

Demystifying Care in Asia for Domestic Workers
Mapping of Care Policies in Asia: Sri Lanka Country Report

| | |
|---|----|
| Introduction..... | 3 |
| 1. Care needs of domestic workers..... | 4 |
| State assistance schemes for elders..... | 5 |
| Types of disability requiring care or assistance..... | 6 |
| Providing Care..... | 6 |
| 2. Care infrastructure: Legal, policy and institutional framework..... | 9 |
| The Rights of Elders Act (No. 9 of 2000)..... | 9 |
| The Protection of the Rights of Elders (Amendment) Act, No. 5 of 2011..... | 9 |
| The Protection of Rights of Persons with Disabilities Act, No. 28 of 1996..... | 9 |
| The Disabled Persons (Accessibility) Regulations, No. 1 of 2006..... | 9 |
| National policies..... | 10 |
| Government care services (e.g. elderly home, childcare centres, long-term care services, etc.)..... | 10 |
| Type of state childcare institutions..... | 11 |
| 3. People in the care sector..... | 11 |
| 4. Situation of domestic workers..... | 12 |
| Social protection Schemes..... | 14 |
| Maternity protections, including provision of breaks and safe spaces for breastfeeding..... | 2 |
| Workplace anti-harassment and anti-discrimination protections..... | 4 |
| Labour inspection mechanism..... | 5 |
| Representation & collective bargaining rights of domestic workers..... | 6 |
| 5. Conclusion..... | 6 |
| Recognition of domestic workers in the care agenda..... | 6 |
| Redistribution of care between households and institutions..... | 6 |
| Reduce the care burden of domestic workers..... | 7 |
| Reward skills, experience and overtime..... | 7 |
| Representation in decision making and the care agenda..... | 7 |
| References..... | 8 |

Introduction

The elderly population in Sri Lanka is projected to increase at an exponential rate, with the number of those older than 60 years in 2012 numbering 2,520,573 but was expected to increase to 5,118,094 in 2037, which is a 103 percent increase within a 25 year time period (Dissanayake, 2016). This rapid ageing is a common feature of many developed and developing countries in the world and is due to the decline in fertility and mortality and the simultaneous increase in life expectancy as a result of the socio-economic developments of the country. The increase in life expectancy has other impacts: in 2012, women aged 60 years could expect to live another 22 years, and men another 18.3 – up from 21.6 and 17.7 years respectively in 2001. This trend has several health-related implications, such as the need for improved healthcare services to address the healthcare needs and rights of older women.

The indicators below indicate the aspects of care needs in Sri Lanka.

Table 1. **Population and ageing indicators in Sri Lanka (2023)**

| Indicator | Total | Male | Female |
|--|--------|--------|--------|
| Mid-year population ('000) | 22,037 | 10,670 | 11,367 |
| Age distribution ('000) | | | |
| 0-4 years | 1893 | 954 | 939 |
| 5-9 years | 1,896 | 957 | 939 |
| 10-14 years | 1,779 | 899 | 880 |
| 65 years and above | 1727 | 744 | 983 |
| Dependency Ratio (2012) ¹ | 49.40% | | |
| Below 15 years | 37.70% | | |
| Above 64 years | 11.80% | | |
| Life Expectancy | 76.8 | 73.5 | 80.7 |
| Persons with Disabilities (2012) as a percentage of total population | 8.7% | 57% | 43% |
| Percentage of persons with disabilities who are economically active | 70.9% | | |

Source: Department of Census Statistics, 2023.

At present the proportion of children outnumber the proportion of older persons, but projections indicate that from 2032 a reverse will be observed thereafter and the percentage differences would begin to favour older persons. This increase has implications for old age dependency and support requirements.

The Government of Sri Lanka funds health care, education and social services for its citizens. This has been the main reason for the increase in life expectancy and literacy, and the reduction in mortality and the total fertility rate. However, a long period of civil conflict between a minority ethnic group and the military, have impacted the health and disability of some older Sri Lankans due to having been injured in military action, and the young due to increased psycho-social needs arising from the impact of the conflict, trafficking or displacement. Impact of natural disasters such as the 2004 Indian Ocean Tsunami claimed

¹ Dependency ratio is an age-population ratio of those typically not in the labour force to those typically in the labour force. It is used to measure the pressure on the productive population

35,000 lives and displaced over 500,000 people, increasing the burden on the state for social protection.

This research is a mapping study to understand the legal and policy frameworks in 8 Asian countries (Hong Kong, India, Indonesia, Malaysia, the Philippines, South Korea, Thailand, and Taiwan) in relation to the provision of care services, care-related social protections, as well as labour protections and social security for care workers. Research findings will provide a baseline understanding of 1) the care needs in Asia, 2) existing care infrastructures and policies, 3) the significance of paid work carried out by domestic workers (including migrant domestic workers) in addressing unmet demands for care, and 4) the situation of domestic workers.

Analysis of the research findings will be guided by the International Labour Organisation's 5R Framework for Decent Care Work: "**recognise, reduce and redistribute** unpaid care work; **reward** paid care work by promoting more and decent work for care workers; and guarantee care workers' **representation**, social dialogue and collective bargaining". Insights from the research will inform IDWF's organising and advocacy strategies in demanding legal and policy reforms from governments.

Research Methodology

This study is based on desk research supported by key informant interviews.

1. Care needs of domestic workers

In 2023, approximately 12.30 % of the population of Sri Lanka was older than 65 years of age, with 5.5% aged over 80 years of age.² Projections suggest that these proportions will increase, more than doubling between 2030 and 2050; 60% will be women.

