Research Studies: Labour Economics Series No. 14
July 1999

Labour Legislation and Female Employment in Sri Lanka's Manufacturing Sector



Ramani Gunatilaka

INSTITUTE OF POLICY STUDIES
99 St Michael's Road, Colombo 3, Sri Lanka.

IPS Publications

Capital Transfers and Investments in Non-Farm Activities (June 1990)

The Law and the Economic Status of Women (July 1990)

Stabilization and Adjustment Programs: Theoretical and Policy Issues (July 1990)

Stabilization and Growth: Some Notes on the Role of Credible Policies (July 1990)

Inflation in Sri Lanka 1971-1987: A Preliminary Study (July 1990)

Consolidation of Fragmented Paddy Land: Is it Really Necessary? (January 1991)

Women, Skill Development and Employment (February 1991)

A Macroeconomic Overview of Sri Lanka 1970-1987: With Special Reference to Stabilization Issues (April 1991)

Adaptation to Changing Trade Patterns in the Global Trading Systems (April 1991)

Industrialization in Sri Lanka: What Can We Learn From the NICs? (April 1991)

The Theoretical Foundations of Competing Stabilization Policy Prescriptions: The Sri Lankan Experience 1970-1988 (April 1991)

The Sri Lankan Balance of Payments 1990 (September 1991)

Inflation in Sri Lanka in 1990 (October 1991)

What Type of Capitalism Does Sri Lanka Need? (January 1992)

Energy Status of Sri Lanka -- Issues and Policy Suggestions (March 1992)

Increased Productivity and Commercialisation of Non-Estate Agriculture (March 1992)

Growth, Stability and Balance of Payments (May 1992)

The Pertinence and Value of Village Studies for the Analysis of Rural Employment & Unemployment (June 1992)

Sri Lanka: State of the Economy 1991/92 (June 1992)

Rural Non-Farm Employment: Some Conceptual Issues (June 1992)

Liberalization and Industrialization: The Sri Lankan Experience of the 1980s (July 1992)

Rural Non-Farm Employment Problems, Issues and Strategies (July 1992)

A Statistical Overview of Employment and Unemployment Trends (July 1992)

Privatization: The Sri Lankan Experience (July 1992)

The Enlargement of the European Community and its Impact On Sri Lanka (September 1992)

Sri Lanka's Balance of Payments 1978-89: An Exploratory Study (October 1992)

A Strategy for Skills-Development and Employment Policy in Sri Lanka (December 1992)

Development Strategy and Industrial Policy -- Issues for Sri Lanka (April 1993)

External Shocks, Adjustment Policies and the Current Account: The Case of Sri Lanka, 1971-1991 (May 1993)

The Sri Lanka Economy: Economic Review 1992 - Outlook 1993 (May 1993)

Labour and the Numbers Racket -- An Assessment of Labour Market Information in Sri Lanka (July 1993)

Sri Lanka: State of the Economy 1992/93 Reform and Development (September 1993)

Protectionism and Trade Policy in Manufacturing and Agriculture - Sri Lanka (October 1993)

The North American Free Trade Agreement and Its Implications for Sri Lanka: With Special Reference to the Garment Industry (May 1994)

Activating the Administrative Reform Process in Sri Lanka (July 1994)

The Sri Lanka Economy: Economic Review 1993-Outlook 1994 (July 1994)

Recent Trends in Foreign Aid (October 1994)

Power Sector Development Issues - Ownership Issues - Part 1 (December 1994)

Sri Lanka : State of the Economy 1994 (December 1994)

(Continued on the inside back cover)

Research Studies: Labour Economics Series No.14

July 1999

Labour Legislation and Female Employment in Sri Lanka's Manufacturing Sector

IPS HEALTH POLICY PROGRAMME
RECEIVED
1473
LIBRARY

(IPS-PUB)
FC 8.5.0
SUN

Ramani Gunatilaka

This paper is based on a report prepared by Ramani Gunatilaka (Institute of Policy Studies), for the Shakti Gender Equity Project, Canadian International Development Agency (CIDA), Project No.270/19624/0006/97-98.

INSTITUTE OF POLICY STUDIES

MEN 1325

Copyright © July 1999
Institute of Policy Studies, Sri Lanka.

National Library of Sri Lanka-Cataloguing-In-Publication Data

Gunatilaka, Ramani;
Labour Legislation and Female Employment in Sri Lanka's Manufacturing Sector / Ramani Gunatilaka .- Colombo : Institute of Policy Studies, 1999
125p. ; cm. .- (Labour Economic Series ; No.14)
ISBN 955-9122-74-6

i. 331.48 - DDC 21 ii. Title
iii. Series
1. Women - Employment 2. Women - Legal Status, Laws, etc.
3. Wages Women

ISBN 955-9122-74-6

Price

Please address orders to:
Institute of Policy Studies
99 St Michael's Road, Colombo 3, Sri Lanka
Tel: +94 1 431 368 Fax: +94 1 431 395
email: ips@sri.lanka.net

The views expressed are those of the author and do not necessarily represent those of the Institute of Policy Studies.

Contents

List of Tables i

List of Figures ii

List of Boxes ii

Abstract iii

Acknowledgements iii

Chapter 1:Introduction 1

1.1 Introduction 1

1.2 Objectives 2

Chapter 2: A Profile of Sri Lankan Women Workers 4

2.1 Introduction 4

2.2 A Growing Female Labour Force 5

2.3 Sectoral Distribution of Female Employment 7

2.4 An Occupational Disaggregation of Employed Women 13

2.5 Employment Status of Women 15

2.6 A Young and Educated Female Workforce 17

2.7 Women's Employment Aspirations 18

2.8 Concluding Observations 21

Chapter 3: Real Wage Trends, Male-Female Earnings Differentials, and Minimum Wage Legislation in Sri Lanka 21

3.1 Introduction 21

3.2 Real Wages and Productivity Trends 22

3.3 Trends in Male-Female Earnings Differentials 27

3.4 Legislation and Gender Discrimination 31

3.5 The Impact of Minimum Wage Legislation 33

3.6 Conclusions 38

Chapter 4: Holidays, Leave and Maternity Benefits 39

4.1 Introduction 39

4.2 Statutory Leave and Holiday Entitlements 39

4.3 Do Sri Lankan Workers Enjoy Too Many Holidays? 41

4.4 Maternity Benefits 46

4.5 Summary Conclusions 54

Chapter 5: Job Security, Sub-Contracting and Working Hours 54

5.1 Introduction 54

5.2 Retrenchments and Dismissals 55

5.3 Sub-Contracting 61

5.4 Hours of Work and Overtime 63

5.5 Women's Night Work 68

5.6 Summary Conclusions 72

Chapter 6: Labour Productivity, Management Practices and Working Conditions..... 74

6.1 Introduction 74
6.2 Labour Management Practices in Female-Dominated Industries 75
6.3 The Health and Safety of Women Workers 83
6.4 Compensation for Work-Related Injuries 90
6.5 Violence and Harassment on The Shop Floor 93
6.6 Conclusions 95

Chapter 7 : Industrial Relations and Prospects for Trade Unionism 96

7.1 Introduction 96
7.2 The State of Industrial Relations in Sri Lanka 96
7.3 Industrial Relations in The Free Trade Zones 101
7.4 Are Employees' Councils or In-House Unions Viable Alternatives to Trade Unions with External Links? 105
7.5 Prospects for Trade Unionism 106
7.6 Conclusions 109

Chapter 8: Conclusions and Directions for Policy Change 111

8.1 Overview of Findings 111
8.2 Industrial Development Policy 113
8.3 Legislative Reform 114
8.4 Monitoring and Enforcing Labour Standards 115
8.5 Management Training 116

References 118

LIST OF TABLES

Table 2.1: Labour Force Participation, 1971-1996 6
Table 2.2: Unemployment Rates By Age Group, 1996 7
Table 2.3: Employed Men and Women - The Sectoral Disaggregation 1995 8
Table 2.4: Labour Force and Employment By Sector 1991-1996 10
Table 2.5: Gender-Based Employment Ratios in The Manufacturing Sector, 1993 11
Table 2.6: Gender-Based Employment Ratios in Boi Industries 1996 12
Table 2.7: Proportion of Male and Female Workers by Establishment Size 1993 12
Table 2.8: Proportion of Female Employees in Selected Industrial Categories 12
Table 2.9: Employed Persons by Occupational Group, 1996 13
Table 2.10: Employed Persons by Occupational Group in BOI Industries, 1996 15
Table 2.11: Historical Table of Currently Employed Persons by Employment Status, 1990-1996 16
Table 2.12: Employed Persons by Hours Worked Per Week, 1996 17
Table 2.13: Currently Unemployed Persons by Level of Education, 1996 (Percentage) 18
Table 2.14: Job Aspirations and Structure of Employment by Occupation Group 1996 19
Table 2.15: Unemployed Males and Females by Occupation Desired and Duration of Unemployment 1996 20
Table 3.1: Labour Productivity Growth and Average Share of Wages and Salaries in Value Added in Industries with High Concentrations of Female Labour 25
Table 3.2: Labour Productivity Growth and Average Share of Wages and Salaries in Value Added in Industries with High Concentrations of Male Labour 26
Table 3.3: Trends in Female Incomes Vis-À-Vis Male Incomes, 1981/82-1986/87 27
Table 3.4: Gender-Based Wage Ratios in Manufacturing in Selected Asian Countries 28
Table 3.5: Average Monthly Wage as a Proportion of the Legal Minimum Wage in the Free Trade Zones 1994 35
Table 3.6: Average Monthly Wage-Legal Minimum Wage Differentials in the 200 Garment Factory Programme, 1997 36
Table 3.7: Inspections under the Wages Boards Ordinance 1995 37
Table 4.1: Current Annual Holiday and Leave Entitlements of Sri Lankan Workers 43
Table 4.2: Annual Leave and Public Holidays in Selected Asian Countries, 1995 45
Table 4.3: Entitlement to Maternity Benefits of Different Categories of Sri Lankan Workers 48
Table 4.4 : Maternity Benefits in Selected Asian Countries, 1994 49
Table 4.5: Compliance with Legislation Relating to Maternity Benefits 52
Table 5.1: Statutory Hours of Work for Operative and Non-Operative Grades in Sri Lanka 64
Table 5.2: Regulations on Working Hours and Overtime in Selected Asian Countries 1995 66
Table 5.3: Prohibition of Night Work for Women in Selected Asian Countries (as at 1987) 69
Table 6.1 : Gender-Based Employment Ratios in the BOI Sector 1996: EPZ and Outside the EPZ (incl. the 200 GFP) 77
Table 6.2: Managerial Value Profiles 79
Table 6.3: Management Style and Labour Management Relations 81
Table 6.4: Health, Welfare and Safety Conditions Faced by Women Workers 89
Table 7.1: Violation of Civil Laws in BOI and Non-BOI Companies 1991-May 1996 98
Table 7.2: Reasons for Strikes in the Non-Plantation Sector, 1990-1996 99
Table 7.3: Access to Benefits in Establishments With and Without Trade Unions 100

LIST OF FIGURES

Fig. 2.1: Unemployment Rates, 1971-1996 7
Fig. 2.2: Female Employment by Sector, 1995 9
Fig. 2.3: Male Employment by Sector, 1995 9
Fig. 2.4: Occupational Structure of Male Employment, 1996 14
Fig. 2.5: Occupational Structure of Female Employment, 1996 14
Fig. 2.6: Jobs that Men are Looking for, 1996 19
Fig. 2.7: Jobs that women are looking for, 1996 20
Fig. 3.1: Real Wage Indices in Manufacturing in Selected Asian Countries 1980-93 22
Fig. 3.2: Index of Average Real Monthly Earnings - Unskilled Females 23
Fig. 3.3: Combined Real And Nominal Minimum Wage Rate Indices 1980-1996 (1980 = 100) 34
Fig. 3.4: Real Minimum Wage Rate Indices 1980-1996 (1980 = 100) 35
Fig. 7.1: Person-Days Lost Due to Strike Action in the Private Sector, 1943-1998 97
Fig. 7.2: Person-Days Lost Due to Strike Action in BOI and Non-BOI Firms, 1991-1996 97

LIST OF BOXES

Box 6.1: Factories Ordinance - Provisions Relating Specifically to the Employment of Women 84
Box 6.2: Responsibilities of the Employer/Occupier Relating to Health and Safety Conditions of Work 85

Abstract

Economic policy liberalisation in Sri Lanka has been associated with rising female labour force participation in the manufacturing sector, as in many other developing countries. Coupled with the other economic changes that have been taking place, the feminisation of Sri Lanka's manufacturing industry has profound implications for existing labour legislation. This study reviews the existing legislation to assess the extent to which it is meeting its original objectives of ensuring social justice, and whether regulations designed to protect women workers have led to even more discrimination against them. The study shows that increasing female employment in Sri Lanka has been associated with low wages, poor working conditions, and significant erosion of labour standards. Minimum wage legislation has been implicitly weakened, regulations on working hours and night work openly flouted, and laws protecting the health and safety of workers ignored for the most part, particularly in the smaller, non-unionised establishments producing for the domestic market. Key policy recommendations include the following: maintaining a macroeconomic and sectoral policy framework to encourage high-tech, knowledge-based industries; implementing skills training programmes that cater to such industries; legislative reform; strengthening mechanisms for monitoring and enforcing labour standards; and, measures to develop human resources management skills.

Acknowledgements

This study was financed by the Shakti Gender Equity Project of the Canadian International Development Agency (CIDA). This assistance is gratefully acknowledged. It also benefited from the insightful comments of Pat Alailima (Ministry of Finance and Planning), Geoffrey Alagaratnam, Janaka Biyanwila, David Dunham (IPS), Marnie Girvan (CIDA), Sharmala Gomes (University of Colombo), Neranjana Gunetilleke (IPS), Chiran de S. Jayaratne (IPS), Sisira Jayasuriya (La Trobe University, Melbourne, Australia), Kumari Jayawardena, Swarna Jayaweera (CENWOR), Saman Kelegama (IPS), Anberia Haniffa, Agnes Mendis (CIDA), Shirani Mills (CIDA), Shafinaz Hassandeen (ILO), Wimal Hettiarachchi (IPS), Shelton Wanasinghe (IPS), and many participants of the two seminars at which the findings were presented. Ianthy Pestonjee (BOI) made available data on the BOI sector and patiently answered many queries. As the study is essentially an interpretative survey of the literature, the author also wishes to acknowledge the invaluable assistance of IPS librarian, Premila Gamage, and the cooperation of many other librarians at the ILO, UNDP, Labour Department, CENWOR, The Employers' Federation of Ceylon, the University of Colombo and Freidrich Ebert Stiftung Libraries, in locating relevant materials and providing photocopying facilities. Myrtle Perera (Marga Institute) and Sonali Gunasekera (Freidrich Ebert Stiftung), generously made available copies of several unpublished reports. Asuntha Paul (IPS) skillfully transformed the original unwieldy document into the present publication. However, the usual disclaimer applies with respect to any errors or omissions or the views expressed.

Chapter 1: Introduction

1.1 Introduction

The last twenty years have seen several changes in the domestic and international economic environments that have had a profound impact on Sri Lanka's labour markets. On the domestic front, the 1977 policy liberalisation had several dimensions that impacted on labour-use decisions. First, it changed the framework of incentives to favour export-oriented manufacturing and service industry over import substituting production. Second, it emphasised the private sector as the engine of economic growth and laid the foundation for the gradual withdrawal of the state from production and distribution activities. Third, regulations restricting the inflow of foreign direct investment and the travel of Sri Lankans overseas for employment were modified, leading to a greater inflow of investment and an outmigration of labour, particularly to West Asia.

The economic transition has been accompanied by political and social transitions. New groups of workers entered the labour force, drawn largely from the lower middle classes and from rural areas, and a significant proportion of them have been women. While the new working classes displayed higher social aspirations and greater social mobility than their predecessors, they remained unfamiliar with the traditions of collective bargaining that characterised the preceding generation of workers. At the same time, new social strata entered the domains of capital and blurred class distinctions (Uyangoda 1996). As a result, the deferential attitudes of workers that had been a traditional instrument of labour management have become irrelevant. These changes have reinforced the traditionally adversarial relationship between the two groups.

Meanwhile, the privatisation drive has gradually dismantled the regime-centred power blocs of an earlier era, of which public sector unions were a major component. This has been accompanied by a change in government policy towards trade unions, from accommodation in the 1960s and 1970s, through outright intolerance and repression, particularly in the 1980s, to a wary mutual tolerance in the 1990s.

Many of these changes mirror developments in the international economic environment that have flowed mainly from two factors. First was the move from Keynesian demand management to supply-side economics associated with the neo-liberal paradigm, and second, the advancement of modern technologies associated with changing skills and job structures. Their impact on labour markets has been characterised by the following features: (a) a rapid growth in low-wage female

employment; (b) more flexible approaches to job structures and reduced reliance on full-time wage and salary workers earning fixed wages and various fringe benefits; (c) the erosion of the labour rights of 'insiders', notably of unionised, male wage workers; and, (d) along with technological advances, polarisation of the labour market according to skills (Standing 1989). For example, there is increasing evidence of rising wage inequalities in both developed and developing countries that are attributed to either trade, technology or migration (Diwan and Walton 1997).

These changes have given rise to a substantial literature on the impact of trade policy liberalisation and its impact on employment and wages, in which a key strand derives from the phenomenon of rising female labour force participation.

Many explanations have been advanced for the relationship between outward orientation and the rapid growth of low-wage, female labour. One argument that has been advanced is that young women in newly industrialising countries have been socially and economically depressed for so long that they have low 'aspiration wages' and low 'efficiency wages' and are therefore prepared to work for low wages for long work weeks (Standing 1989:1080). Another is that the pressure to avoid overhead and other indirect labour costs in the quest for competitiveness has seen the re-emergence of 'putting out' or sub-contracting to home-based women workers. It has also been argued that erosion of minimum wage legislation and sanctioning of general lowering of wages have probably led to a substitution of women for men. This was partly due to men being less willing to work for sub-family wage rates, and partly because they would be expected to respond to lower wages by reducing their 'effort bargain' (Standing 1989: 1082).

1.2 Objectives

In Sri Lanka, women have traditionally played an important role in the labour force, almost from the very beginning of the plantation economy in the nineteenth century (Jayawardene 1976). But following the policy liberalisation of 1977, female employment has grown rapidly in the manufacturing and services sectors, while increasing numbers have left the country to work abroad, particularly in West Asia. Coupled with the other economic changes that have been taking place, the feminisation of Sri Lanka's labour force, particularly the segment in manufacturing industry, has profound implications for existing labour legislation. Key issues that need to be examined are the extent to which existing legislation is meeting its original

objectives of ensuring social justice, and whether regulations designed to protect women workers have become a cause of even more discrimination against them.

A review of the legislation relating to female employment must also take into account the wider context of the socio-cultural environment and associated power relations that women are subject to. For example, although female participation in the paid labour force has risen, it has not been accompanied by an easing of the burden borne by women in the reproductive economy. Thus, women are expected to carry housework responsibilities and child rearing even when working as full-time wage employees. Women are at an added disadvantage as employees because of the patriarchal attitudes of most employers. Meanwhile, although women's employment opportunities have grown with liberalisation, equivalent opportunities for rural males have hardly risen. This has altered the power relations between the sexes and generated jealousy and resentment among males. It is likely that this is a key factor behind increased incidence of violence against female workers.

Much has already been written on the subject of laws relating to women's employment. The purely legal analyses have usually come within umbrella studies of the legal rights of Sri Lankan women in general [for example, Goonesekere (1990), (1991), Coomaraswamy (1990)]. Or else, research has focused on the terms and conditions (generally adverse), faced by women workers in Sri Lanka [(Goonatilake and Goonesekere (1989), Abeywardene et. al (1994), Rosa (1994), Heward (1997) and Devanarayana (1997)]. However, Goonetilleke's (1989) paper which analyses the law and its enforcement in the Free Trade Zones goes a step further. In her conclusions, the author draws attention to the productivity depressing effects that arise as a result of employers in the Zones flouting laws relating to conditions of work. However, there have been little economic analyses to date of the industrial relations framework that takes as its main point of departure the implications of existing legislation for the employment of women.

It is this gap in the literature that this study seeks to address. It aims to review Sri Lanka's labour legislation in the light of the domestic and international economic developments outlined above. Key issues examined are wage setting mechanisms and trends in real wages, the implications of holidays, leave and maternity leave entitlements for the employability of women, and the laws relating to job security, sub-contracting, hours of work and overtime payments. The study also looks at legislative provisions related to issues such as workplace health and safety,

harassment and violence on the shop floor. Industrial relations, management practices and prospects for trade unionism are also discussed.

Although significant numbers of women work in plantations and abroad, the present review of the legislation is relatively narrow as it focuses only on the manufacturing sector. Further analyses of the legislation relating to plantation workers and migrant workers are also urgently needed. The study also tends to focus on the so-called formal sector, defined here to mean the workers and sectors that are covered by the legislation, although some discussion of the extent of coverage is also included. The study commences with Chapter 2 sketches in a profile of working which women in Sri Lanka to contextualise the discussion further.

Chapter 2: A Profile of Sri Lankan Women Workers

2.1 Introduction

The economic implications of labour law for women are partly dependent on the nature of the female labour force, and the kind of economic activities in which it is engaged. This section attempts to sketch a profile of working women in Sri Lanka, based on the available statistical data.[1] However, the approach adopted here is descriptive rather than analytical, as a rigorous analysis of the nature of female employment and unemployment is beyond the scope of this paper.[2]

This chapter attempts to answer such questions as, how many women of working age are in the labour market related to the monetised, productive (goods and services) economy? How many of them are currently employed, and how many are still looking for work? What is the age structure of the female labour force? What are the economic sectors, particularly in manufacturing, in which women workers predominate? How many work in the public sector, how many in the private sector, how many work as employees and how many are self-employed or unpaid family workers?

---

[1] For example, as pointed out by Rodrigo and Deraniyagala (1990:2), the labour force definitions adopted by the statistical reporting systems 'have a conceptual bias which excludes a spectrum of activities performed by women within the household from the purview of gainful employment.' Also, the definitions and data collection methods adopted have changed from time to time, and therefore ruled out the possibility of using the data sets for direct comparisons over time. Therefore, the data presented in this section should be regarded as indicative, and should not be used for rigorous comparison.

[2] For in-depth analyses of these issues, see Rodrigo and Deraniyagala (1990), Rodrigo (1995), and Alailima (undated).

How are women placed relative to men in the occupational structure of employment? And finally, what kind of jobs are women looking for?

2.2 A Growing Female Labour Force

Sri Lanka has seen a substantial influx of women into the labour market during the last three decades, reflecting a strong and growing interest in labour force participation among women. This has been due to a variety of historic, cultural and development forces. These include heavy investment by the State over several decades in the education of both male and female children; the gradual rise in the average age at which women marry, and consequently, the increase in the number of post-pubertal but pre-marital years which has made employment a clear option; the relatively favourable position for women in the family system; and generally widespread social acceptance of women's employment (Malhotra and DeGraff 1997). At the same time, the open economic framework has provided new opportunities for female employment in the private sector.

While the number of female labour force participants island-wide in 1963 was roughly 700,000, by 1996 it had increased to a little more than two million in the areas outside the Northern and Eastern Provinces alone.[3] As a result, the proportion of the female population aged 10 years and over who are in the labour market, has increased from a fifth in 1963,[4] to at least a third in 1996. In 1996, four million women chose to remain outside the labour force in so-called, 'dependent' status. In contrast, male participation rates have declined marginally, from nearly 70 per cent of the labour force in 1963 island-wide, to 65 per cent outside the North and the East in 1996. These figures imply that male participation is reaching a maximum, as male unemployment rates are declining, so improving the male-female participation ratio. This indicates that further economic growth is dependent on more women joining the labour force. The figures also imply that in Sri Lanka, unlike in many other countries, female labour has not displaced male labour.

At present, nearly 1.8 million (82 per cent) of the 2.2 million strong female labour force is employed. This amounts to a third of all employed people outside the North and the East. Female employment figures can be contrasted with a male labour force nearly twice as large, of which 93 per cent are employed.

---

[3] Making comparisons of this nature over the long-term is fraught with statistical pitfalls, as the available data after 1991 does not include the North and the East. Therefore, these figures should only be taken as indicative, and not used for any rigorous analysis.

[4] Data for 1963 are from the Census of Population 1963 as cited in Rodrigo and Deraniyagala (1990).

Table 2.1: Labour Force Participation, 1971-1996

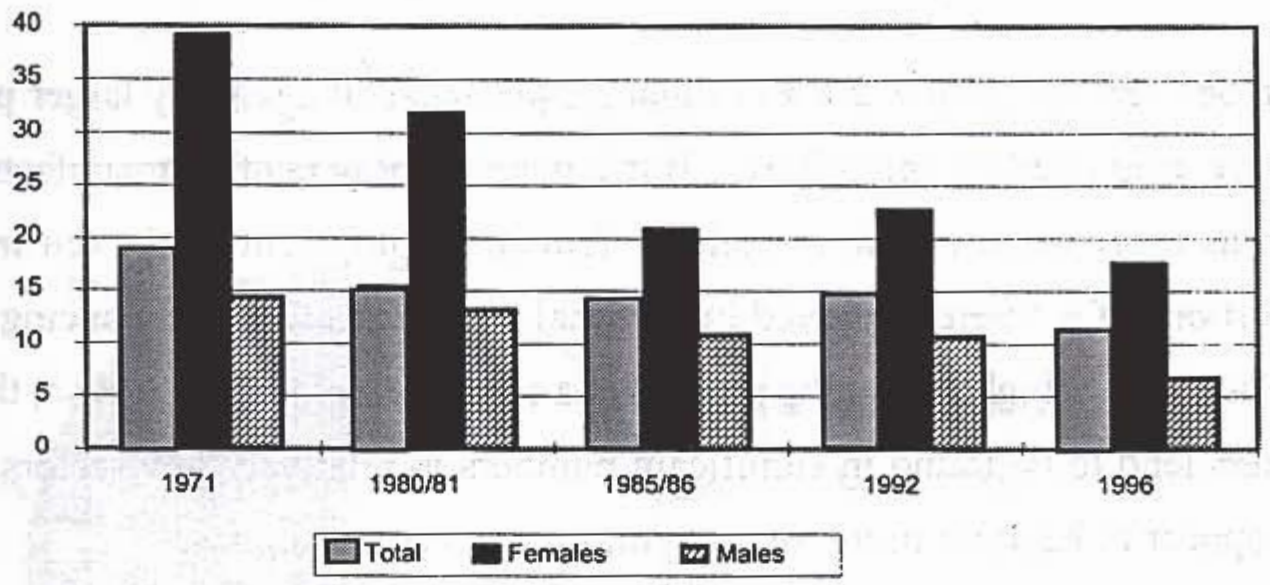
Year	Total Labour Force (Million)	Female Labour Force (Million)	Participation Rate (%) Total	Female	Male
1971	4.488	1.176	48.0	26.0	68.5
1980/81	5.595	1.536	46.5	25.8	66.8
1985/86	5.972	1.957	50.3	32.5	68.6
1992	5.808	2.043	48.2	31.0	65.2
1996	6.297	2.172	49.2	33.4	65.3

Sources: Data for 1971 are from the 1971 Census; for 1980/81 and 1985/86 from the LFSES; for 1992 (annual average) and 1996 (1st Quarter) from the QLFS and relate to 7 provinces only. Gender disaggregated data for 1990 and 1991 are not available.

The non-comparability in the various data sets precludes a rigorous comparison of employment figures, but during the 1980/81-1995 period, female employment increased by at least 43 per cent, admittedly from a lower base, while in contrast, male employment increased by 3 per cent over the same period. But while roughly a tenth of the entire labour force is unemployed, unemployment rates have been historically higher among women than among men, mainly because the expansion in employment opportunities for women has not kept pace with the increase in female labour participation rates. Even so, there appears to have been a significant decline in the rate of female unemployment since 1971, as can be seen in Figure 2.1, but the extent of this decline could be misleading as the data after 1992 does not include the North and the East. Table 2.2 also illustrates that female unemployment is higher than male unemployment at every age group. Youth unemployment (15-19 years and 20-24 years) is a serious problem faced by both men and women, but the proportion of unemployed young women is higher than the proportion of jobless young males.[5]

[5] The extent of the social problems related to high rates of youth unemployment is evident in the periodic waves of youth unrest (insurrections in the South of the country in 1971 and 1988-89, and the on-going conflict in the North and the East) and high suicide rates among young people. In 1991, the latest year for which data is available, suicide rates in the 15-24 age-group were 60 per cent per 100,000 males and 38 per cent per 100,000 females respectively. In the next age band, 25-44 years, the rate for males jumps to 93.4 and declines marginally to 27.6 for females (Ministry of Health 1995).

Fig. 2.1: Unemployment Rates, 1971-1996



Sources: Data for 1971 are from the 1971 Census; for 1980/81 and 1985/86 from the LFSES; for 1992 (annual average) and1996 (1st Quarter) from the QLFS and relate to 7 provinces only.

Table 2.2: Unemployment Rates by Age Group, 1996

Age	Females	Males
15-19	37.4	28.4
20-24	35.8	22.1
25-29	23.4	10.4
30-39	11.9	4.0
40-49	3.5	2.0
50-59	1.1	0.3
60+	0.5	0.7
Total	17.6	6.7

Note: Data excludes the North and the East.
Source: DCS, QLFS 1996 (1)

2.3 Sectoral Distribution of Female Employment

The majority of women working in the market economy still work in agriculture (42 per cent). Even so, this figure represents a significant decline in the proportion engaged in agriculture: in 1971, 66 per cent of the female labour force worked in agriculture. In the mid 1990s, around 200,000, or at least a third of female agricultural workers were employed in the plantations.[6] A little less than a third of the total, or 450,000 are employed in manufacturing, and almost a fifth

[6] Although the *Quarterly Labour Force Survey Reports* no longer distinguish between the estate and rural sectors, the *Labour Force and Socio-Economic Survey 1985-86* (DCS 1987), reports that 216,139 women were employed in the estate sector.

work in personal services. These figures include women migrant workers numbering about 300,000.

It can be seen from Table 2.3 and Figs. 2.2 and 2.3 that a slightly larger percentage of women than men are employed in agriculture. But female employment in manufacturing predominates when taken as a proportion of total male or female employment, and even in absolute numbers. The proportions of women employed in personal services as well as financing, insurance and real estate are also slightly higher than the proportions of men employed. Even so, the data shows that women workers tend to be found in significant numbers in relatively few sectors of the economy, whereas men appear to have far more diverse employment opportunities.

Table 2.3: Employed Men and Women - The Sectoral Disaggregation 1995

	Employment 1995 (1)		Share in Employment (%) 1995 (1)	
	Women	Men	Women	Men
Agriculture	686878	1298452	42	35
Mining and Quarrying	7189	49252	0	1
Manufacturing	448364	415685	27	11
Electricity, Gas and Water.	773	23896	0	1
Construction	18647	281744	1	8
Trade and Hotels	87676	469420	5	13
Transport, Storage and Communication	14723	229981	1	6
Financing, Insurance and Real Estate	34340	57167	2	2
Personal Services	320511	573003	20	16
Not defined	35875	262400	2	7
Total	1654976	3661000	100	100

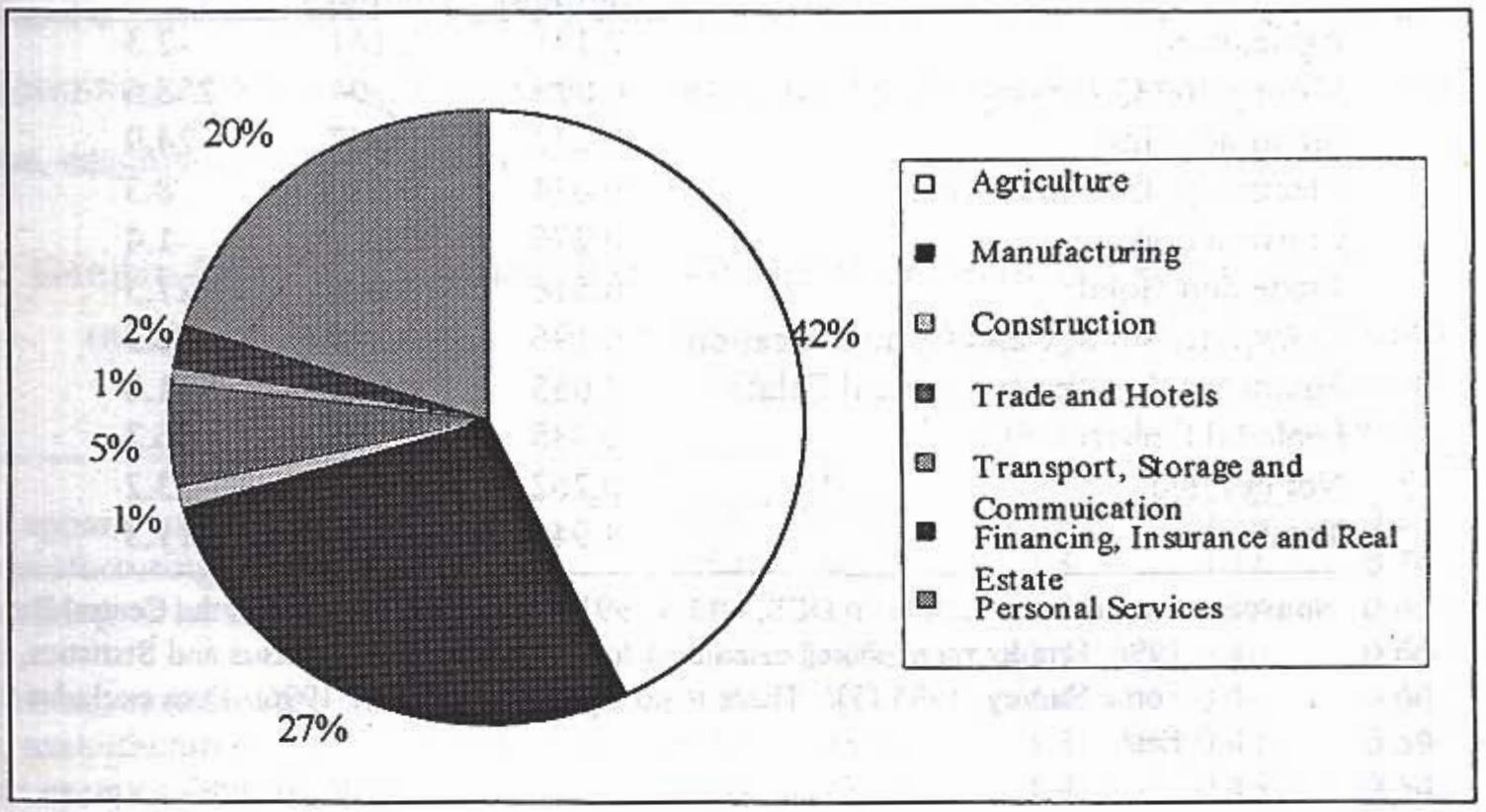
Note: Data refers only to the seven provinces outside the North and the East.

Sources: Department of Census and Statistics, Quarterly Labour Force Survey, 1995 (1).

