

It was agreed the BOI should issue a circular to employers under its jurisdiction saying that if a union has more than 40 percent of membership, they must recognise the union as a collective bargaining agent. The BOI made a commitment to the Labour Minister to issue such letters before the end of May. To date no letters have been issued by the BOI.

The violations of core ILO conventions also form the basis of a campaign for unions and organisations asking the EU to pressure the government to remedy the situation before it considers Sri Lanka's request for a 'generalised system of preferences' in 2002. The EU has decided to monitor the situation of labour standards in Sri Lanka, specifically the implementation or non-implementation of Freedom of Association in the FTZs.

This is a direct result of complaints and cases cited to the EU by the FTZWU.

ILO conventions, particularly on Freedom of Association, and the Industrial Disputes Act amendment to recognise unions, are the focus of a campaign being pursued against the Government. The Progress Union filed a writ with the Court of Appeal to force the Commissioner of Labour to implement the Industrial Dispute amendment. The Labour Minister, Labour Commissioner, and the BOI have been asked by the court to file objections. After this the case will be heard.

Public sector unions are currently calling for the government to appoint an independent commission to oversee the Public Service Commission (PSC). Grievances not resolved by the PSC can be taken to the Cabinet of Ministers, however this is a difficult route where the need to 'know' someone is the only way to proceed. The Trade Union Alliance for an Independent Public Service was formed in June 2002, suggesting an independent body be created with equal powers as the Supreme Court.

Public servants have been lobbying government for a salary increase over the past two years asking for Rs 3,000 per month increase as an interim allowance before the implementation of the Salaries Commission Report. The report, which has been prepared but not released by the Government, is expected to recommend salary increases in some sectors. Unions were successful in lobbying for a Rs 1,200 increase under the former government in 2001, but they are looking to the current government to provide the balance and to release the report. The cost of living continues to increase, yet the last 'across the board' salary increase for the public sector was in 1996.

Wages not commensurate with the increasing cost of living is standard across the entire workforce. All essential services – gas, diesel, and electricity prices have risen dramatically over the past two years. In February 2000 one litre of diesel cost Rs16.20, in June 2002 it had risen to Rs30. One gas bottle cost Rs335 in December 1999, in June 2002 the cost is Rs514. Kerosene has gone from Rs12.40 per litre in February 2000 to Rs20.90 in June 2002.⁵ The government abolished the Goods and Services tax to introduce value added tax (VAT) at 20 percent on non-essential goods and services, and 10 percent on essential goods in July 2002. VAT taxes everything, forcing living costs even higher.

Conclusion

Non-implementation of labour law is a continuing trend in Sri Lanka that shows no sign of abating. The bigger worry is a proposal to make labour laws even less effective. However, the opposition movement, primarily trade unions, has been relatively successful in postponing the proposals. This action is essential amid international pressure on government from the World Bank and IMF. Without it there is real risk that Sri Lanka's liberal laws will be changed to the detriment of the workers they are made to protect.

Notes

1. Visakha Kumari Jayawardena, 'The Rise of the Labour Movement in Ceylon', (Duke University Press USA 1972).
2. 'Central Bank of Sri Lanka: Annual Report 2001', (Board of Investment of Sri Lanka, 2001).
3. 'Freedom of Association in Sri Lanka: At a Critical Juncture', campaign document by Anton Marcus, FTZWU and Kelly Dent, TIE-Asia ,(August 2001).
4. *Daily News*, (11 August 2000).
5. *The Sunday Times*, (23 June 2002).