Table 2. Population aged 60+ years

| Age (years) | 1990 | | 2000 | | 2015 | | 2030 | | 2050 | |
|-------------|------|--------|------|--------|------|--------|------|--------|------|--------|
| | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female |
| 60–69 | 4.9 | 4.6 | 5.5 | 5.6 | 7.2 | 8.0 | 9.8 | 10.4 | 10.1 | 12.3 |
| 70–79 | 2.4 | 2.3 | 3.1 | 3.1 | 3.0 | 3.8 | 6.1 | 7.3 | 7.1 | 10.8 |
| 80+ | 0.8 | 0.8 | 1.0 | 1.0 | 1.1 | 1.6 | 1.9 | 3.1 | 3.8 | 6.5 |
| Total | 8.1 | 7.6 | 9.6 | 9.8 | 11.3 | 13.4 | 17.8 | 20.8 | 21.0 | 29.6 |

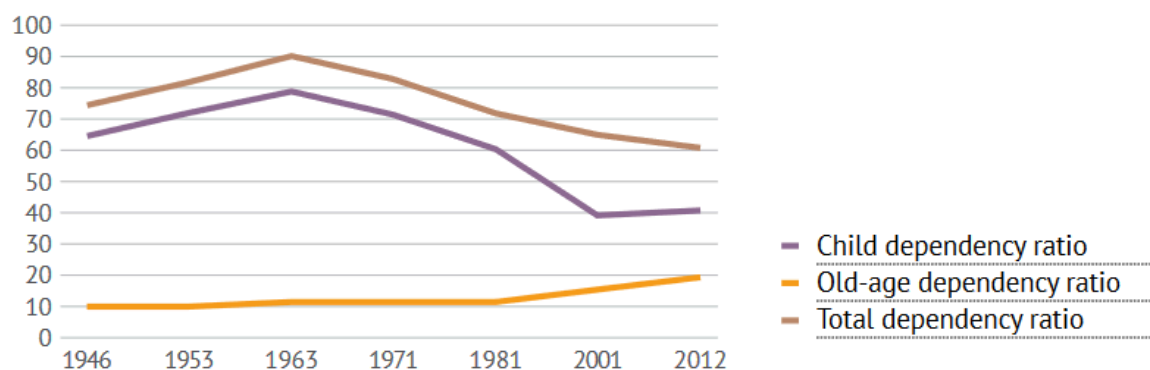
Sources: IHP estimates by A.T.P.L. Abeykoon based on Census of Population and Housing by the Department of Census and Statistics 1981, 2001, and 2012; and population growth and long-term population projections for Sri Lanka 2015–2115 by A.T.P.L. Abeykoon and I. de Silva. 2016. (unpublished).

The "old-age dependency ratio" (i.e., proportion of those older than 60 years compared to the working-age population of 15–59 years) is projected to rise steadily, from 20% in 2012 (Figure 1) to 43% in 2050 (ADB, 2019). Although, in reality, many elders older than 60 years are not dependent, financially or otherwise, and continue to contribute to their families and

² <https://dataexplorer.unescap.org>

the economy by undertaking domestic work, childcare, and work in the informal sector (Hettige, 2014), with an increase in healthy life expectancy.

Figure 1. **Total Dependency, Old-age Dependency and Child Dependency (1946-2012)**



Source: Department of Census and Statistics, 1986, 2015

The healthy life expectancy (HALE) of those aged has increased over time for both male and female elders.

Table 3. **Healthy life expectancy (HALE) at age 60, both sexes, most recent years**

| Year | HALE | HALE (Male) | HALE (Female) |
|------|------|-------------|---------------|
| 2000 | 17.8 | 20.1 | 15.7 |
| 2010 | 18.8 | 21.5 | 16.2 |
| 2015 | 19.7 | 22.3 | 16.9 |
| 2019 | 20.3 | 22.8 | 17.5 |

Source: Census and Statistics Department of Sri Lanka, Ageing data.

State assistance schemes for elders

Sri Lanka has a number of old-age income assistance schemes such as the Civil Pensions Scheme, the Farmers' Pension and Social Security Benefit Scheme, the Fishermen's Pension and Social Security Benefit Scheme, the Pension and Social Security Benefit Scheme for Self-Employed Persons, and the Senior Citizen's Allowance program.³ In total, Sri Lanka spent about 3% of its gross domestic product (GDP) on these schemes in 2023, and the level of expenditure has not changed significantly over time despite the increase in the number of elders. The Senior Citizen's Allowance program introduced in 2013, provided a benefit of Rs. 2,000 (about \$6) per month to people over the age of 70 years whose monthly income is less than SLRs3,000.

³ The Employees' Provident Fund and the Employees' Trust Fund are confined to employees in the private sector and the former is a contributory fund while the latter is based solely on the employers' contributions. They are not cons as pension schemes, because the benefits can be withdrawn at 50 years for females and 55 years for males and is not a regular, annuity-payment based pension program. The benefits are more often than not used for consumption, leaving elders without financial security in later years.

Types of disability requiring care or assistance

Although elders may remain well many experience a decline in intrinsic capacity as they age, due to chronic diseases, injuries, or cognitive decline that inhibits their ability to live independently. Despite increased life expectancy the global debate on whether the average period of morbidity in old age will decrease as life expectancies increase—the “compression of morbidity”—or whether greater life expectancy will give older people a longer period of living in poor health, with a resulting increase in need for long term care (ADB, 2021).

People with disabilities⁴ who require care or assistance

In addition to age-related disabilities, there are others that are impacted by disabilities at birth or at some time thereafter, whether partially or totally. Data on these types of disabilities are difficult to arrive at, and are limited to the data from the last census of population.

Table 4. **Population with difficulties (5 -19 years and above) - by selected age groups and level of difficulty**

Table 5. **Population with Difficulties (5 years and above) – by the type & level of difficulty**

| Disability | Some difficulty | Total disability | Total Number of persons affected | Proportion to 1000 persons in the population |
|--------------------------|------------------------|-------------------------|---|---|
| Sight | 968,265 | 28,674 | 996,939 | 54 |
| Hearing | 354,871 | 34,206 | 389,077 | 21 |
| Mobility | 662,200 | 72,013 | 734,213 | 39 |
| Cognition | 301,192 | 42,497 | 343,689 | 18 |
| Ability to care for self | 142,583 | 54,992 | 197,575 | 11 |
| Communication | 133,623 | 47,210 | 180,833 | 10 |
| Total | 1,555,536 | 141,096 | 1,617,924 | 87 |

Source: Census of Population & Housing 2012

Providing Care

Care facilities may be provided through different sources to those needing care:

- informal care provided in the persons home
 - by a family member; or
 - a paid care worker/domestic worker); or
- formal (institution-based) care provided by

- the state
- the private sector
- charitable/not-for-profit organisations.