Unfortunately, the data does not permit a comparison of gender-disaggregated employment rates by sector over a reasonable period, as the available employment data prior to 1990 (inclusive) refers to the entire island, whereas data available post 1991 refers to the provinces outside the North and the East. On the other hand, even post 1991, gender-disaggregated data from published sources exist only for the relatively short period 1993-1995, which does not allow any meaningful comparison. However, going by the trends in sectoral employment from 1991-1996 (Table 2.4), it can be seen that the sectors in which females have significant employment shares have been growing reasonably well, namely manufacturing, personal services, financing, insurance and real estate, and

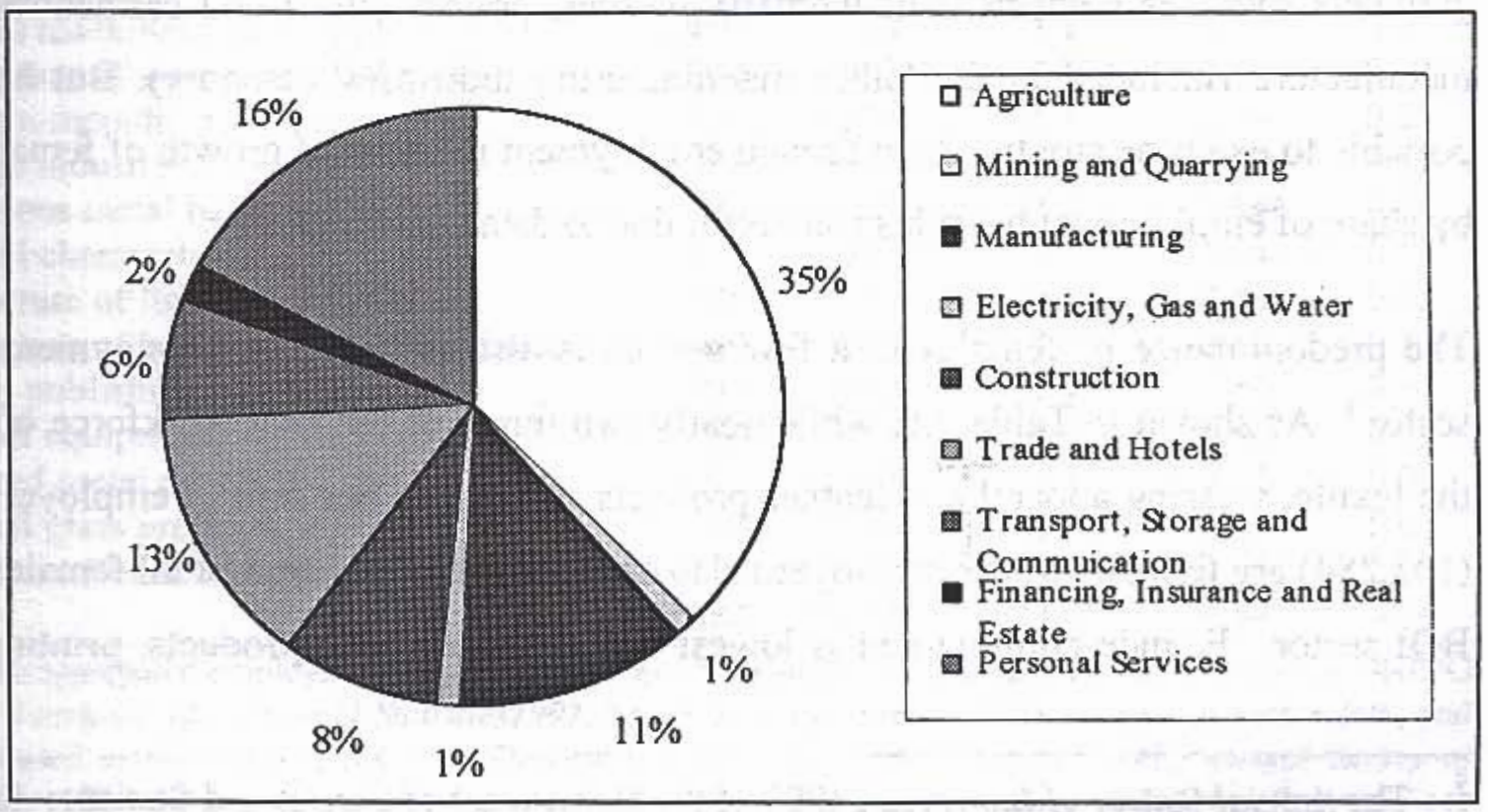
trade and hotels. Even so, the data limitations does not allow one to guage the extent to which women have been able to capture the new employment opportunities relative to men.

Fig. 2.2: Female Employment by Sector, 1995



Sources: Department of Census and Statistics, Quarterly Labour Force Survey, 1995 (1).

Fig. 2.3: Male Employment by Sector, 1995



Sources: Department of Census and Statistics, Quarterly Labour Force Survey, 1995 (1)

Table 2.4: Labour Force and Employment by Sector 1991-1996

	Total Employment (Male and Female)			Share of Female Employment (%)
	1991 (million)	1996 (million)	% Change	1995 (1)
Agriculture	2.191	2.141	-2.3	34.6
Mining and Quarrying	0.029	0.104	258.6	12.7
Manufacturing	0.622	0.777	24.9	51.9
Electricity, Gas and Water.	0.024	0.026	8.3	3.1
Construction	0.276	0.272	-1.4	6.2
Trade and Hotels	0.516	0.658	27.5	15.7
Transport, Storage and Communication	0.196	0.248	26.5	6.0
Financing, Insurance and Real Estate	0.085	0.095	11.8	37.5
Personal Services	0.738	1.005	36.2	35.9
Not defined	0.262	0.175	-33.2	12.0
Total	4.943	5.502	11.3	31.1

Sources: Employment data from DCS, QLFS 1991 (2); 1996 (2) as cited in the Central Bank Annual Report 1996. Employment shares calculated from Department of Census and Statistics, Quarterly Labour Force Survey, 1995 (1). There is no equivalent data for 1996. Data excludes the North and the East.

Within the organised manufacturing sector, the female workforce predominates in about 7 key industrial categories out of 30 (three digit) industry groups (see Table 2.5). A significant feature is their concentration in key exporting industries, garments (nearly 90 per cent of the workforce in the garments sector is comprised of women), textiles, pottery, china and earthenware, and jewellery manufacture (included in the 'other manufacturing industries' category). But here, too, it is not possible to examine any trends in female employment in terms of growth of female employment or by share of employment by industrial sector due to data constraints.[7]

The predominance of females in a few sectors is also reflected in employment data of the BOI sector.[8] As shown in Table 2.6, while nearly two thirds of the BOI workforce of 241,965 work in the textile, wearing apparel and leather products sectors, 85 per cent of employees in this category (133,284) are female. These employees also account for 72 per cent of all females employed in the BOI sector. Female employment is lowest in the paper, paper products, printing and publishing,

---

[7] The *Annual Survey of Industries*, 1994 of the Department of Census and Statistics does not contain any data on employment figures. But UNIDO's Yearbook of Industrial Statistics 1997, citing the same source, contains employment figures, though not by gender. Nevertheless, there is some doubt as to whether the data contained in UNIDO (1997) has been adjusted for non-responding firms.

[8] Data from the BOI, too, needs to be treated with some caution, as it is based on the annual returns of about 25 per cent of BOI firms and estimates based on the applications of the rest. The data is presented here for purposes of illustration rather than for the purpose of any rigorous analysis.

fabricated metal, machinery and transport categories. On the whole, there is a greater preponderance of women in the BOI sector than in the industrial sector as a whole: 77 per cent of the workforce as against 23 per cent of males. Women also tend to predominate in large industrial concerns, particularly those employing more than 200 employees (see Table 2.7). This trend is most pronounced in the textile, wearing apparel and leather sectors (see Table 2.8). However, some large import substituting multinational companies such as Unilever that operate shift-based production systems, employ very few women.[9]

Table 2.5: Gender-Based Employment Ratios in the Manufacturing Sector, 1993

ISIC Code	Industry Group	Employment 1993		Share of Female Employment	Gender-based Employment ratio 1993	
		M	F		M	F
322	Wearing apparel except footwear	14918	12069	61.8	0.11	0.89
390	Other manufacturing industries	2154	6822	3.5	0.24	0.76
323	Manufacturing of leather and products	787	1339	0.7	0.37	0.63
321	Textiles	16004	24006	12.3	0.40	0.60
361	Pottery, china, earthenware	3086	4630	2.4	0.40	0.60
314	Tobacco manufacturers	2457	3536	1.8	0.41	0.59
324	Footwear except rubber or plastic	2336	2743	1.4	0.46	0.54
356	Plastic products n.e.s.	4963	3899	2.0	0.56	0.44
311/312	Food Manufacturing	26691	14372	7.4	0.65	0.35
382	Manufacture of machinery	2514	1078	0.6	0.70	0.30
352	Other chemical products	3304	1349	0.7	0.71	0.29
385	Professional equipment	238	83	0.0	0.74	0.26
355	Rubber products	11285	3762	1.9	0.75	0.25
383	Electrical machinery and supplies	2457	819	0.4	0.75	0.25
331	Manufacture of wood and cork products	3304	1043	0.5	0.76	0.24
369	Other non-metallic products	5156	1370	0.7	0.79	0.21
313	Beverage industry	3928	805	0.4	0.83	0.17
372	Non-ferrous metal basic industries	93	18	0.0	0.84	0.16
351	Industrial chemicals	1057	187	0.1	0.85	0.15
332	Manufacture of furniture and fixture	998	136	0.1	0.88	0.12
341	Manufacture of paper and paper products	4489	555	0.3	0.89	0.11
342	Printing, publishing	6693	827	0.4	0.89	0.11
384	Transport equipment	7086	787	0.4	0.90	0.10
381	Fabricated metal products	3213	318	0.2	0.91	0.09
362	Glass and glass products	522	45	0.0	0.92	0.08
371	Iron and steel basic industries	1652	87	0.0	0.95	0.05
	Total	131384	19531	100.0	0.44	0.56

Source: Gender-disaggregated employment figures have been calculated from total employment figures in UNIDO (1997), *Yearbook of Industrial Statistics1997*, based on Department of Census and Statistics data, and gender-based employment ratios from Department of Census and Statistics (1997), *Annual Survey of Industries 1994*. But employment figures should be regarded as indicative and not definitive - see footnote 7. Also, total employment figures cannot be reconciled with Department of Census and Statistics, Quarterly Labour Force Survey data for total employment in manufacturing.

[9] This issue is discussed at length in Chapter 5.

Table 2.6: Gender-Based Employment Ratios in BOI Industries 1996

	Total[a]	% of Females in Total Female Employment	M	F
Food, Beverages and Tobacco	2.7	1.9	47.7	52.3
Textile, Wearing Apparel and Leather Products	64.6	71.9	14.8	85.2
Wood and Wood Products	1.0	0.8	38.0	62.0
Paper, Paper Products, Printing and Publishing	0.3	0.1	65.9	34.1
Chemicals, Petroleum, Coal, Rubber and Plastic	8.5	7.0	36.3	63.7
Non-Metallic, Mineral Products	3.8	4.0	20.6	79.4
Fabricated Metal, Machinery and Transport Equipment	0.6	0.1	82.3	17.7
Manufactured Products (NES)	11.0	11.4	20.5	79.5
Services	7.3	2.7	71.3	28.7
Total	100.0	100.0	23.4	76.6

Note: a = includes 200 Garment Factory Programme.

Source: Research and Documentation (Statistics) Dept. – BOI.

Table 2.7: Proportion of Male and Female Workers by Establishment Size 1993

Number of people engaged	Gender ratio	
	M	F
Less than 29	0.64	0.36
30-39	0.66	0.34
40-49	0.69	0.31
50-99	0.60	0.40
100-199	0.48	0.52
200-499	0.40	0.60
500-999	0.30	0.70
1000 and over	0.45	0.55
Total	0.43	0.57

Source: Department of Census and Statistics (1997), Annual Survey of Industries 1994.

Table 2.8: Proportion of Female Employees in Selected Industrial Categories

Number of people engaged	Food, beverages and tobacco	Textiles, wearing apparel and leather	Other manufacturing industries
Less than 29	0.31	0.62	
30-39	0.30	0.49	0.63
40-49	0.27	0.68	0.46
50-99	0.30	0.79	0.47
100-199	0.42	0.82	0.59
200-499	0.40	0.82	0.72
500-999	0.28	0.86	0.91
1000 and over	0.44	0.80	0.85

Source: Department of Census and Statistics (1997), Annual Survey of Industries 1994.

2.4 An Occupational Disaggregation of Employed Women

Table 2.9 sets out data on the gender-disaggregated occupational structure of employment in the Sri Lankan economy. It can be seen that although roughly two thirds of total employment is accounted for by males, they occupy 88 per cent of senior administrative and managerial posts, and a similar proportion of plant and machine operators' jobs. In the skilled categories of technicians and associate professionals category, too, males dominate. The only occupations in which females are employed in significant numbers are the professionals category and the clerical service. However, these data are heavily influenced by the public sector as the traditional outlets sought by tertiary level-educated women have been in the professions of teaching and health, both sectors being heavily dominated by the State. Substantial numbers with middle level educational qualifications have been absorbed into clerical and allied occupations, nursing and primary/secondary school teaching throughout the years. However, women are still under-represented in the professions of engineering, surveying, veterinary services, accountancy and auditing, journalism, shipping and aviation, and in administrative and managerial professions (Rodrigo and Deraniyagala 1990:15). The data shows that by and large, outside the public service, the majority of women are employed in low skill occupations, and that they are relatively immobile across occupational categories. However, here again it is not possible to say anything about trends over time, as the published sources do not contain gender-disaggregated data for the earlier years (e.g. 1991).

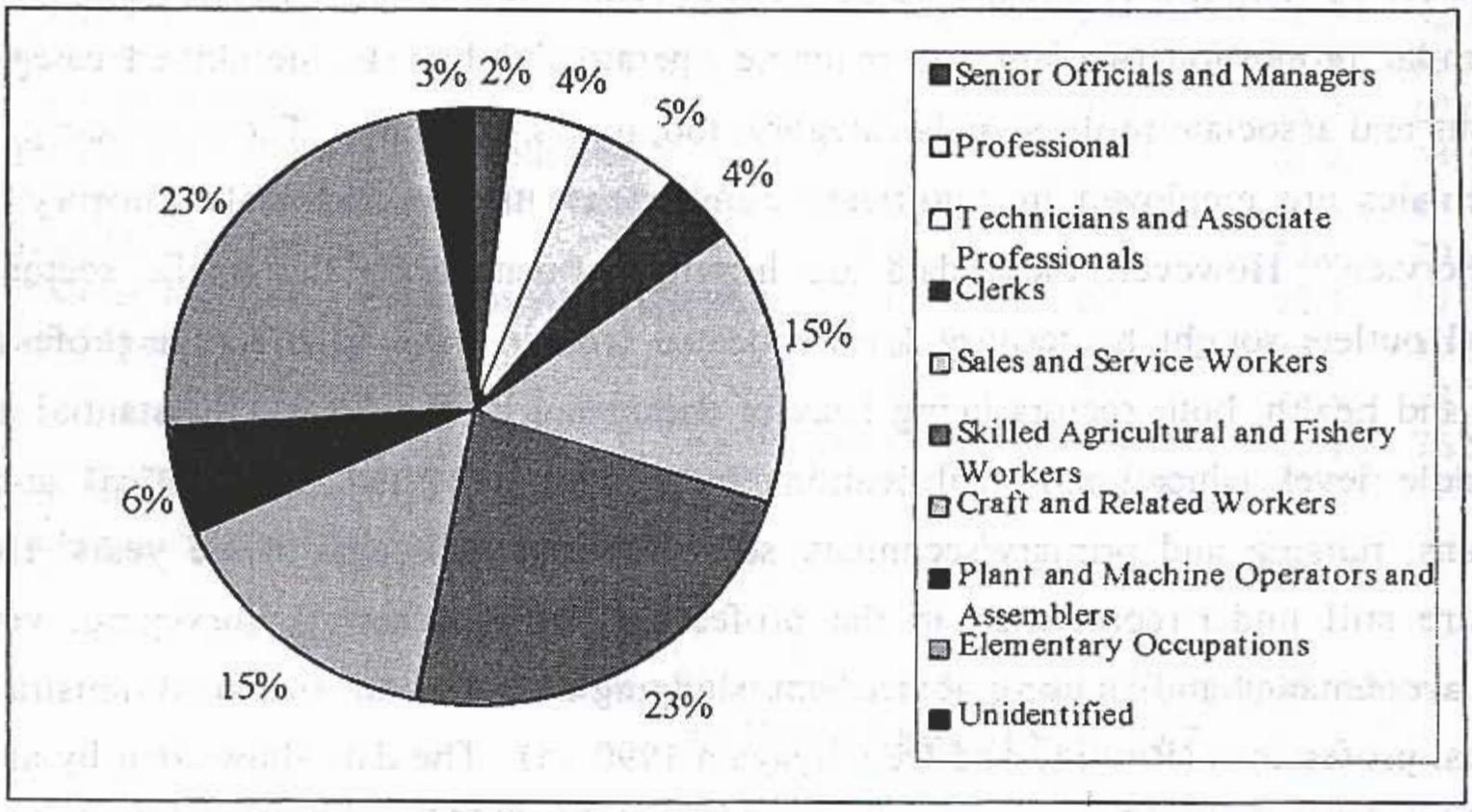
Table 2.9: Employed Persons by Occupational Group, 1996

	As % of Total Employed in that Category		Male/Female Ratio	As % of Women/ Men Employed in that Category	
	Males	Females		Males	Females
Senior Officials and Managers	88.39	11.61	41.5	1.64	0.46
Professionals	45.07	54.93	0.6	4.04	10.45
Technicians and Associate Professionals	74.01	25.99	2.6	4.95	3.69
Clerks	57.94	42.06	1.3	3.73	5.75
Sales and Service Workers	77.84	22.16	5.0	15.08	9.11
Skilled Agricultural and Fishery Workers	66.70	33.30	2.2	22.54	23.88
Craft and Related Workers	62.62	37.38	1.6	14.95	18.94
Plant and Machine Operators and	87.08	12.92	8.4	5.84	1.84
Elementary occupations	67.01	32.99	2.2	24.07	25.15
Unidentified	90.10	9.90	7.5	3.15	0.73
Total	67.97	32.03	2.21	100.00	100.00

Notes: Male/Female Ratio denotes how many males are employed in that occupational category for each female employed. Data excludes the North and the East.

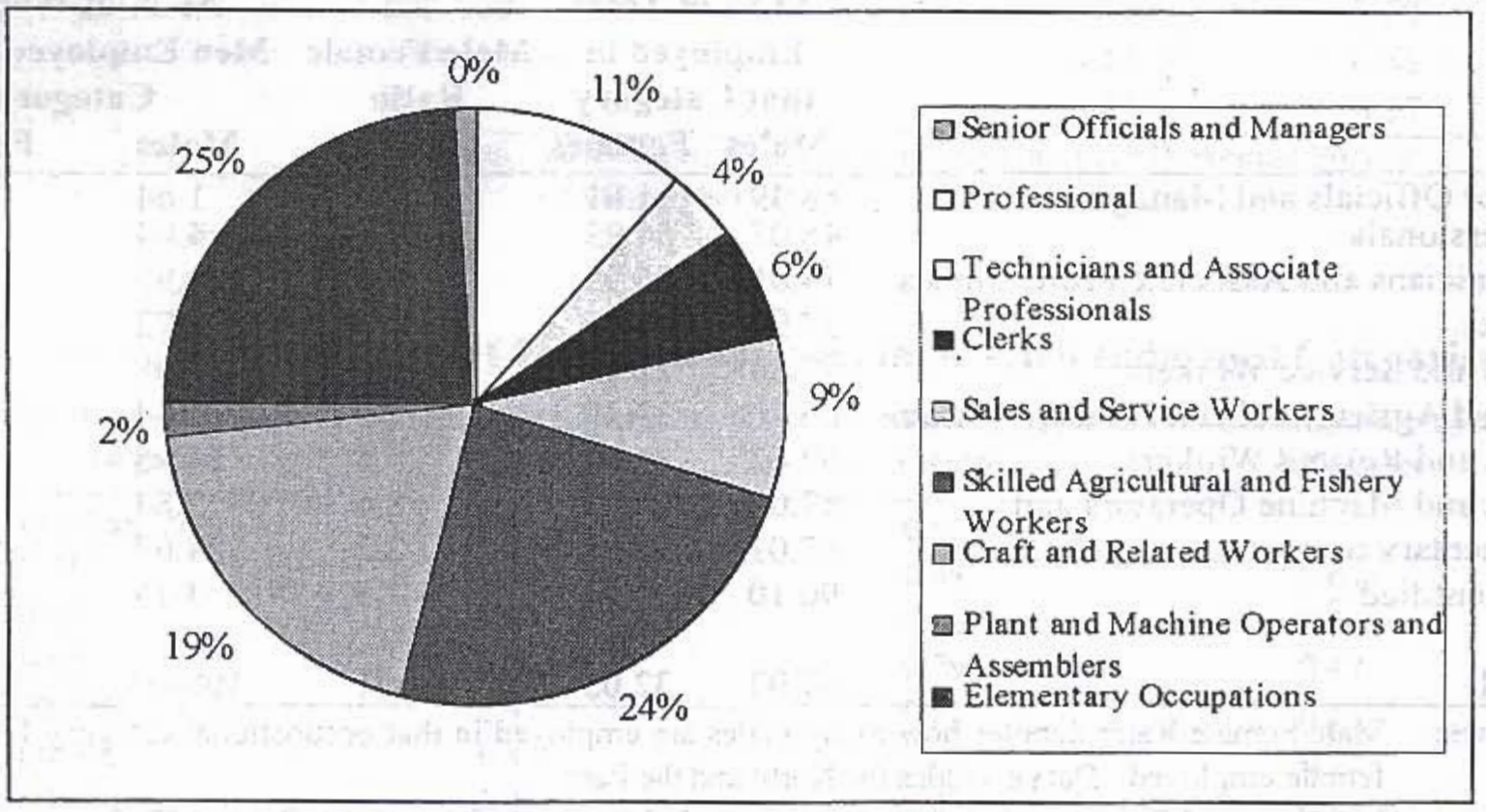
Source: Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Fig. 2.4: Occupational Structure of Male Employment, 1996



Source: Calculated from Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Fig. 2.5: Occupational Structure of Female Employment, 1996



Source: Calculated from Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Similar trends are evident in the BOI sub-sector. As Table 2.10 shows, there is a preponderance of women in the trainee, unskilled and semi-skilled categories (on average, 82 per cent of employees in these categories are females), whereas women comprise only 14 per cent of the technical, and 26 per cent of the administrative grades.

Table 2.10: Employed Persons by Occupational Group in BOI Industries, 1996

Occupation Category	Total M	Total F	Female/Male Ratio	Total*	% of Females in Total Female Employment*
1 Trainee	16.4	83.6	7.5	15	16
2 Un-Skilled	25.8	74.2	3.3	15	15
3 Semi-skilled	12.6	87.4	11.4	30	35
4 Skilled	23.1	76.9	2.6	19	19
5 Supervisory	50.7	49.3	1.6	3	2
Technical	62.6	37.4	0.9	2	1
Non-Technical	40.9	59.1	2.5	2	2
6 Technical	86.0	14.0	0.3	2	0
Executive	85.0	15.0	0.3	1	0
Non-Executive	86.9	13.1	0.2	1	0
7 Administration	74.2	25.8	0.4	2	1
8 Clerical and Allied	43.0	57.0	1.7	3	2
9 Others	26.9	73.1	0.6	10	9
Total	23.4	76.6	4.2	100.0	100.0

* Because of rounding-off numbers may not add up to 100

Source: Research and Documentation (Stat) Dept. – BOI.

2.5 Employment Status of Women

As evident in Table 2.11, nearly two thirds of all employed women work for others (employee category), mainly in the private sector (44 per cent). But this proportion has been increasing over the past few years. In contrast, the public sector accounts for only 16 per cent of female employment, and the share of employment in this sector has been declining. However, nearly a fifth of women workers are unpaid family workers, as opposed to only 6 per cent of males in the same category. The proportions of both men and women working as unpaid family workers have declined only recently, and the decline is more marked in the case of females. For example, the proportion of females working as unpaid family workers in 1971 was 11 per cent and the figure for 1980/81 was 15 per cent. The recent decline probably heralds a gradual tightening of the female labour market. These trends are more pronounced for males: in 1971, 4 per cent of the male labour force was in the unpaid family worker category. The figure rose to 6 per cent in 1980/81 and to 8 per cent in 1990, to decline thereafter (Department of Census and Statistics 1976 and 1982).

The proportion of proprietory female workers in 1996 (employers + self-employed) add up to only 19 per cent compared to nearly 35 per cent in the male category. But the proportion of female own account workers has risen marginally over the 1990-96 period. However, most of the these activities are likely to be survival strategies such as petty or itinerant trade in the informal sector.

Table 2.11: Historical Table of Currently Employed Persons by Employment Status, 1990-1996

Year	Employee						Employer		Own Account Worker		Unpaid Family Worker	
	Total		Public		Private							
	M	F	M	F	M	F	M	F	M	F	M	F
1990	55.2	55.1	19.7	25.3	35.5	29.8	2.3	0.6	34.6	17.9	7.9	26.5
1991	61.5	64.5	20.3	28.6	41.2	35.9	2.9	0.7	29.8	16.0	5.9	18.9
1992	58.7	63.4	18.4	24.1	40.3	39.4	2.0	0.7	32.2	14.8	7.2	21.0
1993	57.7	65.6	15.6	21.0	42.0	44.6	2.6	0.7	33.0	15.0	6.7	18.7
1994	59.3	64.2	15.9	17.7	43.4	46.5	2.9	0.9	32.0	16.1	5.9	18.8
1995	58.4	63.2	14.7	17.7	43.7	45.5	3.1	1.1	33.4	16.7	5.1	19.1
1996 (1)	59.7	60.3	16.0	16.4	43.7	44.0	3.3	0.5	31.3	18.6	5.8	20.5

Note: 1990 data relate to the entire island, whereas figures for subsequent years are only for the provinces outside the North and the East.

Source: Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Even so, women tend to put in fewer hours in the formal economy than do men: 13 per cent of employed females work less than 20 hours, 28 per cent work less than 30 hours (see Table 2.12). In contrast, 9 per cent of males employed work less than 20 hours and 21 per cent work less than 30 hours. This shows that a larger proportion of female workers than male workers are casual or part-time workers with correspondingly fewer statutory benefits than full-time workers.[10] At the other end of the scale, 62 per cent of the male labour force work more than 40 hours, considerably more than the equivalent female share of 51 per cent of women. At least 26 per cent of male workers work more than the statutory working week (45-48 hours) and if they are employees, should be entitled to overtime payments, whereas only 14 per cent of all female employees work more than 50 hours a week.

[10] Casual workers are defined as those who are called upon to do work of a casual nature. They are not covered under the Termination of Employment of Workmen's Act if they have not worked at least 180 days within the preceding year. However, casual workers are entitled to superannuation benefits other than gratuity payments.

Table 2.12: Employed Persons by Hours Worked Per Week, 1996

Hours Worked Per Week	Males	Females
1-9 hours	2.4	3.3
10-19 hours	6.4	9.7
20-29 hours	11.7	15.1
30-39 hours	13.2	14.9
40-49 hours	36.4	36.4
50 hours and over	25.6	14.3
Less than 20 hours	8.8	13.0
Less than 30 hours	20.5	28.1
More than 40 hours	62.0	50.7

Source: Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996. Data excludes the North and the East.

2.6 A Young and Educated Female Workforce

The rising level of educational attainments of the population is reflected in the labour force data. Although in other less developed countries, gender inequality in education is a principal reason why women are at a disadvantage in the labour market, this is not the case in Sri Lanka. According to the Population Census of 1981, there were 100 females for every 110 males who had qualified the GCE Ordinary Level Examination (Rodrigo and Deraniyagala 1990:8).

Among employed women, those with no schooling has declined from a quarter in 1981 (Rodrigo and Deraniyagala 1990:52) to less than a tenth by 1996. The proportion of employed women with qualifications of GCE Ordinary Level (or equivalent) and above has increased from 9 per cent at the 1971 Census (ibid.), to a third by 1996. A little more than half the population of unemployed women (55 per cent) have at least the GCE Ordinary Level qualification, as compared with 37 per cent of unemployed males with equivalent qualifications (see Table 2.11). This shows that while human capital development has raised the employment aspirations of young people (see below), comparable employment opportunities are lacking, particularly for young women. The data could indicate that women are substituting for men at lower levels of employment while men upgrade.

2.13: Currently Unemployed Persons by Level of Education, 1996 (Percentage)

	Females	Males	Total
No Schooling	1.0	1.3	1.1
Grades 0-4/Years 1-5	6.6	10.4	8.4
Grades 5-10/Years 6-11	37.0	51.7	43.8
GCE O.L/NCGE	26.6	26.3	26.5
GCE A.L/HNCE & above	28.8	10.4	20.3

Note: Data excludes the North and the East.

Source: DCS, QLFS 1996 (1)

2.7 Women's Employment Aspirations

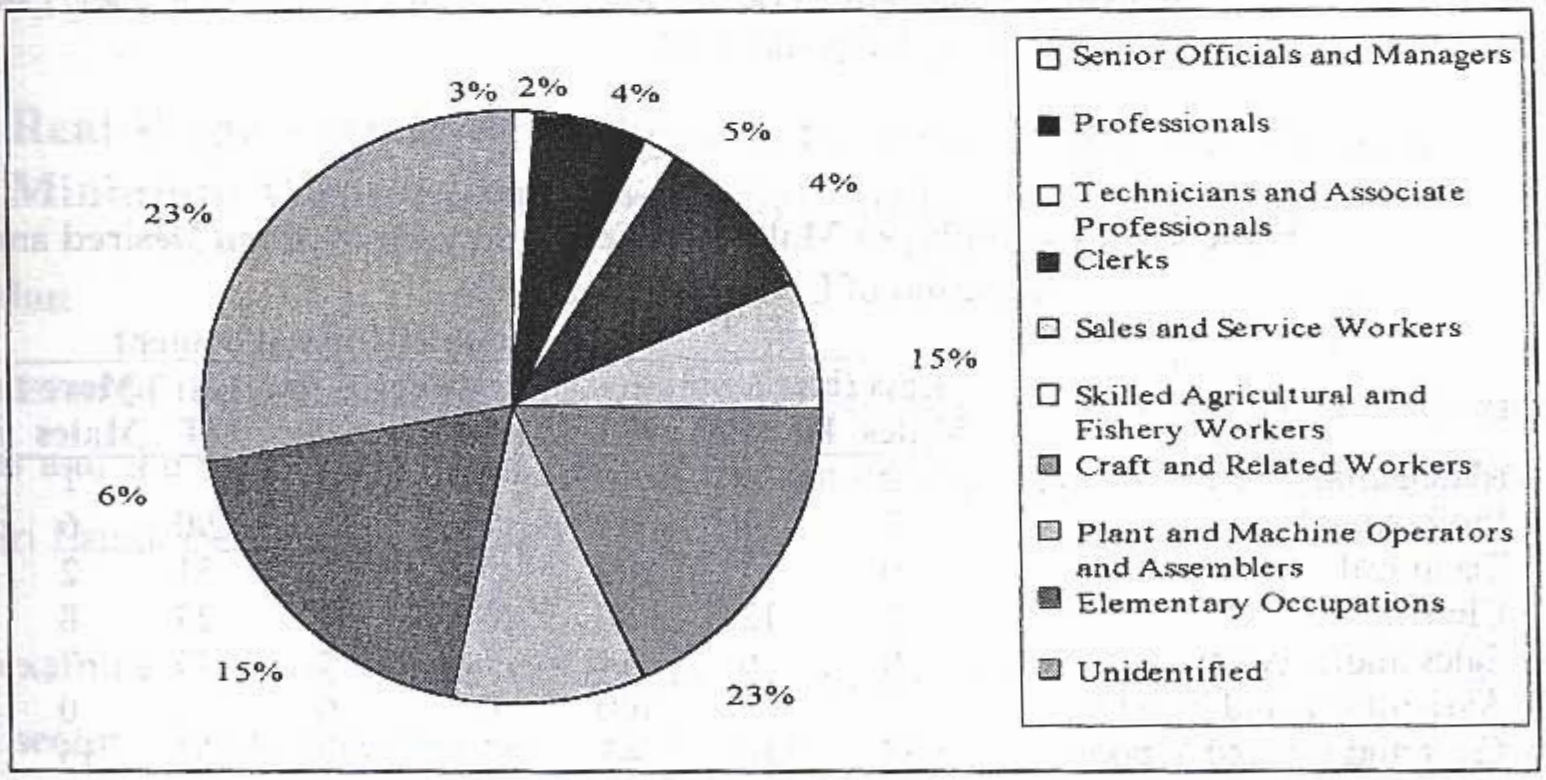
What kind of jobs are unemployed women looking for? The data in Table 2.14 shows that the majority of unemployed women are looking for professional and clerical type of jobs. Clearly, their job expectations are closely allied with employment in the public sector. This is confirmed by the results of Aturupane's (1996) survey of educated, unemployed young women. Aturupane found that the highest three job preferences of both GCE A/L qualified young women and female university graduates were becoming a school teacher, getting a government administrative job and getting a government clerical job in that order (1996:20). As for the most popular reasons for job preferences, GCE A/L qualified young women cited job satisfaction, job security and status in that order, while degree holders cited job security, status and income prospects (1990:22). It also appears that these women spend a relatively long time looking for such jobs, as evidenced by the data in Table 2.14. Note that nearly 30 per cent of females who have been unemployed for more than 12 months, have been looking for work as professionals and 18 per cent have been looking for work as clerks. Also note in Table 2.14 that neither men nor women are looking for jobs in the agricultural and fisheries sectors, although nearly a fourth of jobs taken up are allied to these occupations.

Table 2.14: Job Aspirations and Structure of Employment by Occupation Group 1996

	Occupation Desired by Unemployed Persons			Structure of Employment		
	Males	Females	% of Females in Total	Males	Females	% of Females in Total
Managerial	1	0	0	2	0	12
Professional	6	27	85	4	10	55
Technical	2	5	75	5	4	26
Clerical	9	17	68	4	6	42
Sales and Services	7	3	35	15	9	22
Agricultural and Fishery	0	0	85	23	24	33
Craft and Related Workers	18	16	51	15	19	37
Plant and Machine Operators	10	2	16	6	2	13
Elementary Occupations	19	8	34	24	25	33
Others	29	22	47	3	1	10
Total	100	100	54	100	100	32

Source: Calculated from data of Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996. Data excludes the North and the East.

Fig. 2.6: Jobs that Men are Looking for, 1996

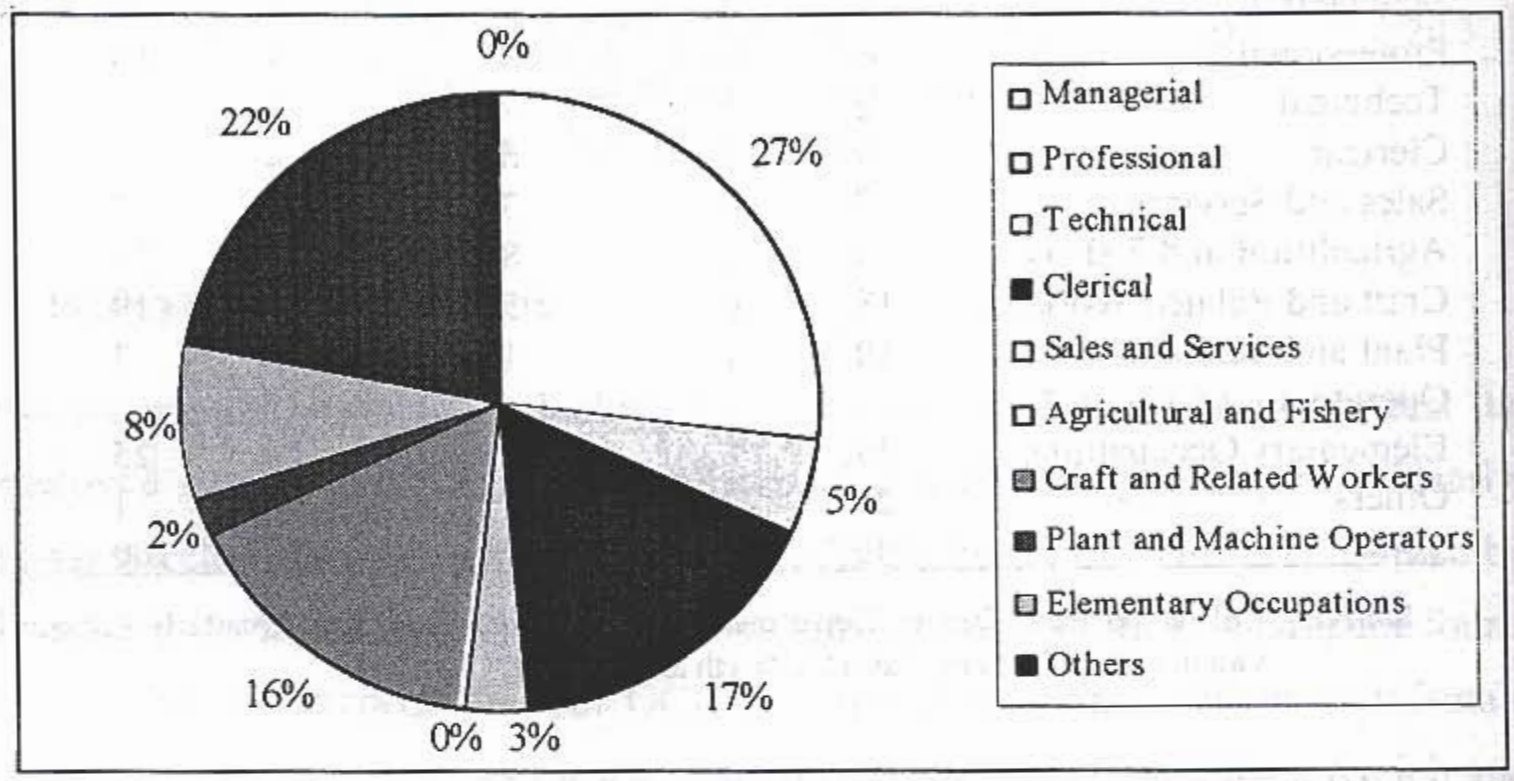


Source: Calculated from Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Relatively few females are looking for work as plant and machine operators, and their share is equivalent to the actual share of female employment. Only 16 per cent of all unemployed for over a year and looking for jobs as plant and machine operators, are women; in contrast, of the 10 per

cent of males looking for employment in this occupational category, 86 per cent have been engaged in job search for more than a year. The data also shows that the proportion of females who have been unemployed and looking for jobs for more than a year is higher than that of males.

Fig. 2.7: Jobs that Women are Looking for, 1996



Source: Calculated from Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996.