Appendix I

Significant events in Sri Lanka June 2000 - 2001

2000	
January	Chandrika Bandaranaike Kumaratunga of the People's Alliance begins four-year term as President, following the December 1999 election marred by an attempt on her life with a bomb attack by the LTTE. Terrorist bomb attack on Prime Minister's office in Colombo. A political leader, Kumar Ponnambalam, assassinated. Norwegian delegation leads peace talks. FTZWU formed – first of its kind in FTZs.
April	Peace talks held as LTTE launch assault on Elephant Pass army camp in the northern peninsula. Sri Lanka army withdraw. Government imposes blanket censorship on the war in the North.
May	Government extends Emergency Regulations under the Public Security Ordinance, banning all demonstrations, strikes, and some public meetings.
June	Minister CV Gunaratne assassinated on War Heroes Day.
July	Factory Ordinance Amendment opposed by FTZWU.
August	Parliament suspended. Private sector urges government to change labour laws.
September	President re-calls government to extend the State of Emergency. Minister AHM Ashraff, leader of SLMC (Sri Lanka Muslim Congress) dies in an air crash.
November	The world's first woman prime minister Srimavo Bandaranaike dies.
December	Diesel and gas prices rise. LTTE declare one-month ceasefire.
2001	
January	Floating of Sri Lankan rupee. Electricity crisis as dams run low - major power cuts enforced throughout the country, eight hours per day. Power cuts last until November.
March	Government signs a memorandum of understanding (MoU) with the IMF: 'package' commits privatisation of at least eight public institutions, and conditions to add to cost of living.
July	Colombo's Katunayake Airport suffers bomb attack. LTTE claimed responsibility. 'Terrorist' attack blamed for downturn in tourist numbers and the economy etc.
December	Sri Lankan Parliamentary elections – a coalition, UNF comes to power after seven-years' rule by the People's Alliance (PA). United National Party leader Ranil Wickramasinghe becomes Prime Minister, while the PA's Chandrika Bandaranaike Kumaratunga retains her position as President. Economy slips to zero-growth for first time since independence.
2002	
February	Government and LTTE sign a MoU. Norway acts as mediator. Peace talks scheduled in Bangkok in May. Scheduled power cuts again across the island – five hours per day.
April	LTTE leader Vallupilli Prabhakaran makes first public appearance after more than 10 years at a press conference held in Vavuniya, to discuss the peace process. Large attendance by foreign media. Power cuts end again.
May	May Day 2002 – 16 democratic and independent unions join to oppose anti-worker changes to labour law and government's programme of privatisation. ILO tripartite workshop – government, BOI, and employers make commitment to implement amendment to the Industrial Disputes Act in the FTZs. Bus fare price hike
June	Peace talks between Sri Lankan Government and LTTE delayed.
July	Government introduces VAT (value added tax) – 20 percent on non-essential goods and services, 10 percent on essential goods.
August	Overtime legislation amended for women – from 100 hours per year to 720 hours per year (60 hours per month).

Appendix 2

Key trade union federations in Sri Lanka

Jathika Sevaka Sangamaya	Mr P Athukorala Chief Organiser Mr Sirinal de Mel General Secretary	416 Kotte Road Pitakotte Sri Lanka
United Federation of Labour	Mr Linus Jayathilaka, President	17 Barrack Lane Colombo 2
Inter Company Employees Union	Mr S Amarasinghe General Secretary	9 Kandy Road Dalugama Kelaniya
Central Council of Trade Unions	Mr PPF Perera General Secretary	34 Nawala Road Rajagiriya
Free Trade Zone Workers Union	Mr Anton Marcus General Secretary	141 Ananda Rajakaruna Mw Colombo 10 ftzunion@diamond.lanka.net
Confederation of Public Service Independent Trade Unions	Adhikari Jayaratne General Secretary	32, opposite Maha Vidyalaya Galamuruwa
National Estate Services Union	Mr MSAH Mohideen General Secretary	60 Bandaranayake Pura Welikada Rajagiriya
National Workers' Congress	Mr A Lodwick General Secretary	94, 1/6 York Building Colombo 1
Lanka Jathka Estate Workers' Union	Mr Raja Seneviratne General Secretary	60 Bandaranayake Pura Welikada Rajagiriya
Ceylon Mercantile, Industrial & General Workers Union	Mr Bala Tampoe General Secretary	No.3, 22nd Lane Colombo 3
Ceylon Federation of Labour	Mr S Siriwardene General Secretary	457 Union Place Colombo 2
Ceylon Bank Employees Union	Mr MR Shah General Secretary	No.22, Temple Road Maradana Colombo 10
Ceylon Workers Congress	Mr Harry Sandrasekera Secretary	19 St Michael's Road Colombo 3
Ceylon Federation of Trade Unions	Mr DW Subasinghe General Secretary	513 2/1, Elvitigala Mw Colombo 5
Sri Lanka Nidahas Sevaka Sangamaya	Mr Leslie Devendra General Secretary	301 TB Jayah Mawatha Colombo 10
Central Council of Ceylon Trade Unions	Mr Thilak Kulasekara Member	141/1 Dr Dharamawardane Mw, Pellenwatta Pannipitiya

Joint Plantation Trade Union Centre	Mr S Nadeson President	71 Malay Street Colombo 02
Lanka Jathika Workers Congress	Mr MS Sellasamy Chairman	60A Green Lane Kotahena Colombo 13
Up-country People's Front	Mr Sinnaiah Thambirajah	113/1 Inner Flower Road Colombo 3
Lanka General Services Union	Mr Jayaratne Maliyagoda President	10/1 1/1 Kotugodella Vidiya Kandy
The Progress Union	Mr SHA Mohamed General Secretary	665/8 New Kandy Road Vaduwegama Biyagama