Usually, the primary caregiver is a female relative, resulting from a common belief that “care is the responsibility of the woman.” This may account for the low participation of women in Sri Lanka’s labour force, which has hovered between 33% and 35% for the last two decades despite the high educational attainment amongst Sri Lankan females. Among women not in the paid workforce, 61% were engaged in household activities, including caring for children and elders (DCS, 2023). The economic costs of unpaid family care in Sri Lanka are unknown (ADB, 2020).

Key informant interviews with care/domestic workers revealed that the types of care provided by family members/paid workers included assisting with daily tasks such as hygiene or food preparation/dining, mobility support, helping with medical and nursing care by taking them to a medical facility and assisting with medication, and accompanying the person needing care to educational (if young or youth) or cultural, social, or religious activities.

While care provided by a trained professional caregiver is costly anywhere, most domestic workers performing care work stated that they were untrained in such work but those responsible for the person being cared for considered domestic workers to be the less expensive option despite lack of medical or technical knowledge in providing care. Very often, a domestic worker who may have been with the family for some time as a household worker, may gradually become a caregiver as the needs of persons needing care in the household increase.

There is a scarcity of data on time spent on care work by domestic workers in households, but some assumptions may be made based on data on time spent on care work by the general population.

Table 6. **Engagement in Domestic and care work in households by gender (2017)**

| Category | Domestic Work | | Care Work | | Total Domestic Work & Care Work | |
|-------------------|----------------------|------------------------------|----------------------|------------------------------|---------------------------------|------------------------------|
| | Participation Rate % | Mean population time (Hours) | Participation Rate % | Mean population time (Hours) | Participation Rate % | Mean population time (Hours) |
| Gender | | | | | | |
| Sri Lanka | 71.4 | 2.8 | 29.6 | 0.9 | 74.5 | 3.7 |
| Male | 54.0 | 1.1 | 19.5 | 0.4 | 59.7 | 1.5 |
| Female | 86.4 | 4.3 | 38.4 | 1.3 | 87.3 | 5.6 |
| Age groups | | | | | | |
| Sri Lanka | 71.4 | 2.8 | 29.6 | 0.9 | 74.5 | 3.7 |
| 10-14 | 38.0 | 0.5 | 5.8 | 0.1 | 40.7 | 0.6 |
| 15-24 | 57.1 | 1.5 | 10.6 | 0.3 | 58.4 | 1.8 |
| 25-44 | 77.5 | 3.3 | 53.5 | 1.8 | 83.4 | 5.1 |
| 45-54 | 81.9 | 3.8 | 34.9 | 0.8 | 85.0 | 4.7 |
| 55-64 | 83.0 | 3.8 | 23.0 | 0.5 | 84.0 | 4.3 |
| 65+ | 76.5 | 3.0 | 17.3 | 0.4 | 78.2 | 3.4 |

Source: DCS, Time Use Survey, 2017

A high percentage of both employed and unemployed females spend time on unpaid care work as seen by the following table.

Table 7. **Proportion of those engaged in unpaid domestic and care work, by employment status and gender (2017)**

| Category | Unpaid Domestic Services | | | Unpaid Care giving services | | |
|-----------------------|--------------------------|--------|----------|-----------------------------|--------|----------|
| | Male | Female | Both Sex | Male | Female | Both Sex |
| Total | 56.5 | 90.8 | 75.1 | 21.2 | 41.6 | 32.3 |
| Employed | 57.3 | 94.2 | 70.5 | 25.4 | 39.9 | 30.6 |
| Unemployed | 65.7 | 94.8 | 81.4 | 13.6 | 27.6 | 21.2 |
| Economically inactive | 53.6 | 88.8 | 80.0 | 9.8 | 43.0 | 34.7 |

Source: Department of Census and Statistics, Time Use Survey, 2017

The vital role played by domestic and care workers in releasing family members for more economically rewarding employment is a factor to be considered in understanding the importance of the care sector.

2. Care infrastructure: Legal, policy and institutional framework

The Constitution of Sri Lanka guarantees equality to all persons by Article 12); in additions, Article 12(4) encourages affirmative action for the advancement of disabled persons. In addition, all Sri Lankans also enjoy the freedom of speech and expression, the freedom to form and join a trade union, to engage in any lawful employment or occupation, to use his own language, and the freedom of movement and residence within Sri Lanka, which reinforces the entitlement of persons with disabilities to enjoy these rights on an equal basis with all other citizens. Other laws and policies have provided for additional rights and privileges:

The Rights of Elders Act (No. 9 of 2000)

This statute established the National Council for Elders (NCE)⁵ to ensure the promotion and protection of the welfare and rights of older persons and help elders live with self-respect, independence, and dignity. It also established the National Secretariat for Elders (NSE) to assist the NCE in discharging its functions.

The act clearly states that adult children should not purposely neglect their parents and that it is the duty of the children to provide the care that elders need. In the absence of this care, the government will step in to provide the appropriate residential facilities required by disadvantaged elders. The priority for family-based care of elders has been established by law, and the state undertakes to provide such care in the event that the family is unable to do so or the elder has no family as defined in the statute.

The Protection of the Rights of Elders (Amendment) Act, No. 5 of 2011

The amending act introduced a special identity card for every elder to facilitate the receipt of benefits and concessions available to elders in both the public and private sectors. It also appointed conciliation officers and required the state to provide knowledge of gerontology and geriatric medicine to persons involved in providing eldercare. The law also set out the registration requirements of residential care facilities for elders.

The Protection of Rights of Persons with Disabilities Act, No. 28 of 1996

Section 36 of the Act defines a person with disability as “any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life.” The Act also established the National Council for Disabled Persons (NCPD) with the mandate to promote, advance, and protect the rights of persons with disabilities.

The Disabled Persons (Accessibility) Regulations, No. 1 of 2006

These regulations required all public buildings, public spaces, and places that provide common services (e.g., transportation services and related facilities) to be made accessible to persons with disabilities within 3 years from the date of enactment. However, even State buildings often do not comply with these regulations.

