

WHAT IS WRONG WITH SRI LANKAN LABOUR LAW?

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Let's Reset Sri Lanka

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The Framework of Labour Law is a Problem

- Sri Lanka has over 40 laws that relate to employment
- Of these, only about 15 are in regular use
- There is no 'Labour Code'; these separate laws overlap, create duplicate provisions, and cause confusion
- Most are dated before independence or shortly thereafter, so many are outdated
- There are many new developments which were not provided for in these laws
- Paid leave and holidays create anomalies
- System of dispute resolution is inefficient and is time consuming
- Employer bears total responsibility for social security in the absence of a universal system – Gratuity, EPF, ETF, Maternity benefits, Severance pay

Employment Laws that are Most in Use

- The Workmen's Compensation Ordinance, No. 19 of 1934
- Trade Unions Ordinance No. 14 of 1935
- The Maternity Benefits Ordinance, No.32 of 1939
- The Wages Board Ordinance No. 27 1941
- The Factories Ordinance No. 45 of 1942
- The Industrial Disputes Act No. 43 of 1950
- The Shop and Office Employees' Act, No. 19 of 1954
- The Employment of Women, Young Persons and Children Act, No. 47 of 1956
- The Employees' Provident Fund Act, No. 15 of 1958
- The Termination of Employment (Special Provisions) Act No. 45 of 1971
- The Employees' Trust Fund (ETF) Act, No. 46 of 1980
- The Payment of Gratuity Act No. 12 of 1983
- National Minimum Wage Act No.3 of 2016
- Budgetary Relief Allowance of Workers Act No. 4 of 2016

How is Private Sector Employment Regulated?

There are many aspects that apply to employment:

- Laws, rules, regulations
- Collective Agreements
e.g. Trade union activities
- Customary practices
e.g. Disciplinary procedures and inquiries
- Decisions of the Supreme Court or Court of Appeal
 - Conditions of probation, transfer are all set out in court decisions

Paid Leave

Types of holiday & leave	Employees covered by SOE Act	Trades covered by the wage boards	Public Sector
Holidays			
Weekly	78	52	104
Statutory	8	8	13
Poya	12	12	12
4 day week for public sector			52
Leave			
Annual	14	14	24
Sick/Casual	7	0	21
All leave	21	14	45
TOTAL			
Non-working days p.a.	119	86	226
Working days per annum	246	279	139

Case Statistics in the Labour Tribunals

Year	Number of LTs	Pending Cases	Cases Instituted	Cases Disposed Of	Total pending
2005	24	16,104	5516	8,286	13,334
2006	24	13,334	5327	5,525	13,136
2007	24	13,136	4881	5,872	12,145
2008	24	12,145	4314	5,486	1,9873
2009	24	10,973	6929	5,008	12,891
2010	39	11,775	3705	5,521	9,959
2011	38	9605	3339	6,160	6,784
2012 (end August)	38	6799	852	908	6,743
2013 (end August)	38	6464	1704	2395	5773
2014	37	5431	2320	2933	4818
2015	37	4818	2529	2,344	5,003
2016	39	5031	2281	2281	5031
2017	39	5031	1532	1,590	4,973 (as at 30.09.2017)
2018	39	4689	2434	2289	4832

Why have Previous Labour Law Reform Efforts Failed?

- **Lack of political will for genuine reform** – labour law reforms have at times been used for political advantage.
 - E.g. Doubling of maximum compensation under the TEWA during the pandemic
 - E.g. Reform efforts often not led by Government, and is usually funded by donors and is seen as private sector manipulation; Government lacks technical capacity to drive the reform discussion
- **Lack of cohesion** – overall development goals not the objective
- **Lack of trust between employers and trade unions** – colonial adversity
- **Lack of a centralized trade union structure** that prevents productive participation in consultations on reform – Trade unions resort to political patronage to block reform, even though only a very small percentage of the labour force is unionized.

Thank you!