Table 2.15: Unemployed Males and Females by Occupation Desired and Duration of Unemployment 1996

	Duration of Unemployment								
	Less than 6 months			Between 6 and 12			More than 12 months		
	Males	Females	F/T	Males	Females	F/T	Males	Females	F/T
Managerial	2	0	0	0	0		1	0	0
Professional	7	14	63	2	25	90	6	29	87
Technical	0	3	100	5	3	31	2	6	79
Clerical	7	12	60	16	8	27	8	18	74
Sales and Services	9	6	34	1	7	79	7	2	31
Agricultural and Fishery	0	1	100	0	0		0	0	0
Craft and Related Workers	35	30	43	7	22	70	15	13	53
Plant and Machine Operators	8	1	10	9	4	23	10	1	16
Elementary Occupations	6	12	62	16	5	19	22	8	32
Others	25	21	42	44	26	30	28	22	52
Total	100	100	47	100	100	42	100	100	57

Notes: F/T= (unemployed women/ total unemployed)*100.

Source: Calculated from data of Department of Census and Statistics, Quarterly Labour Force Survey, 1st Quarter 1996. Data excludes the North and the East.

2.8 Concluding Observations

While roughly a third of the female working age population are willing to undertake paid employment, nearly a fifth of this number are unemployed. On the whole, the data indicates a segmented female labour market, and considerable heterogeneity among female labour. Of the unemployed, the majority are young, and nearly half of them are at least GCE O/L qualified. Most of them are looking for jobs as teachers, nurses or clerks in the state sector, but none of them want to work in agriculture or fisheries. Their job preferences are guided by considerations such as job security and status.

But despite these aspirations, job opportunities for women are limited to a few sectors and a few industries. As employment opportunities in the public sector have tapered off, women appear to be working increasingly in manufacturing industry, particularly in the exporting sectors, in low skill occupations and in large establishments, or else are forced to remain in agriculture. Employment in manufacturing industry is clearly the most viable choice for an increasing number of women, and their numbers have exceeded that of males. Women also tend to work fewer hours in the formal sector than do men, and significant numbers are employed as casual or part-time workers, probably occupying secondary income-earning positions.

Chapter 3: Real Wage Trends, Male-Female Earnings Differentials, and Minimum Wage Legislation in Sri Lanka

3.1 Introduction

The rapid expansion of female employment in the export sector world-wide has been associated with low wages and the removal or weakening of minimum wage legislation (Standing 1989). Has this been Sri Lanka's experience as well?

This chapter examines several issues related to the earnings of females in Sri Lanka's manufacturing sector. First, what has been the impact of export-orientation on real earnings overall, and on the earnings of females in particular? Second, are women in Sri Lanka's manufacturing sector paid 'individual' wages, as has been the case in other developing countries, or are they paid 'family-based' wages? This chapter also looks at the impact of policy liberalisation and the growth in female employment on the male-female earnings differential. It also examines the evidence of gender-based wage discrimination and its role in perpetuating earnings differentials, and reviews existing legal safeguards against discriminatory practices.

Finally, it discusses the question whether the growth in female employment been accompanied by any explicit or implicit weakening of minimum wage legislation.

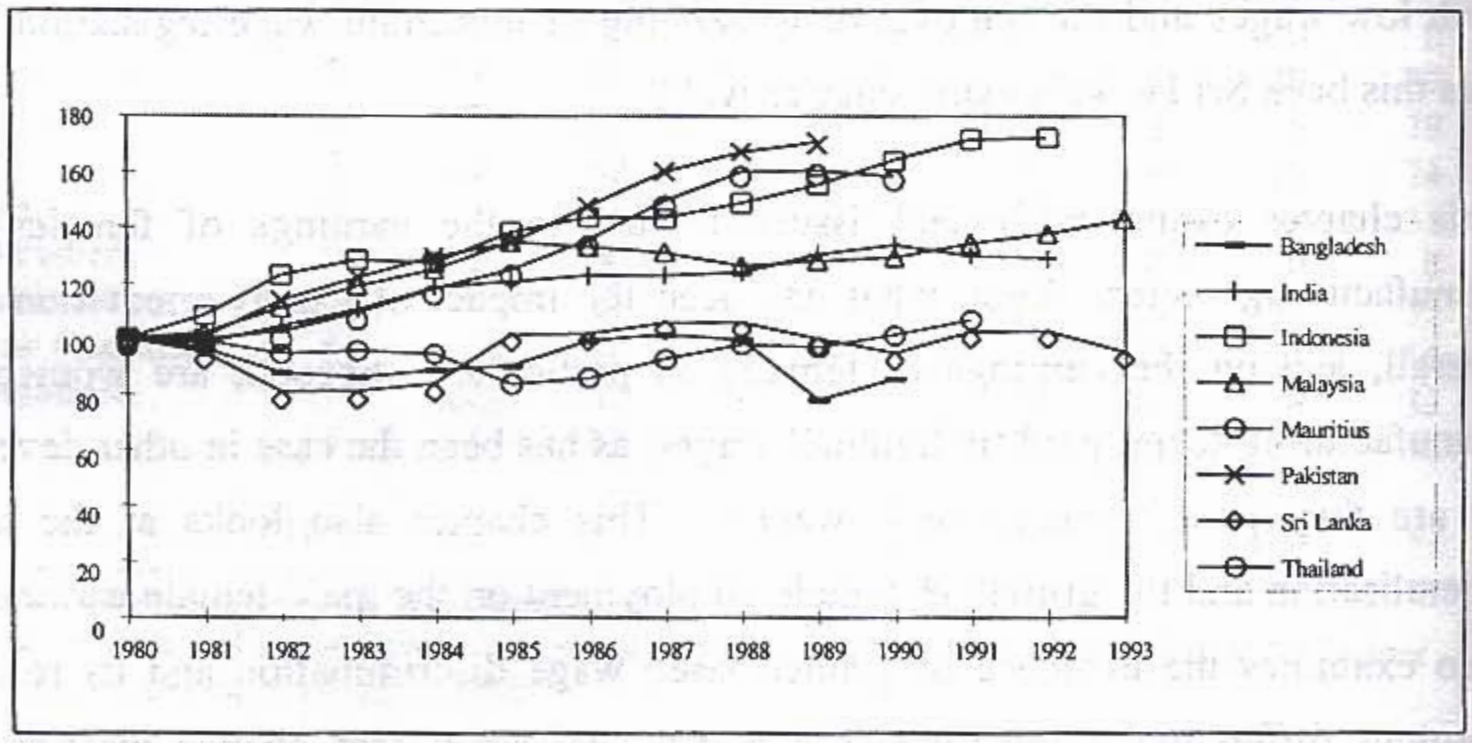
3.2 Real Wages and Productivity Trends

Theoretically, a shift from import substitution to export promotion policies will typically, in the case of a developing country, expand the more labour-intensive industries, increase labour demand overall and drive up real wages in the long run. What has been Sri Lanka's experience?

Certainly, policy liberalisation in Sri Lanka has been associated with a considerable expansion in employment (see Chapter 2). However, its impact on real wages is less clear, as Sri Lanka lacks comprehensive, time series data on real wage movements that are disaggregated by sector and by gender.

However, piecing together the available evidence indicates that at least in the manufacturing sector as a whole, Sri Lankan workers have not experienced any significant increase in real wages. For example, Athukorala (1996) shows that in terms of real *earnings* per employee, real manufacturing wages in Sri Lanka either remained stagnant or recorded a mild decline during the period 1980-93. During this period, Sri Lankan real wages recorded the second lowest rate of real wage growth (1.36) after Bangladesh (-0.73), among a group of Asian countries (see Figure 3.1). He adds that apart from slow real wage growth, 'the level of manufacturing wages in Sri Lanka has been remarkably low by international standards' (Athukorala 1997:67).

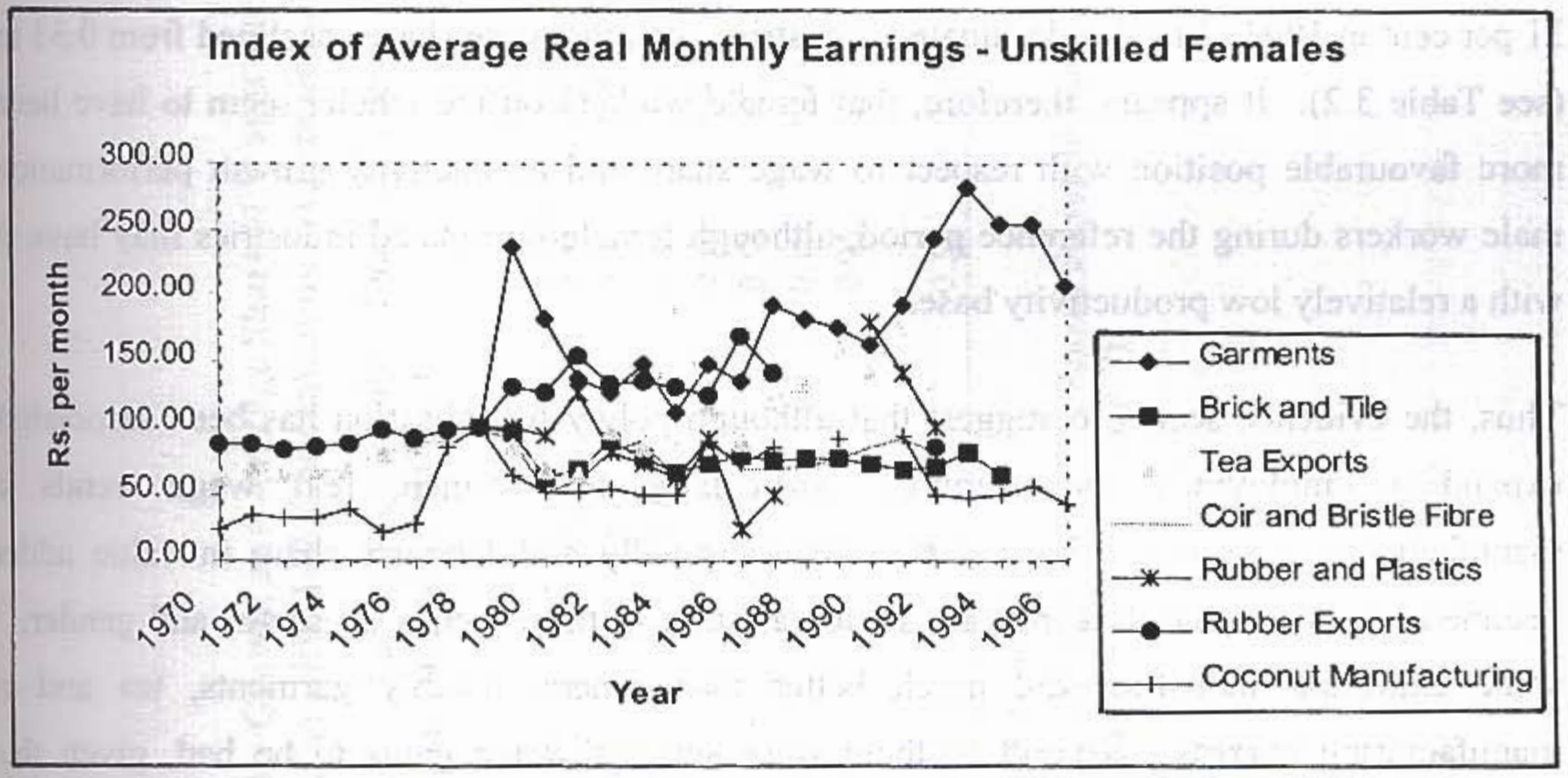
Fig. 3.1: Real Wage Indices in Manufacturing in Selected Asian Countries 1980-93



Source: Athukorala (1997:52).

Even so, the few earnings data time series that exist for unskilled female workers in exporting and other industries indicate certain sectoral differences. Fig. 3.2 plots real earnings of unskilled female workers in six manufacturing industries. Note that only unskilled workers in garments and the tea and rubber export processing industries have experienced a rise in real earnings. The rest have experienced a general decline. Given that the majority of women employed in industry are in the garments sector (see Chapter 2), the data indicates that even though the general experience has been that of low or stagnant wages, significant numbers of women experienced some increase in real earnings.

Fig. 3.2: Index of Average Real Monthly Earnings - Unskilled Females



Note: Earnings are in 1978 rupee values.
Source: Calculated from data from DCS, Statistical Abstracts, various years.

Athukorala (1997) also shows that although real wages in manufacturing as a whole hardly increased, the sector experienced considerable gains in productivity growth. For example, by decomposing labour productivity growth into its two components - one attributed to the change in capital per worker and the other to total factor productivity growth - he argues that labour productivity in the manufacturing sector as a whole increased at a compound annual rate of 7.5 per cent from 1989-1993. However, the distribution of gains from industrial expansion between labour and capital moved in favour of capital, and *workers did not reap the benefits of productivity growth in terms of increased real wages*. Thus, the wage share in value added in manufacturing declined from 34 per cent in 1974 to 21 per cent in 1981 and to 18 per cent in 1993 (*ibid.*).

Unfortunately, the data available does not allow us to draw any conclusions about the behaviour of productivity and wage trends according to gender. Even so, some useful inferences can be drawn by examining these trends in industrial categories with high concentrations of male and female labour.

The data suggests that while labour productivity grew more rapidly in industries with high concentrations of female labour (for example, in the export sectors), the decline in wage share in these industries was much less than the decline in wage share in male-dominated industries (see Tables 3.1 and 3.2). The average share of wages in value added in industries with high (>50 per cent) concentrations of female labour, has recorded a marginal decline from 33 per cent in 1981 to 31 per cent in 1993. In male-dominated industries, average wage shares declined from 0.33 to 0.22 (see Table 3.2). It appears, therefore, that female workers on the whole, seem to have been in a more favourable position with respect to wage share and productivity growth performance than male workers during the reference period, although female-dominated industries may have started with a relatively low productivity base.

Thus, the evidence seems to suggest that although policy liberalisation has been associated with expanding employment opportunities, particularly for women, real wage trends across manufacturing as a whole have risen only marginally and labour's share in value added has declined. Even so, the data indicate some variation in these trends by sector and gender. First, some exporting industries did much better than others, notably garments, tea and rubber manufacturing exports. Second, if there were any real wage gains to be had, given the high concentration of women in the garments sector, more women were better placed to benefit from the gains of export orientation than men.

Yet, fragmentary evidence still suggests that greater female participation in the labour market has been associated with low wages that are closer to the 'individual' wage rather than the family wage. For example, in 1998, unskilled workers in the export processing zones were receiving basic wages of Rs. 2,600 per month. But if the average size of a family is taken as 4.5 members, the family-based wage needed to keep a household's consumption level just above the poverty line would amount to at least Rs. 4000.[11] Nevertheless, anecdotal evidence indicates that with the addition of allowances such as attendance bonuses and overtime payments, workers in the garments sector at

[11] This is the poverty line used in World Bank (1995) to estimate poverty, adjusted for inflation.

Table 3.1: Labour Productivity Growth and Average Share of Wages and Salaries in Value Added in Industries with High Concentrations of Female Labour

ISIC Code	Industry Group	Gender-based employment ratio 1993		Labour Productivity Growth 1981-1993	Share of Labour		Share of Capital		Change in labour share
		M	F		1981	1993	1981	1993	1981-1993
321	Textiles	0.40	0.60	16.53	0.44	0.29	0.56	0.71	-34%
324	Footwear except rubber or plastic	0.46	0.54	15.16	0.39	0.43	0.61	0.57	10%
322	Wearing apparel except footwear	0.11	0.89	13.77	0.41	0.37	0.59	0.63	-10%
323	Manufacturing of leather and products	0.37	0.63	8.71	0.36	0.41	0.64	0.59	14%
390	Other manufacturing industries	0.24	0.76	6.57	0.53	0.21	0.47	0.79	-60%
361	Pottery, china, earthenware	0.40	0.60	2.40	0.10	0.39	0.90	0.61	290%
314	Tobacco manufacturers	0.41	0.59	2.31	0.05	0.05	0.95	0.95	0%
	Average/Total	0.34	0.66	9.35	0.33	0.31	0.67	0.69	-6%

Note: Data has been sorted according to descending order of productivity growth.

Sources: Gender-based Employment Ratios from Department of Census and Statistics (1997), Annual Survey of Industries 1994. Productivity growth rates, shares of labour and capital in value-added from Athukorala (1997:50-51:Tables A-6, A-7).

Table 3.2: Labour Productivity Growth and Average Share of Wages and Salaries in Value Added in Industries with High Concentrations of Male Labour

ISIC Code	Industry Group	Gender-based employment ratio 1993		Labour Productivity Growth 1981-1993	Share of Labour		Share of Capital		Change in labour share
		M	F		1981	1993	1981	1993	1981-1993
341	Manufacture of paper and paper products	0.89	0.11	11.91	0.28	0.08	0.72	0.92	-71%
382	Manufacture of machinery	0.70	0.30	9.88	0.46	0.44	0.54	0.56	-4%
352	Other chemical products	0.71	0.29	9.71	0.21	0.12	0.79	0.88	-43%
332	Manufacture of furniture and fixture	0.88	0.12	9.29	0.43	0.24	0.57	0.76	-44%
384	Transport equipment	0.90	0.10	8.97	0.36	0.07	0.64	0.93	-81%
381	Fabricated metal products	0.91	0.09	7.52	0.28	0.15	0.72	0.85	-46%
342	Printing, publishing	0.89	0.11	6.90	0.46	0.08	0.54	0.92	-83%
331	Manufacture of wood and cork products	0.76	0.24	4.65	0.47	0.21	0.53	0.79	-55%
369	Other non-metallic products	0.79	0.21	3.80	0.45	0.12	0.55	0.88	-73%
355	Rubber products	0.75	0.25	3.59	0.23	0.34	0.77	0.66	48%
356	Plastic products nec	0.56	0.44	3.14	0.30	0.32	0.70	0.68	7%
371	Iron and steel basic industries	0.95	0.05	1.76	0.18	0.08	0.82	0.92	-56%
383	Electrical machinery and supplies	0.75	0.25	0.20	0.15	0.18	0.85	0.82	20%
362	Glass and glass products	0.92	0.08	-0.60	0.20	0.47	0.80	0.53	135%
351	Industrial chemicals	0.85	0.15	-8.88	0.20	0.11	0.80	0.89	-45%
	Average/Total	0.87	0.20	6.26 [a]	0.33	0.22	0.74	0.86	-35%

Note: Data has been sorted according to descending order of productivity growth; a = average of industries that recorded a positive labour productivity growth.

Sources: Gender-based Employment Ratios from Department of Census and Statistics (1997), Annual Survey of Industries 1994. Productivity growth rates, shares of labour and capital in value-added from Athukorala (1997:50-51:Tables A-6, A-7).

least receive a take-home pay of around Rs. 4000. But while it remains true that the expansion in female employment in manufacturing has been associated with very low, subsistence level wages, they were probably more than what they could have earned elsewhere, given their skill levels.

3.3 Trends in Male-Female Earnings Differentials

If the available evidence suggests that females were better placed to gain from even the marginal real wage increases that were to be had, this is likely to have had a positive impact on male-female earnings differentials.

Fragmentary data series for Sri Lanka on the earnings of males and females have always revealed a fairly significant gender gap in most sectors. Data on male-female median[12] *income* relativities show that male income receivers earn substantially more than females.

However, after widening between 1978/79 and 1981/82, the gender gap narrowed by the mid-1980s (probably due to greater female employment in manufacturing – see below), by which time males were still earning 70 per cent more than females (see Table 3.3). In 1986/87, the earnings differentials were widest in the rural sector (males earned 80 per cent more), while on the estates, males earned roughly 30 per cent more. [13]

Table 3.3: Trends in Female Incomes vis-à-vis Male Incomes, 1981/82-1986/87

Median Incomes	All Sectors			Urban	Rural	Estate
	1978/79	1981/82	1986/87	1986/87	1986/87	1986/87
Median Income of Female Income	201	323	749	2057	1057	687
Median Income of Male Income	451	763	1292	3372	1903	918
Male Median Income/Female Median	2.2	2.4	1.7	1.6	1.8	1.3

Source: Central Bank of Sri Lanka, Consumer Finances and Socio-Economic Surveys, 1978/79, 1981/82, 1986/87.

Data on gender-based wage ratios in manufacturing shows a narrowing of the gap in recent years, confirming the trends discussed in Section 3.2 above. By 1996, Sri Lankan males in manufacturing earned only 9 per cent more than females (see Table 3.4). Also note that gender-related wage

---

[12] The median income is a more appropriate indicator of the average level of income than the mean because of the positively skewed frequency distribution of incomes. In other words, the median, unlike the mean, is unaffected by the presence of a few high income earners in the sample.

[13] We have not been able to obtain more recent data on these variables. While the Central Bank's *Consumer Finances and Socio-Economic Survey* has traditionally published the median incomes of both male and female income receivers, the latest report (Rounds 1 and 2 of the 1996/97 survey), has inexplicably omitted to publish gender disaggregated data.

differentials in Sri Lanka are lower than in several other Asian countries for which gender-disaggregated data is available. Only the Philippines and Myanmar appear to have lower differentials than Sri Lanka.

Nevertheless, the picture may be rather different at sectoral level, but the lack of data makes it difficult to draw any firm conclusions. For example, the Annual Survey of Industries data collected by the Department of Census and Statistics, does not contain gender differentiated average wage rates for each industrial group. And though macro-level data show that the differential between average male and female wages in manufacturing is a mere 9 per cent of the female wage in 1996 (Table 3.4), there may be significant differences among industry groups.[14]

Table 3.4: Gender-Based Wage Ratios in Manufacturing in Selected Asian Countries

	Year	Average USD/month	Males USD/month	Females USD/month	Ratio
China	1985	31.5			
Sri Lanka	1985	33	38.2	27.9	1.37
China	1990	36.4			
Sri Lanka	1990	41.7	43.1	39.1	1.10
Mauritius	1990	89.6			
Thailand	1990	131.6			
Malaysia	1990	252.1			
Singapore	1990	769.4	991.5	542.4	1.83
China	1992	41.9			
Thailand	1992	158.6			
Philippines	1993	25.30	25.90	24.71	1.05
Sri Lanka	1993	48.85	51.40	46.30	1.11
Myanmar	1993	113.15	115.80	110.50	1.05
Mauritius	1993	118.6			
Malaysia	1993	323.2			
Thailand	1994	121.79	142.14	101.45	1.40
Malaysia	1994	245.91	310.66	181.15	1.71
Sri Lanka	1996	64.06	66.89	61.23	1.09
Singapore	1996	1592.06	1996.60	1187.52	1.68

Source: Wage rates from *ILO Yearbook of Statistics 1997* for some countries, some years; Athukorala (1997:Table 4.10:60) for the rest. Exchange Rates for Sri Lanka from *Central Bank Annual Report 1996*; for Singapore from *The Economist* June 28th -4 July 1997; for others from IMF (1995), *International Financial Statistics Yearbook* 1995.

[14] However, the available information on average wages and the gender ratios of employment suggest that in industrial groups where average wages are higher than the population mean, average wages in industrial groups with high concentrations of male labour tend to be substantially higher than the female equivalent. But in industrial groups where average wages are lower than the population mean, wages in industrial groups with high concentrations of female labour tend to be higher than the male equivalent.

That women on average earn less income than men could be due to several factors. In the first place, they may be working different hours. Or else, there may be large concentrations of women in industries and occupations that demand unskilled and semi-skilled labour that command lower wages. There may also be significant wage differentials between males and females in the same industrial group or occupations that drive earnings differentials. This could be due to outright discrimination by employers, or else could derive from differentials between the marginal productivity of labour between male and female workers. Which of these many factors could be holding back the convergence of earnings between males and females in Sri Lanka?

Again, inadequate data prevents us from drawing any firm conclusions, but the considerable gap in the hours worked by men and by women (as discussed in Chapter 2) is clearly a contributing factor. This may be partly determined by the different statutory working hours of males and females, and this issue will be examined more fully in Chapter 5.

There is also some fragmentary evidence of gender discrimination in wage determination, but no specific analyses appear to have been carried out so far. In a study of the impact of schooling on the earnings of Sri Lankan males and females, Aturupane (1996) finds that more than half the difference in male-female earnings is not explained by objective factors such as education, experience, training etc. Of course, this does not mean that the entire remaining earnings difference is due to labour market discrimination. Other economic forces such as the payment of compensating wage differentials to men who undertake physically arduous work, or overtime payments to male workers on night shift may be in operation. However, he argues that 'the large earnings differential due to different rewards accruing to equal endowments does suggest the existence of a substantial volume of labour market discrimination against women' (1996:43). Prywes (1995) cites an econometric analysis by Bowen (1990)[15] which sought to adjust for other determinants, and which found that the wage premium for men was 25 per cent relative to women. Abeywardene *et. al* (1994), too, found that females carrying out the same tasks as males were paid lower wages. Male packers in Koggala EPZ, for example, were paid 18 per cent more per month than their female counterparts; similar wage differentials were found among male and female machine operators in Biyagama (1994:38). However, the evidence is not conclusive as the authors

[15] Alexander Bowen (1990), unpublished mimeograph, source not given.

do not clarify whether the marginal productivity of the female workers in question was equal to that of their male counterparts.[16]

Data on the occupational disaggregation of employed women (see Chapter 2) suggests that occupation and skills differentials are likely to explain much of the gender gap between males and females. While the majority of employed females are concentrated in agriculture-based activities at the lower end of the occupational/skills range, and by implication, the lower end of the wage scale, women in manufacturing seem to predominate in repetitive and assembly type employment demanding low levels of skills, again commanding lower wages. They are outnumbered by men in the skilled categories such as plant and machine operators, in which category women account for a mere 11 per cent of the total employed (Table 2.9).

It has been argued elsewhere that the fact that Sri Lanka's relatively well-educated female workforce appears to have been squeezed into low-skill, low-wage employment, particularly in the export sectors, is partly due to the skill development programmes initiated by both the government and non-government sectors. These are said to have 'reinforced the existing gender division of labour, delayed the access of women to technical know-how, and thereby to skilled technical and technological employment and to upward mobility', thus confining them to semi-skilled, casual work in factories (Jayaweera 1991b:25).

But this perspective takes into account only the supply side of the equation, and ignores the dynamics of labour demand. It is inevitable that the first stages of structural change associated with industrialisation sees the expansion of light industry demanding cheap, semi-skilled labour in assembly line operations. As the industrial base expands and deepens and the technological capability of the economy develops, there emerges a growing demand for more skilled labour. By this time, the surpluses generated by the first phase are generally invested in developing the human capital potential of the following generation of workers, who are able to command higher wages. And so, a virtuous cycle is established. This pattern is consistent with the growth path of many newly industrialising countries.

---

[16] There certainly seem to be perceptions of gender discrimination by women themselves. For example, in a 1981 survey of women workers in the Free Trade Zones, 33 per cent of the sample of 80 women held that men are paid higher wages for similar type of work, while 29 per cent were categorical that such differentiation did not exist. The remainder were undecided (Voice of Women 1983:33).

But unfortunately, even two decades after liberalisation, Sri Lanka's industrial capability has not matured sufficiently to enable a transition from light industry to more sophisticated manufacturing (demanding more skilled, higher-waged labour). This could be because job creation has been the first priority of policy makers faced with high unemployment rates, who have consequently given little thought to the kind of jobs that should be encouraged. In addition, factors affecting investor confidence such as political instability, an inconsistent macro-sectoral-micro policy framework, infrastructural bottlenecks and a local entrepreneurial class with a merchant rather than an industrial mind-set are likely to have delayed the process of upgrading. Even so, the fact remains that at the present stage of industrial transformation, young women, particularly from rural areas, have greater opportunities for employment in the manufacturing sector than do their male counterparts.[17]

3.4 Legislation and Gender Discrimination

While the evidence suggests that gender discrimination could account for a substantial part of the male-female earnings differential, how does labour law view this phenomenon?

At one time, there were some discriminatory elements in the laws themselves. For example, it used to be the case that the Wages Boards established under the Ordinance stipulated different pay rates for male and female operatives until the mid 1980s, (in the match manufacturing, coconut growing, coconut manufacturing, brick and tile manufacturing, tyre and tube manufacturing, tea and rubber export trades).[18] But this practice ceased from 1988 onwards, and follows a conscious effort by the Wages Boards to ensure that plantation workers as well as other blue collar workers receive equal wages and leave for equal work.[19] At present, almost all the provisions relating to salaries and

---

[17] Hettige (1997) notes that in the post-liberalisation era, unemployment among young rural males has become a significant problem. The smaller firms have tended to recruit their skilled and white collar employees from urban areas, while garment and other labour-intensive industries have absorbed many rural women, but very few rural men. Many of these young women have no long-term career goals, and are willing to undertake such work for several years before marriage. On the other hand, 'educated rural youths who are looking for status-enhancing, life-long careers ... continue to look for at least low-paying, white collar jobs in the state sector', and refuse to move down in the labour market.

[18] The antecedent of the Ordinance was a colonial statute, the Estate Wages BoardsOrdinance No. 27 of 1927 which legalised the setting of a lower wage for female workers (Ministry of Labour 1984:3). It was based on a concept of 'male work' perceived as high performing and wage earning, and 'female work' which was viewed as low performance. Goonesekere (1990:6) points out that this led to a differential wage and leave structure which formed the basis of Wages Board determinations that regulated minimum wages and leave in 'covered' agricultural employment and industry.

[19] See Department of Labour (1995), *Labour Statistics 1995 Sri Lanka*, (Table 4.9:83-85).

wages apply equally to both male and female workers. In the white collar categories, remuneration rates are, by and large, set for the job irrespective of sex.

Yet, Goonesekere points to the presence of discriminatory elements in the Special Allowance Law No. 17 of 1978 (1990:6).[20] Although the principal sections of the statute draws no gender distinction the problem appears to be in the first schedule of the Act. The law applies to the tea, rubber growing and manufacturing, and coconut growing trades, and the first schedule provides for the class of worker and the additional allowance to be paid to such a worker. The schedule stipulates a 6 cents differential between the sexes, but the eligibility criteria for males and females differ; males have to be over 16 years of age while females have to be over 15 years to qualify. Therefore, it may be questioned whether the comparison is of equals (Alagaratnam 1998). At the same time, it appears inflation has reduced the coverage of the Act to the point that it is virtually a dead letter.

What are the avenues for redress offered by the legislation in cases of gender discrimination by employers? Unfortunately, in Sri Lanka, there are no clear avenues for redress other than for public sector workers who can always allege the violation of their Fundamental Rights under Article 12 (2) of the Constitution. But all other workers can raise an industrial dispute if they feel that they are discriminated against because they are female, and the matter, if not settled, may thereafter be referred to for arbitration (Alagaratnam 1998).

Both Goonesekere (1990:7) and Coomaraswamy (1990:129) argue in favour of a Sex Discrimination Act or Equal Remuneration legislation, to overcome this problem. This would enable a private plaint by an employee who would, however, have to bear the costs. While this may provide some relief to females willing to enter into litigation, the rights of other women, similarly discriminated against can be ensured only if there are unions or other organisations that are willing to take on such issues. On the whole, though, it is unlikely that enacting such legislation will discourage gender discrimination in any but the larger firms with unionised workers, and which employ women in non-operative and management grades.

---

[20] This law was enacted to provide relief by payment of allowance to workers whose total earnings do not exceed between Rs. 800-Rs. 850 per month (Section 3).

3.5 The Impact of Minimum Wage Legislation

While policy liberalisation in Sri Lanka has been associated with an expansion in female employment in manufacturing, it has been shown in Section 3.2 that real wages have remained relatively stagnant or low over this period. While this type of phenomenon has been associated with the weakening or removal of minimum wage legislation in other countries, what has been Sri Lanka's experience?

In Sri Lanka, wage determination by statute takes place only with respect to blue collar workers through a tripartite mechanism established under the Wages Boards Ordinance, and that, too, only for trades for which Wages Boards have been set up. There are about 37 Wages Boards in existence, covering roughly 1.8 million workers (Siripala 1995:26).[21] However, it should be noted that there are no Wages Boards for several key trades, a number of them with large concentrations of female workers. For example, sectors such as pottery, china and earthenware production, jewellery and gem cutting are not covered by the legislation. Wages in such trades are determined entirely by the market.

Wages in BOI firms are uniformly set by the BOI itself and are usually higher than elsewhere, and slightly above the minimum wages set by the relevant Wages Board where it exists. However, it should be noted that the wage setting mechanism operated by the BOI is a purely administrative device and has no statutory basis whatsoever. BOI firms, particularly those within the export promotion zones adhere to these guidelines and in effect, operate as monopsonistic buyers of labour within the Zones.

What impact has the minimum wage legislation had on wages in trades covered by the relevant statute? To what extent has it achieved its original objective of ensuring social justice?

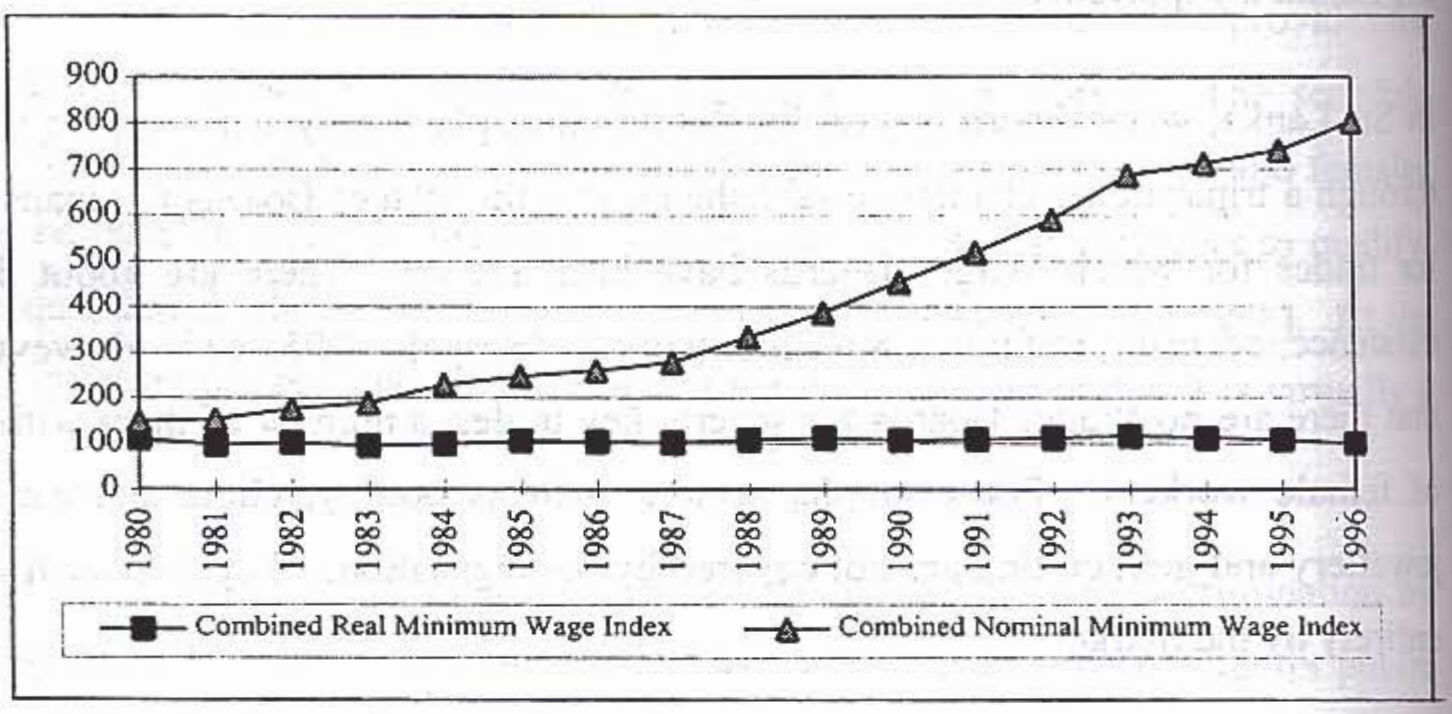
Fig. 3.3 tracks the movement of real and nominal wage rates during the 1980-96 period. It is glaringly apparent that nominal minimum wages have not been adjusted in line with rising inflation. Fig. 3.4 plots the real minimum wage rate indices for different sectors over the same period. It can be seen that workers in agriculture, or rather, plantations, fared the best, no doubt due to the high degree of unionisation. The services sector has fared the worst; real minimum

---

[21] The Shop and Office Employees' Act which applies to white collar workers, too, provides for the determination of minimum wages by consent [Section 21(1)] and by Tribunals [Section 25(1)]. However, these provisions have not been evoked for decades and are virtually dead letters. This is because the wages of office workers are largely covered by Collective Agreements, particularly for the clerical grades, while wages in the wholesale and retail trades are determined by a Wages Board that has been set up for the purpose.

wages in 1996 for this sector were less than two thirds the value they commanded sixteen years previously. Hence, there is strong evidence to show that minimum wage legislation has been implicitly weakened in the post-liberalisation period.

Fig. 3.3: Combined Real and Nominal Minimum Wage Rate Indices 1980-1996 (1980 = 100)



Notes: Wage rates used in the calculation of Index Numbers are minimum wages for different trades fixed by the Wages Boards.