⁵ The NCE is responsible for advising the government on matters relating to elders, organizing activities to inculcate the notion of familial duty in caring for elders, maintaining population statistics relating to elders, etc.

National policies

The National Charter for Senior Citizens (2006), the National Policy for Senior Citizens of Sri Lanka (2006), National Health Policy for Elders in Sri Lanka (2017) all recognise the right of elders to adequate care. Pledges to strengthen human resources and resource allocation for health services that cater especially to older persons (e.g., training specialists such as geriatricians and community health nurses). However, these policies have been lacking implementation.

Therefore, despite a well-developed legal and policy framework on the delivery and management of care to elders and those with disabilities, the focus remains on providing care within the family structure and the commitment to ensuring the availability of trained and professional caregivers and care providers appears to be overlooked.

Government care services (e.g. elderly home, childcare centres, long-term care services, etc.)

Care of elders: Sri Lanka has two main types of residential facilities: those primarily designed to provide housing for older people who lack shelter, and those that aim to provide long terms care (LTC) support and nursing care. Most facilities fall into the first category and are known as “elders’ homes” or “eldercare homes.” Even if the primary aim is to provide shelter, some residents have or develop needs for LTC support over time. Sri Lanka currently has around 255 eldercare homes serving approximately 7,100 elder residents, two owned by the central government and three by provincial councils. The private sector operates around 20 homes; others are not-for-profit and funded by private donations and some government funding. Not-for-profit eldercare homes are usually operated by faith-based organizations and NGOs. Homes for elders registered under the Department of Social Services increased from 68 in 1987 to 162 in 2003. Five public eldercare homes house 7% of all elder residents, and 220 private (i.e., not for-profit) eldercare homes house 85% of all elder residents.

The 2017 survey of eldercare provider institutions, it was estimated that there were about 25 home nursing care service providers, although the exact number is not known due to gaps in the implementation and monitoring of the formal registration system of such providers and regulation of the industry. These home nursing care services provide 24-hour nursing care to about 900 older clients. The services are usually expensive and not affordable for lower-income families (Country Diagnostic Study on Long-Term Care in Sri Lanka, ADB, 2017).

Child care: There are 8 specific types of Child Care Institutions in the country to cater to a wide range of children who are either in need of care and protection or children who are in conflict with the law, depending on their circumstances.

Type of state childcare institutions

| Type of Institution | Number of institutions | % |
|--|------------------------|------|
| Remand Home | 14 | 3.7 |
| Safe Home | 4 | 1.1 |
| Certified School | 9 | 2.4 |
| Approved School | 1 | 0.3 |
| State Receiving Home | 9 | 2.4 |
| Detention Home | 1 | 0.3 |
| Training and Counselling Center | 4 | 1.1 |
| Voluntary Children's Home | 331 | 87.3 |
| Other* | 6 | 1.6 |
| Total | 379 | 100 |
| *Child development centers temporarily functioned under Provincial Departments of Probation and Child Care Services. | | |

Although there are domestic workers employed in these care institutions, they are not reflected in official employment data or data reported by the institution even when the other employees in the institution are covered by labour legislation. Such domestic workers are considered as 'casual' or 'informal' workers and are not considered part of the core services provided by the institution, even though they may provide essential services such as cooking, cleaning, care for inmates and basic healthcare.

3. People in the care sector

Information on the number of domestic workers are not collected regularly, and data that is available are based on estimates or extracted from other data. However, the numbers are likely to be somewhat higher as some domestic works may not identify as such as they are not live-in workers but are live-out or non-resident workers.

Table 8. **Total employed by type of work, including domestic work in private households (2012-2017)**

| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|------------------------------------|------------|------------|------------|------------|------------|------------|
| Population (age 15 and above) | 14,857,153 | 14,958,006 | 15,134,483 | 15,281,945 | 15,448,679 | 15,843,735 |
| Labor force participation rate (%) | 52.5 | 53.7 | 53.2 | 53.8 | 53.8 | 54.1 |
| Total employed | 7,488,704 | 7,680,621 | 7,700,490 | 7,830,976 | 7,947,683 | 8,208,179 |
| Formal (total) | 2,250,968 | 2,261,302 | 2,328,580 | 2,393,995 | 2,408,174 | 2,623,417 |
| Formal, private employees | 970,958 | 940,489 | 994,177 | 1,052,431 | 1,090,722 | 1,220,832 |
| Formal, public employees | 1,036,553 | 1,064,399 | 1,090,222 | 1,100,388 | 1,088,116 | 1,101,729 |
| Formal self-employed | 243,457 | 256,414 | 244,180 | 241,176 | 229,336 | 300,855 |
| Informal (total) | 5,237,736 | 5,419,318 | 5,371,910 | 5,436,982 | 5,539,509 | 5,584,762 |
| Unpaid family worker | 654,249 | 695,962 | 683,360 | 660,064 | 623,141 | 655,655 |
| Informal self-employed | 2,541,954 | 2,449,283 | 2,427,588 | 2,532,900 | 2,499,630 | 2,506,270 |
| Domestic worker | — | 59,392 | 59,150 | 47,843 | 57,505 | 53,572 |
| Informal employee formal firm | 641,324 | 684,693 | 721,176 | 696,092 | 695,740 | 752,212 |
| Informal employee informal firm | 1,400,208 | 1,529,988 | 1,480,637 | 1,500,083 | 1,663,494 | 1,617,053 |

Source: World Bank staff calculation using LFS data for 2006–17.

Note: — = Not available.

a. Due to changes in the questionnaire, domestic workers are measured only after 2013, and some are included as informal self-employed prior to 2013.

The latest estimates show that domestic workers make up a very small part of the labour force in Sri Lanka. The Department of Statistics did not even collect data on domestic workers due to the lesser numbers and only commenced collecting data in 2013 with domestic workers defined as ‘a person who works for a household.’; however, the absence of a requirement of the payment of wages may make it difficult to distinguish between domestic workers own-account workers or unpaid family members carrying out domestic work. The World Bank in a study on the informal sector in 2017 estimated that there were slightly more than 50,000 domestic workers in the labour market, which is 0.0065 of the labour force.

A recent study notes that “....Domestic workers function in a sector that is synonymous with low wages, and one in which work is largely performed by women from historically disadvantaged communities....” (Verite, 2021). Other research confirms this position, and although there are male workers that are employed in and around households, they enjoy better terms and conditions including better pay for same or similar work, and greater freedom of movement and interaction with others, than female workers.

4. Situation of domestic workers

There are no specific statutory provisions that provide for rights in employment for workers’ rights in Sri Lanka, other than three statutes that predate independence: the Service Contracts Ordinance No.11 of 1865, the Registration of Domestic Servants Ordinance No. 28 of 1871 (Amended in 1936) and the Chauffeur Regulation Ordinance No. 23 of 1912, provide for the registration of domestic workers but contain no provisions on protection for domestic workers. Even the terminology used in these statutes refer to domestic “servants” in keeping with the view of colonial administrators of such workers but does not meet the current standards that seek to recognize the dignity of labour of domestic workers.

Other laws on employment in the private sector and employment conditions exclude domestic workers, other than in relation to workplace disputes including termination of services. Recognising this anomaly the Cabinet of Ministers in 2018 granted approval in

principle for enacting legislation required to protect the rights of the domestic workers. Accepting a proposal by the then Minister of Labour, the cabinet decision recorded that:

“Amending the Labour Laws for the protection of the rights of domestic workers: Even though there are no statistics available pertaining to the domestic workers employed in Sri Lanka, it is clear that a large group of such workers are so employed. Since the prevailing labour laws are insufficient for the protection of the rights of such domestic workers, it is found that the worker community is faced with disadvantageous situations like employment for lower salaries, inability to obtain leave and the non-availability of social security. Since the domestic workers are excluded from the application of the Industrial Disputes Act, the Employees' Provident Fund Act and the other Labour Acts, the Department of Labour is unable to intervene to protect the rights of such workers.

Through the “National Action Plan for Human Rights of 2017 - 2021” the need for the protection of the rights of the domestic workers has also been identified. As such the Cabinet granted approval in principle for enacting legislation required to protect the rights of the domestic workers.”⁶

Despite this cabinet decision, subsequent legislation presented by the Minister of Labour to Parliament on National Minimum Wage revisions contained specific provisions excluding domestic workers from coverage under such legislation.

Discussions with domestic workers for this research study confirmed that in private residences (which are excluded from any type of workplace and employment related legislation) there is no uniformity on working hours, minimum wages, salary increases, equal pay for equal work. One workers stated that working hours were determined by the work allocated and that she needed to work until it is completed. There are no provisions for overtime compensation as no working hours are specified and none of the Key Informants received overtime pay for extra or additional work. There is no legal entitlement to paid leave, rest periods, employee accommodation of a specified standards, quantity and quality of food and meals or sanitary facilities, and despite each of these being critical to the well-being of domestic workers, the Key Informants revealed that these terms were entirely at the discretion of the employer. A key concern was the need to assure the privacy of the domestic worker as they did not have accommodation where others could not enter without permission, and that the quality of rest was very poor when not performing work related duties. Lack of entertainment and leisure activities and the right to socialisation were also highlighted.

A key difficulty faced was in relation to payment of wages and income. The problems were classified as follows:

- a) By the employer through deductions for facilities or concessions such as toiletries, medicine and healthcare, telephone and data facilities, or food, which

should be provided by the employer for the proper performance of the allocated tasks.

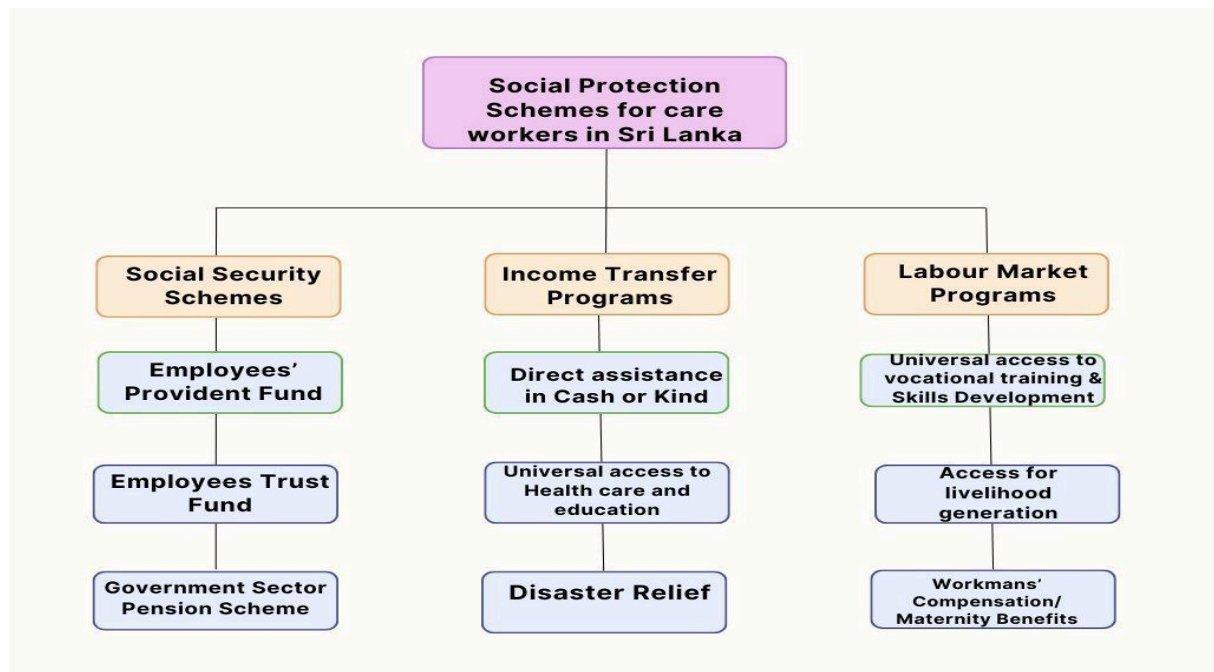
- b) By the placement agent or facilitator: there was a large number of domestic workers who had obtained employment through the services of third-parties, whether informal (such as family contacts) or placement/recruitment agencies. In both instances, these facilitators would obtain a consideration from the employer for assisting to recruit the domestic worker. The employer would thereafter not pay the domestic worker until the 'facilitation fee' was repaid.
- c) By family members: as some domestic workers had to travel to take up employment accompanied by a family member (parent, spouse, sibling) or relative, often such person would request the employer to pay the salary of the domestic worker to them in advance for a number of months for some alleged reason or emergency. This was done without consulting the domestic worker or obtaining their consent. Once paid, the domestic worker could not leave the workplace even in the event of a difficulty or harassment, as the employer could demand that they repay the monies advanced to the family member or relative. Even the police often take up the position that the domestic worker was compelled to stay and work until the amount was repaid.