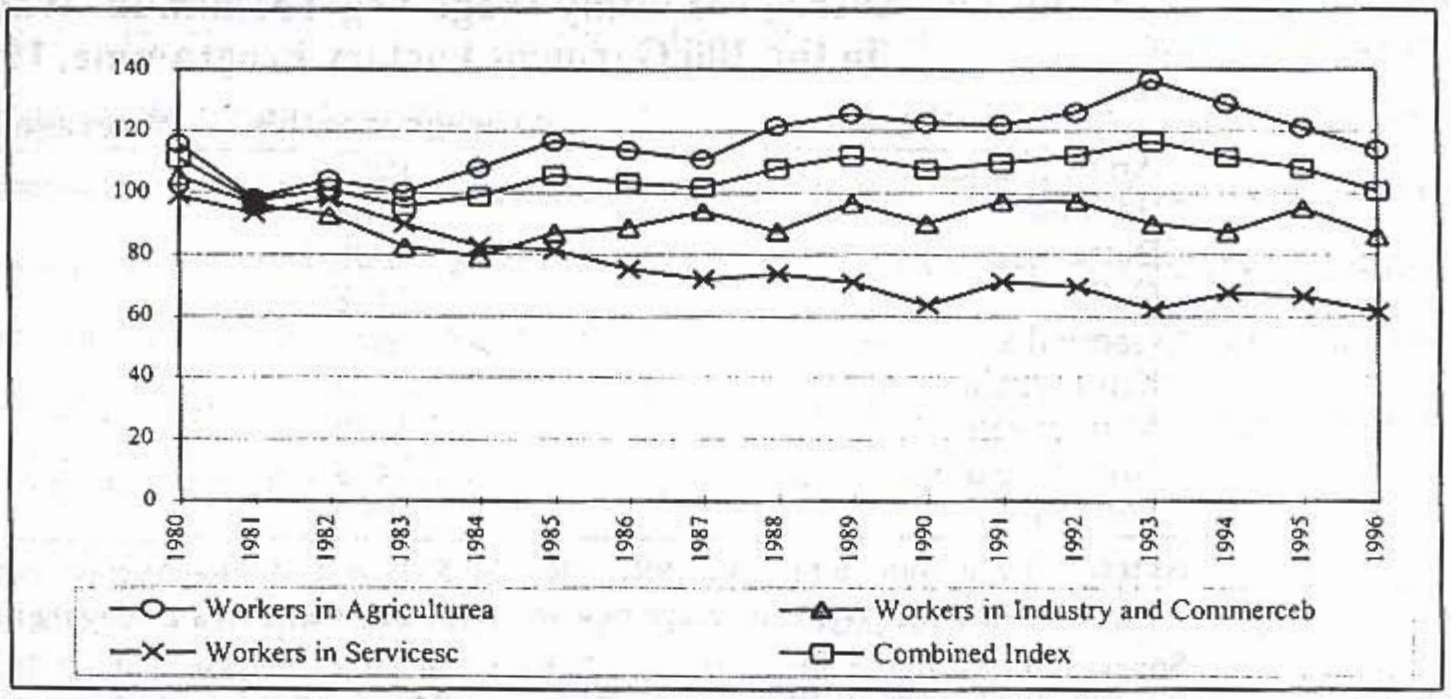
(a) Index for Agricultural Workers refers to wage rates of tea growing and manufacturing, rubber growing and manufacturing, coconut, cocoa, cardamoms, and pepper growing trades only.

(b) The index for the manufacturing sector includes baking, brick and tile manufacturing, coconut manufacturing, printing, textiles, tyre and tube manufacturing, coir mattresses and bristle export, hosiery, engineering, garment manufacturing, match manufacturing, biscuit and confectionery, tea and rubber export trades only.

(c) The index for the services sector includes cinema, motor transport and nursing home trades only.

Source: Central Bank Annual Reports (1987:Table 58; 1996: Table 39).

Fig. 3.4: Real Minimum Wage Rate Indices 1980-1996 (1980 = 100)



Source: Central Bank Annual Reports (1987:Table 58; 1996: Table 39).

The available evidence suggest a further weakening of the wage legislation through inadequate monitoring and poor enforcement. Although the available micro-level evidence is sparse and restricted to the garments sector, the data seem to indicate that most employers do not comply with the legislation. Abeywardene *et al.*'s (1994) data indicate that while average monthly wages in the Katunayaka garment sector is only marginally less than the minimum wage, in Koggala they are at least 17 per cent lower (see Table 3.5). Similar wage differentials are evident in the 200 Garment Factory Programme (see Table 3.6). A more recent study by Heward (1997) indicates that in districts where alternative employment opportunities are more readily available, average monthly wages are higher than the legal minimum (for example, see the figure for Gampaha which is close to the metropolis of Colombo). Batticaloa, in contrast, is located in the conflict zone, and average monthly wages are only a fifth of the minimum wage. However, even these figures should be treated with some degree of caution as the data sets are rather small and do not permit generalisations.

Table 3.5: Average Monthly Wage as a Proportion of the Legal Minimum Wage in the Free Trade Zones 1994

Industry Group	Legal Minimum Wage (lowest)	Average Monthly Wage (Rs.)				Average Wage as Share of Legal Minimum
		Katunayaka	Biyagama	Koggala	Zone average	
Garments	2000	1962	2338	1667	1989	0.99
Tanning, Footwear and Leather Goods	1500	2317	..	..	2317	1.54

Sources: Legal minimum wages from Sri Lanka Labour Gazette 45(2), April-June 1994.
Average monthly wages from Abeywardene et al. (1994:Table 4.1:39).

Table 3.6: Average Monthly Wage-Legal Minimum Wage Differentials in the 200 Garment Factory Programme, 1997

District	Average monthly	Average Wage as Share
Anuradhapura	1965	0.95
Badulla	1888	0.91
Batticaloa	500	0.24
Galle	2418	1.17
Gampaha	2680	1.29
Kurunegala	2322	1.12
Moneragala	2235	1.08
Nuwara Eliya	2419	1.17
Puttalam	1962	0.95

Notes: Legal minimum wage 1997 = Rs. 2075 (lowest); Ratio=Average Monthly Wage/Legal Minimum Wage; Average monthly wage calculated on a 26 day month/9 hour day.

Sources: Legal minimum wage from Labour Standards Division, Labour Department; District-wise average monthly wage from Heward (1997:Table 5:pp 21-22).

Even so, the figures indicate that the market seems to play a bigger role in determining wages than does the law. In areas closer to the metropolitan hub where labour demand is relatively high, the statutory minimum wage in certain trades is probably acting as a wage ceiling on the basic wage rather than as a minimum.. The major portion of the ultimate pay packet is often made up of bonuses and allowances that are entirely at the discretion of the employer. For example, Dasanayaka (1998:7), presenting the point of view of the Employers' Federation of Ceylon, points out that,

> 'Having regard to vulnerabilities peculiar to these trades (Garment Manufacture and Hotels) including meagre profit margins, market uncertainties and the dramatic fluctuations in business due to supervening factors in the Hotel Trade in particular, employers have made a concerted effort to maintain fixed basic wages at a minimum and keep to the minimum stipulated by the respective Wages Boards as far as possible. In both trades, however, employees have access to flexible earnings by way of incentive schemes, service charges and such like. The continued significance of the Wages Boards for these two trades is evident by the interest and concern displayed by employer members in the deliberations of these boards as against the indifference demonstrated towards Wages Boards for other trades.'

But where employment opportunities are relatively limited, non-compliance and the high costs of monitoring and enforcement make the wage setting mechanism totally ineffective.

Employers are thus able to reduce their wage costs by flouting the minimum wages legislation because the Department of Labour lacks the capacity to monitor and enforce the relevant statutes

(Gunatilaka and Kelegama 1996). But in a more positive vein, Labour Officers appear to have inspected the wage entitlements of a greater number of female workers than of males - - 57 per cent of the total as opposed to 39 per cent of males - but these are mainly plantation workers (see Table 3.7). The Labour Department's capacity to monitor and enforce the law will be strained further as the number of commercial and industrial establishments grow. Given the budgetary costs of an expanding public service, particularly in the context of an inflexible defence budget, the monitoring of such labour standards will eventually have to be devolved to workers' organisations and consumer groups. This theme will be picked up in later chapters of this report.

Table 3.7: Inspections under the Wages Boards Ordinance 1995

Sector	Males	% of Total Males	Females	% of Total Females	Children	% of Total Children	Total	% of Total Inspections
Establishments	18256	43	23746	56	227	1	42229	56
Estates	11529	35	19011	57	2796	8	33336	44
Total	29785	39	42757	57	3023	4	75565	100

Source: Department of Labour (1995), Administration Report.

A similar situation of non-compliance with the legislation exists in the area of superannuation benefits payments. Administration Reports of the Department of Labour reveal that nearly 60 per cent of employers registered with the Employees' Provident Fund evade their statutory obligations (Gunatilaka and Kelegama 1997). The actual extent of non-compliance is probably much higher as the number of registered employers has remained (improbably) at around 100,000 employers since the early 1980s (Department of Labour, Administration Reports, various years).

However, the record of compliance in the Free Trade Zones appears good. For example, Abeywardene *et al.* (1994), found that EPF and ETF benefits were available to 97 per cent and 85 per cent respectively of women workers in their sample. The record on compliance was substantially higher in the case of males (100 per cent and 97 per cent respectively). This is probably because males predominate in non-operative employment in the Zones. Although the sample is not representative (180 workers whereas in 1994, nearly 100,000 workers were employed in the Zones), Department of Labour officials confirm that compliance rates are favourable in the Zones. In the garment industries in particular, a factor encouraging compliance is probably the requirement that firms show proof of having paid their EPF contributions in order to obtain their export quotas. Unfortunately, Heward's (1997) otherwise useful study, contains no information on this issue.

3.6 Conclusions

By and large, the available evidence suggests that the feminisation of the labour force experienced in Sri Lanka has been associated with some concrete benefits for women. In the first place, the liberalisation process has opened up new employment opportunities in manufacturing, though at low wage levels. But manufacturing wages were probably better than those offered in other sectors. While real wages have grown but slightly for both males and females, and have actually declined in some industries, those employing the largest numbers of women have experienced noticeable real earnings gains. Even so, basic wage rates prevalent in even these industries are insufficient to keep the average household above the poverty line, although overtime payments and other allowances tend to top up the wage packet substantially. But these allowances tend to be variable and cannot always be relied on to keep a family at least above the poverty line.

Yet, the liberal policy framework and the feminisation of Sri Lanka's manufacturing labour force have had the positive effect of reducing gender differentials in earning significantly. These are positive gains that accrue to the assets-side of the liberalisation balance sheet.

Even so, in Sri Lanka too, feminisation of the labour force has been associated with the implicit weakening of minimum wage legislation in sectors covered by the Wages Boards Ordinance. But what would have happened if nominal wages had been adjusted to keep in line with inflation, and the Labour Department had been given the resources and the necessary incentives to enforce compliance?

Arguing on the basis of the counterfactual is always hazardous, but the evidence reviewed suggests that an increase in real wages would have been at the cost of employment generation. Would it have been better to ensure that the fewer numbers who were employed were paid better, or to enable more poor to reach at least subsistence level incomes? On hindsight, the latter course has probably had a greater impact on poverty reduction than its alternative is likely to have had.

However, in weighing the costs and benefits of employment for women in the export sector, it is necessary to examine the working conditions that they have had to face as well. This issue is discussed in one of the later chapters.

Chapter 4: Holidays, Leave and Maternity Benefits

4.1 Introduction

In Sri Lanka, as elsewhere in the world, statutory provisions relating to leave and holiday entitlements apply equally to both men and women workers other than for one or two minor exceptions which will be discussed below. This chapter aims to review this legislation as well as the laws on maternity benefits.

Key questions relevant in the context of increased labour force participation of women are whether the holidays and leave entitlements are excessive relative to international norms as alleged by employers' groups, whether they provide adequate protection for workers, or whether, instead, they impose unreasonable costs on employers.

This chapter also evaluates the existing legislation on maternity benefits and addresses the following issues: (a) Are the benefits adequate? (b) Do employers comply with the legislation?; and, (c) Does it have a negative impact on the recruitment practices of private sector employers?

4.2 Statutory Leave and Holiday Entitlements[22]

In Sri Lanka, the number of non-working days that employees are entitled to varies across the board. While the law stipulates five categories of non-working days (the weekly rest day, annual leave, leave to vote at elections, maternity leave and statutory holidays), the entitlement of workers to these benefits varies from sector to sector.[23] In this section the weekly rest day, annual leave, and statutory holidays are looked at. Maternity leave entitlements are reviewed in the following section.

The conditions relating to the weekly rest, annual leave and statutory holidays apply equally to both men and women other than for those related to annual leave in certain trades. While annual leave for the following year must be earned by working a minimum number of days in the current year, the minimum differs for men and women in the coconut manufacturing, coir mattress and bristle fibre export, and match manufacturing trades. In these industries, the minimum number of days that women have to work in the current year to qualify for annual

---

[22] This section summarises the main findings of Gunatilaka and Kelegama (1996) which includes an exhaustive analysis of this issue .

[23] This study will not look at leave to vote at elections, as elections are not a regular occurrence.

leave in the following year is 24 days less than the requirement for males in coconut-related manufacturing industries covered under the Wages Boards, and 28 days in the match manufacturing trades (Employers' Federation of Ceylon, *Handbook 1996*:153).

The weekly rest day and annual leave are considered sacrosanct and there is no provision under the law for the encashment of such leave. This is because it is internationally recognised that rest is vital for the health and well-being of workers. In the case of the weekly rest day, white collar workers are entitled to one and a half days of paid holiday, while only a few categories of blue collar workers are entitled to a paid weekly holiday, although all are entitled to a day's rest.[24] Payment in lieu of weekly holidays (or the 'weekly rest') also varies. If an employee covered by the Shop and Office Employees' Act works during his or her period of weekly rest (one and a half days' paid holiday) then the weekly rest must be allowed in the same week or in the following week. But operatives coming under the decisions of the Wages Boards who work during their weekly rest day must generally be paid 1.5 times the daily rate and be granted an unpaid holiday within the next six days. In the case of garment and hosiery workers, if they work on a rest day in excess of normal working hours they are entitled to double the minimum hourly rate for each such hour of work and an unpaid holiday in lieu within the next six days. However, note that holidays and leave entitlements remain unregulated in trades that do not come under the 37 Wages Boards.

The case is somewhat different with respect to statutory holidays. For example, if an employee in a shop or an office is required to work on a statutory holiday (for which the prior permission of the Commissioner of Labour should be obtained), then he or she must be allowed the holiday on full pay; or a holiday in lieu to be taken before the end of the calendar year; or double pay for work performed on the holiday in which case no holiday in lieu need be granted. But for operatives coming under the Wages Boards Ordinance, payment for working on statutory holidays varies according to the decisions of the relative Wages Boards. For example, in the coconut growing, rubber growing and manufacturing, and tea growing and manufacturing trades, workers must be given a paid holiday in lieu, or double the daily rate for the first eight hours of work and treble the hourly rate for work beyond eight hours. These terms are common

---

[24] For example, workers in the ice and aerated waters manufacturing trade and the cinema trade are entitled to a *paid* weekly holiday on any week day. The baking trade, the security service trade and the garment sector trade are entitled to an *unpaid* weekly holiday on any day of the week. For almost every other trade, Sunday is the fixed unpaid weekly holiday other than for the printing trade where Sunday is a paid holiday.

to the majority of Wages Boards' decisions, and also apply to the textiles and garments manufacturing trade (Employers' Federation of Ceylon *Handbook 1996*). But again note that workers not covered by the legislation are not entitled to any such holidays.

Casual workers under the Wages Boards Ordinance are entitled to annual leave (subject to eligibility criteria), overtime rates for weekly holidays and work in excess of normal working time. They are also entitled to the special rates payable for work on a statutory holiday or Poya (Full moon) Day. Casual workers under the Shop and Office Employees' Act are entitled to the paid weekly holidays if they work three and a half days in a week. They are also entitled to the special rate for working on a statutory holiday or Poya Day.

4.3 Do Sri Lankan Workers Enjoy Too Many Holidays?

The conventional view is that Sri Lankan workers are entitled to too many public holidays that impose high costs on employers. Employers also complain that the large number of public holidays causes periodic stoppages of work, and so constrain the ability of firms to respond rapidly to changing market conditions. For example, Amerasinghe (1992a:25-27) estimates the number of non-working days (holidays plus leave) in most private sector establishments as 167 days per annum, which leaves only 197 days of work each year. Meanwhile, a memorandum submitted to the Cabinet Sub-Committee on Monetary Affairs by the Federation of Chambers of Commerce and Industry in Sri Lanka and its affiliates, alleged that workers in the private sector are entitled to 20 holidays, inclusive of Poya Days and statutory holidays (this does not include the weekly rest day which comes under another category of non-working days).[25]

But these conclusions have been based on a fundamental misrepresentation of the holidays and leave entitlements of workers in the private sector. In Sri Lanka, entitlements vary widely across different sectors and even within sectors. Although Amerasinghe counted 28 public holidays (statutory, banking and Poya) in 1992,[26] it was only the banking sector which enjoyed all 28 of them. Public sector workers were the next most privileged, as they were entitled to 13 statutory and 12 Poya days, while workers in shops and offices were entitled to 20 days in all. Workers in trades were entitled to only 14 holidays.

---

[25] See Federation of Chambers of Commerce and Industry of Sri Lanka and its affiliates, and the Federation of Exporters' Associations of Sri Lanka and its affiliates (1991), Memorandum on Changes in Labour Legislation and Labour Practices, 12 September 1991.

[26] There have been some changes in the entitlement to statutory holidays since 1996 - these will be discussed later on.

However, any restructuring of the holidays entitlement as demanded by employers needs to take into account the various leave entitlements of the three sectors. Table 4.1 sets out the holidays and leave entitlements of Sri Lankan workers by sector and the number of non-working days per worker per year that prevail now. But note that this figure overstates the actual average number of holidays as many holidays overlap, particularly with the weekly rest day. The figures also include the changes that have come about as a result of the recent decision to reduce the number of statutory public holidays by four.[27] As of 1997, Maha Sivarathri, Hadji Festival Day, National Heroes' Day and Bandaranaike Memorial Day are no longer public holidays, but following representations by minority religious groups, the Government subsequently declared Maha Sivarathri and Hadji Festival Day as 'special holidays for the followers of Hinduism and Islam respectively'.[28] This effectively reduced the number of statutory holidays enjoyed by the public sector to 10, and those enjoyed by workers in shops and offices and in some Wages Boards Trades to 9. As far as the private sector was concerned this was a restoration of the *status quo* that prevailed prior to the change of government.

It can be seen from the table that that the problem of too many holidays is confined to the public sector where workers are on holiday almost half the year. The next best off are workers in shops and offices, followed closely by those benefiting *de facto* from the 1972 Extension Order.[29] Plantation workers have the least number of non-working days (even though plantation companies have difficulty in offering the minimum number of days work that they are legally bound to offer), followed closely by workers in other trades which include garment sector workers. Note that neither of these groups of workers is entitled to sick or casual leave, and that

---

[27] Notice dated 6 August 1996 issued by the Secretary to the Ministry of Public Administration setting out the public holidays approved by the Minister of Public Administration.

[28] This decision was later challenged in the Supreme Court on grounds of violation of Fundamental Rights by a Hindu applicant and a Muslim applicant. The application was not sustained. In a seven-paged judgement, Justice Mark Fernando held that the Government was entitled to take a variety of matters into consideration in determining public holidays. It averred that the Petitioners had failed to show that the elimination of the two holidays was unreasonable, arbitrary, capricious or for an improper purpose (see the article entitled 'Govt has the right to decide on holidays - SC rules' in the Daily News of 25 February 1997).

[29] The 1972 Extension Order under the Industrial Disputes Ordinance compelled all employers in six key trades and having more than 25 employees to grant 21 days sick leave and 7 days casual leave to employees. Although the order was later overturned by the Court of Appeal, union resistance made it impossible to withdraw this entitlement.

Table 4.1: Current Annual Holiday and Leave Entitlements of Sri Lankan Workers

	Shops Offices	Trades Covered by the Wages Boards			Public Sector
		Plantation Trades	Other Trades	Workers affected by 1972 Extension Order	
		(approx. 83% of total)	(approx. 13% of total)	(approx. 4% of total)	
Holidays					
Weekly rest	78	52	52	52	104
Statutory (paid)	8	3	8	8	10
Poya days (unpaid)	12	12	12	12	12
Holidays total	*98*	*67*	*72*	*72*	*126*
Leave					
Annual (paid)	14	14	14	14	24
Sick/Casual (paid)	7	0	0	28	21
Leave total	*21*	*14*	*14*	*42*	*45*
Total non-working days per annum	**119**	**81**	**86**	**114**	**171**
Total working days per annum	**246**	**284**	**279**	**251**	**194**

Notes: The Statutory holidays declared for shop and office workers and several Wages Boards trades are: Thai Pongal Day, National (Independence Day), Day prior to Sinhala and Tamil New Year Day, Sinhala and Tamil New Year Day, May Day, Day following Vesak Full Moon Poya Day, Holy Prophet's Birthday and Christmas Day. The public sector has Good Friday as an additional holiday. Statutory holidays for the plantation sector are given as an average of tea, rubber and coconut workers' entitlements.
Annual leave is earned for the following year by working in the current year. Workers in some Public Corporations have similar entitlements to Shop and Office workers.

Sources: Siripala 1995; EFC Handbook 1994.

their leave entitlement amounts to two thirds that of workers in shops and offices, and a little less than a third of what public sector workers are entitled to.

While the withdrawal of Bandaranaike Memorial Day from the holidays calendar was a welcome policy decision, any further reduction in holidays that private sector workers are entitled to needs to take into account its effect on workers in different sectors whose holidays and leave entitlements vary widely. For example, workers in trades will bear the greatest marginal cost of any further reduction in the number of statutory holidays or Poya days across the board, and given that they are not even entitled to sick leave, it would be most unfair. If rationalisation of holidays and leave entitlements is on the cards, then reform should start in the public sector. Given the recent amendments to the statutory holidays which public sector workers are entitled to, it appears that the Government is already thinking along these lines. The next set of entitlements which need to be adjusted downwards would be the leave entitlements of public sector workers which are excessive.

How do these entitlements compare with those of other countries? We have been unable to obtain any information about the sick or casual leave entitlements of workers in other countries, therefore an international comparison of non-working days on the lines of Table 4.1 above is not possible. However, with the available information on paid annual leave and public holidays in Table 4.2 below, it can be argued that the entitlements of Sri Lankan private sector workers are by no means excessive.[30] There appears, at present, little justification to revise downwards the statutory holidays and leave entitlements of any workers in the private sector in Sri Lanka.

Moreover, micro-surveys show that as with other statutory rights of workers, many employers do not comply with holidays and leave regulations. Jayaweera and Sanmugam (1993) found that of 400 female employees in manufacturing industries in and around Colombo, only 74 per cent had access to paid leave. Access to paid leave was considerably higher in establishments with trade unions (95 per cent whereas only 68 per cent of employees in establishments without a trade union could take paid leave) (1993:52-53). Abeywardene *et al* (1994) found that only 62 per cent of women, and 63 per cent of men in their sample of Free Trade Zone workers had been able to avail themselves of paid leave (Table 4.2:41). In a 1995 survey of FTZ workers,

---

[30] Note, for example, that in both Indonesia and South Korea, female employees are entitled to menstrual leave as well. In Indonesia, females are not obliged to work on the first and second day of their menstrual period, while in Korea, females are entitled to one day leave with pay for menstruation every month (Agrawal 1995:56).

48.4 per cent of a sample of 1175 workers in the Koggala, Biyagama and Katunayake FTZs, were not paid double the rate for weekend and holiday work (ACFFTU:1995:10:Table 16). The compliance rate was best in Katunayake, where 55.3 per cent of 754 workers were paid their dues.

Heward's study (1997) of garment workers in the 200 Garment Factory Programme found that 17 per cent of the 145 respondents had no access to annual leave (15 per cent did not get paid leave when they were sick, but they are not entitled to under the law, anyway) (1997:21).

Table 4.2: Annual Leave and Public Holidays in Selected Asian Countries, 1995

	Paid Annual Leave	Public Holidays
Bangladesh	Factories - 1 day for every 22 days. Establishments - 1 day for every 18 days.	16
Cambodia	18 working days. One additional day for every 3 years of services.	--
China	None.	7
India	1 for every 20 days worked.	22
Indonesia	1 for every 23 days.	12
Malaysia	8 days, 12 for 2-5 years of service, 16 days thereafter.	17
Thailand	6 week days.	13
Viet Nam	12 days. 14-16 for dangerous work. 1 additional day for every 5 years' service.	8 days

Source: Amerasinghe (1992a) for holidays in Bangladesh, India and Indonesia; ILO (1994), *Working time around the world*, Vol. 14, 1995 for the rest.

54 per cent of respondents had to work every Sunday, 40 per cent had to work sometimes on a Sunday. If the workers had to work on Sundays, only 45 per cent were paid 1.5 times the wage rate, 9 per cent were paid double the wage rate and 23 per cent were paid the normal rate (1994:87). 40 per cent of the sample were required to work every public holiday to finish orders. The work was considered compulsory and workers were threatened that they would lose

their monthly attendance bonus, or in some cases threatened with a 3 days' wage deduction if they refused. 26 per cent had been paid only at normal rates, 29 per cent at 1.5 times the normal rate, and 9 per cent at double the rate (1997:200). The study contained no information on whether the workers were given a day's rest in lieu, as they were entitled to by law.

On balance it can be concluded that as far as the private sector is concerned and contrary to what is alleged, workers' holidays and leave entitlements are reasonable rather than excessive, and do not impose significant costs on employers. In the case of operatives, there is even a strong case to increase the number of non-working entitlements to include a sick leave entitlement that is at least equivalent to what other workers in the private sector are entitled to. On the other hand, there is substantial evidence of exploitative labour practices in this sphere, with employers evading their statutory obligations, particularly in the non-unionised sector, with apparent impunity. The impact of such practices on productivity and industrial relations will be discussed in Chapter 7.

However, employers also complain that intermittent public holidays encourage absenteeism and force the periodic stoppage of work, especially when holidays fall mid-week. This is certainly a recurring problem, particularly in the case of the Poya Holidays. However, even at present employers can still pay the premium rate and retain their workforce to work through the holidays, as many of them do. The cost of such an exercise, particularly at the stagnant real wage rates that they are obliged to pay, should be more than offset by the benefits in terms of additional output. In addition, firms can take advantage of the provision that annual holidays need to be agreed upon by the employer and the employee and availed of at mutually convenient times, and grant annual leave close to the New Year and Vesak holidays. Many firms do this as a matter of course.

If, however, policy makers intend to eliminate the Poya Holiday, then they would have to compensate workers in trades by increasing their leave entitlements.

4.4 Maternity Benefits

Legal provisions relating to maternity benefits of Sri Lankan women workers are set out in three sets of regulations: the Maternity Benefits Ordinance (Amendment) No. 43 of 1985 which applies to women workers employed in the operative grades; the Shop and Office Employees' (Amendment) Act No. 44 of 1985 which applies to non-operative grades; and the Establishment

Code - Public Administration (a) Circular No 22/1989 amended by Circular No. 13/1995 which applies to public sector workers. This section will concentrate on the entitlements of workers in the private sector, but those of public sector workers are set out in t in Table 4.3 below for purposes of comparison only.

By and large, entitlements to maternity benefits are similar across the sectors (see Table 4.3) and are generally in keeping with ILO Convention No. 103 which stipulates at least twelve weeks' maternity leave. The two key differences between operative and non-operative grades are first, that non-operatives' maternity leave entitlement is exclusive of holidays due under the Shop and Office Employees' Act, whereas they are included in the calculation of the entitlement of workers coming under the Wages Boards' Ordinance. And second, that blue collar workers are entitled to nursing intervals whereas non-operative grades are not. However, a notable difference between the entitlements of the public and private sectors is that in the private sector, all women irrespective of marital status are entitled to the benefits, whereas in the public sector only married women are entitled (Alagaratnam 1996).

How do these entitlements compare with those of female workers in other countries? Table 4.4 sets out the maternity benefits which workers in several Asian countries are entitled to. It can be seen that the maternity entitlements of Sri Lankan workers are by no means excessive. Only Malaysian workers appear to have fewer benefits than those of any one of the other countries in the sample, or of Sri Lankan workers.

However, an unfortunate aspect of the law here is that Sri Lanka has opted to secure maternity leave and pay by imposing sanctions on the employer for non-compliance with the law. This, in effect, has imposed the entire burden[31] of maternity benefit on the employer, whereas Article 4 of ILO Convention No. 103 concerning Maternity Protection suggests that this should not be the case (Alagaratnam 1998). In fact, prior to the 1985 extension of maternity leave from 6 weeks to 12 weeks (implemented in the private sector in 1987), many employers had protested that they could not afford the extension of maternity leave, and that they found it difficult to find suitable temporary replacements. They also warned that if the maternal leave entitlement were to be extended, they would have to change their recruitment patterns (Women's Bureau of Sri Lanka [19--?:30]).

---

[31] Of course, fertility rates in Sri Lanka are now less than 2 per woman, so the costs borne by the employer are also declining.

Table 4.3: Entitlement to Maternity Benefits of Different Categories of Sri Lankan Workers

	Operative Grades (Wages Boards Trades)	Non-operatives (Shop and Office employees)	Public Sector
Scope	Applies to all women irrespective of marital status	Applies to all women irrespective of marital status	Only married women are entitled.
Fully paid leave			
Birth of 1st or 2nd child	84 days irrespective of length of service, including intervening non-working days.	84 days excluding any holidays due under the Shop and Office Employees' Act.	Same as for non-operatives
Birth of 3rd or subsequent child	42 days irrespective of length of service	42 days excluding any holidays due under the Shop and Office Employees' Act.	Same as for non-operatives
Nursing intervals	2 half hours or 1 hour per day until child's first birthday.	None	Officers allowed to leave one hour earlier for 5 months after end of maternity leave.
Other leave	None	None	30 minutes late arrival or 30 minutes early departure without pay reduction during pregnancy
Creche facilities	Mandatory for establishments employing female workers in excess of a number prescribed by Regulation. But none have been made so far, so that this provision is virtually a dead letter..	None	None
Nature of work	No work injurious to mother or child during 3 months before and after confinement.	Same as for operatives.	None
Dismissal	Prohibited within 5 months before and during confinement.	Same as for operatives.	None.

Source: Employers' Federation of Ceylon, Handbook 1996; Jayaweera and Sanmugam (1996).

Table 4.4 : Maternity Benefits in Selected Asian Countries, 1994

Benefit	Bangladesh	Cambodia	China	India	Indonesia	Malaysia	Thailand	Viet Nam
Scope	All women workers in factories and tea estates including manual, clerical, skilled and unskilled grades.	All except civil servants, magistrates.	All in enterprises and individual economic units.	All except women in establishments employing less than 10. Must work at least 80 days in the year before confinement to be eligible.	All.	All in private sector.	All except and government.	All.
Leave	6 weeks before and after confinement in factories and tea plantations.	90 days	90 days, 15 before the birth.	12 weeks, not more than 6 weeks before confinement.	1 1/2 months before and after confinement.	At least 60 days.	90 days including annual leave.	4-6 months depending on nature of work.
Payment	100% of earnings in factories, must be employed at least 9 months prior to date of birth. 100% of daily, weekly or monthly rate in tea plantations, must be employed at least 150 days in the 12 months prior to birth.	100% of wage + bonus.	100% of wage for permanent and contract workers in state-owned enterprises or collectives.	100% of wage at daily rate.	100% of wage.	100% of wages for 60 days. Must be employed for 4 months before confinement and have less than 3 children to be eligible.	100% of wage, 50 per cent of wage from social security.	100% of wage + additional allowance equivalent for one month for first two children.

Benefit	Bangladesh	Cambodia	China	India	Indonesia	Malaysia	Thailand	Viet Nam
Source	Employer	Employer.	Employer of state-owned enterprise.	Employer. Employees' State Insurance Corporation - Social Insurance in factories employing 10 with power, or 20 without power.	Employer.	None.	Employer, Social Security Funds.	Social insurance funds.
Nursing breaks	None.	1 hour or 2 half hours.	2, 30 minute breaks.	None.	Yes, but no time specified.	None.	None.	I hour
Working conditions	Tea estates: Lighter work during six weeks prior to birth. Factories with/without power, less than 10 workers: Pregnant workers prohibited from lifting/moving any material or article.	Lighter work during and for two months after pregnancy.	Nursing mothers cannot work on grade 3 labour intensive jobs and other jobs prohibited during nursing period.	No conditions.	No heavy, dangerous work or work with toxic substances.	No conditions.	No heavy, dangerous work or work with toxic substances.	No heavy, dangerous work or work with toxic substances.
Working hours	No conditions.	No conditions.	No overtime during last 7 months of pregnancy and while raising a 1 year old child. No night work	No conditions.	Night work prohibited.	No conditions.	No conditions.	No overtime during last 7 months of pregnancy and while raising a 1 year old child. No night work.

Source: ILO (1994), *Conditions of Work Digest: Maternity and Work.*

So what are the patterns of compliance and recruitment ten years after the extension of maternity leave?

Table 4.5 sets out the findings of several micro level studies on the extent to which women workers are able to avail themselves of their maternity benefit entitlements. Compliance appears abysmally low in the CENWOR (1993) study, but very high in the two surveys of working women in 46 manufacturing and service establishments and 14 rural and urban residential locations conducted for the study by Jayaweera and Sanmugam (1996). Compliance rates in the Free Trade Zones and in the 200 Garment Factory Programme appear lower at around 70 per cent. Jayaweera and Sanmugam (1996:30) found that compliance with nursing intervals was much lower: 40 per cent of employers did not allow their workers to have nursing intervals, but as half that number come under the Shop and Office Employees' Act and are not obliged to do so, actual non-compliance is around 20 per cent of the sample.

Have employers changed their recruitment patterns since the extension of maternity leave entitlements? Unfortunately, the data available does not permit a statistical analysis of this issue, but some inferences can be drawn from micro-level surveys. For example, although there is no published macro-level data on the age structure of female employees by sector, micro-level analyses reveal a preponderance of single, young, women workers. Abeywardene *et. al* (1994:34) found that in the three Free Trade Zones, 91 per cent of female workers were less than 30 years of age; the ACFFTU study (1995) puts the figure at 96 per cent and estimates the proportion of women aged between 15 and 25 years as 71 per cent (1995:9). In the 200 Garment Factory Programme the proportion of workers below 30 years was found to be 77 per cent (Heward 1997), and Jayaweera and Sanmugam (1993) found that 57 per cent of women working in manufacturing industries in Colombo were of similar age. As for the marital status of workers, Abeyawardene *et al.* found that 87 per cent of female workers in the FTZs were single. The ACFFTU study (1995) puts the figure at 91 per cent (1995:9); in the 200 GFPs the figure appears to be 64 per cent (Heward 1997), while 55 per cent of female workers in Jayaweera and Sanmugam's (1993) sample of manufacturing industries in Colombo were single.

Meanwhile, Jayaweera and Sanmugam's (1996) study shows that of 46 employers, only a little more than a quarter said that there was no gender discrimination in the recruitment of workers. 11 per cent stated specifically that there was a preference for young unmarried workers but 13 per cent of employers explicitly stated that maternity leave and benefits were a negative factor. 21.7 per cent of employers said that they preferred to recruit unmarried women workers or those with

older children because married women had family responsibilities and had a high propensity to take leave (ibid. 37-38). In an earlier study by the same authors of female employment in manufacturing industries in Colombo, nearly a third of employers cited greater female absenteeism (presumably related to their childcare roles) as the main reason for not wanting to employ more female workers [Jayaweera and Sanmugam 1993:Table 2.18(b):30)].

Table 4.5: Compliance With Legislation Relating to Maternity Benefits

Benefit	Name of Study	Location	Sample size	Compliance rate (%)
Maternity benefits	Abeywardene et.al. (1994)	Katunayake, Biyagama and Koggala FTZs.	101 women	69.7 of workers
	Jayaweera and Sanmugam (1993)	50 manufacturing firms in and around Colombo.	400 women	62.3 of workers.
Maternity Leave	Jayaweera and Sanmugam (1996)	46 private and state sector manufacturing and service establishments.	225 married women, 294 births	97.3 per cent of births
		14 rural and urban residential locations.	285 married women, 344 births	98.8 per cent of births.
		Private sector employees of above samples only.	260 women	93 per cent of births
	Heward (1997)	32 factories belonging to the 200 Garment Factory Programme in 9 districts excl. Colombo.	145 women	66.9 per cent of workers
	CENWOR (1993)	62 establishments in coconut-based, food processing, ceramics and bricks, toxic chemicals, lapidary	398 women	13.7 per cent of workers before birth 25.2 per cent of workers after birth.
Nursing Intervals	Jayaweera and Sanmugam (1996)	46 manufacturing and service establishments.	46 employers	20 per cent of workers who were entitled (see text).
Nature of Work	Jayaweera and Sanmugam (1996)	46 manufacturing and service establishments.	510 married women	22.2 per cent of workers who were entitled.
		14 rural and urban residential locations.		