Therefore, reduction of agreed wages and indebtedness are additional problems that compel workers to remain in unsafe or unsatisfactory employment conditions.

Social protection Schemes

Most social protection schemes are employment related, and coverage varies based on whether a care worker is in the public, private or informal sector.

Figure 2. **Social Protection schemes for care workers in Sri Lanka**



Source: Compiled from relevant programs

Public Sector: Direct employees of the Government, including care workers, are entitled to a number of social security schemes such as the Public Servants' Pension Scheme (PSPS), which is a non-contributory monthly pension, financed by the government budget. However, no such scheme exists for private sector care workers.

Private Sector: Almost all workers in the private sector are covered by the Employee's Provident Fund (EPF) and the Employee's Trust Fund (ETF) but are not pension schemes. The EPF is administered by the Department of Labour with the fund is managed by the Central Bank of Sri Lanka (CBSL). It is a defined contribution scheme where the contributions from employees and employers are 8 per cent and 12 per cent of the member's gross earnings respectively. Members are eligible to claim their retirement benefits as a lump sum upon reaching the retirement age of 55 years for males and 50 years for females. EPF benefits can also be claimed for other reasons, such as when migrating for residence abroad.

Informal Sector: Almost 58 per cent of all employed persons are in the informal sector, but the majority are not covered by any social security programs and are not members of the EPF/ETF schemes as the employers do not register and make contributions due to lack of formality or evasion, and pensions, as these workers are independent or self-employed workers. There are a few contributory pension schemes (and insurance schemes) designed for specific groups of informal sector workers like farmers and fishermen, but none have been introduced for all workers in the informal sector that can be accessed by care and domestic workers. Even the schemes that are in operation suffer from a number of issues such as low coverage, inactive membership, low level of benefits; high administration costs and weak financial sustainability.

Domestic workers: There are no social protection schemes for domestic workers, either through employment or self-registration at present. Although the ETF laws were amended

to permit self-registration by individual workers or independent contractors, this has not been successful due to the difficulties of access and administration.

Cash transfer policies related to care, school-based meals or food vouchers: Sri Lanka has a large number of social assistance programs such as Samurdhi/Divineguma cash transfer program, elders' assistance program, disability assistance, education assistance programs such as free school textbook, school uniforms, scholarships and midday meal programs, nutritional programs for children and mothers and disaster relief programs. All care workers and their families would benefit from these programs, provided that they meet the eligibility criteria.

Other social protections / benefits for caregivers: Care workers or domestic workers with family members needing care would qualify for the program under the National Secretariat for Persons with Disability (NSPD) provides a monthly allowance of Rs. 3000 for identified low-income families with disabled persons. In 2013, this program covered approximately 16,600 families with disabled persons and total expenditure was around Rs 598 million. Moreover, the NSPD carries out a number of programs for disabled persons including medical assistance for surgeries, housing assistance and, financial assistance for self-employment activities for disabled persons. The low coverage of eligible persons owing to budgetary constraints is the main weakness of the disability assistance programs.

Sickness and employment injury benefits (including paid sick leave): Formal sector workplaces provide paid sick leave of a minimum of 7 days under the Shop and Office Employees (Special Remuneration Act) and the Wages Boards Ordinance. Public sector workers are entitled to 21 days sick leave with pay, and an equal number of days without pay for contingencies. However, the majority of workers are employed in the informal sector (58 per cent) and are typically not provided with paid time off (for rest or illness) even if entitled to by law, due to evasion on the part of employers or lack of awareness on the part of both.

Key informants revealed that they are not provided with adequate leave or rest during times of illness, and often the cost of healthcare, including transport for medical attention, was deducted from wages. There was no health or medical insurance that the informants were aware of, and right to healthcare was dependant entirely on the discretion and goodwill of the employer.

Equal paid parental leave (for both women and men): Neither parent is entitled to paid parental leave, although male employees in the public sector are entitled to 3 days leave with pay as paternity leave, which must be taken within the first 3 months of the birth of the child. No such right exists for private sector workers other than where employers have voluntarily provided additional benefits. Key Informants revealed that they have no right to either paternity or parental leave, and very often leave would be refused to attend to the care needs of their own families, like a child falling ill, if it was inconvenient to the employer. While leave would be granted for serious illnesses of a family member, there was no provision for paid leave on a regular basis.

Flexible working arrangements (e.g. reduced working hours) that cater to workers' care responsibilities: There is no legal requirement in any sector for flexible work arrangements

to be permitted, although Key Informants revealed that some employers provided such arrangements at their discretion, the reverse was often true, that no compensatory time-off would be provided for extra work such as during a festive period or when additional members were present in the household.

Onsite childcare, or childcare near the workplace: There is no legal requirement in any sector for such child care, although some public sector workplaces have provided on-site facilities based on the management of each workplace and welfare arrangements. Similarly, larger private sector organisations (including a small number of common facilities in Export Processing Zones) have provided such facilities on-site as a fully-funded or subsidised benefit as a mechanism for retention of staff. However, there is little oversight by regulatory authorities of such discretionary arrangements, which may raise questions on the quality of the care provided to children.

Both live-in and live-out domestic workers in the Key Informant survey stated that they did not have adequate care arrangements for their own children or families while they were away from their own homes. Live-in workers had to rely on other family members in addition to the spouse to provide support for child-care and elder care needs in their own families. Live-out workers were marginally better as they returned-home at the end of the workday to care for their own households but found that they had no support for their own care burden, which continued after they returned home. This is confirmed by the Time Use Survey (DCS, 2017) which indicates that women bear the greater part of the care burden in every household.