The available evidence does seem to suggest that the legislation relating to maternity benefits is working against the employment of married women. However, supply-side factors cannot be ignored. Although macro-level data on the marital status of female labour force participants is not available, the majority looking for work (57 per cent), are less than 24 years of age. As the average age of marriage among Sri Lankan females is 25 years, these job seekers are presumably unmarried, and 'spend a substantial number of post-pubertal but premarital years in which paid work is a likely and distinct option' either to help with the family finances or build a nest egg for their own immediate and future needs (Malhotra and DeGraff 1997:381). Thus, the preponderance of young single women in manufacturing employment could be partly explained by the demographic characteristics of females who are seeking work, not on a long-term basis but as an interim measure before getting married and 'settling down'.

However, legislation related to maternity benefits is likely to be a more important factor inhibiting female employment in more long-term employment. Thus, in the move from assembly-type light industries to more sophisticated production processes where skills and experience count, women's employability may be adversely affected, not just in terms of their lack of necessary skills, but also due to maternity benefit legislation. Therefore, in order to ensure that women stand as good a chance at employment as men in a more sophisticated industrial environment which is likely to come with economic growth, not only should their technical skills be developed, but the maternity benefits legislation may also need reform. The current system individualises women's burden of social reproduction, by imposing the cost of maternity leave on individual employers. As has been noted by many observers, this is a recipe for discrimination against female employees, and creates distortions in markets by imposing a quasi production tax on some enterprises but not on others. As an alternative, Palmer (1995:1985), for example, suggests that the cost of maternity leave should be socialised by levying a tax of a percentage of value added on all enterprises, regardless of the ratio of men to women among their employees. In the Sri Lankan case, the socialisation of maternity benefits can take the form of a rebate on the Goods and Services Tax that firms are liable to pay.

Feminist observers also point out that leave for child-rearing activities should not be restricted to only the female parent and referred to as maternity leave, but should be referred to as parental leave. They also argue that both parents should be entitled to it. However, while we certainly accept that both parents should share in child-rearing, it is argued here that at Sri Lanka's present stage of socio-economic development, only the mother should be entitled to claim leave,

particularly as a key reason for granting maternity leave is to enable the mother to breast-feed the infant, and rest and recover after childbirth. Moreover, given low income levels in the country, most working women will not be able to refrigerate breast milk in order that their husbands can stay at home and bottle feed their infants while they go off to work. A further advantage of breast feeding directly is that it carries the least risk of contamination unlike bottled milk.

4.5 Summary Conclusions

The focus of this chapter was on the holidays, leave and maternity entitlements of Sri Lankan workers and their implications for the non-wage costs of female labour. It was shown that holidays and leave entitlements vary widely across sectors, and that operative grades were the least privileged, being entitled only to between 81-87 days of non-working days per year, whereas workers in shops and offices are entitled to 120 non-working days per annum. It was concluded that as far as the private sector is concerned, workers' holidays and leave entitlements do not impose significant costs on employers. This is particularly the case because the premium rate payable on getting workers to work on holidays, being based on the low real value of the statutory minimum wage, is relatively low. Moreover, micro-surveys show that a significant number of employers do not comply with the regulations and exploit their workers with little fear of impunity.

With respect to maternity benefits too, although again not entirely uniform across sectors, the entitlements of Sri Lankan workers do not appear excessive, and are in keeping with ILO Conventions. Even so, they do impose some costs on employers, although with declining birth rates, these costs are also declining. Micro-level surveys indicate that employers tend to prefer employing young single women in order to get round the problem. There also appears to be a considerable degree of non-compliance with the regulations. As the cost of maternity entitlements are borne by the individual employer, it may make sense to socialise the cost through a rebate on the GST in order that women's chances of employment are not prejudiced on account of their maternity benefit entitlements.

Chapter 5: Job Security, Sub-Contracting and Working Hours

5.1 Introduction

Observers note that the globalisation of trade has been associated with the explicit and implicit erosion of labour regulations and an increasing 'flexibilisation' of the labour force. Firms everywhere are reducing their reliance on full-time wage and salary workers earning fixed wages

and various fringe benefits, and increasingly resorting to casual, temporary, part-time sub-contracting and contractual workers, eroding employing and income security (Standing 1989).

Sri Lanka is well known for the stringent laws that protect the job security of workers and regulate other terms and conditions of work. Employers argue that many of these regulations were enacted during the period of import substitution, and that they are inappropriate for an open economy. They argue that a firm's competitiveness in the market economy depends on how rapidly and cheaply it can move resources in, around and out of the production process in response to price signals in both input and output markets. Hence, job security and other regulations are seen as constraining the capacity of a firm to adapt its production structures to meet changing demand.

How restrictive are the Sri Lankan regulations, and to what extent have they been eroded in recent times? In particular, what are the implications of the regulations and their erosion for women workers?

This chapter reviews the existing legislation governing dismissals, retrenchment, sub-contracting and hours of work, assesses their implications for an outward-oriented economy, and examines the extent to which they apply in practice. It also addresses the question whether regulations designed to protect women workers, in particular those relating to hours of work, have the unintended effect of prejudicing their chances of employment.

5.2 Retrenchments and Dismissals

An employer may wish to terminate the employment of his or her employee because of disciplinary reasons, or else because the employee is redundant, is incompetent, or because the employer has to close down his business (non-disciplinary termination). However, the conditions under which the employer can fire his or her workers in both these cases are set out in law. This section looks at termination on non-disciplinary grounds is looked at, and examines the conditions under which employers can terminate their workers on grounds of misconduct are examined.

Termination on non-disciplinary grounds

In Sri Lanka, this is covered by the Termination of Employment of Workmen *(sic)* (Special Provisions) Act No 45 of 1971 (TEWA), which is the most controversial piece of labour law on the statute books. It requires that the employer obtain the written consent of an employee or the prior

written approval of the Commissioner of Labour, before terminating employment of a worker who has worked not less than 180 days in the preceding 12-month period. In the latter case, the Commissioner of Labour stipulates the amount of compensation that the employer is liable to pay for the worker's loss of employment, depending on the circumstances of each individual case. Where an employer terminates the employment of a worker in breach of the Act, such termination is illegal, null and void and is of no effect whatsoever.

Analysts argue that job security regulations such as the TEWA can have an adverse impact on economic performance due to the following reasons.

1. Employers become reluctant to hire workers because terminating their employment on grounds of retrenchment in order to restructure firms, and rectifying mismatch between hired workers and their job demands prove costly in terms of time and money (in Sri Lanka this is entirely at the discretion of the Commissioner of Labour); and,
2. Job security regulations have a negative effect on the productivity of workers by allowing them to shirk on the job as there is little chance of dismissal; by preventing firms from making on-the-job evaluations of their workers; and by encouraging the use of temporary workers who acquire fewer firm-specific skills. On the other hand, golden handshakes encourage better workers to leave as they are more likely to find new employment while the firm is left with less efficient workers.

Although the dearth of relevant time-series data in Sri Lanka has made it impossible to test these hypotheses with respect to the Sri Lankan case, there is considerable international evidence to prove the case that such laws have a dampening effect on labour demand. Lucas and Fallon (1993:269), for example, estimate that the weighted average drop in the long-run demand for employees at given output levels in India and Zimbabwe due to job security regulations were 17.5 per cent and 25.2 per cent respectively.

Even so, fragmentary evidence from Sri Lanka reveals that the TEWA is creating serious distortions in labour use decisions, which in turn have adverse effects on workers. At present the law is not even achieving its original purpose of providing job security for employees included in its coverage, because most firms have found ways to evade the implications of the Act. Some of these ruses are as follows:

a) employing probationers and temporary workers who are not covered by the Act;
b) sub-contracting much of their production processes to industrial units with less than 15 workers that do not come under the Act;

c) resorting to overtime or part-time staff to make up the labour shortfall;

d) fabricating 'evidence' of theft or some other type of misconduct and ridding themselves of the worker on disciplinary grounds;

e) forcing voluntary resignations by making it uncomfortable for the employee to work in the establishment;

f) making sure that workers sign undated letters of resignation before recruiting them to the organisation;

g) in the Free Trade Zones employers often withdraw the workers' identity cards so that they can no longer enter the Zone;

h) there have also been one or two cases where employers have allegedly set fire to their factories and forced their closure (termination due to frustration of contract) to evade the implications of the TEWA.

When one considers the impact of this law on female workers, a key question that arises is whether female workers stand to lose or to gain as a result of the distorting effects caused by the TEWA? The answer would depend on whether female labour can be substituted easily for male labour in that industry, or whether the industry depends almost entirely of female labour because of its inherent characteristics.

Where female labour can substitute for male labour, one can expect to see firms resort to more part-time labour by females to make up the labour shortfall. This is because,

* females tend to work fewer hours than men - macro-level data shows that the proportion of males working less than 29 hours per week is a little more than two thirds the proportion of women working less than 29 hours (see Table 2.11); and
* they are often secondary earners and more willing to settle for a lower wage and fewer benefits as temporary or part-time workers.

If the majority of women working part-time or as temporary workers do so as a matter of choice, (perhaps so that they can devote more time to their family responsibilities), then it could be argued that they gain from the distorting effects of the TEWA. But on the other hand, if women are looking for longer hours and permanent jobs, the TEWA may well be depriving them of such opportunities and instead, be forcing them to take up part-time and temporary work. The Act is also likely to have a 'casualising' effect on labour - employers may recruit workers on a 'casual' basis, but really expect them to carry out work of a permanent nature. They can be required to work for 180 days within a twelve-month period, laid off, and thereafter re-recruited after a

suitable grace period. As 'casual' workers, women would be deprived of maternity benefits as the Maternity Benefits Ordinance only covers workers carrying out work of a permanent nature. Hence, ironically, the TEWA may be inadvertently creating the flexible job structures that have been associated with globalisation elsewhere.

The Act is likely to have a different impact on women workers in 'feminine' industries offering permanent employment opportunities. There, employers are far more likely to resort to ruses such as making them sign undated letters of resignation before recruitment, and preventing their entry into the factory premises if they are located in the FTZs, when they want to fire them. Besides, as females are vulnerable to sexual harassment, it should be relatively easy for an employer to make it impossible for the female employee to work in the establishment and so force voluntary resignation. Meanwhile, some employers terminate their workers regardless of the provisions of the Act, about which the majority of workers, especially in the non-unionised sector, are not even aware of. Thus, mainly due to inadequate monitoring and enforcement, not only is the TEWA failing to provide any sort of job security for the majority of employees, but the distorting effects created by employers seeking to evade the law are helping to casualise women workers and deprive them of the many benefits that permanent workers are entitled to. They have also increased the vulnerability of women to harassment.

Termination on disciplinary grounds

An employer may also terminate an employee's services on grounds of misconduct. Such terminations are covered by the Industrial Disputes Act No. 43 of 1950 as amended and apply equally to both men and women. Thus, habitual absence in violation of procedure, refusal to comply with an order to perform a normal duty, dishonesty, vindictiveness towards fellow employees causing general dissatisfaction, are justifiable bases for dismissal on grounds of misconduct.

An employee, when thus dismissed, has the right of appeal to a Labour Tribunal for redress within six months of the termination. Tribunals are required to inquire into the application of the worker and hear all evidence as it may consider necessary. Thereafter it can make such order as may appear to the Tribunal to be just and equitable. Three remedies are available for unjustified dismissal. The Tribunal can order reinstatement with full back wages; it can order the payment of compensation as an alternative to reinstatement; and where the employer has employed less than 15 workers, the Tribunal can additionally order the payment of gratuity to the employee.

Employers have long been resentful of the power of Labour Tribunals to order the reinstatement of employees found to have been unjustifiably dismissed. They argue, perhaps with some justification, that Labour Tribunals often order reinstatement without due consideration of its effect on industrial relations in the enterprise.[32] However, their demands that the power of the Tribunal to order reinstatement be removed and it be empowered to order compensation only cannot be justified. A more sensible way to deal with this issue would be for the Tribunal to take as a matter of course the pragmatic approach taken by Industrial Courts in Malaysia which do not order reinstatement where it would not be in the interests of "industrial peace in the establishment" (Nithiananthan 1986:57). Moreover, even at present, employers can appeal to the higher courts against the decision of a Labour Tribunal if they do not wish to reinstate the worker (Gunatilaka and Kelegama 1996).

A second issue raised by employers is that the Industrial Disputes Act does not lay down the basis on which compensation for unjustified dismissal should be calculated. Therefore, compensation is generally calculated on a case-by-case basis on the discretion of the Labour Tribunal Presidents. Employers complain that the culture of the Labour Tribunal is such that the majority of presidents work on the basis that the employee has a right to some compensation for losing his job, *whether or not termination was justified*. A comparison of the Sri Lankan system with those of other countries confirm that although the system here is based on extreme flexibility in terms of the law, it is not the ideal in terms of predictability and the basing of business decisions. Therefore, there is some justification for introducing some predictability into the system of determining compensation, and calculating it according to a formula.

The third issue does not arise from the legislation, but from its implementation, and is cause for complaint by both employers and employees. The Labour Tribunal system which was originally set up to provide cheap and speedy redress for workers is now subject to inordinate delays. For example, Weerakoon's (1996) survey of applications received by the Labour Tribunals between January 1985 and September 1995 reveals a total settlement rate of only 28 per cent. Unfortunately there is no gender-disaggregated data on applications, but it is quite likely that relatively more men than women are encouraged to seek redress at the Labour Tribunals because

---

[32] For example, see Amerasinghe (1992:37).

they can more easily access legal advice, are more mobile and have wider contacts. Reasons advanced for delays in the system are as follows:

a) cases being heard piecemeal with long intervals in-between;

b) the LTs not having any mechanism to enforce its own awards unlike a Court;

c) dates being given to accommodate counsel who have more lucrative practices in the civil courts and who tend to give low priority to tribunal matters; and,

d) appellate courts taking an excessively technical view of LT appeals and penalising workers for procedural failures without looking into the merits of the case (Gunatilaka and Kelegama 1996).

Employers complain that they the delays associated with the LT system has meant that they have to incur significant costs in terms of time and money in order to be rid of a worker and to reorganise their business. Even so, they are better able to absorb such costs than are employees, particularly if they have failed to find other employment. The delays in the LT system have encouraged workers to increasingly resort to strike action on termination issues. For example, in 1995, roughly 35 per cent of all strikes in private establishments were explicitly related to issues of suspension and termination.[33]

Several measures have been put forward to overcome the problems inherent in the current Labour Tribunals. They merit serious consideration:

a) a 'pre-inquiry' stage, where a separate functionary (with power equivalent to a Labour Tribunal President) settles technical objections, matters and documents not in dispute prior to the enquiry proper;

b) expansion of the tribunal's powers to compel attendance of witnesses and to enforce its own awards;

c) empowerment of the Tribunals to punish offences under the Industrial Disputes Act (at present only the Labour Commissioner can prosecute and has to turn to the Magistrate's Court where they are caught in the general backlog of work);

d) that appeals on questions of law be referred to administrative tribunals (comprising persons experienced in industrial law) to streamline the appelate process; and,

e) that the Industrial Disputes Act be amended so that the tribunal can consider evidence or circumstances beyond an immediate contract of employment (Alagaratnam 1996).

---

[33] Data from the Industrial Relations Division, Department of Labour.

5.3 Sub-contracting

World-wide, production technologies have become more sophisticated, and also more easily accessible. This has resulted in the splicing of the production process so that sub-components are manufactured in different locations, according to their comparative advantage. This helps reduce the costs of production and ensures the competitiveness of the final good.

Sub-contracting is an integral part of the production process of many Sri Lankan firms, and as the Sri Lankan economy integrates further with the international economy, we can expect to see more sub-contracting taking place, if firms are to remain competitive. There is little data to show the extent of sub-contracting in Sri Lankan industry, but anecdotal evidence suggests that sub-contracting comprises a significant component of the business activities of many firms. A crucial question to ask is whether the legal framework is supportive of sub-contracting arrangements, or whether it poses restrictions on the ability of firms to sub-contract their work.

The lack of data is partly due to employers' reluctance to disclose information relating to this issue, principally because sub-contracting has become a ruse through which employers evade the implications of the Termination of Employment of Workmen (*sic*) Act No. of 1971. [34] A typical example is to dub the janitor as a 'sub-contractor' with the necessary documentation and to avoid his recruitment as an employee of the firm. At the same time, firms are increasingly resorting to 'putting out' work to home-based women workers in order to reduce overhead and other indirect labour costs.

What determines whether a worker is employed by the sub-contractor or whether he or she is really employed by the Principal? According to judicial interpretation, the common tests of an employer-employee relationship are as follows: control over work, ownership of tools, bearing the risk of profit or loss, self-performance, business interest, payment of wages, disciplinary right and whether the person is part and parcel of the organisation. If the relationship between two individuals meet a combination of these criteria (the presence or absence of any one factor is not conclusive), then the employer, whether he calls himself the principal or the sub-contractor, is liable to meet his statutory obligations under the law. Even so, relatively few cases come to court to be determined in this manner. The vast majority of employers escape detection: workers, particularly those in

---

[34] A literature search on sub-contracting undertaken for the present study failed to turn up any previous studies done on this subject. The exception was Jayaweera and Dias (1989). However, this study looks mainly at sub-contracting home-based workers. This group is not covered by the legislation, and therefore does not come within the scope of the present study.

establishments that are not unionised, are ignorant of their rights, and the Labour Department lacks the capacity to monitor and enforce the law.[35]

Meanwhile, the 1966 amendment to the Wages Boards Ordinance (Act No. 24 of 1966) has extended the liability for the payment of wages to the Principal. Section 59A (3) makes the employer liable for the non-payment of wages to the worker by the contractor in accordance with the Ordinance unless the employer is able to satisfy Court that the employer has taken all practicable measures to ensure that wages have been paid.

Clearly, the law has shifted the onus of ensuring the sub-contractor's compliance on to the principal employer. Principals, however, can just as easily shift the burden on to the sub-contractor. They can write into the sub-contracting agreement, clauses specifying that the sub-contractor shall pay wages and overtime payments as required by the Wages Boards' Ordinance, and maintain a record of such payments which they have the right to inspect whenever they like.[36] Hence, this law achieves little by way of protecting the interests of the sub-contractor's employees.

It appears that the Termination of Employment of Workmen *(sic)* (Special Provisions) Act of 1971 has mutated the genre of economic activity known as sub-contracting and cast it in a rather dubious light. In the meantime, the extension of liability for wage payments to the Principal under the Wages Boards Ordinance does not seem to be fulfilling any useful purpose: the Department of Labour is unable to monitor the majority of sub-contracting arrangements, and Principals have found alternative ways of covering their backs. Given the imperatives of globalisation, it would make sense to redefine the issue of sub-contracting and recognise it as a perfectly legitimate and essential economic activity in its own right. Efforts should be made to formalise such sub-contracting arrangements rather than encourage them to operate in the informal sector which is the *de facto* situation at present. The Government can consider the following reforms in order to bring about this transformation.

- Amend the Termination of Employment of Workmen *(sic)* (Special Provisions) Act of 1971 so that retrenchment is made less cumbersome, and the computation of compensation payments

---

[35] See 'Submissions of the Sri Lanka Business and Employers' Organisations on the Draft Employment Relations Act', op.cit. which alleges that the Labour Department has admitted that the problem with the provision on the Contractor's Liability is that it is unable to carry out proper inspections and bring the defaulters to book (1996:5).

[36] For more details see the section entitled 'Avoiding Liability' in Employers' Federation of Ceylon, *Handbook 1996*, pp 82-83.

made more transparent and predictable. Employers would then have no need to resort to dubious sub-contracting arrangements to evade the implications of the TEWA.

- Repeal Section 59A (3) of the 1966 amendment to the Wages Boards Ordinance Act No. 24 of 1966, which makes the employer liable for the non-payment of wages to the worker by the contractor.
- On recruiting a worker, whether on a permanent or temporary basis, or as an apprentice, the employer, whether he or she is the principal employer or a sub-contractor, should be required to issue a letter of appointment.[37] This must clearly specify the terms and conditions of employment. This would help define the sub-contractor as the employer of the worker and make him liable for the payment of wages and other entitlements.
- The Government has implemented a Goods and Services Tax system (the equivalent of a Value Added Tax system) since April 1998. This system requires proprietors of establishments to submit invoices of their input costs in order to get their rebates. This would serve to further define employer-employee relations in sub-contracting arrangements, and draw the sub-contractors into the tax net and into the formal economy.

5.4 Hours of Work and Overtime

Statutory conditions relating to hours of work, overtime and night work are set by the Shops and Office Employees' Act, the Wages Boards Ordinance and the Employment of Women, Young Persons and Children, the Factories and the Shop and Office Employees' Act (Regulation of employment and Remuneration (Amendment) Act No. 32 of 1984. They are summarised and set out in Table 5.1.

It can be seen that there is little uniformity in the legal conditions relating to statutory hours of work whether between males and females, or between operative and non-operative grades. On the whole, those relating to male blue collar workers are the least restrictive, and those relating to female white collar workers the most protective. While male operatives work an 8 hour day, with no restrictions on either overtime or night work, female non-operatives can work no more than 9 hours a day including breaks and only during the day (between 6.00 a.m. and 8.00 p.m.) other than in certain occupational categories. Females in the operative grades, however, may be required to work overtime (for which they are paid at 1.5 times the hourly rate during the day - men are entitled

---

[37] In a sample survey of 330 regular female workers in the manufacturing sector in and around Colombo, Jayaweera and Sanmugam (1993) found that only 28 per cent had been issued with a written contract of employment, while 65 per cent had no contract at all (1993:49). In the Free Trade Zones, Abeywardene et. al. (1994:38), found that only 17 per cent of the men and 39 per cent of women had written contracts. A provision requiring employers to provide workers with a written contract has already been made in the Workers' Charter. It needs to be made into law.

Table 5.1: Statutory Hours of Work for Operative and Non-Operative Grades in Sri Lanka

	Operative Grades Wages Boards Trades		Non-Operative Grades Shop and Office Employees	
	Males	**Females**	**Males**	**Females**
Working hours	9 hours a day or 45 hours a week. No restrictions on overtime work.	No more than 9 hours in any one day excluding breaks or more than 48 hours per week except in the following circumstances: •that the employee is at least 16 years; •that total hours including overtime does not exceed 10 hours in any one day; •that the period of employment including intervals does not exceed six hours a week and 100 hours in any calendar year.	8 hours a day or 45 hours a week.	8 hours a day or 45 hours a week. No more than 9 hours a day including breaks.
Overtime	No restrictions.	Overtime should not exceed 6 hours a week, or 25 weeks in any calendar year, or 100 hours in any calendar year.	No more than 12 hours in any one week.	Female non-operatives cannot be employed on overtime other than in certain types of employment - (see below).
Night work	No restrictions on night work.	Night work permitted in an industrial undertaking or factory only subject to following conditions; •that the female is not compelled to work against her will; •that the written sanction of the Commissioner of Labour is obtained; •that the female has not been employed on the particular day between 6.00 a.m. and 6.00 p.m.; •that there are female wardens appointed to see to the welfare of females who work at night; •that rest rooms and refreshment are provided by the employer; •that no female can be employed on more than 10 days of night work during any month.	No restriction on night work.	Not before 6 a.m. or after 8.00 p.m unless over 18 years and employed in a hotel, restaurant or airport as one of the following categories of workers: •receptionist •ladies' cloakroom attendant •ladies' linen room attendant •ladies' lavatory attendant.

Source: Employers' Federation of Ceylon (1997), *Handbook 1996.*

to the same rate) but not more than 6 hours a week. It can be seen therefore, that while the law is more protective towards women workers than males, it is more protective towards female white collar workers than towards female workers in trades.

However, laws aimed at protecting women may have the unintended effect of biasing employers' decisions against them. As far as employers are concerned, it is far less restrictive and costly to employ a male in an industrial undertaking than a female. It can also be argued that the provisions relating to overtime by female workers, though intended to protect them, can, in effect, set a ceiling on the amount that female workers can earn on overtime, which is less that those which males are entitled to. For example, while there is no restriction with regard to overtime work for males under the decisions of the Wages Boards, females cannot work overtime more than 6 hours a week or 25 weeks or 100 hours in any calendar year. This is likely to constitute a substantial economic loss; for example, in the ACFFTU (1995) study of the 3 Free Trade Zones, it was found that overtime payments (it is unlikely that overtime was restricted to 6 hours a week for the sample - see below) amounted to 16 per cent of the average monthly wage of female employees (Appendix, p 26:Table 46).[38]

How do these entitlements compare with those of workers in other countries? Going by the available information, other than for night work, the law on working hours and overtime in several Asian countries do not seem to differentiate between men and women. According to the provisions set out in Table 5.2 below, the length of Sri Lanka's working is equivalent to almost all the other countries in the sample, although the working week is three hours shorter than in the other countries with the exception of China and Indonesia. However, the Sri Lankan law does not specify a shorter working week for dangerous work, unlike in Indonesia, Thailand and Viet Nam. Also it may be noted that regulation on overtime and night work for male operatives is far less restrictive in Sri Lanka than in all the other countries with the exception of India and Thailand. The premium on overtime too is equivalent to those operating in other countries (see Section 4.2 in Chapter 4 above). However, the provisions relating to overtime work of women employees appear to be far more restrictive than the general provisions prevailing in other countries.

---

[38] Recently, the Cabinet of Ministers is said to have approved a Memorandum presented by the Minister of Labour that Sri Lanka should be a signatory to ILO Covenant No. 3 which specifies the non-discrimination of persons on account of sex, race, colour, religion etc. Accordingly, in line to be amended is the 'discriminatory' provision in the Factories Ordinance that limits the maximum number of overtime hours that women can work to 100 hours per month (*Daily News*, 22 May 1998).

Table 5.2: Regulations on Working Hours and Overtime in Selected Asian Countries 1995

	Normal Hours of Work	Hours prohibited	Overtime	Premium Pay	Compensatory time off
Bangladesh	48 hours per week	20.00-7.00 in factories and shops 19.00-6.00 in plantations	10 hours per day, 60 hours per week including overtime.	100%	None.
Cambodia	8 hours per day, 48 per week.	22.00-6.00	2 hours overtime per day;10 hour working day, including overtime.	--	1 for weekly rest day.
China	8 hours per day, 40 hours per week.	19.00-6.00 in factories, plantations, mines above the ground 21.00-5.00 in catering.	1- 3 hours per day, or 36 hours per month in special circumstances.	50% for overtime on a week day, 100% during weekly rest day, 200% on public holiday.	Compensatory time off for weekly rest day.
India	9 hours per day, 48 hours per week.	18.00-6.00	6 hours per week in public enterprises.	100% in factories, mines, beedi and cigar industries.	None.
Indonesia	7 hours per day, 40 hours per week. 6 hours per day and 35 per week for dangerours work.	22.00-5.00	Maximum 54 hours per week including overtime. Prohibited in dangerous work.	50% for 1st hour, 100% thereafter on week days. 100% on weekly rest day and public holidays.	None.
Malaysia	8 hours per day, 48 per week.	24.00-6.00	4 hours per day or 104 per month. Maximum 12 hour working day including overtime.	50% on week day, 200% on weekly rest days and public holidays.	None.
Thailand	48 hours per week in manufacturing. 54 hours per week in commerce. 7 hours per day and 42 hours per week in hazardous occupations.		No conditions.	50% during weekday, 100% on public holidays, 20% for overtime on public holidays.	None.
Viet Nam	8 hours per day, 48 hours per week. 1-2 hours less for harmful work.		4 hours per day, 200 hours per year.	50% on week day, 100% on weekly rest day or public holiday.	Compensatory rest for additional hours worked plus additional wage.

Source: ILO (1995), *Conditions of Work Digest: Working hours around the world*, Vol 14, 1995, ILO Geneva.

Even so, is it possible to conclude that the restrictive provisions relating to women's hours of work act as a brake on female employment? Going by the data on hours worked per week by male and female workers, males appear to put in longer hours than females. For example, it can be seen from Table 2.11 in Chapter 2 that 36 per cent of both males and females work between 40 and 49 hours, but a considerably greater proportion of males than females put in more than 50 hours a week. Even in manufacturing, 23.6 per cent of males put in more than 50 hours whereas only 17.5 per cent of female workers work the same hours. However, the reason for this could well be the nature of the work carried out by men, and not necessarily due to the legal restrictions on male and female workers' hours of work. For example, in the transport, storage and communications sectors, a male-dominated sector, the proportion of males who work more than 50 hours a week is nearly three times the proportion of females who put in similar hours in that sector. But at the same time, many women may be working fewer hours through choice, in order to devote time to their household responsibilities. Here again, the lack of data precludes our reaching any firm conclusions on this issue.

Meanwhile, micro-level surveys reveal that statutory requirements on working hours do not have a significant impact on the hiring decisions of firms as they are disregarded on a significant scale. For example, Heward's (1997) study on workers in the 200 Garment Factory Programme reports that 58 per cent of the total sample had to work up to seven days in a row from 8.00 a.m. to 3.00 a.m. (and then resume work again at 8.00 a.m.) or non stop (6.00 a.m. to 6.00 a.m. was considered one day's work) for 3-4 days to finish large or emergency orders (1997:20). The interviewees had also commented that if they had to work extra hours in order to finish their daily target, they were either not paid overtime rates, or not paid at all, as penalty for not completing their targets. As for overtime payments in general, 45 per cent were paid at 1.5 times the normal rate, 23 per cent had been paid at the normal rate, and 9 per cent had been paid double. But significantly, three fourths of the entire sample were not aware of any legislation relating to the statutory hours of work (*ibid.*). The study also found that in many districts (Badulla, Galle, Kurunegala, Moneragala, Nuwara Eliya, Puttalam) managers fined workers (illegally) for refusing to do extra overtime (1997:24).

In the ACFFTU (1995) study of the 3 Free Trade Zones, 31 per cent of 1175 interviewees were required to work more than 30 hours of overtime during the preceding month, in clear violation of the regulations. 4 per cent had worked more than 70 hours overtime during this period, and of this number, nearly 77 per cent were from the Katunayake FTZ (1995:Appendix:10;TAble 17). The

study also found that 89 per cent of the sample had been required to work overtime without payment (ibid.:Table 19). Officers in the Department of Labour confirm that compliance with statutory working hours and overtime payments is low in the Free Trade Zones as well, despite their record on superannuation benefits being relatively favourable.

Thus, there is clear evidence that the expansion in women's participation in exporting industry has been accompanied by significant erosion of labour regulations. It also reflects the state of industrial relations within each firm, when employers can flout the law with impunity and exploit them unconscionably.

5.5 Women's Night Work

The provisions on night work for women have been in effect since 1984,[39] and follows a denouncement of ILO Convention No. 89[40] which Sri Lanka had ratified earlier (see Table 5.1). They are far less restrictive than those which prevailed prior to the amendment, which prohibited the employment of women workers in factories and industrial undertakings between 10.00 p.m. and 5.00 a.m. This effectively ruled out the employment of women on the night shift.

How do these provisions compare with conditions governing women's employment in the night in other countries? It can be seen from Table 5.3 that while some sort of prohibition on women's night work exists in all the countries in the sample, the coverage of the prohibition is limited in almost all the cases. For example, only pregnant women are prohibited from undertaking night work in China, while in Thailand, the exemptions seem limitless. Prohibitions on night work seem most restrictive in Indonesia, probably due to the Islamic cultural influence which is more protective towards women. However, in none of the other countries does there seem to be the kind of differential treatment of blue collar and white collar workers that is prevalent in Sri Lanka. Note that the relevant laws in Bangladesh and Malaysia are more protective towards poorer, blue collar workers.

---

[39] The prohibition of night work was revoked by Section 2A of the 1984 Amendment to the Employment of Women, Young Persons and Children's Act No. 47 of 1956.

[40] The Convention prohibits the employment of women workers in factories and industrial undertakings between 10 p.m. and 5 a.m.

Table 5.3: Prohibition of Night Work for Women in Selected Asian Countries (as at 1987)

Country	Hours Prohibited	Coverage	Exemptions
Bangladesh	20.00-7.00 in factories and shops. 19.00-6.00 in plantations	All women except midwives, medical officers on plantations, managers and those earning more than Rs. 500 per month.	Shops and offices employing less than 5 persons, hostels, nursing homes, government offices.
China	22.00-6.00	Pregnant women.	
India	19.00-6.00 in factories, plantations, mines above the ground 21.00-5.00 in catering.	All women except medical officers in plantations, those earning more than Rs. 750 per month, managers, temporary workers in construction, midwives, nurses.	Partial exemptions (22.00-5.00) in factories under Provincial Government and in mines above the ground under the Central Government..
Indonesia	18.00-6.00	All women except where the nature, place and condition of work dictate that the work must be performed by women.	Exemptions can be made where it is in the public interest.
Malaysia	22.00-5.00	All women earning less than 1000 ringitt per month or are engaged in casual labour.	Up to 1.00 for women conductors of public service vehicles, shift work where hours are approved by the Minister.
Thailand	24.00-6.00	All women except government servants, shift-workers, work that must be performed in the night by the nature of the work.	If such work is detrimental to the health and safety of women, the Director General of the Department of Labour can order the employer to change the working hours.

Source: ILO (1987), *Conditions of Work Digest: Women Workers, Protection or Equality?* Vol 2, 1987, ILO Geneva.

Although the law has now been amended, opinion is divided on the benefits of the amendment, particularly for women. For example, Goonesekere (1990:8), regards it as a 'dubious privilege' offered to women, though one that men have always been entitled to. But Coomaraswamy

(1990:135) recognises the dilemma between 'advancing women's rights' and 'lessening the level of social and economic exploitation'. Coomaraswamy reaches this conclusion by assessing the findings of two surveys: the one by the Department of Labour (1980) found that 95 per cent of females surveyed were opposed to working at night;[41] and the survey conducted by the Women's Bureau which showed that a vast majority of women want to work at night for economic reasons. The latter, which was carried out under the auspices of the Ministry of Plan Implementation, made a strong case to permit women to work on the night shift (Cabraal and Shanthikumar 1981:1-2). But although the survey disclosed some areas of concern about the conditions under which night work was permitted, the study as a whole glosses over these and makes few policy recommendations based on these issues.

Yet, the results of the survey reveal the extent of the dilemma (Cabraal and Shanthikumar 1981:24-25). Of a total of 1087 female participants, 64 per cent definitely wanted to take up paid employment. Of these women, the majority (71 per cent), sought employment purely for economic reasons. On the question of night work, 34 per cent of the total were willing to consider working in the night if the opportunity were afforded them. 83 per cent of the total sample agreed with the statement that additional financial income would be the most powerful factor which would induce them to take on night work, but 82 per cent maintained that not working at night was necessary for household peace and unity.

But 40 per cent of the total sample firmly declined night work and 66 per cent of women agreed with the statement that night work was not safe.[42] Of the total, 55.7 per cent felt that family, children and other responsibilities would be a barrier to being employed in the night. But since the majority of women seeking employment are young and single, these considerations are likely to be limited to married women seeking work. 77 per cent of the sample considered transport difficulties as an important factor in their decision not to engage in any night employment.

Key conclusions which emerge from these results are that women seek employment, and night employment, mainly due to economic factors; but that the impact of night work on family life and

---

[41] Department of Labour – Survey on Night work, October 1980, cited in Coomaraswamy (1990:135).

[42] However, Perera's (1997) recent survey-based study of the safety of female workers in the FTZs indicate no significant difference in vulnerability during the night shift compared with occurrences in the day. In fact, the proportion affected at night was 43 per cent as against 57 per cent on the day shift. This was the pattern in all three zones. However, the incidence of severe physical harassment was highest at Biyagama at night (1997:7).

cultural norms, transport constraints and fears for their personal safety discourage women from undertaking such work. But whether a woman actually undertakes night work depends on the cost-benefit calculus that she faces, whether the benefits in terms of additional income, and perhaps even in terms of getting employment at all, outweighs the considerable risks she has to face, both in terms of family life and personal safety. Of course, these risks vary according to the local environment: some areas may be more unsafe than others.

Clearly, the decision to denounce the ILO Convention and permit women's employment at night has been based on creating a capital-friendly investor climate more in line with that prevailing in other countries, and also, perhaps, on the recognition of the individual woman's right to choose. There are other considerations that work in favour of this decision. For example, in industrial undertakings operating a third shift, restrictions on the employment of women on overtime and night work are bound to skew the recruitment choice in favour of males,[43] who have the added advantage of being generally more skilled in plant and machinery related operations. It could be argued therefore, that protective legislation related to women's working hours may have served to confine them to low skilled work, among other factors.

But the social costs of night work for women cannot be ignored. However, the solutions to these problems do not lie within the scope of labour law, not least because it is virtually impossible to ensure compliance with the legislation in the absence of strong and effective unions. As for the legal conditions under which night work is permitted in industrial undertakings, the majority of them are vague (for example, the law does not specify the number and nature of rest rooms and the nature of refreshments), and others are practically unenforceable (for example, although a female cannot be compelled to work at night against her will, there is no specific provision requiring that her written consent be obtained). Moreover, continued refusal to work at night may be interpreted as amounting to misconduct, similar to refusing to do overtime. In that case refusal to work reasonable overtime when conditions require may amount to misconduct unless an acceptable explanation for such refusal is given. Thus, between the desperate need of a job and the hurly burly of the factory floor, night work becomes an implicit term of employment, regardless of the fine points of the law. Ensuring favourable conditions for women's night time employment in such circumstances then becomes a matter for industrial relations within firms - the genuine

---

[43] This has been the case in Unilevers, where increased mechanisation (for example, in packaging) and the introduction of a third shift has led to a significant shift in the gender composition of the workforce which has favoured men. The workforce at Unilevers is now predominantly male.

representation of workers' concerns by their elected representatives, and enlightened management practices. It can also become an issue which influences consumer demand in a competitive environment. These issues will be examined further in the following chapter.

However, the impact of night work, or any work for that matter, on family life, is beyond the scope of Government policy and is up to individual female workers to base their decisions on. But the Government can do much to equalise the employment opportunities for women workers, not only by amending the law to permit them to work at night, but by ensuring a reliable transport service which would ensure that women workers can travel to and from work relatively safely.

For example, the study of workers in the FTZs by the ACFFTU found that 39 per cent of women workers walked to and from work; 56 per cent travelled by bus, and only 4 per cent were provided transport by their companies (1995:Appendix p 15: Table 26). Although there is no data regarding the distance which female employees who walk to work have to cover, the study found that 20 per cent resided less than 2 miles from the work-station, while 78 per cent of those interviewed had to travel at least 6 miles to get to work (ibid. p14;Table 25). The data implies that when working at night, a significant proportion of women are forced to walk home a fair distance, thus placing themselves at considerable personal risk. Therefore, the government may consider granting a tax rebate to firms which either provide their workers with transport, or have a contract with the nearest peoplised bus depot to provide the necessary service, or provide hostel facilities for their workers.[44] In addition, non-governmental organisations working in the area, and employers themselves, may be encouraged to provide female workers with training in self-defence.

At the moment, the law suffers from a distinct class bias as it bestows certain rights on one group of Sri Lankans based on their occupational status, while denying them to another group of a different occupational category. The Government can consider amending the laws so that there is greater uniformity in the entitlements of different groups of workers.

5.6 Summary Conclusions

This chapter looked at the implications of labour legislation relating to job security, sub-contracting and hours of work. The analysis concluded that the Act governing retrenchment is

---

[44] The government appears to have already taken some steps in this direction. According to the recommendations of a high-level committee appointed to look into the safety and welfare of women workers at Katunayaka and Biyagama export processing zones, hostels, recreation facilities and transport facilities are to be provided through a township development programme (*Daily News* 14 May 1998).

having a distorting impact on the labour market to which women workers appear more vulnerable. The Act needs to be amended in such a way that retrenchment is made less cumbersome, and that compensatory payments are calculated according to a transparent formula.

It was also argued that the law relating to sub-contracting be amended so that sub-contracting is transformed from being a ruse through which employers evade their statutory obligations, to being a legitimate economic activity in keeping with international production trends. It was recommended that the law be amended so that employers are required to issue letters of appointment which would help identify them as such, regardless of whether they are the sub-contractors or the principals.

There is little uniformity in the provisions relating to statutory hours of work, overtime and night work of males and females, workers in shops and offices and those in industrial undertakings. Non-operatives, both male and female are more protected than operatives, female white collar workers are the most protected, while male blue collar workers are the least protected. On the whole, the Sri Lankan provisions relating to operatives are not restrictive when compared with other Asian countries, but the case is different for white collar workers. But the laws governing women's working time and night work place them at a disadvantage and at least theoretically preclude their being employed in any regular shift work.

However, the analysis finds that many of the restrictive regulations do not apply in practice, and that therefore they are unlikely to have exerted a depressing effect on the employment of female labour. Employers can and do flout the ceilings on overtime and conditions of night employment with apparent impunity, and this situation is likely to continue where labour is unorganised. However, the social costs of the implicit weakening of legislation are likely to be considerable.

This chapter argues that the solution to this lies not with restrictive legislation, but with policies aimed at providing a safe and regular transport service for women workers, and bringing about a more co-operative industrial relations climate at the level of the enterprise. These themes will be expanded in the chapters to follow.

Chapter 6: Labour Productivity, Management Practices and Working Conditions

6.1 Introduction

The productivity of labour is a popular measure of the efficiency of labour use in the production process, and is usually denoted as output per unit of labour input. Labour input should ideally be measured in terms of person hours worked. However, the absence of data on work hours has encouraged researchers to substitute with the number of employees instead, on the valid assumption that there have not been any significant changes to standard working hours or to the relative importance of part-time employment in total employment (Athukorala 1997). A faster rate of labour productivity growth than those of one's trading partners is crucial for the international competitiveness of domestic products. Paradoxically, the rate at which productivity grows determines the rate of job creation: higher labour productivity means greater profits, which, if invested productively, stimulates greater demand for labour. Likewise, the rate of productivity growth must exceed the growth rate in real wages if real wage growth is not to erode the competitiveness of industry.

As noted in Chapter 3, Athukorala's (1997) study on labour shows a favourable rate of productivity growth in Sri Lanka's private manufacturing sector: between 1981 and 1993, labour productivity in private sector manufacturing grew at a compound annual rate of 8.6 per cent (1997:2). This was considerably more than the growth of real wages during this period (1.36 per cent). Unfortunately, the author could not analyse gender differentiated productivity changes in Sri Lankan industry due to data constraints. But as discussed in Chapter 3 above, Athukorala's findings record a very favourable productivity growth rate in industries dominated by women (see Tables 3.5 and 3.6), although they may well have started from a lower base. The textiles and garments sectors top the list with a labour productivity growth rate of around 20 per cent between 1981 and 1993. Other industries that have recorded impressive productivity gains are footwear, leather goods, wood products, furniture, electric and non-electric machinery (Athukorala 1997:25).

What were the forces behind this productivity performance? Athukorala's study argues that increases in labour productivity have come primarily from total factor productivity growth, while capital deepening does not seem to have been an important factor. He suggests that the superior technology and management practices established through foreign investor

participation in BOI firms, and the natural protection (arising from the need to adapt product quality and characteristics to suit domestic market conditions) enjoyed by MNE subsidiaries are contributory factors (1997:2-3). However, the data available has not permitted any rigorous analysis of the determinants of total factor productivity growth in Sri Lankan industry.

That superior technology and natural protection were important factors in productivity growth can be generally accepted. But Athukorala's assertion that superior management practices in the BOI sector were a contributory factor is more controversial. Earlier studies that have looked at the FTZ component of the BOI sector generally argue that management practices there are authoritarian and relatively archaic. The purpose of this chapter is to assess the nature of management practices in industries with a predominantly female labour force through an interpretative survey of the available evidence. Other aspects of management and the working environment that are governed by legislation are also looked at, since the main focus of this paper is on the legal framework. These are issues of health, safety, harassment and violence in the workplace.

Athukorala (1997) also overlooks the impact of industrial relations on productivity performance. Industrial conflict in terms of strikes was at historically low levels during most of Athukorala's period, apart from the insurrectionary year of 1989. Just as the industrial relations climate following Thatcher's curbing of union powers, and the recession of the early 1980s, had a substantial impact on productivity levels in British industry (Bean and Symons 1990), the impact of the UNP Government's repressive labour policy[45] on productivity levels in Sri Lanka cannot be overlooked. These issues will be looked at in the following chapter.

6.2 Labour Management Practices in Female-dominated Industries

The conventional view is that labour management systems in Sri Lanka tend to be either familial and paternalistic or authoritarian. Moore argues that the vast majority of firms are identified with a particular individual or family group that tends to retain control and management (1992:35). Even

---

[45] See Chandratilleke (1997:107-109). Among the direct, indirect, manipulative and coercive methods used to control the labour movement without making radical alterations in the legal framework of industrial relations, the author lists the following: enforcement of the provisions of the Essential Services Act and declaration of emergency regulations; strict surveillance of workers in the FTZs to prevent the development of labour organisation; disruption of meetings, picketing and other forms of demonstrations organised by interest groups by the main trade union affiliated to the ruling party, the Jathika Sevaka Sangamaya; high degree of laxity observed by the State in the enforcement of labour laws.

so, his observations have not been based on any kind of sample survey. Meanwhile, studies of export manufacturing firms in the Free Trade Zones have identified authoritarianism as the dominant management style (Hettiarachchy 1991, Rosa 1994, Voice of Women 1983). In contrast, Chandratilleke (1997) does not reject the authoritarian management hypothesis, but qualifies it by arguing that other approaches to labour management that are governed neither by authoritarian nor paternalistic value orientations, also exist in the export manufacturing sector. His study finds the predominant management style as being team-oriented.

These contradictions may be explained to a great extent by the different parameters of the respective research studies. Although Chandratilleke (1997:147) points to ideology and data collection methodologies (he argues that the earlier studies relied on interview data with women workers in the Zones, whereas his data is drawn from interviews of employers both within and outside the Zones), this could as well be explained by the gender-bias in the sample methodologies of the earlier studies. The principal focus of Hettiarachchy (1991), Rosa (1994), and Voice of Women (1983) is on *women* workers in the Zones rather than the Zones themselves, whereas Chandratilleke has framed his sample in such a way as to prevent an over-representation of firms with a predominantly female labour force (1997:9). In order to do this, he has selected only 24 per cent of his sample of 33 firms from the garment sector, and of these, only four are located in the Free Trade Zone. Nevertheless, this sector accounted for 35 per cent of exporting firms registered with the Export Development Board in 1995. But in employment terms, the sector accounted for approximately 60 per cent of total female employment in manufacturing, roughly 37 per cent of male and female employment in manufacturing in the same year.[46] It also accounts for roughly 66 per cent of female employment in the Free Trade Zones (see Table 6.1 below). Therefore, in terms of both industrial category and employment, Chandratilleke's sample is not representative of the employed population either. In fact, the methodology underlying his sample selection limits the extent to which his findings can be generalised, as it has not been based on any statistical sample frame.

The study suffers from other limitations as well. For one thing, the sample size is small; for another, the author has not conducted any parallel interviews of workers employed in the firms he has

---

[46] This data is only indicative as they are derived from gender-ratios in employment from the Department of Census and Statistics, Annual Industrial Survey 1994, and employment figures from UNIDO (1997), Yearbook of Industrial Statistics, which appears to be from the same source. But employment data is not available in the publication by the Department of Census and Statistics, probably due to the data not being cleaned for non-responding firms.

Table 6.1 : Gender-Based Employment Ratios in the BOI Sector 1996: EPZ and Outside the EPZ (incl. the 200 GFP)

	EPZ				Outside EPZ [a]			
	Total	% of Females in Total Female Employment	M	F	Total	% of Females in Total Female Employment	M	F
Food, Beverages and Tobacco	2.4	2.8	0.4	99.6	2.9	1.3	68.7	31.3
Textile, Wearing Apparel and Leather Products	63.0	66.4	13.0	87.0	65.5	75.3	15.7	84.3
Wood and Wood Products	0.6	0.4	53.3	46.7	1.2	1.1	33.5	66.5
Paper, Paper Products, Printing and Publishing	0.3	0.1	76.0	24.0	0.3	0.2	59.8	40.2
Chemicals, Petroleum, Coal, Rubber and Plastic	7.2	5.1	41.4	58.6	9.2	8.2	34.1	65.9
Non-Metallic, Mineral Products	5.2	5.3	15.7	84.3	3.0	3.1	25.2	74.8
Fabricated Metal, Machinery and Transport Equipment	0.9	0.1	91.0	9.0	0.4	0.2	70.6	29.4
Manufactured Products (NES)	19.6	19.6	17.5	82.5	6.2	6.3	25.8	74.2
Services	0.3	0.1	64.1	35.9	11.2	4.4	71.4	28.6
Total	100.0	100.0	17.4	82.6	100.0	100.0	26.7	73.3

Source: Research and Documentation (Statistics) Dept. – BOI.

selected; a third limitation is that, while the data may not have permitted a regression analysis, the book does not contain any systematic cross tabulations between the characteristics of different management styles, and probable explanatory variables such as size of firm, whether foreign-owned or Sri Lankan-owned, age of firm, etc. Another key limitation is that the author examines management in isolation from the productive process, productivity and industrial performance. For example, he has not attempted to establish any causal links between management style and industrial performance, and even industrial relations. Even so, the study provides valuable insights to the management practices of exporting firms. One can also glean some useful information about the kind of managerial value orientations, which the majority of female employees in export industry have to deal with.

The study identifies 24 per cent of the sample as having authoritarian labour regimes, and that they are 'seen mostly, but not exclusively in the garment manufacturing firms which were either moderately large or large with a predominantly female workforce at the shop-floor level' (Chandratilleke 1998:146). Outside the garment sector, authoritarianism was found among managers of small and medium firms (industries where total employee strength did not exceed 50 in each case) in the rubber (75 per cent of shop floor employees were female), ceramics (male dominated - 60-100 per cent) and wood products sectors (two out of three firms in this sector had pre-dominantly female labour forces) (ibid.10-13). None of these firms were unionised.

Going by this data, as well as by the conclusions of earlier studies [Hettiarachchy (1991), Rosa (1994), and Voice of Women (1983)], there is a high probability that the average female industrial worker in a randomly selected sample is employed in the garments sector and is working in an environment where managerial values are authoritarian. What does this imply?

Table 6.2 sets out managerial value profiles of the four types of management style evaluated by Chandratilleke (1997). He also argues that the rigid division of labour and limited on the job training in authoritarian firms are part of a deliberate stratgey used by management to prevent group cohesiveness among workers, prevent labour turnover, and to enforce strict compliance with work rules (1997:157-158). This type of strategy was seen mostly in the garment-manufacturing firms. Managers displayed a strongly negative attitude towards trade unions, and adopted both coercive and manipulative methods to prevent their formation (ibid. 149). They showed a distinct tendency to avoid direct dialogue with shop-floor employees and partially insulated themselves from the latter. The lack of consultation between management and labour was due to a strong

Table 6.2: Managerial Value Profiles

Management Style	Views about the Organisation	Views about Employees	Preferred Relationship with Employees	Behaviour Expected of Employees	Style of Leadership	Principal Channels of Communication
Authoritarian 24 per cent of sample (n=8); 6 in the FTZs. None unionised. Sri Lankan-owned.	Regimented hierarchy	As factors of production	Distant and detached	Compliance	High task-moderate to low relationship	Mostly one way from the top; issue of notices and infrequent shop floor meetings
Paternalist-managed firms Only 13 per cent of sample (n=4) Two firms located in the FTZ. None unionised. All Sri Lankan-owned.	Family	As members of a family unit	Diffused and personal	Loyalty	High relationship-moderate to low task	Two way but personal and direct by the CEO
Team-Leader managed firms 45 per cent of sample (n=15); 11 in the FTZs Only three firms unionised. 75 per cent foreign-owned	Team	As members of a team	Organic	Commitment	High task-high relationship	Multiple channels with emphasis on two-way communication.
Institutionalist-managed firms 19 per cent of firms (n=6); all outside FTZs. Five firms unionised. All Sri Lankan-owned.	Multiple constituency	As members of interest groups	Procedural	Cooperation	Mixture of high task-high relationship and high task-moderate relationship.	Two way, but mostly through unions and formal procedures.

Source: Chandratilleke (1997:151).

belief in securing employees' unconditional acceptance of managerial authority (ibid. 148, 218). Their main preoccupation was with target achievement within established deadlines through proper production planning, quality control and monitoring, and controlling employee performance and attendance. Only a little emphasis was placed on being sensitive to the feelings of employees or on maintaining employee morale. Settlement of disputes was mostly though authoritative command of top management, and resolving employee grievances were accorded a very low priority (ibid. 218).

Micro-level evidence from other studies illustrates these points. For example, the ACCTFU's (1995) survey of 1175 female FTZ workers found 62 per cent of interviewees saying that they had to meet mandatory production targets, but 46 per cent could not meet it during the working day. A fourth of the sample were fined or punished for not reaching the target (1995:Appendix Tables 20, 21, 22:12). However, Abeywardene *et. al.*'s smaller sample survey (150) found that only 15 per cent of those surveyed could meet the production targets without difficulty (1994:38). In contrast, only 20 per cent of workers in the FTZs had been paid a production bonus according to the ACFFTU's (1995) study (Appendix Table 49:28). Heward's (1997) survey of workers in the 200 Garment Factory Programme found that apart from half the number of workers interviewed in Anuradhapura and Gampaha, all the rest were subject to fines if they did not finish their targets (1997:24).

There is evidence that some managers resort to even more oppressive methods to enforce targets. Goonatilake and Goonesekere (1988) found that in one garment factory, a black flag was put up on the desk of the worker until the target was met. In another factory, a worker was punished for not meeting production targets by confining her in the 'training centre' where she was required to go through the strenuous exercise of bending her body and passing a ball through a glass pipe all day (1988:197).

A crucial question that is not addressed by Chandratilleke's study, as mentioned earlier is, which management style makes for greater productivity and more harmonious industrial relations? An intuitive reading of the characteristics of management style (Table 6.3), suggests that team leader-managed firms are more likely to yield higher productivity performances, have greater flexibility, and better industrial relations, while the authoritarian ones are less likely to be so. Micro-level evidence in support of this hypothesis comes from a quantitative analysis of employee involvement and productivity by Jayawardana (1993) (a literature survey failed to yield anything more on the subject). His study of work values of 90 shop floor employees (38 per cent females, industry not

Table 6.3: Management Style and Labour Management Relations

Management Style	Nature of Labour Process	Type of Training	Reward mix and managerial value orientations	Approach to Grievance Handling and Industrial Disputes	Attitude to unions	Principal Mode of Labour Management Consultation
Authoritarian	Rigid division of labour	Narrow on the job training in all (n=8), technical training provided for supervisors in 38 per cent (n=3), and technical training for managers in half (n=4).	Minimal in 60 per cent of sample (n=5), performance-oriented in 25 per cent (n=2) and extensive in 13 per cent (n=1).	*Ad hoc*		Infrequent shop floor meetings to announce managerial decisions wrt production targets, employee attendance and punctuality.
Paternalist-managed firms	Moderate job rotation	Narrow on the job training, technical training for operatives supervisors and managers provided by one firm each (unclear whether one firm is responsible for much of these figures). Broad on the job training provided by three firms.	Minimal in 50 per cent of sample (n=2), extensive in the rest (n=2)	Informal and personal intervention of the CEO	Desire to avoid rather than reject unions, do not see the need for them. Strategy was to obviate need for unions by strengthening personal ties	Personal meetings with the CEO at the shop floor level
Team Leader-managed firms	Extensive job rotation. Perception that over-emphasis on rigid division of labour not in best interests of promoting team concept.	Of fifteen firms, 86 per cent provide technical training for supervisors, 80 per cent provide broad on the job training, 66 per cent provide technical training for operatives, 53 provide management training for managers, and 40 per cent provide management training for supervisors.	Performance-oriented in 26 per cent (n=4) of sample, 13 per cent membership oriented and extensive in 60 per cent (n=9)	Decentralised with increasing responsibility on the line manager. Confrontation de-emphasised in favour of collaboration.	Not seen as dysfunctional element in unionised firms, nor were they considered the only channel of communication with rank and file. Considered an imporant channel for specific rather than general issues. Non-unionised firms were idifferent rather than hostile.	Multiple mechanisms (individual and collective)
Institutionalist -managed firms	Flexible work process.	Of a total of 6 firms, 66 per cent provide narrow on the job training, technical training for managers and management training for managers; 50 per cent provide technical training for operatives, for supervisors and management training for supervisors; a third provide on the job training.	Performance-oriented in 50 per cent (n=3) of sample, 17 per cent membership oriented and extensive in 33 per cent (n=2)	Formal and centralised	Recognise right of employees to assert themsleves, to negotiate and bargain with management. Unions recongnised as main channel through which employees communicate interests and concerns.	Mostly through collective mechanisms

Source: Culled from Chandratilleke (1997).

specified) working in two groups, one autonomous and the other hierarchical, revealed the following:

a) that greater employee involvement and commitment and hence increased productivity could be obtained from employees who attach a greater importance to work values such as participation, creativity, variety on the job and achievement; and

b) that such results can only be obtained when the organisation is prepared to move down power, information, knowledge and skills to the lower levels through adequate changes in the organisation structure.

Nevertheless, the hypothesis that greater team orientation makes for better productivity performance is inconsistent with Athukorala's finding that the garments sector (strongly associated with an authoritarian management style), was in the first league in terms of productivity performance.

What conclusions can be drawn from these contradictory findings?

First, what determines the management style that is adopted? The nature of a firm's ownership, and the training and experience of its managers could influence it. But it may as well be an outcome of the market to which its products caters as well as of the nature of its production process. In other words, it can be hypothesised that low-skill, elementary type production processes associated with low replacement costs of workers, give rise to authoritarian management styles and often, to poor working conditions, as the replacement costs of a worker are low. And in such industries, authoritarianism may well result in favourable productivity performance, while the impact of long-term productivity depressants such as poor working conditions are avoided through high labour turnover. In such industries, there appears to be a clear equity-efficiency trade-off.

In contrast, in industries where production processes are more complex and require skilled labour, a team-oriented management style probably yields rich dividends. Working conditions, too, may be more favourable as the replacement cost of a worker is relatively high. Thus, the management style adopted may be a response to market signals and an outcome of the production process associated with the industry, rather than randomly adopted as a result of the personal preferences of managers and owners. The relationship between management style, production process and industrial performance is a little explored area of study meriting future research.

Second, one cannot assume, merely by its location in the Free Trade Zone, that a firm's management style is authoritarian. Of Chandratilleke's 'sample', of 19 firms in the Free Trade Zones, nearly 60 per cent were Team Leader-managed firms, 33 per cent authoritarian. But of a total of eight authoritarian firms, three fourths are in the Free Trade Zones, and half of them belong to the garments sector in the Zones.

Third, Chandratilleke's evidence appears to support Athukorala's hypothesis that foreign investor participation in BOI firms make for better management practices and greater productivity. Note that Team Leaders managed all the foreign-owned firms in Chandratilleke's 'sample'. However, this by no means implies that all foreign-owned firms have more modern management practices; according to Labour Department officials and officers in the Employers' Federation, managers of East Asian origin, particularly Koreans, are notorious for their harsh management styles. It is a pity that Chandratilleke's (1997) study does not contain more detailed information on the foreign ownership of the firms surveyed.

But while most of the studies on this subject concentrate on export industry, there are relatively few on firms other than MNEs (multinational enterprises) producing for the domestic market. Since the team-led management orientation seems strongly associated with foreign ownership, and apart from the MNEs, there are relatively few foreign-owned firms in the domestic market sector, there is a strong possibility that authoritarianism and paternalism characterise the management culture in much of this sector. The prevalence of institutionalism outside the plantation sector, too, is likely to be limited to those members of the Employers' Federation of Ceylon who are unionised and are signatories to Collective Agreements.

To sum up, authoritarianism is strongly associated with the garment industry, whether located within or outside the Zone. It may be an outcome of the production process and market associated with this particular industry. Nevertheless, this means that *the majority of women workers in manufacturing are subject to the authoritarian type of management style with its attendant negative features.* The sections to follow, focus on other aspects of management and the working environment such as health, safety, harassment and violence in the workplace.

6.3 The Health and Safety of Women Workers

Relatively few employers are aware of the link between hazardous working conditions and economic performance, and cut corners on health and safety standards so as to reduce costs and maintain profit margins. Workers too may not be aware of workplace dangers, and even if they

were, may accept dangerous jobs because they have few alternative employment opportunities. Therefore, most modern states legislate for minimum health and safety standards. They also legislate for compensation due to the injured worker in order that the costs associated with work-related injuries and diseases do not fall entirely on the taxpayer.

There are several enactments that have a bearing on occupational health and safety. Key among them are the Factories Ordinance No. 45 of 1942 and amendments, the Shop and Office Employees' Act No. 19 of 1954, the Mines and Minerals Law No. 4 of 1973 and the Manufacture of Matches (Regulation) Act No. 6 of 1963. In addition to these enactments, the Workmen's Compensation Ordinance No. 19 of 1934 provides for the compensation for diseases listed in the schedule of diseases, while amendments to the Maternity Benefits Ordinance No. 32 of 1939 prohibits the employment of pregnant women in work that could be harmful to both mother and the child. It should be noted that the legal framework relating to health and safety conditions makes no distinction between male and female workers, other than in the employment of pregnant women and female workers in mines and quarries, and industrial undertakings. These provisions are set out in Box 6.1 while Box 6.2 summarises the responsibilities of the employer. The Factories Ordinance also sets out the responsibilities of employees in this regard. It states that no person employed in a factory or other place to which the Factories Ordinance applies shall wilfully interfere with or misuse any means, appliances, convenience or other thing provided for securing the health, safety or welfare of persons employed in the factory.

Box 6.1:
Provisions Relating Specifically to the Employment of Women

- Employers are obliged to provide not less than one seat to every three female persons employed in the serving of customers in any shop (Section 16, Shop and Office Employees' Act).
- Suitable facilities for resting must be provided for female workers whose work is done standing (Section 49, Factories Ordinance).
- Employers must provide separate sanitary conveniences and washing facilities for the exclusive use of women (one for every 25 employees), where both men and women are employed (The Shop and Office Employees' Act; Section 15 (1) of the Factories Ordinance).
- No female should be allowed to work or be employed to work underground at any time in any mine (The Mines and Minerals Law).
- Women are prohibited from being employed to clean any machine or part of it that is in motion (Section 25, Factories Ordinance).
- The employment of a woman during the three months before and after confinement in work that is injurious to her health and that of her baby is prohibited (The Shop and Office Employees' Act and the Maternity Benefits Ordinance).

Box 6.2:
Responsibilities of the Employer/Occupier Relating to Health and Safety Conditions of Work

1. Registration

- Under the Factories Ordinance, an occupier/employer of an industrial undertaking whether established before or after the notified date, must register and license the factory in accordance with the provisions of the Ordinance relating to its construction or modification. The Chief Inspecting Engineer or the District Factory Inspecting Engineer must approve the site and the buildings approved by a panel of Civil Engineers nominated by the Commissioner of Labour.
- A major weakness in this provision is that the 'notified date', or the effective date from which it would be mandatory for the occupiers of factories to register them and get approval for their plans, has not yet been notified. However, Section 5A of the Ordinance compels the local authorities not to issue a licence unless the premises in which the industry is situated is registered as a factory under the Ordinance (Ono 1991:4).

2. Health and Welfare

- The employer should provide suitable and sufficient means of *lighting and ventilation* where persons are employed.
- Employers need to observe *minimum space requirements* for a worker to prevent overcrowding (a minimum of 400 cubic feet per person in factories).
- They must maintain *reasonable temperature* in workplaces, and provide *adequate drainage* so that floors are kept dry.
- The premises must be kept clean and free from any effluvia.
- Employers must provide suitable and sufficient *sanitary conveniences and washing facilities* for the use of workers.

Providing drinking water, facilities to take meals, accommodation for clothing, rest facilities and first aid is the responsibility of the occupier/employer

3. Safety

- It is compulsory for employers to *securely fence dangerous machinery* or their parts. Where scalding, corrosive or poisonous liquid is stored, they must be securely covered or fenced (Sections 17-21 of the Factories Ordinance).
- It is obligatory for employers to *provide training and supervision* for young persons working at dangerous machinery.
- *Safety requirements* that should be provided *on new machinery*, on storage vessels and processes containing dangerous substances are also specified (Section 22 and 23 of the Factories Ordinance).
- *Safety in the use and operation of lifting equipment and pressure vessels* are provided for by requiring that they be thoroughly examined regularly by competent persons as specified.
- Where *work has to be done inside a confined space* in which dangerous fumes are liable to be present, the employer has to provide manholes of specific dimensions and should put *in measures to eliminate such fumes*. Persons working in such places must be provided with *suitable breathing apparatus* and wear a belt which is secured to a rope, the free end of which must be held by someone standing outside.

Box 6.2: Contd.

- Employers are *obliged to equip their factories with fire escapes and fire fighting equipment.* All employees must be made familiar with the exits and routines to be followed in case of fire.
- *Reporting work-related accidents and dangerous occurrences* and maintaining relevant records are the responsibilities of the employer/occupier.
- *Precautionary measures* are prescribed with regard *to explosives or inflammable dust, gas, vapour or other substances, steam boilers, steam reservoirs, and steam containers and air receivers.* Protective measures are prescribed for factories where there is *danger of radiation and vibration; ear defenders are prescribed where noise levels exceed prescribed limits*, and precautionary measures prescribed for factories where electricity is generated, transformed, distributed or used.

How effective are these provisions in ensuring a healthy working environment and minimising the incidence of industrial accidents?

The available evidence is not encouraging. In the first place, the provisions in the Factories Ordinance relate to an era when industrial processes were relatively unsophisticated, and hoists and steam boilers were the last word in state of the art technology. The Ordinance does not envisage industrial processes involving exposure to carcinogenous substances, X-rays, and infectious or parasitic diseases. The enactment also lacks teeth: for example, although it makes it obligatory for employers to ensure 'reasonable' working temperature, it does not specify the range of temperature that may be considered 'reasonable'. Similarly, although employers are required to provide ear defenders where noise levels exceed prescribed limits, it does not specify these limits. Although employers are required to keep the working environment clean, there are no limits specified on the quantum of dust particles permitted in the atmosphere. In these areas, officers of the Occupational Hygiene Division of the Labour Department can only perform a research and advisory function rather than enforce minimum health and safety standards. Thus, enforcement of health and safety standards is limited to enforcing simple precautionary measures such as fencing dangerous machinery.

On the other hand, indications are that even these limited health and safety conditions do not apply in the majority of establishments in Sri Lanka. One reason is that the majority of establishments are

unregistered and are operating outside the purview of the Department of Labour.[47] Second, the Department lacks the capacity to effectively monitor and enforce the law even in the limited number of registered factories.

As noted in Gunatilaka and Kelegama (1996:94), in 1995 there were only 16 Engineers carrying out routine inspections of factories. Of this number, three were new recruits, which effectively left 13 District Factory Inspecting Engineers (DFIEs) to cover nearly 17,000 establishments. Assuming that only one visit was made to each factory, the DFIEs visited only a fifth of the registered factories in that year (Department of Labour, Administration Report 1995:23). The activities of the Factories' Division are further constrained by the lack of vehicles (it has only three) and stenographers (Department of Labour, Administration Report 1994:31). Meanwhile, the prosecution of errant employers is held back by staff shortages at the Labour Department. As noted in the Administration Report of 1995, 'only the worst cases were prosecuted when repeated attempts at persuasion had failed'. In 1995, the Factories' Division instituted proceedings against 25 such offenders.

A further constraint to effective enforcement is that since the establishment of the Sri Lanka Engineering Service in the mid-1970s, graduate engineers with no prior experience are posted to the Department of Labour which has no facilities of its own to train the new recruits as Factory Inspecting Engineers (Ono 1991:18).

So what is the state of occupational health and safety in Sri Lankan industry? It is not possible to do any macro-level analysis due to the paucity of reliable data; gender-disaggregated data is simply non-existent. For example, the data on industrial accidents available from the Factories Division of the Labour Department[48] is based entirely on the data submitted by employers who comply with the

---

[47] By 1995, only 17,034 factories (roughly 10,500 in Colombo alone) had been registered with the respective District Factory Inspecting Engineer's Office, islandwide (excluding the Northern and Eastern Provinces) (Department of Labour, Administration Report 1995). This figure is even less than the 19,342 industrial establishments in the country employing at least 5 persons counted in the field listing operation of 1981 (Department of Census and Statistics, Census of Industry 1983:3). Given the remarkable growth in the industrial sector between 1981 and 1993, it is clear that a major proportion of such establishments have failed to register with the authorities and are carrying on their business unmonitored by the Department of Labour.

[48] According to this data, the number of reported non-fatal accidents increased from 1579 in 1985 to 2911 in 1994. The number of reported fatal accidents reported decreased from 37 to 29 within the same period. (Department of Labour 1995, *Labour Statistics 1995 Sri Lanka*). But these figures do not tally with those indicating the number of industrial accidents settled and compensation paid for collected by the Department of Workmen's Compensation, in the same publication.

relevant provisions in the Act. Thus, any increase in the number could imply that more employers were reporting such accidents rather than that working conditions had deteriorated. Likewise, as the economy grows faster and the number in employment grows, one can expect to see an increase in such accidents, without any deterioration in the conditions of work. Therefore, there is little national level data that allows one to draw any conclusions about changes in health and safety conditions. Similarly, although the Administration Reports of the Department of Labour have data on the number of workplaces in which heat and noise levels and the quality of light and air were tested, there is no information on the results of these tests.

However, available evidence from micro-level surveys paints a rather worrying picture. CENWOR's (1993) study of 398 female workers in 15 industrial categories,[49] found a near consensus among them (85 per cent) that the overall working environment was not conducive towards the physical well-being of workers. Major impediments to health that interviewees identified were as follows: heat (57.8 per cent), noise (57.8 per cent), exposure to chemicals (48.5 per cent), dust (47.5 per cent), dangerous equipment (37.2 per cent), and lack of adequate lighting (14.6 per cent) (1993:28). The physical ailments which they suffered from and which they attributed to workplace conditions were as follows: continuous body pains (44.5 per cent), chronic backache (42.6 per cent), chronic headaches (41.2 per cent), mental stress (18.8 per cent), breathing difficulties (16.8 per cent), chronic chest pain (13.6 per cent), and skin diseases (8.8 per cent) (1993:31).

An inspection of factories and a survey of 60 female workers for the same study conducted by Labour Inspectors confirmed the poor working conditions in the fifteen industrial categories. Table 6.4 summarises these findings.

Conditions in the Free Trade Zones appear somewhat better, although there are areas of concern. During the survey conducted by Abeywardene *et al.* (1994:40), 6 per cent of men and 7 per cent of women complained of exposure to hazards at the workplace, more than half claimed to have suffered from occupational illnesses which included headaches, back pains, chest pains, sore eyes and fingers, eye strain, catarrh and skin rashes. Possible causes advanced were dust, chemicals, noise, heat and prolonged standing and sitting. Provision of protective gear was not a widespread practice and only 10 per cent of women workers said that the use of such gear was compulsory.

---

[49] The industrial categories were: coir mills, copra mills, coir products, ceramics, wall tiles, roof tiles, bricks, prawns, canneries, other food products, pharmaceutical, pesticides, fibre glass, batik and lapidary.

However, the ACFFTU (1995) study of the three Zones paints a gloomier picture. Out of a sample of 1175 workers, a fourth claimed to have been injured at work (1995: Appendix p 16:Table 28). Meanwhile, nearly 40 per cent claimed that the job was a danger to their health (1995: Appendix p 19:Table 33).

Table 6.4: Health, Welfare and Safety Conditions Faced by Women Workers

Industrial Category	Working Conditions
Coir Mills	In none of the coir mills inspected were the requirements of the Factories Ordinance for health, safety and welfare met. There were no toilets, drinking water or first aid facilities. The workers were not provided with any personal protective equipment, and there had been many descalping injuries reported.
Copra Mills	Hygienic conditions maintained since they were involved in export. But noise levels were too high, the heat was excessive and the floors wet and slippery. No protection provided from eye injuries.
Coconut Products	Exposure to dust, ventilation was poor and noise levels high. The workers had to stand most of the time.
Wall Tile Industry	Exposure to excessive dust and excessive heat, but machinery was guarded, ventilation was good and lighting was adequate. Heavy manual work which involved working in difficult postures, repetitive work, heavy lifting and twisting with weights. Many women had to work in awkward positions due to overcrowded conveyer belt lay out.
Roof-Tile Manufacturing Factories.	Unguarded machinery, belts, pulleys, gear wheels. High heat stress inside kiln. Basic welfare amenities not provided in the majority of cases.
Brick Manufacturing	Heavy lifting and exposure to heat from the environment as well as from the kiln.
Prawn Processing	Hygienic conditions maintained (probably because of export quality requirements), but workers had to work standing all the time. Process involved immersing hands in ice continuously. Hands often injured and infected.
Canneries	Gloves worn and a high standard of hygiene maintained but floor always wet. Laceration of skin on hands and soles common. Welfare facilities, ventilation and lighting satisfactory but excessive noise. Women always worked on a wet floor.
Biscuits	Factory was clean and maintained high hygienic standards. But workers exposed to excessive heat and wheat dust.
Pharmaceuticals	Very high standards maintained and factory was air-conditioned. Workers had been trained and provided with protective masks, and clothing.
Pesticides	Poor ventilation, high spillage, no protective clothing (not even shoes) or masks. No regular medical examinations.
Batik	Very little attention paid to health and safety. Exposure to excessive heat and carcinogenous substances. Poor ventilation and lighting.
Lapidary	Poor posture, eyestrain and neck pain among workers.

Source: CENWOR (1993:46-50).

The ACFFTU (1995) study included an investigation of health conditions in the Katunayake Zone by a team of para-medics. The team identified many cases of laryngitis due to exposure to textile particles and dust while cutting cloth, and workers complained of pains in the chest and knee joints. The medical team had recommended that the workers wear protective gauze masks and gloves to minimise exposure to chemical dyes and dust. When the team re-visited the premises after a month, they had been told that the management had asked the workers to remove the masks (1995:12).

In conclusion, it appears that both the legislation and their monitoring and enforcement are inadequate to ensure favourable health and safety standards in the majority of Sri Lankan industrial enterprises. Nor do entrepreneurs appear to have any incentive to invest significant resources to protect their workers. This is probably due to the fact that any negative impact that poor health and safety conditions may have on the productivity of workers is mitigated by rapid labour turnover. This, in turn, imposes no additional costs on the majority of employers who hire low-skilled labour whose replacement costs is low.