Maternity protections, including provision of breaks and safe spaces for breastfeeding

Care workers employed in the formal sector would be entitled to the following rights and protections during maternity. However, the provisions exclude domestic workers, as they are either not covered under the private sector laws or are specifically excluded.

Table 9. **Maternity benefits of female employees by type of legislation**

| | Private Sector | | Public Sector |
|----------|--|--|---|
| | Shop and Office Employees' Remuneration Act | Maternity Benefits Ordinance | Establishments Code |
| Coverage | All females employed in or related to the business of a shop or office | All Females employed on a wage in any trade, industry, business undertaking, | All females employed in the public sector or in Statutory Boards are covered by the provisions of the Establishments Code |

| | | | |
|---|---|--|--|
| | | occupation, profession or calling except <ul style="list-style-type: none"> Females covered by the Shop and Office Employees Act, or Whose employment is of a casual nature | (Chapter XII, Articles 18.1-18.10., and Public Administration Circular 4/2005, February 3, 2005) |
| Paid leave for the birth of first or second child | 84 working days (which could be taken as a maximum of 14 days pre-natal and 70 days post-natal leave), to which would be added: <ul style="list-style-type: none"> holidays under the Shop and Office Employees Act one and a half days weekly holiday Poya days⁷ Statutory holidays | | 1. 84 working days (which could be taken as 14 days pre-natal leave and 70 days post-natal leave). Poya holidays and declared public holidays (usually eight in the year), and two days weekly holidays are added. 2. Further 84 days on half-pay, including intervening holidays 3. A further 84 days without pay, including intervening holidays |
| Nursing (Breastfeeding) Intervals | Two intervals per day, at any time required, of at least sixty minutes duration each | If child under one year: <ul style="list-style-type: none"> If crèche provided, two intervals per day, at any time required of not less than thirty minutes duration each If crèche not provided, two intervals per day, at any time required, of at least sixty minutes duration each | Sixty minute nursing breaks per day until child is six months old |
| Rate Of Payment during maternity leave | Based on monthly salary | If normal working week is six working days and one unpaid holiday wages only for six days (six-sevenths of weekly wage) | Based on monthly salary |

Source: Compiled from relevant statutes

Key Informants revealed that none of the above maternity benefits were provided, and that they were unlikely to seek employment for some time after child birth due to need to care for their child. They said that they preferred not to continue to work during pregnancy, as there was no guarantee of proper nutrition and rest; in addition the national maternal healthcare program required attendance at monthly well-woman clinics at the intended location of the childbirth and employers were unwilling to provide leave to attend such clinics and to provide aftercare.

⁷ Public holiday on the day of the full moon every month which is of religious significance for the majority Buddhist population..

Workplace anti-harassment and anti-discrimination protections

Article 12(2) of the Constitution of Sri Lanka (1978) provides that “No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds”. Combined with the right to engage in a “lawful occupation, profession, business or enterprise” guaranteed by Article 14(1) (g) of the Constitution, any gender-based discrimination is a breach of the constitutional rights of every citizen. If the alleged discrimination is by Executive/Administrative action (by the State), the aggrieved person can file action in the Supreme Court within 30 days of the alleged discrimination. If discrimination is by a private individual, the aggrieved person can only file action for a declaratory injunction and damages in the District Court that his/her fundamental rights have been violated. However, since the enactment of the Constitution in 1978 no such personal civil action has been filed by a private citizen against any other citizen or individual.

The Penal Code (Amendment) Act, No.22 of 1995 expanded the scope and definition of offences against women and children, and introduced a new section as section 345 which created the general offence of sexual harassment, and thereafter in the explanation of the offence, defined sexual harassment in the workplace:

“Whoever,

- by assault or use of criminal force, sexually harasses another person, or
- by the use of words or actions, causes sexual annoyance or harassment to such other person
- commits the offence of sexual harassment and
- shall on conviction be punished with imprisonment of either description for a term which may extend to five years or with fine or with both and may also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.
- Explanation 1: Unwelcome sexual advances by words or action used by a person in authority, in a working place or any other place, shall constitute the offence of sexual harassment”.
- Explanation 2: For the purposes of this section an assault may include any act that does not amount to rape under section 363.”

However, the penal provision has been difficult as a form of relief due to the high standard of proof required in a criminal prosecution and the inability of the victim to file action as criminal prosecutions are instituted by the State. Very few such cases have been filed, although sexual harassment in the workplace is reportedly very high in Sri Lanka, in all sectors.

The ILO states that “domestic workers, whether working in their home countries or abroad, are vulnerable to many forms of abuse, harassment and violence, in part because of the intimacy and isolation of the workplace” (ILO, 2010) and this is also true of Sri Lanka. Media reports of sexual harassment and gender based violence from time to time lead to protests

and demands for change, but the underlying causes of lack of regulation, isolation and lack of accountability of employers has not been addressed.

During Key Informant Interviews, it was revealed that domestic workers rarely report violence or harassment as they do not want to lose their jobs. They also have no opportunity to leave the employers' house to complain to the Police if experiencing harassment as the worker is not permitted to leave the house on his/her own unless it is to travel home. The language barrier also deters some from filing a complaint as many domestic workers are from minority communities and are not conversant in the majority language spoken in the areas in which they work in order to file a complaint. For these and other reasons, the legal protections against harassment and violence are often not resorted to by victims.

Labour inspection mechanism

Under the authority of the Industrial Disputes Act No. 42 of 1950 Labour inspectors may enter and inspect a private residence where a domestic worker is employed, but can only do so where a specific complaint is received as many of the laws enforced by the Department of Labour exclude domestic workers from coverage.