6.4 Compensation for Work-related Injuries

Work-related diseases and injuries involve significant costs. To the employee these may mean loss of earning capacity and even of life. The employer bears the direct costs of disruption of the production process and replacing a productive worker. But a crucial characteristic of their respective cost burdens is their asymmetry. The employee bears the risk of greater costs, yet her knowledge of workplace dangers is far less than that of the employer. At the same time, she may be willing to take greater risks because she is poorer, and has few alternative income-earning opportunities. On the other hand, a key component of the costs borne by the employer is the replacement cost of a productive worker, and this may be relatively low, particularly when the injured worker belongs to the unskilled or low skill category, as is the case with the majority of women workers.

Therefore, the employer's liability to pay compensation to the affected worker hinges on the asymmetry of knowledge about workplace hazards, and asymmetry in cost burdens, between employer and employee. This is the economic principle on which laws relating to compensation for industrial accidents are based. It could also be argued that the greater the employer's liability, then the more precautions he is likely to take to prevent such accidents and diseases from taking place. On the other hand, if the conditions that determine employer's liability are skewed too much

in favour of the employee, they may encourage moral hazard on the part of the employee. In other words, employees may be encouraged to take greater risks with their own safety if they think that the employer will, invariably, be made to pay large amounts in compensation. This is the conceptual framework that is used here to analyse the provisions of the Workmen's *(sic)* Compensation Act No. 15 of 1990 and its amendments.

The 1990 enactment drastically changed the cost calculus faced by employers and employees in this regard. Under the Workmen's *(sic)* Compensation Ordinance No. 19 of 1934 that prevailed earlier, only employees earning less than Rs. 500 were covered. This meant that for several years hardly any employee was covered as few earned less than Rs. 500 a month. Therefore, until the 1990 enactment, the conditions which governed the employer's liability are likely to have encouraged employers to cut corners on health and safety measures, particularly where the replacement cost of a worker was low.

This changed with the 1990 revision, which employers seem to feel went 'to the other extreme' (Amerasinghe 1992:12). Not only were all employees other than those in the police or armed services covered, conditions for liability in respect of diseases were also changed. Earlier, only diseases listed in the specified Schedule and those that were 'directly attributable' to the nature of employment were covered. The 1990 enactment drastically expanded the list of occupational diseases for which compensation is payable. But it also specified that compensation must be paid for diseases that are 'reasonably attributable' to the nature of employment, unless the contrary is proved by the employer. Employers appear to find this provision objectionable, as they say that even an employee who suffers cardiac arrest while working could also claim compensation as it could be said that his employment placed him under stress or physical strain (*ibid.* 13).

However, the conditions relating to liability in case of accident have remained the same. An employer is liable to pay compensation where his or her employee suffers personal injury as a result of an accident arising out of and in the course of her employment, except under the following circumstances;

1. where the injury results in partial or total disablement of the employee for any period less than three days;
2. where the injury is the result of a non-fatal accident directly attributable to,
   - the worker having been either intoxicated or under the influence of drugs;

- the wilful disobedience of the worker to an order or rule expressly made to secure her safety; or
- the wilful removal or disregard by the employee of any safety guard or device which he knew to have been provided for the safety of the employee.

Has the pendulum swung too far?

As the reforms are coupled with an expansion in coverage, it could be argued that the conditions for liability in the case of accidents could increase the moral hazard faced by the worker. This is because the enactment places a heavy burden on the employer as the liability is imposed irrespective of whether the employee was negligent or not, except in limited situations such as drunkenness, wilful disobedience of an order or wilful removal of a safety device. Moreover, as argued by Alagaratnam (1996), the Act provides that relief may be sought by civil suit as an alternative to an application to the Commissioner appointed for this purpose, under the Ministry of Social Services. However, it is unclear whether the ordinary civil courts, when making their order, would be bound by the amounts of compensation stipulated in the Schedule to the Ordinance. If the Courts can go beyond amounts specified in the Ordinance, then it may give rise to rent-seeking behaviour on the part of litigants and their lawyers. Therefore, as Alagaratnam (1996) suggests, the government may consider removing the jurisdiction of the ordinary civil courts in determining the amount of compensation by express provision. But, in order that the real value of the amounts of compensation specified in the Schedule are not eroded by inflation, the Government should consider making express provision for the amount to be indexed according to the Cost of Living Index.

Nevertheless, although the legal provisions may increase the moral hazard of the employee, the real onus of the provisions are felt by the minority of employers who meet their legal obligations by providing safe machinery at work, suitable and safe work premises, personal protective equipment and training on the job. Trade unions are active in many such firms, and their vigilance forces employers to conform, even if only to avoid industrial disputes over such issues. In MNE subsidiaries with principals in developed countries, managers are expected to submit periodical, statistical data regarding industrial injuries, and are as a result, committed to safety as a matter of

policy.[50] As noted by Ono (1991), a great majority of accidents in such organisations are due to the negligence of workers. But in the vast majority of firms, managers are singularly careless about the health and safety of their workers; Labour Inspectors rarely inspect them; and, when industrial accidents do occur, many employers successfully evade the law and do not pay any compensation. CENWOR's (1993:40-45) study on occupational health hazards of women workers contains four case studies of women having lost life and limb due to industrial accidents. The accounts are harrowing and display the 'vacuum of conscience' of the respective employers.

Given the problems of moral hazard on the part of the employee on the one hand, and the extent of non-compliance with the laws on safety and health on the part of the majority of employers on the other, some balance may be struck if the law were to be amended in order to make it compulsory for employers to insure themselves against liability with licensed insurers (there is provision already for the licensing of insurers by the Commissioner under the Act.). Taking appropriate measures to reduce moral hazard on the part of employers and the monitoring of health and safety standards in the establishment can thereby be devolved to the insurance companies. Nevertheless, the problem of ensuring that all employers insure themselves against liability will remain. The solution to this probably lies in trade unionism and greater vigilance on the part of the media and non-governmental organisations. These issues will be explored more fully in the following chapter.

6.5 Violence and Harassment on the Shop Floor

Vulnerability to violence and sexual harassment on the shop floor and elsewhere is a serious problem that working women face everywhere. The problems have become more widespread with increasing women's participation in the labour force. For example, Perera (1997) argues that the harassment that women face to and from their places of work, are probably directly related to the jealousy and resentment faced by unemployed males, for whom policy liberalisation has not brought equivalent job opportunities.

There is now substantial evidence to confirm that violence against working women and sexual harassment has become a serious social problem. For example, the ACCTFU (1995) study of FTZ workers found 22 per cent of interviewees reporting that they were being harassed at the work station (Appendix Table 34:19). The more detailed survey by the Marga Institute paints a more disturbing picture. Of 1344 working women surveyed in the Zones, nearly 59 per cent had been

---

[50] For example, at Unilevers, safety issues have been made an integral part of the company's productivity and performance drive. Each department displays a score-board of accidents which have occurred since the beginning of the year; prominent posters warn workers about potential hazards and how to avoid them.

harassed at the work place, 83 per cent while travelling, and 37 per cent at the place of residence (Perera 1997:7). 28 per cent of interviewees in Katunayaka, and 37 per cent of them in Biyagama and Koggala, were physically harassed. Among these victims, around a fifth had undergone severe forms of physical harassment that included the use of physical force, attempted rape and being forced into sexual acts (ibid. 9).

The study also found that in the workplace, women are subject to harassment by managers, supervisors, security staff as well as co-workers. Female workers have also been harassed by other female employees at all three levels. The study also records that the majority took no action due to fear, shame or reluctance to jeopardise their employment. However, there is also likely to be serious under-reporting of such traumatic incidents.

What are the legal safeguards against such harassment?

As a result of an amendment to the Penal Code enacted in 1995 [Penal Code (Amendment Act) No. 22 of 1995], the legal framework has been brought in line with contemporary workplace problems of sexual harassment.[51] Section 345 of the Penal Code provides for imprisonment of up to five years with or without a fine, as well as liability to pay compensation, for any individual found by Court to have committed the offence of sexual harassment. If the State prosecutes, then a Magistrate has the jurisdiction to fine up to a maximum of Rs. 1500.

The relevant clause clearly applies to an employer-employee relationship and a workplace situation, and covers a wide range of acts that could be physical, verbal, or even gestures and signs, and could apply equally to male or female employees. Assault covered by the Act may include any action that does not amount to rape, which is dealt with separately in Section 363 of the Penal Code. As in most other areas of criminal law, the employer's guilt must be proved.

A significant feature of this amendment is that, whereas prosecution is usually originated by the State, in this case, the employee may initiate a private plaint, but at her own expense. Although the relevant provision is vague, Section 345 also provides for the payment of compensation that may enable a substantial sum being paid to the person aggrieved. Nevertheless, employees who are likely to benefit most from this amendment are those who have the wherewithal to retain counsel initiate proceedings and prosecute. Meanwhile, unions and non-governmental organisations may assist poorer employees to initiate such proceedings, but on the whole, we are unlikely to see a

[51] The legal analysis to follow is culled from Alagaratnam (1998).

significant increase in such prosecutions. In the first place, given societal attitudes and prejudices, the majority of female workers are unwilling to subject themselves to the kind of publicity or even notoriety that prosecution will involve. They prefer to endure in silence. Secondly, trade unions tend to be patriarchal in their attitudes and are unlikely to prioritise such issues. For the majority of women workers, therefore, sexual harassment is likely to remain an occupational hazard, for which no practical remedies are available, unless there are significant changes in societal attitudes towards women and in management practices.

6.6 Conclusions

The principal focus of this chapter was on the working environment of the majority of female workers. Key issues analysed were management practices, health and safety issues, and sexual harassment and violence in the workplace.

As far as the legal framework is concerned, this chapter identified several weaknesses in the legislation covering industrial accidents and safety conditions, particularly in the Factories Ordinance. In contrast, thanks to recent amendments to the legislation, the laws governing compensation for injuries and occupational diseases, as well as sexual harassment and violence, are significant improvements on the earlier situation. Nevertheless, the laws are not adequately monitored or enforced, and it is difficult to see the Department of Labour being able to discharge its functions satisfactorily, given the resource constraints it will continue to face.

A disturbing finding to emerge from the analysis is that the kind of industries in which women are found to be working in increasing numbers appear to give rise to authoritarian management styles and poor health, safety and working conditions. These stem from the low replacement costs of such labour, being low skilled, and in excess supply. Managers are able to flout health and safety standards and still maintain very high productivity levels by replacing workers whose productivity declines due to poor working conditions, at little extra cost. While the first-best solution to this problem would be an upgraded and diversified industrial structure, which would demand, and be supplied with, skilled labour with high replacement costs, what measures can be taken to protect workers at the present moment? Ono's (1991) study indicates that where unions are active, their vigilance forces management to maintain safety standards. Would the solution to this problem then be unionisation? The next chapter assesses the prospects for trade unions to monitor labour standards.

Chapter 7 : Industrial Relations and Prospects for Trade Unionism

7.1 Introduction

Industrial relations in Sri Lanka have traditionally been confrontational and volatile due to a variety of historic and socio-political reasons. The purpose of this chapter is to examine the state of industrial relations in Sri Lanka, particularly in sectors where females are employed in significant numbers such as in the Free Trade Zones. Key issues raised are the state of industrial relations in the Zones, the effectiveness of the machinery to monitor and enforce labour standards, and the effectiveness of workers' organisations such as Employees' Councils and In-house Unions in representing employees' concerns and interests. This chapter also assesses the prospects for trade unions and collective bargaining mechanisms in the Zones, and suggests policy reforms to encourage market-based methods of enforcing labour standards.

7.2 The State of Industrial Relations in Sri Lanka

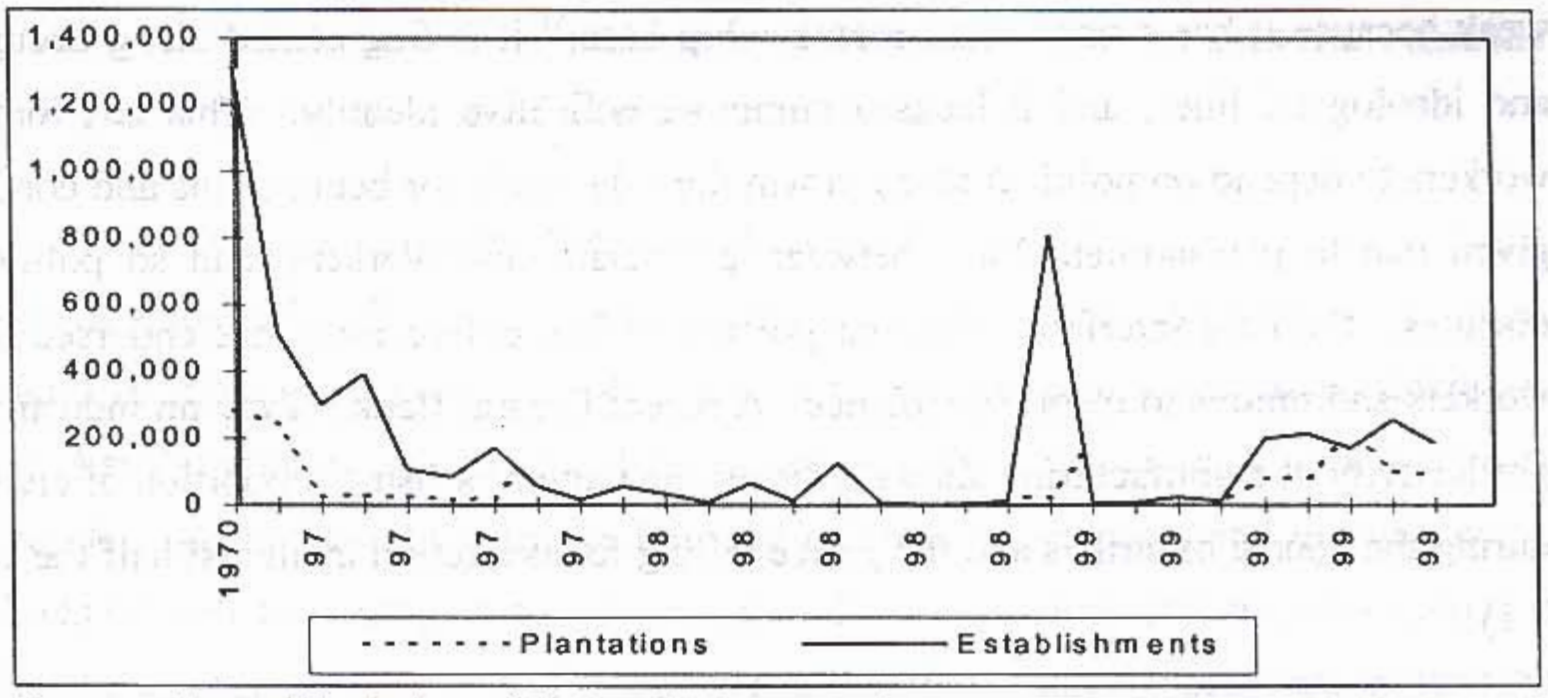
Industrial relations have traditionally been antagonistic in Sri Lanka, imposing significant costs on the economy. Figure 7.1 illustrates the significant productivity losses that have resulted in terms of person-days lost due to strike action. It can be seen that in the period 1977-1993 , industrial relations were relatively peaceful, apart from the peak associated with the 1989 JVP insurrection. But this was mainly due to the repressive labour policy implemented by the Government during this period, rather than to a weakening of the forces of industrial conflict. Therefore, the surge in unrest after the change of government in 1994 was mainly due to its changed policy towards labour which created an atmosphere in which workers were unafraid to express their grievances. But significant features of industrial conflict which took place during this time were the highly publicised incidents of violent conflict, and its extension to BOI firms which had enjoyed relative industrial peace in the past (see Figure 7.2).

Unfortunately, there is no gender-disaggregated data on workers involved in strike action. As a result, we are unable to draw any conclusions about the extent of female participation. However, a handful of case studies (Polytex Garments, and Ceylon Diamonds, to name two)[52], and the gender-disaggregated structure of employment in the BOI industries, imply that significant numbers of female workers have been involved in these conflicts.

---

[52] For accounts of these strikes see Goonatilake and Goonesekere (1988), and Employers' Federation of Ceylon, *Annual Reports and Accounts*, '94/95 and '95/96.

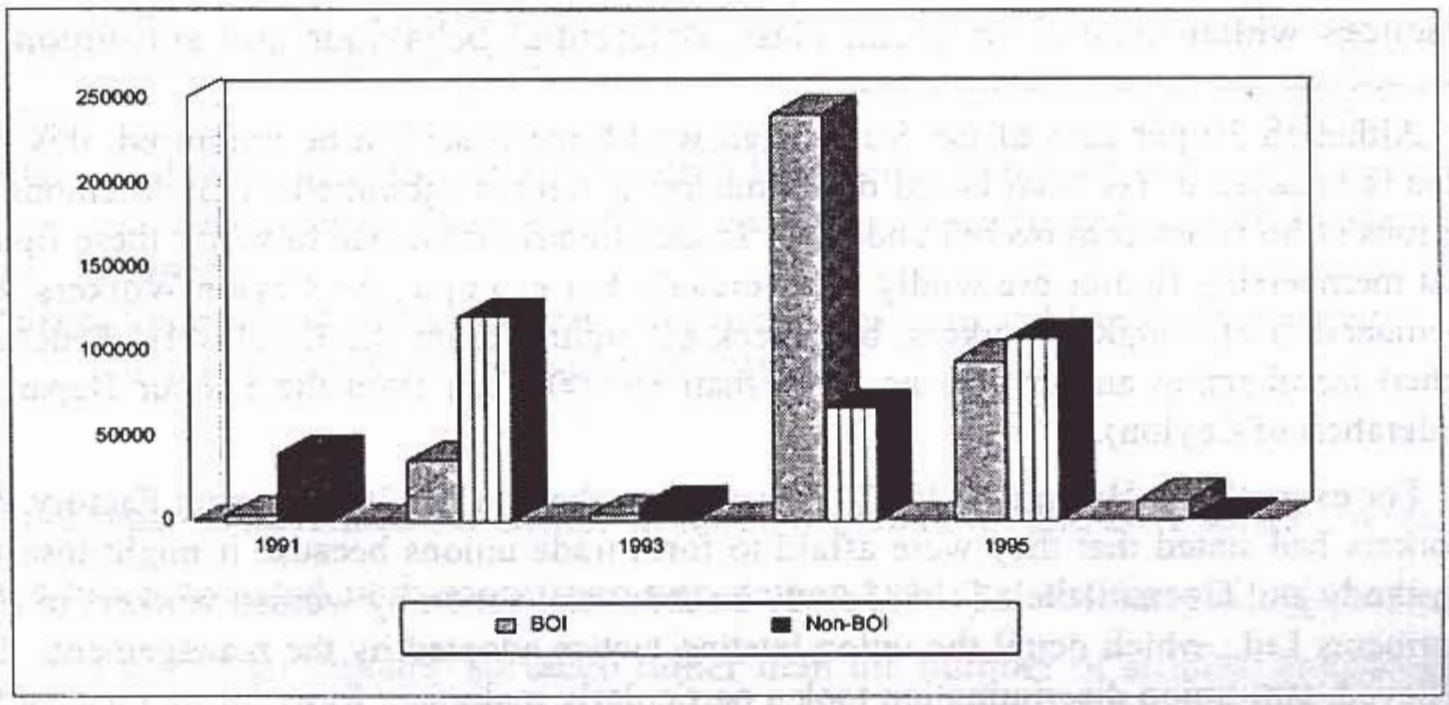
Fig.7.1: Person-Days Lost Due to Strike Action in the Private Sector, 1943-1998



Source: Central Bank Annual Report (various years).

There are several reasons why industrial relations have been traditionally volatile in Sri Lanka. Most of these have been mutually reinforcing. A key factor has been several weaknesses in the industrial relations system owing to its heavy reliance on state intervention through statute rather than on mechanisms of collective bargaining to redress the unequal bargaining power between labour and capital. But as the analysis in the preceding chapters clearly showed, the rate of non-compliance with statutory labour standards is extremely high and workers' rights are violated on a significant scale. Legal controls are not achieving their objectives.

Fig. 7.2: Person-Days Lost Due to Strike Action in BOI and Non-BOI Firms, 1991-1996



Note: The sample consisted of 165 BOI firms and 120 non-BOI firms and the data collected was in terms of non-executive workers.

Source: Central Bank (1996), 'Survey of Industrial Relations and Labour Productivity in the Manufacturing Sector', August 1996, p 2, Table 2.1.

Collective bargaining traditions are not sufficiently developed and widespread to ensure that workers are not exploited. This is due to several factors. First, the union movement in Sri Lanka is weak because it has a very small membership base;[53] it is fragmented along occupational, ethnic and ideological lines; and it lacks a common, collective identity. This has forced unions and workers to depend on political allies to win their demands for better terms and conditions of work, given rise to patron-client links between politicians and workers, and so politicised industrial disputes. Political interference in the process of law enforcement has endorsed the tendency of workers and unions to resort to violence. A recent Central Bank survey on industrial relations and productivity in manufacturing shows a disturbing pattern: a rising proportion of civil law violations during the course of strikes and the police failing to take action in almost half the cases (see Table 7.1).

Table 7.1: Violation of Civil Laws in BOI and Non-BOI Companies 1991-May 1996

	1991-1993	1994-May 1996	1991-May 1996
Civil Law Violations	16	24	40
BOI	3 (19%)	14 (58%)	17 (43%)
Non-BOI	13 (81%)	10 (42%)	23 (57%)
Necessary Action Taken by Police			
Yes	8 (50%)	14 (58%)	22 55%)
No	8 (50%)	10 (42%)	18 (45%)

Source: Central Bank (1996), Survey of Industrial Relations and Labour Productivity in the Manufacturing Sector, August 1996.

On the other hand, harsh and exploitative management practices are frequently at the root of violent disputes. It is generally accepted that the majority of managers rely on archaic management practices which depend on social class, deferential behaviour and anti-union discrimination[54] to

[53] Although 30 per cent of the Sri Lankan workforce is said to be unionised, this figure is grossly incorrect. This is because it has been based on membership figures submitted by trade unions to the Registrar of Trade Unions (who is not empowered under the Trade Unions Ordinance to verify these figures), and it is well known that membership figures are wildly exaggerated. For example, the Ceylon Workers' Congress claims to have a membership of 400,000 workers, but check-off figures from the Employers' Federation of Ceylon show that actual membership amounts to no more than 80,000 (data from the Labour Department and the Employers' Federation of Ceylon).

[54] For example, in Heward's (1997) survey of workers in the 200 Garment Factory Programme, 34 per cent of workers had stated that they were afraid to form trade unions because it might lose them their jobs. Also see Jayakody and Goonatilake's (1988) study on industrial action by women workers in Hong Kong-owned Polytex Garments Ltd., which detail the union-busting tactics adopted by the management. If the allegations are to be believed, anti-union discrimination took a particularly malignant form during the anarchic period associated with the JVP insurrection of 1989. Devanarayana (1997), for example, alleges that managers in certain companies, assisted by the police and vigilante groups, had militant workers killed or 'disappeared' during this period.

'control' rather than to 'manage' labour. Add to this the lack of capacity within the Labour Department[55] to conciliate and mediate in industrial disputes, to monitor and enforce labour standards, and the delays in the Labour Tribunal system, and one is left with an industrial relations system locked into generating industrial conflict rather than peace.

The system has also been subject to new stresses following the economic, social and political changes which came about after the 1977 liberalisation. As discussed in Chapter 3, real wages have been stagnant or have grown very slowly while the share of capital in value added has increased. These distributional problems have been aggravated by the emergence of new classes of labour and capital, uncomfortable with the blurring of class distinctions and unused to the traditional methods of collective bargaining. As noted in the introductory chapter, new labour is more politically aware, socially mobile and has higher aspirations than the previous generation of workers (Uyangoda 1996). There are also significant numbers of women in the new working class who are likely to be even more vulnerable to exploitation than non-unionised male workers.

Table 7.2: Reasons for Strikes in the Non-Plantation Sector, 1990-1996

Reason	%
Demand for higher salaries, bonus and salary increments	42
Stoppage of work of employees after completion of probation period or training period	7
Interdiction of workers	13
Against disciplinary action taken by management	11
Against transfers and stoppage of works	13
Matters relating to EPF/ETF	10
Demand for removal of the management	2
Recognition of trade unions	2
Sale of part of the company to another	0
Total	100

Note: A limitation of this data is that they have been gathered from a survey of employers in the BOI Sector. Employees' views were not covered by the survey.

Source: Central Bank (1996), Survey of Industrial Relations and Labour Productivity in the Manufacturing Sector, August 1996.

Tables 7.2 sets out the reasons advanced for strikes in the non-plantation and BOI sectors in recent times. Some strikes are associated with more than one demand, so that the figures represent the frequency with which a particular demand surfaced rather than the number of strikes. The struggle

[55] See Gunatilaka and Kelegama (1996).

for union recognition has generated a larger number of disputes than is evident in the data. For example, it has been estimated that as many as 70-80 per cent of strikes in any one year are really over the issue of union recognition.[56]

Table 7.3: Access to Benefits in Establishments With and Without Trade Unions

Benefits	Proportion of Women Employees in Establishments with Trade Unions (n=81)	Proportion of Women Employees in Establishments without Trade Unions (n=319)
Cost of living allowance	48	2
Accommodation/Allowance	11	4
Transport/Transport Allowance	3	3
Meals/Meals Allowance	28	6
Education Allowance	0	1
Paid Leave	95	68
Bonus	90	77
Pension fund/Provident fund	100	77
Severance pay	57	43
ESI scheme/Insurance	1	5
Maternity benefit	73	60
Creche at work place	0	1
Rest room at work place	68	31

Source: Jayaweera and Sanmugam (1993:Table 4.10:53).

Clearly, the need of the day is to move towards an industrial relations system which is less reliant on legal controls and which promotes voluntary bargaining. The State needs to enforce the fundamental right of workers to form unions so that they can expand their membership base, and to make it obligatory for employers to recognise and deal with unions that have sufficient representative strength for collective bargaining. Moreover, when even at present the Labour Department lacks the capacity to monitor and enforce labour standards, the situation is likely to get worse as the economy grows and the number of establishments rises exponentially. Inevitably, the job of ensuring that employers comply with labour standards will have to be devolved to unions as it is well-known that the rate of compliance with Government statutes and workers' benefits is much higher in unionised firms than in non-unionised firms. This is confirmed by Jayaweera and

---

[56] At a seminar held in 1996, the former Commissioner of Labour estimated that at least 35 per cent of strikes in private sector establishments were due to recognition issues. The Deputy Commissioner of Labour attached to the Industrial Relations Division argues that the proportion may even be as high as 70-80 per cent. He bases this estimate on the fact that although the explicit reasons for striking are given as wage demands, terminations or suspensions, and bonus issues - their covert objective is to force employers to recognise the unions and to deal with them.

Sanmugam's (1993) survey of female workers in manufacturing industries in and around Colombo (see Table 7.3). But measures enforcing rights of association and recognition need to go hand in hand with legislative reforms that ensure the internal democracy and accountability of trade unions.[57]

Nevertheless, while these legislative reforms should be generally recommended, they may not be adequate to ensure labour standards in certain industries and sectors. To illustrate, the following section analysed the special case of women workers in the Free Trade Zones.

7.3 Industrial Relations in the Free Trade Zones

In the field of labour law and industrial relations, the Free Trade Zones occupy a peculiar and somewhat anomalous position. The Zones were created under the Greater Colombo Economic Commission (GCEC)[58] soon after the economic liberalisation of 1977, with the objective of providing an investor-friendly environment to promote export-oriented industry. The original plan was to empower the GCEC to grant exemptions from and modifications of several laws, among them several key labour statutes such as the Wages Boards Ordinance, the Factories Ordinance, the Trade Unions Ordinance, the Industrial Disputes Act and the Termination of Employment of Workmen *(sic)* Act. However, the GCEC Bill which was to make this possible was challenged and referred to the Consititutional Court which in turn held that the relevant provisions were unconstitutional (Goonatilleke 1989). The Government then deleted these and passed the Bill into Law, but thereafter instituted certain administrative controls which have had the effect of restricting the inquisitorial powers of the Commissioner of Labour on the one hand, and choking off any incipient trade union activity on the other.

As argued in Goonatilleke (1989), the administrative controls hinge on the requirement that anybody who wishes to enter the Zones must possess a 'gate pass'. Such passes have been issued to Labour Officers in their individual rather than in their official capacity, and 'not as a matter of right, but merely by reason of the cordiality of the relationship with the relevant authorities of the GCEC' (ibid.:24). This means that Labour Officers wishing to enter and inspect the Zones have to do so on prior appointment. This has effectively removed the element

---

[57] These issues are discussed at greater length in Gunatilaka and Kelegama (1996).

[58] The GCEC was transformed into the Board of Investment (BOI) in November 1992.

of surprise essential for the effective monitoring and enforcement of labour laws.[59] At the same time, Goonatilleke notes that workers are reluctant to bring to the notice of the Commissioner non-compliance with statutory provisions while in employment as they fear victimisation and possible dismissal (1989:30).

It appears that the BOI has also arrogated to itself powers that are usually vested in the Labour Commissioner. For example, the Industrial Relations Divisions in the Free Trade Zones operated by the BOI, are manned by former officials of the Department of Labour, who are now attached to the BOI. These officers are supposed to carry out the mandate of the Commissioner of Labour and ensure compliance with labour laws within the Zones. But as Goonatilleke (1989) points out, the delegation of the powers of the Commissioner of Labour to the BOI, which promotes foreign investment in the FTZs and would therefore be more likely to safeguard the interests of the investor rather than the worker, is contrary to the letter and spirit of labour legislation. She argues that it is tantamount to 'an abdication of the duty reposed upon the Commissioner by statute of effective enforcement of labour legislation' (1989:28).[60]

The gate pass serves yet another function, that of preventing trade unions from entering the Zones to recruit members. It has also been alleged that the BOI obligingly withdraws the identity cards of FTZ workers suspected of trying to form unions so that they can no longer enter the

---

[59] There appears to be some embarrassment on the part of the authorities about this. For example, the requirement of a gate pass and prior intimation was confirmed by the Commissioner of Labour at an interview Goonatilleke (1989) had with him on 29 January 1990 (See Annexure G in Goonatilleke 1989). However, he denied this at an interview the present author had with him on 18 November 1995. He stated that Department of Labour Officials never needed a gate pass to enter the FTZs, and that had they been denied entry at the gate on displaying the Licence issued to officers by the Labour Department, it would have been tantamount to obstructing a public officer in the execution of his or her official duty. But following the industrial unrest in the FTZs in 1994, the Labour Department has, on Prime-Ministerial directive, stationed two Labour Department Officials each in the Katunayake and Biyagama Free Trade Zones. The need for this particular directive shows that the system prevailing at the time was not functioning satisfactorily, and that it was an important factor behind the labour unrest. Nevertheless, managers of two large garment factories in the Katunayake FTZ interviewed by the author denied any knowledge of their presence and stated that, to date, no inspection of their factories had been made by any Labour Department Officials.

[60] A GCEC brochure titled 'Sri Lanka's Investment Promotion Zones' published in 1980 appears to have stated that, 'The Commissioner of Labour has delegated his powers and functions to the senior manager in charge of the Division' (Voice of Women 1983:49). But it is interesting to note that 16 years later, the BOI appears to have become more circumspect in its statements of labour policy (see BOI (1996), *Investment Policy and Incentives*, p 40).

Zones. [61] Therefore, although by law workers in the Zones have the right to form unions, administrative controls imposed by the BOI prevent them from exercising that right. It can be seen, therefore, that BOI controls restricting the Labour Commissioner's inquisitorial powers and the rights of workers to form unions have effectively transformed the Zones into areas where investors and employers are assured of unequal bargaining power between labour and capital.

However, the Government's labour policy in the Free Trade Zones has come under increasing attack in recent years. The pressure began when the previous government promulgated emergency regulations in 1990 to outlaw wildcat industrial strikes. A number of firms (some garment manufacturing firms in the Free Trade Zones in particular), had taken advantage of the opportunity to dismiss striking employees en masse. These incidents were brought to the notice of the US Trade Representative in Colombo. He, in turn, requested the Government of Sri Lanka to show cause why the GSP (Generalised System of Preferences) status of Sri Lanka's garment and textile exports to the U.S. should not be withdrawn on account of the violation of trade union rights within the Free Trade Zones. The Sri Lankan Government was then forced to give a commitment to the U.S. Government that it would implement ILO Convention 98 (which it ratified in 1972 and which deals with the right of association), and that it would pass legislation banning anti-union discrimination (Amerasinghe 1998:498).[62] It attempted to do so in July 1996

---

[61] The allegation against the BOI had been made by union representatives at a National Labour Advisory Council (NLAC) meeting held to discuss the draft Employment Relations Act (Franklyn Amerasinghe at an Employers' Federation of Ceylon seminar on the Workers' Charter on 10 May 1996). Moreover, Goonetilleke's survey of cases that have come before the Negombo Labour Tribunal in 1984-87 showed that 'work stoppages and any form of protest or criticism of the management or even elementary forms of trade union activity have not been tolerated'. For example, in the case of U.G. Aslin vs. Bonaventure Textile (Lanka) Limited (Case 21/3092/86), the author found that although the applicant had been dismissed on alleged grounds of insubordination, she had been elected by the employees of the factory by secret ballot to represent them in an internal joint consultative committee. The management responded by immediately transferring the worker to another section of the factory (1989:40). Also see the study on industrial action by women workers outside the FTZ area by Soma Jayakody and Hema Goonatilake (1988), which detail the union-busting tactics adopted by the management of Hong Kong-owned Polytex Garments Ltd.

[62] Similar pressures have been felt elsewhere. In 1990-1991, the Government of Thailand de-registered public sector unions which opposed the privatisation programme, but was recently forced to reverse this policy under pressure from the U.S. Government (verbal communication, S.R. de Silva, ILO/EASMAT, Bangkok, August 1996). More recently, Reuters reported that the Human Rights Watch, a Washington-based organisation, had asked the Nicaraguan Labour Ministry to investigate reports that its inspectors tried to block workers from unionising at foreign-owned clothing factories. In 1997, the watchdog National Labour Committee in New York had found serious labour abuses and sweatshop conditions in the Las Mercedes Free Trade Zone in Nicaragua (*The Island*, 26 February 1998).

by amending the Industrial Disputes Act, but these efforts were aborted following strenuous lobbying by business groups. The issue is still pending.

There has also been increasing agitation for trade union rights among workers in the Free Trade Zones although, predictably, the data in Table 7.3 does not reveal this as they are based on the opinions of employers. The ACFFTU's (1995) survey, for example, found 67 per cent out of a total of 1175 workers in the three Zones interested in joining a trade union (1995:Appendix Table 58:31). An earlier study in 1984 found that 65 per cent of workers felt that they needed a trade union.[63] The desire for collective action has arisen not only because many employers fail to comply with certain labour labour standards.[64] As discussed in the previous chapter, management practices in female-dominated (particularly garment) factories in the Zones tend towards the authoritarian. Although Chandratilleke's (1997) survey found foreign management in the FTZ strongly associated with team-leadership characteristics, enterprises which employ managers from Hong Kong, South Korea and Taiwan tend to be authoritarian. Workers are frequently subject to inhuman, degrading treatment, and the majority of strikes in the Zones have called for the dismissal of individual managers.[65] In contrast, Japanese managers are said to maintain good relations with their workers. There is also general discontentment about real wage levels. The appalling living conditions and the lack of recreational facilities have compounded the serious psychological stresses faced by the majority of FTZ workers. These have been well documented in the literature.[66]

---

[63] Bastian, Sunil (1984), 'Women workers and foreign capital' *Logos*, Vol. 23, No. 1, March 1984, pp. 53-81, cited in Abeywardene *et. al.* (1994:59).

[64] According to Labour Department Officers, facilities such as lunchrooms and toilets in the Zones and compliance with EPF and ETF payments are much better than in most establishments elsewhere in the country. This is confirmed by de Silva *et. al.* (1993:12), who found that of 750 FTZ workers interviewed, 86 per cent were satisfied with lunch room facilities, 74 per cent were satisfied with the toilet facilities, and 62 per cent were satisfied with rest room facilities. Workers in larger factories were generally more satisfied than those in smaller factories. However, the record on overtime and holiday payments, and complying with regulations relating to working hours, overtime and nightwork is poor [Abeywardene *et. al.* (1994:38)].

[65] For example, Goonatilake and Goonesekere note that in some factories, regulations forbidding the use of toilets except during tea and meal breaks have led to incidents of high fever and urinary infection among workers (1988:203). More recently, an industrial dispute arose in one FTZ factory when a manager kicked a female worker in her posterior in order to get her to work (verbal communication, W.J.L.U. Wijayaweera, Department of Labour).

[66] See ACFFTU (1995), De Silva *et al.* (1993), Hettiarachchi (1992), Goonatilake and Goonesekere (1988), Rosa (1989), Voice of Women (1983).

7.4 Are Employees' Councils or In-house Unions Viable Alternatives to Trade Unions with External Links?

This question is posed because many employers who are facing a future where they may be forced to tolerate trade unions argue that the Employees' Councils that they claim are even now operating successfully in FTZ enterprises, are more appropriate organisations to represent workers' interests. Alternatively, they argue that they would not mind having in-house unions, but that they are opposed to unions with links to parent unions outside the workplace.