Other legal provisions provide for the oversight of regulatory and other authorities over care homes in the formal sector where domestic workers may be engaged. Since 2011 every person or organization, voluntarily or otherwise, that is engaged in the establishment and maintenance of any institution intended for providing residential care to more than five elders must register with the NSE, failure to comply with this requirement is an offense. Nursing care service providers are required to register with the Private Health Sector Regulatory Council (PHSRC) as a private medical institution. Registration must be done annually through the Provincial Director of Health Services (PDHS). The PHSRC will direct unregistered institutions to register. The PHSRC may shut down any institution that fails to comply with the registration requirement. The PHSRC sets guidelines for the operation of in-home nursing care services. The PDHS is required to check that an institution renewing its registration meets the guidelines and is, therefore, responsible for overseeing the quality standards for in-home nursing care institutions. However, registration does not require the employer to ensure that care workers employed in these institutions are also documented and are given formal contracts. In the absence of such a requirement in the formal sector, it is unlikely that employers of domestic workers would provide contracts or a formal record of employment.

Key Informants stated that they were unaware that they had a right to complain to the Department of Labour on any employment related matter and did not consider it possible to do so while in employment in a household as it was likely that they would face retaliation by the employer.

Representation & collective bargaining rights of domestic workers

All domestic or care workers are entitled under the Constitution of Sri Lanka to form and join a trade union of their choice; this right is given effect by the provision of the Trade Union Ordinance No.14 of 1935 which provides for the registration and recognition of trade unions. However, the nature of domestic work, in that it is carried out within a private

household and the lack of opportunities to interact with those outside the household (such as other domestic workers work or workers' representatives) makes it difficult for domestic workers to organise to obtain better legal protection or terms of employment. However, a Domestic Workers Union has been recently registered and has been campaigning actively, and some of the main trade unions in the country are also now more focused on including domestic workers as members and on addressing issues which concern these workers.

Inbound migrant workers (although Sri Lanka is at present not a receiving country of migrant domestic workers, there are a few instances of migrant care workers being employed) would be considered 'workman' within the definition of the Trade Union Ordinance to form and join a trade union, however, these workers do not have the right to remain in the country after the end of their contracts as the employer may withdraw the work permit/visa, thus preventing such workers from exercising their rights as a trade union member or from utilising the dispute resolution/litigation mechanisms.

Key Informants stated that where they were live-in domestic workers they had difficulty in contacting workers' representatives or participating in awareness raising or training programs, or consultations such as for this research project, as they were not given regular time-off: for instances, even if they had committed to attend an online training program late at night after finishing the days' work, it was very easy for the employer to prevent them from joining such a program as they could assign additional work, prevent online access or prohibit participation. Contacting workers' representatives and attending meetings in person outside of the workplace was impossible unless these were arranged on any leave they were provided. Since many domestic workers did not have a high level of technical and digital skills, and were often dependent on the employer to pay for digital connectivity it was possible for the employer to prevent access to external assistance and advise.

5. Conclusion

Recognition of domestic workers in the care agenda

Domestic workers have been intentionally excluded from all legislation, even legislation on national minimum wages. There are no policies applicable to the employment of domestic workers in any of the policies applicable to the care sector. Data on domestic workers is not gathered regularly by the national census and data collections programs and data is not easily accessible to researchers, decision makers and those representing of domestic workers.

Redistribution of care between households and institutions

Institutional support for care needs is considerable, especially with regard to elder care. Legislation has been introduced to compel children to care for their parents, which does not recognise variances such as economic capacity of the children, migration out of Sri Lanka, and elders without children or close families. The institutional care available is not easily accessible and regulation of conditions of care varies based on sector.

Domestic workers are employed to provide care services in households but there is insufficient data on the number of workers, and type of care provided. The recruitment of

domestic workers to fill the gap in availability of institutional care depends largely on the economic and financial capacity of households.

There are very few public care services and care-related social benefits than can be accessed by domestic workers for the need of their own households. Where such services are available outside of the public sector, domestic worker are often unable to afford the high cost of such care due to their low wages.

Reduce the care burden of domestic workers

Working hours of domestic workers are not regulated and they often work longer hours than workers in the formal and informal sectors. However, they are not paid overtime for such work as it is not customary to compensate over the agreed monthly/daily wage. Legislation on working hours do not cover domestic workers.

Reward skills, experience and overtime

National legislation on minimum wages specifically exclude domestic workers and they are not entitled to overtime. Premium pay for additional work is not associated with domestic work and workers are required to perform any task assigned even if it is outside the informal agreement at recruitment without any payment other than the salary agreed. No other conditions of work, such as accommodation, meals, rest periods, paid leave and health benefits are specified or provided.

There is no evidence that the salary increases by the level of experience or skills that a domestic worker has acquired, as it is seen as unskilled employment that is performed based on inherent or common skills requiring no great technical or intellectual capacity. Salary varies more on location, such as higher pay in urban centers where there is a higher demand for domestic workers. Although a premium salary may be paid for domestic workers who have worked as migrant domestic workers previously, higher experience is not viewed as an attribute qualifying for higher pay as the work is viewed as unskilled work.

Representation in decision making and the care agenda

Difficulties in engaging with activities outside the workplace is the main challenge facing domestic workers due to restrictions on movement placed on live-in workers by employers, who are not typically permitted to leave the workplace unaccompanied on a regular basis other than to travel back to their homes. Even with digital connectivity, such workers face considerable challenges such as lack of scheduled free time to be able to engage in awareness raising or organising activities online. This prevents domestic workers from being able to influence policy and decision making on matters that affect them, such as inclusion in legislation or social protection mechanisms.

With regard to voting at elections, domestic workers within Sri Lanka are generally permitted to travel to the location that they are registered in at election time, as it is unlawful not to provide leave to vote. However, issues pertaining to domestic workers are not reflected in the manifestos of candidates or political parties at elections due to the lack of visibility and representation.

Women and men have worked in households as domestic workers in Sri Lanka from before colonial times, but domestic work remains virtually an invisible form of employment in the informal sector in terms of legal recognition. It is also not valued and as viewed as a low-skilled employment that is entirely controlled by the employer. Due to the low number of workers there is hardly any legal framework that protects these workers and the provisions that are there are weak and in need of extensive strengthening. The identified gaps in legislation clearly points out that there is no specific law in Sri Lanka that deals with domestic workers. The need to enact specific legislation that makes provisions for the unique nature of domestic work is therefore a priority to recognising the contribution made by domestic workers to households and the economy in Sri Lanka.

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