These propositions can be criticised on several grounds. Take the case of Employees' Councils first. Rosa (1994) argues that the employee representatives to these councils are in fact selected and appointed by employers. In the ACFFTU (1995) survey, only 28 per cent of 1175 FTZ workers claimed to have voted at the Worker Council Elections (Appendix Table 55:31). Second, the majority of workers (75 per cent) seem to have little faith that Workers' Councils would help resolve their problems (ibid. Table 56:31).

As for unions with external links, there is some validity in employers' objections that outsiders will use the unions to achieve their own (political) objectives. This was recognised as far back as in 1967 by the Committee of Inquiry into the Law and Practice of the Trade Unions Ordinance, which recommended that the Trade Unions Ordinance be amended to limit union officers to persons employed in the industry or trade in which the union is involved.[67] Nevertheless, in-house unions are not without their negative features.

Amerasinghe (1992b), for example, argues that in-house unions lack proper leadership and are difficult to negotiate with, as they seem to believe that they are at liberty to use any tactic which may win their demands. This is partly due to the fact that the new working class is drawn mainly from rural areas or the lower middle classes, and has not been exposed to traditional modes of collective bargaining and trade union action. This is confirmed by Labour Department officials. It is also argued that parent unions have a knowledge of the industry or trade as a whole and may therefore be better informed of the economic environment than the in-house union. On the other hand, workers have always been vulnerable to reprisals by employers for forming unions or asserting their demands vigorously, whereas outsiders, being beyond the disciplinary control of the employer, are free from the threat of discharge and can therefore vocalise workers' grievances with

---

[67] Report of the Committee of Inquiry into the Law and Practice of the Trade Unions Ordinance, Government of Ceylon Sessional Papers 28 of 1967, pp25-26.

impunity. This is particularly the case in situations of sexual harassment. Women workers with such grievances will find it virtually impossible to vocalise these problems to management (particularly where management is directly involved), and would find it easier to resolve such problems with the help of outsiders who cannot be penalised for doing so. It is, however, a moot point whether even parent union leaders will take up such issues with management. But if there is greater internal democracy and accountability within unions, then there is a chance that the leadership would be more responsive to their members' wishes and will be weaned from using the union to achieve their personal political objectives. On balance, there are little grounds to recommend in-house unions over those with external links, but as will be shown below, there is some doubt whether even the latter would be an adequate response to the problem.

7.5 Prospects for Trade Unionism

Will unionisation following the reforms outlined in Section 7.1 above be the answer to the problems faced by women workers in the FTZs and elsewhere? At this moment, the portents are not encouraging.

In the first place, the majority of workers in the Zones do not have any long-term interests in the enterprise; prospects for career development are virtually nil in this type of occupation and labour turnover rates are high.[68] These factors do not make for a successful trade union movement which requires a relatively stable workforce with a long-term stake in the enterprise. It is likely, therefore, that workers in the Zones would not have been interested in trade unionism had not poor labour standards, wretched living conditions and degrading treatment by managers driven them to it.

In the second place, unless women themselves come forward with the necessary negotiating skills to lead such unions, there is some doubt whether the patriarchal trade unions that exist today will adequately represent the interests of women workers. For example, as Jayakody and Goonatilake (1988) note, women are totally absent from the top ranks of trade unions which have exclusively been male bastions. Even where trade unions have a women's wing, female involvement is low and the activities of these divisions are directed mainly towards consciousness raising, labour education and welfare activities (UNIDO 1989:76). There are also cultural factors that inhibit women from acting in a way that draws attention to themselves, and employees in the FTZs, being

[68] For example, Abeywardene et al. (1994) found that 83 per cent of workers in the FTZs had less than four years of service and 67 per cent had between one and two years of service (1994:37).

predominantly rural-based, are likely to be even more reluctant to come forward. Women also have less time to devote towards union activities, not only because of their dual role as workers in the market and household economies, but because their jobs require them to work long hours, giving rise to a vicious circle. For example, in Heward's study of workers in the 200 Garment Factory Programme, 27 per cent of respondents claimed not to have time for union activities (1997:82).

Of course, in the final count, short-term investors representing flyaway capital choose to locate in areas such as the Free Trade Zones precisely because they are assured of the unequal bargaining conditions with labour since workers cannot form unions. So allowing the freedom of association in the Zones may discourage such investors. Although some may argue that the Government should not encourage such exploitative investors anyway, given the scarcity of investment capital from domestic sources and the level of Sri Lanka's industrial development, policy-makers may not have much choice if some dent is to be made in the backlog of unemployment.

With the benefit of hindsight it could be argued that the drive towards unionism may never have got underway if the Government had not interfered with the monitoring and enforcing functions of the Labour Department in the Zones, and ensured that employers complied with certain basic norms. Unfortunately, overkill has raised the very bogey that the Government has been trying to avoid. Despite repeated promises by the Government and the BOI that the problems faced by female FTZ workers will be looked into, no concrete solutions have been put forward until recently.[69] Bad faith by successive governments has created an atmosphere of seething distrust. Meanwhile, it may be difficult to go on procrastinating on the issue of union rights in the face of international pressure.

As far as direct government policy is concerned, a way out of the dilemma may be to introduce reforms in two phases so that the Government gets some breathing space. In the first phase (perhaps two years), the following policies should be implemented visibly and vigorously to establish certain, non-negotiable minima in labour standards.

---

[69] There are some encouraging signs that policy makers have at last awoken to this issue. On the recommendations of a special committee appointed by the President to study safety and welfare measures in the FTZs, government-owned hostels are to be built in township development projects to house FTZ workers. The housing schemes are to include sports complexes with recreational facilities, transport facilities in line with duty shifts, and better street lighting (*Daily News*, 14 May 1998).

- The Department of Labour can set up decentralised offices within the Zones separate from the already-established Industrial Relations Offices of the BOI. The Labour Officers too should be clearly attached to the Department of Labour rather than to the BOI. To ensure the credibility of Government policy, the policy of cooptation by the BOI that has been followed thus far should be avoided at all costs.
- Labour Officers outside the Zones should not be required to produce BOI gate passes in order to enter. The identity card issued to them by the Department of Labour should grant any Labour Officer immediate access to the area.
- All prospective investors to the Zones must be made aware of the labour standards that they will be required to maintain. The BOI can formulate a special mandatory induction programme for such investors, conducted perhaps by a Japanese management consultant.
- The Government can consider setting up a Legal Aid Centre within each Zone - funded by the BOI perhaps, but accountable to the Ministry of Justice - to assist workers who have been subject to assault and other degrading treatment by their employers.[70]
- The problems of inadequate hostel and transport facilities need to be resolved urgently. The Government can consider providing incentives for the NGO sector to fill this need. It can also appeal for donor financing from countries and organisations that have shown the most concern for human rights violations in the FTZs.

It may make tactical sense for the Government to state policies to ensure minimum standards in the Zones and be seen to be enforcing them vigorously, before making any statements about enforcing trade union rights in the Zones.[71] In the first phase, the Government can, with the assistance of the ILO perhaps, carry out a comprehensive programme to educate workers on the principles of collective bargaining in a globalised economic environment. The right to form trade unions may be enforced in the second phase.

---

[70] A Legal Advice Centre has already been set up in the vicinity of the Katunayake FTZ. However, its effectiveness has been limited probably because it has not paid specific attention to issues such as rape, social censure and overcrowding in boarding houses (Jayakody and Goonetilake 1988:297). This has been compounded by a low level of awareness of workers' rights and labour laws among the workers. These issues need to be addressed if the Legal Aid Centre is to be effective.

[71] Therefore, it is likely that the Minister of Labour's recent announcement that workers in the FTZs would soon be able to form trade unions may be too precipitate (*Daily News*, 20 May 1999).

7.6 Conclusions

It has been seen in previous chapters that the legal controls established by statute to redress the unequal bargaining power between labour and capital are not working satisfactorily. Employers evade their statutory obligations on a significant scale, and actively prevent unions from forming. Older firms that are members of the Employers' Federation generally comply with labour statutes and have built up considerable skills in bargaining and negotiating with trade unions, but even among the Federation's membership, around 30 per cent of firms do not have unions.[72]

As for the majority of employers in Sri Lanka's business sector, their approach to labour management is archaic. They seem to think that maintaining good industrial relations on the shop or factory floor and increasing productivity levels is a matter for the government (through the repression of workers' rights and legislative reform), rather than for themselves. With the more liberal policy towards civil liberties under the present government, such an approach is no longer feasible. Moreover, as globalisation gathers pace, the old system is becoming more of an obstacle and less of an economic advantage. To survive and prosper in the new economic climate, firms will have to increase productivity through constructive dialogue with workers and unions. They will have little choice but to make substantial investments in cooperative industrial relations, adopt a management style that embraces participation, and promote a system that favours bargaining based on a mutuality of interests between employers and employees at enterprise level.[73] Chandratilleke's (1997) survey shows that a significant number of export-oriented firms have already instituted team leadership styles of management.

Unlike in earlier decades, export-orientation, too, is having some positive effects on labour standards in certain industries like the garments sector. There has been a re-orientation in business thinking in response to consumer demand, which has in turn been influenced by environmental and human rights concerns. Consumer choice is increasingly governed by the demonstrated social responsibility of producers and distributors. Coupled with rapid advancements in information technology and a more aggressive and hawk-eyed media, it is exerting considerable pressure on industry to conform to labour and environmental standards.

---

[72] Verbal communication, Franklyn Amerasinghe, Director-General, Employers' Federation of Ceylon.

[73] Ceylon Tobacco Company (CTC) and Unilevers have already begun to move in this direction.

Today, sweatshops are bad for business,[74] and even in Sri Lanka, it is becoming increasingly common for sub-contracting firms to enter into social compliance contracts with their foreign buyers. This empowers representatives of buyers to enter and inspect factory premises, interview workers in their own language, and ascertain for themselves whether labour standards are being maintained, and in some cases, even whether they are able to form unions. Meanwhile, exposures of one's competitors' exploitative labour practices have become powerful weapons in the competition strategy of Western-based firms.

Many of the larger Sri Lankan firms have welcomed these developments. Since they have traditionally complied with labour statutes and looked after the interests of their workers, they see the new global order as placing them at an advantage against their smaller competitors. Until now, the latter had been able to compete unfairly with the larger companies by flouting labour standards with impunity. Weaknesses in the labour administration encouraged Labour Officers to inspect the larger, established premises rather than chase after small establishments.

The insistence on labour and environmental standards on the part of foreign buyers and consumers is perceived by some as protective devices through which workers and producers in the West are sheltered from the forces of competition. There is some truth in this. Nevertheless, though such impositions seem unfair from the point of view of employers and firms in developing countries, (afterall, nobody bothered about sweatshops in Manchester and Birmingham when Britain first industrialised), employers who do maintain labour standards are working these conditions to their advantage. Moreover, this appears to be one of the most effective ways of protecting workers from exploitation and making sure that employers meet their statutory obligations.

---

[74] That sweatshops are bad for business was evident from the fall-out of a recent article (end 1997) in the *London Guardian* by Suzanne Goldenberg. Entitled 'Colombo stitch-up', it reported on Sri Lankan sweatshops 'where women routinely work 14-hour days, seven days a week for very little money'. A worker interviewed by Goldenberg described the work regime as one where overseers set impossible targets and punished failure by shouting and occasionally hitting workers. The article further named Adams' children's wear, Burtons, C&A, Marks and Spencer and Tesco as British high street firms linked with the Sri Lankan garment industry. Also mentioned as having links were American and Asian firms such as Calvin Klein, DKNY, Gap, Esprit, Nike, Victoria's Secret and Gloria Vanderbilt. This damaging article was reproduced in Sri Lanka's *Sunday Times* and was followed by a strenuous, but unconvincing, refutation by a representative of Sri Lanka's Apparel Exporters' Association.

What are the policy directions emerging from this analysis? While State intervention has failed to ensure social justice for the majority of workers, it is perhaps time that the Government reconsidered its role in industrial relations. As argued in Gunatilaka and Kelegama (1996), the existing legal framework does not support an industrial relations system based on voluntary bargaining and therefore needs reform. The parameters for a new system should establish the freedom of association for workers' and employers' organisations; strong independent entities accountable to their membership; employer recognition of representative trade unions; negotiation in good faith and its promotion by the state. The legal framework should be amended accordingly.

While the capacity of the Labour Department needs to be beefed up, more in terms of skills and technology rather than personnel, monitoring and enforcing labour standards should be devolved to workers' organisations as far as possible. The Department can, however, develop a special flying squad of investigators who can perform a trouble-shooting function.

Other reforms are wider. At the moment, the Government is seen as having abdicated its responsibilities towards workers, particularly because of the role it has been playing as the investors' strongman through the BOI's administrative controls. This has added to the negative publicity associated with the Zones. While seriously considering the reforms proposed in Section 7.5 above, there is also a strong case for the Government to allow the media and the non-governmental sector greater freedom to investigate and report on exploitative labour practices in the Zones.

Chapter 8: Conclusions and Directions for Policy Change

8.1 Overview of Findings

Economic policy liberalisation in Sri Lanka has been associated with rising female labour force participation as in many other developing countries. New employment opportunities for women have opened up mainly in the manufacturing and services sectors, while significant numbers have migrated overseas for employment. Employment opportunities for women in the manufacturing sector has been driven by the development of light industry which have a low technological base and requires low-skill labour. At the same time, the different acculturation of male and female children have given females a comparative advantage in tasks that demand a high level of dexterity. Besides, management has found that labour control is much easier with

female workers because of their relative occupational and geographic mobility, and their low aspiration about wages and working conditions. More recently, increasing numbers of women are entering the security forces.

Even so, the rate of job creation has not kept pace with the numbers entering the job market, and, as discussed in Chapter 2, unemployment, particularly among women with at least 10 years of schooling, is very high. This has created a funnel effect, where female employment has been crowded into a few sectors, particularly in export industries using unskilled labour.

The present study showed that increasing female employment in Sri Lanka has been associated with low wages, as elsewhere. Real wages, for both males and females have risen only marginally, if at all, and the distribution of value added has moved firmly in favour of capital. But fragmentary data series reveal that the real earnings of females working in some sectors have risen, particularly of those working in the garments and agro-processing export sectors. And, significantly, policy liberalisation has been associated with a contraction in the male-female earnings differential, particularly in the manufacturing sector.

However, much of the employment generation associated with policy liberalisation has taken place at the expense of statutory labour standards. While minimum wage legislation has been eroded partly by failing to adjust nominal wages in line with inflation, outright evasion appears widespread. In fact, other than for industries dominated by unions, wages seem to be largely market determined, and low, maintained at that level no doubt, by high female unemployment and low aspiration. However, in some sectors, notably the hotel and garments trades in areas where the labour market is tight, the minimum wage appears to have set a ceiling on any increases in the basic wage, so that the eventual take-home pay packet has a discretionary element made up of bonuses and allowances of at least 50 per cent.

Implicit erosion of labour standards has also made way for the flexibilisation of the labour force. Regulations on working hours and night work are openly flouted, and laws protecting the health and safety of workers ignored for the most part, particularly in the smaller and/or non-unionised establishments producing for the domestic market. The ruses that employers have adopted to dodge the job security regulations have made job structures even more flexible, and encouraged the casualisation of labour. On the other hand, non-compliance with labour statutes has meant

that certain clauses in the protective legislation relating to women (for example, on working hours and night work), have not seriously prejudiced their chances of employment.

The covert deregulation of the labour market has been facilitated by the undermining of the capacity of the Labour Department to monitor and enforce the statutes, particularly in the Free Trade Zones. At the same time, a weak union movement, partly due to inherent weaknesses, and partly due to anti-union discrimination by employers who have been aided and abetted by the government, have made sure that the erosion of labour standards has proceeded unchecked. And as argued in this paper this has not reduced productivity rates because of the low replacement costs of unskilled labour. As the productivity of one lot of workers declines after a few years of 'youthful diligence' (Standing 1989:1080), they have been replaced by new cohorts.

Increased labour force participation has also meant that more women are now vulnerable to sexual harassment and other violent acts, not only at the workplace and at the hands of managers and co-workers, but also while travelling to and from work, and even in their hostels.

Thus, while policy liberalisation has been associated with fairly significant gains to women in terms of employment and income generation, and in some sectors, rising real earnings, the human development costs appear to have been considerable.

What should be the policy directions for the future?

The priority areas for policy reform are outlined briefly in what follows. They are in the areas of: industrial development, legislative reform, monitoring and enforcing labour standards, and management training.

8.2 Industrial Development Policy

Low wage levels are directly related to high female unemployment rates, low wage aspirations and the low marginal productivity of the low skill labour that the majority of Sri Lankan women workers have to offer. In its turn, the excess supply of low skill labour has meant that the replacement cost of such labour is also low. This has enabled employers to flout labour standards without any loss of productivity.

If female workers are to break out of this low productivity, low wages, poor working conditions trap, then three key conditions need to be fulfilled. First, Sri Lanka's production structure needs

to diversify and progress made towards heavier or knowledge-based industries and services that require higher levels of skills. Second, the labour market for males needs to tighten further, so that further economic expansion would depend on the supply of female labour. Demographic trends are already moving in this direction. And lastly, women need to be equipped with the skills and training that would enable them to work in a more complex production environment. Hence a macroeconomic and sectoral policy framework to encourage high-tech, knowledge based manufacturing and service activities needs to be coupled with skills training programmes in areas such as computing and English language training. Further, the economic sectors set to expand globally in the next few decades are financial services, the holiday and leisure industry, health care (particularly geriatric care) and environmental sectors. So developing skills that cater to these sectors should ensure that women are in a position to benefit from the better paying employment opportunities that are likely to open up in these activities in the near future.

The productivity gains that can be had by improving transport facilities, hostel accommodation and recreation facilities should not be underestimated. Industrial development policy needs to go hand in hand with policies to provide such support services as well. The government appears to have already taken some steps towards township development alongside industrial estates. Such policy initiatives should be strengthened and not allowed to falter.

8.3 Legislative Reform

The preceding chapters identified several areas of the legislation that need reform. In this section we briefly list the reforms that have been discussed more fully earlier on.

- Legislation explicitly outlawing discrimination on the basis of sex should be enacted in order to enable women to sue their employers if they believe that they have been discriminated against.
- There is a clear case for amending the TEWA making retrenchment less cumbersome and more transparent, and so encourage compliance rather than evasion. This would help eliminate the distorting effects of the ruses to which employers are currently resorting to avoid the implications of the Act. However, the Government should not adopt a unilateral approach to reforming the law, but should enable employers and unions to work out a consensus for reform without either hijacking, or trying to influence the negotiation process in any way.
- The Wages Boards Ordinance should be amended so that the employer is no longer made liable for the non-payment of wages to the worker employed by his or her sub-contractor. All sub-contracting arrangements should be regularised by making it

mandatory for all employers to issue a letter of appointment that clearly identifies the relationship between the employer and employee.

- The number of Wages Boards should be rationalised and entitlements made uniform as far as possible. The process of rationalisation should progress towards a single, economy-wide basic minimum wage determined by a tripartite mechanism that applies even to industrial sectors and trades that are not covered by the present Wages Boards.
- The government should socialise the costs of the Maternity Benefits Ordinance by enabling a tax rebate on maternity benefit payments.
- The Factories Ordinance urgently needs to be modernised and the Workmen's (*sic*) Compensation Act amended to make it mandatory for firms to insure against injury with licensed insurers.
- Existing legislation on working hours and night work for females, if enforced, have the potential to prejudice women's chances of employment, particularly in shift-based work. Therefore, they need to be amended in order to equalise women's entitlements with those of males. However, these reforms require a more cautious approach, as there are serious social efficiency considerations that cannot be resolved by law. These stem mainly from existing constraints to monitoring and enforcement. Until they are eased, there would be few benefits flowing from a further relaxation of the law.
- Legislation outlawing anti-union discrimination should be introduced, along with mandatory recognition of unions. But these reforms need to go hand in hand with amendments to the Trade Unions Ordinance that would compel unions to be more democratic and more accountable.
- Finally, the vast body of labour legislation needs to be codified, if only to make monitoring and enforcement easier. Labour laws that are no longer operational should be dropped from the statute books.

8.4 Monitoring and Enforcing Labour Standards

The capacity of the Labour Department to monitor and enforce labour standards and conciliate and mediate in industrial disputes should be built up, more in terms of skills and technology rather than by a mere increase of cadres. The special flying squad of investigators should be further developed and the administrative controls on the entry of Labour Officers to the FTZs should be removed.

The Labour Tribunal system should be reformed in order to speed up inquiries. The reforms should include, among others, a pre-inquiry stage to settle matters not in dispute prior to the

inquiry proper and an expansion of the tribunal's power to compel the attendance of witnesses, enforce awards, and punish offences under the Industrial Disputes Act.

More resources should be devoted to workers' education. At the moment, the workers' education programme conducted by the Labour Department has strayed into areas such as family planning, which should be left to the Ministry of Health, the relevant provincial health authorities, and the NGO sector. The workers' education programme should concentrate more on raising awareness about legal rights, gender-sensitisation, and issues relating to collective bargaining and trade unions.

NGOs and the media should be encouraged to play a greater role in monitoring labour standards. These organisations should be allowed greater freedom to investigate and report on exploitative labour practices. The government-owned media should lead the way as it is less dependent on advertising revenue from the business sector.

8.5 Management Training

The Sri Lankan economy lacks qualified management personnel, particularly those trained in human resources management. Management practices in the majority of enterprises appear archaic, authoritarian and exploitative. The management culture associated with the garments sector appears particularly repressive. Policy-makers need to tackle this issue, as progressive management practices are crucial to ensuring labour productivity, non-exploitative labour standards and industrial peace.

More resources need to be devoted to this sector to make good this gap. In particular, undergraduate degree programmes in engineering and law offered by the Sri Lankan universities should include modules on human resources management and some component of work experience dealing with these issues. These programmes, along with the courses on management offered by the National Institute of Business Management and the universities, should include gender sensitisation components.

Many observers note that the BOI has fulfilled its purpose in encouraging foreign investment. However, with the gradual progress towards a uniform tax regime and a uniform tariff, many of the BOI's functions would soon be redundant. Policy-makers should consider transforming the BOI to play a greater role in management education by providing mandatory induction courses

for new investors, providing consultancy services in human resources management and emphasising the link between more humane styles of management, industrial peace and productivity increases.

Donors may consider part-financing two to three month's training programmes for managers that would enable them to visit firms in other countries and see for themselves the advantages that may be had by employing more advanced management practices.

References

Aturupane, H. (1996a), *Study of Unemployment Among Educated Women in Sri Lanka,* Department of National Planning, Ministry of Finance and Planning, Colombo, Sri Lanka.

_____ **(1996b),** Is Education More Profitable for Women? An Economic Analysis of the Impact of Schooling on the Earnings of Men and Women in Sri Lanka. In *Sri Lanka Journal of Social Sciences* 19 (1&2), pp. 27-45, 1996.

Abeywardene, Janaki, Romayne de Alwis, Asoka Jayasena, Swarna Jayaweera and Thana Sanmugam (1994), *Export Processing Zones in Sri Lanka: Economic Impact and Social Issues*, Multinational Enterprises Programme, Working Paper No. 6, ILO, Geneva.

Agrawal, Nisha (1995), *Indonesia Labour Market Policies and International Competitiveness*, Policy Research Working Paper 1515, The World Bank, Washington D.C., September 1995.

Alagaratnam, Geoffrey (1996), *Aspects of Sri Lanka's Labour Legislation*, Employment Policy Planning Unit, Department of National Planning, Ministry of Finance and Planning, Colombo, Sri Lanka.

Alagaratnam, Geoffrey (1998), 'Review of the Implications of Sri Lanka's Labour Legislation for Women Workers in the Manufacturing Sector', unpublished mimeo, Institute of Policy Studies, Colombo, Sri Lanka.

Alailima, Patricia J. (1997), The Situation of Women: Employment, Unemployment and Underemployment, unpublished mimeo.

All Ceylon Federation of Free Trade Unions (ACFFTU) (1995), 'Rights at Risk: A Study of Sri Lanka's Free Trade Zones', unpublished mimeo in cooperation with the Asian-American Free Labour Institute (AAFLI), October 1995.

Amerasinghe, E.F.G. (1992a), 'Effects on Private Sector Development of Labour Market Regulations, Conventions and Monopsonistic Organizations and Entrepreneurial and Skilled Labour Supply Constraints', Joint IDA/GOSL Private Sector Assessment (PSA) Study.

Amerasinghe, E.F.G. (1992b), 'Sri Lanka Country Paper', ILO/Japan Training Workshop for Asia Pacific Employers' Organisations in Sound Labour Relations Practices, Singapore, 2-6 March 1992.

Amerasinghe, E.F.G. (1998), 'Labour and Employment 1948-1997', in Indraratne, A.D.V. de S. (1998) (ed), *Fifty Years of Sri Lanka's Independence - A Socio-Economic Review*, Sri Lanka Institute of Social and Economic Studies (SLISES), Colombo, Sri Lanka.

Asian and Pacific Women's Resource Collection Network (APWRCN) (1993), *Asian and Pacific Women's Resource and Action Series: Law*, APDC, Kuala Lumpur.

Athukorala, Premachandra (1997), *Study on Labour Productivity in the Manufacturing Sector in Sri Lanka*, Employment Policy Planning Unit, Department of National Planning, Ministry of Finance and Planning, Colombo, Sri Lanka.

Balasuriya, H.G. (1992 and 1993), *'Sri Lankave Vruthiya Samithi: 1936-1991 - Sankyanamaya Vishleshanayak'* (Trade Unions in Sri Lanka: 1936-1991 - A Statistical Analysis), *Sri Lanka Labour Gazette*, 43: 11-36 and 44: 11-30.

Barr, Nicholas (ed) (1994), *Labour Markets and Social Policy in Central and Eastern Europe: The Transition and Beyond*, The World Bank, Oxford University Press, New York.

Bean, C. and J. Symons, (1989), *Ten Years of Mrs. Thatcher*, Centre for Economic Policy Research, Occasional Paper No. 316, London.

Cabraal, Ranjith and H.D.I. Shanthikumar (1981), *Women and Nightwork, A Survey*, Women's Bureau of Sri Lanka, Ministry of Plan Implementation, Sri Lanka.

Centre for Women's Research (1993), *Occupational Health Hazards of Women Workers*, Study Series No. 7, Colombo, Sri Lanka.

Central Bank of Sri Lanka (1996), 'Survey of Industrial Relations and Labour Productivity in the Manufacturing Sector', unpublished mimeo., August 1996.

Chandratilleke, K.L. (1997), Managerial Value Orientations and Labour Management Relations: A Study of Export Manufacturing Firms in Sri Lanka, thesis submitted to the Institute of Social Studies, The Hague, Netherlands in fulfilment of the requirements for the degree of Doctor of Philosophy in Development Studies, June 1997.

Coomaraswamy, Radhika (1990), 'Women, the law and social justice: A case study of Sri Lanka with regard to employment and criminal law', in Kiribamune and Samarasinghe (eds) (1990).

Dasanayaka, G.K.B. (1998), Wage Fixation Mechanism in Sri Lanka, Paper presented at the *ILO/EFC Workshop on Pay Policies, Employment and Productivity*, 8-9th December 1998, Hotel Galadari, Colombo.

Department of Census and Statistics, Sri Lanka (various years), *Quarterly Report of the Sri Lanka Labour Force Survey*, Ministry of Finance and Planning, Sri Lanka.

Department of Census and Statistics, Sri Lanka (1994), *Annual Survey of Industries 1994*, Preliminary Report, Ministry of Finance and Planning, Colombo, Sri Lanka.

De Silva, Victor S., Edward Botejue, and Chandrika Subasinghe (1993), 'Knowledge, Attitudes and Practices of Female Workers in the FTZ on Family Planning and Sexual Health', unpublished mimeo., Family Planning Association of Sri Lanka, December 1993.

Devanarayana, Chandra (1997), *A Review of Free Trade Zones in Sri Lanka*, Dabindu Collective, Sri Lanka.

Diwan, I. and Walton, M. "How International Exchange, Technology and Institutions Affect Workers: An Introduction". *World Bank Economic Review.*, January 1997, 11(1).

Dunham, David, with Nisha Arunatilake and Roshan Perera (1997), *The Labour Situation on Sri Lankan Tea Estates - A View to 2005*, Labour Economics Series No. 13, Institute of Policy Studies, Colombo, March 1997.

Elson, Diane (1995), 'Gender Awareness in Modeling Structural Adjustment', in *World Development* 23(11), pp 1851-1868, 1995.

Employers' Federation of Ceylon (1996), *Handbook 1996*, Colombo, Sri Lanka.

Employers' Federation of Ceylon, *Annual Reports and Accounts*, '*94/95* and *'95/96.*

Fallon, Peter R. and Robert Lucas (1993), 'Job security regulations and the dynamic demand for industrial labour in India and Zimbabwe', in the *Journal of Development Economics* 40 (1993), pp 241-275, April 1993.

Freeman, Richard B. (1993), 'Labour Market Institutions and Policies: Help or Hindrance to Economic Development?' in World Bank (1993) *Proceedings of the World Bank Annual Conference on Development Economics: 1992,* Washington, D.C.: World Bank, 1993.

Goonatilake, Hema and Savitri Goonesekere (1988), 'Industrialisation and Women Workers in Sri Lanka: Working Conditions Inside and Outside the Investment Promotion Zone' in Heyzer (ed) (1988).

Goonatilleke, Dilani C. (1989), 'Labour Law and Practice in the Free Trade Zones of Sri Lanka', dissertation submitted to the Faculty of Law in candidacy for the degree of Master of Laws, University of Colombo, September 1989.

Goonesekere, Savitri (1990), *The Law and the Economic Status of Women*, Women in Development Series No. 1, Institute of Policy Studies, Colombo, Sri Lanka.

Goonesekere, Savitri (1991), *The UN Convention on Women (1981) and the Sri Lankan Legal System*, Centre for Women's Research (CENWOR), Sri Lanka.

Gunatilaka, Ramani (1996), 'A Note on Industrial Unrest in Sri Lanka: Causes and Possible Solutions', prepared for the Board of Investment, Sri Lanka, unpublished mimeo., Institute of Policy Studies, Colombo, Sri Lanka.

Gunatilaka, Ramani and Saman Kelegama (1996), *Study on the Impact of Labour Legislation on Labour Demand*, Employment Policy Planning Unit, Department of National Planning, Ministry of Finance and Planning, Colombo, Sri Lanka.

Hettiarachchy, T. (1991), 'Some Aspects of Social Problems Relating to Export Promotion', *University of Colombo Review*, 10:42-59.

Hettiarachchy, T. (1992), *Working in the Zone, A Study on Employment in the Free Trade Zone*, Katunayake, Sri Lanka, Asian Human Rights Commission, Hong Kong.

Hettige, S. T. (1997), 'Economic Liberalisation and the Emerging Patterns of Social Inequality in Sri Lanka, paper presented at a Seminar organised by the Institute of Policy Studies, 28 August 1997.

Heyzer, Noeleen (ed) (1988), *Daughters in Industry, Work Skills and Consciousness of Women Workers in Asia*, APDC, Kuala Lumpur.

Hosmer Martens, Margaret, and Swasti Mitter (1994), *Women in Trade Unions Organising the Unorganised*, International Labour Office, Geneva.

International Labour Office (1994), *Conditions of Work Digest:Working time around the world,* Vol. 14, 1995, ILO, Geneva.

International Labour Office (1995), *Conditions of Work Digest: Maternity Work*, Vol. 13, 1994, ILO, Geneva.

International Labour Office (1987), *Conditions of Work Digest: Women Workers, Protection or Equality?* Vol 2, 1987, ILO Geneva.

Jayakody, Soma and Hema Goonatilake (1988) 'Industrial Action by Women Workers in Sri Lanka: The Polytex Garment Workers' in Heyzer (ed) (1988).

Jayawardana, A.K.L., (1993), 'Work Values and Employee Involvement', paper presented at the Postgraduate Institution of Management Studies, BMICH, Colombo: November 18-19.

Jayawardene, Kumari (1976), 'Women and Employment' in *Economic Review*, September 1976, pp. 14-15.

Jayaweera, Swarna and Malsiri Dias (1989), Subcontracting in Industry: Impact on Women, Study undertaken for the Commonwealth Secretariat, London, Jayaweera, Swarna and Thana Sanmugam (1993).

Jayaweera, Swarna (1991a), 'Women, Education and the Labour Force' in, Centre for Women's Research (CENWOR) (1991), *Gender and Education in Sri Lanka: Women, Schooling and Work*, CENWOR, Sri Lanka.

Jayaweera, Swarna (1991b), *Women, Skill Development and Employment*, Women in Development Series 2, Institute of Policy Studies, February 1991.

Jayaweera, Swarna and Thana Sanmugam (1993), *Employment and Occupational Mobility Among Women in Manufacturing Industries of Colombo, Sri Lanka*, ARTEP/ILO, New Delhi, January 1993.

Jayaweera, Swarna and Thana Sanmugam (1996), *Maternal & Child Care Roles of Women Workers*, Centre for Women's Research, Study Series No. 10, Colombo, Sri Lanka.

Kim, Aehyung, Ajay Tandon, Asrat Hailu and Others (1997), *Health and Labour Productivity, The Economic Impact of Onchocercal Skin Disease*, Policy Research Working Paper, 1836, The World Bank, Washington D.C, October 1997.

Kiribamune, Sirima and Vidyamali Samarasinghe (eds) (1990), *Women at the Crossroads, A Sri Lankan Perspective*, ICES Sri Lanka Studies Series, International Centre for Ethnic Studies, NORAD and Vikas Publishing House Pvt Ltd, New Delhi.

Lanka Jathika Estate Workers' Union, in collaboration with the Asian American Free Labour Institute, Sri Lanka (1997), 'Preliminary Report on Women, Child and Migrant Labour in the Plantation Sector', mimeo.

MacIsaac, Donna and Martin Rama (1997), *Do Labour Market Regulations Affect Labour Earnings in Ecuador?,* Policy Research Working Paper 1717, The World Bank, Washington, D.C., January 1997.

Malhotra, A. and D.S. DeGraff (1997), 'Entry Versus Success in the Labour Force: Young Women's Employment in Sri Lanka', in *World Development* 25 (3), pp 379-394, March 1997.

Milner, C. and P. Wright (1998), 'Modelling Labour Market Adjustment to Trade Liberalisation in an Industrialising Economy'. *Economic Journal*, 108 (March), pp 509-528.

Ministry of Labour (1984), *Labour Laws and the Employment of Women*, Women and Children's Affaris Division, Department of Labour, Issue No. 3, January 1984.

Ministry of Health (1995), *Annual Health Bulletin Sri Lanka 1995.*

Ono, H. (ed.) (1991), *Profile on Occupational Safety and Health in Sri Lanka*, International Labour Organisation, Asian and Pacific Regional Centre for Labour Administration (ARPLA), Bangkok.

Palmer, Ingrid (1995), 'Public Finance From A Gender Perspective', in *World Development* 23(11), pp 1981-1986, 1995.

Perera, Myrtle (1997), Study on Safety of Female FTZ Workers, Marga Institute, Colombo, processed.

Prywes, M. (1995), 'Unemployment in Sri Lanka: Sources and Solutions', South Asia Region, Internal Discussion Paper, Report No. IDP-154, World Bank, Washington D.C.

Rama, Martin (1994), 'Flexibility in Sri Lanka's Labour Market', Policy Research Working Paper 1262, World Bank, Washington D.C., March 1994.

Rodrigo, Chandra and Sonali Deraniyagala (1990), *Employment and Occupational Diversification of Women: Sri Lanka Case Study*, ARTEP/ILO Working Papers, New Delhi.

Rodrigo, Chandra (1995), 'Women, Structural Adjustment and Employment - a Macro-level Analysis', paper presented at the National Workshop, "Effects of Structural Adjustment and Economic Reforms on Women's Employment" organised by the National Committee on Women, sponsored by the ILO and CIDA, Colombo 16-18 May 1995.

Rosa, Kumudhini (1989), *Women Workers' Strategies of Organising and Resistance in the Sri Lankan Free Trade Zones (FTZ),* Discussion Paper 266, Institute of Development Studies, Sussex.

Rosa, Kumudhini (1994), 'The Conditions and Organisational Activities of Women in Free Trade Zones: Malaysia, Philippines and Sri Lanka, 1970-1990' in S. Rowbothem and S. Mitter (eds), *Dignity and Daily Bread: New Forms of Economic Organising Among Poor Women in the Third World and the First*, London: Routledge.

Siripala, S.H. (1995), 'Some Aspects of the Weekly Rest Requirement and its Significance With Special Reference to the Sri Lankan Workforce in the Private Sector', in *Sri Lanka Labour Gazette*, Vol. 46, No. 1, Jan-Mar 1995, pp 23-65.

Squire, Lyn and Sethaput Suthiwart-Narueput (1995), *The Impact of Labour Market Regulations*, Policy Research Working Paper, 1418, World Bank, Washington D.C, February 1995.

Standing, Guy (1989), 'Global Feminisation Through Flexible Labour' in *World Development*, Vol. 17, pp. 1077-1095.

UNIDO (1989), 'Human Resources in Sri Lanka's Industrial Development - The Current and Prospective Contribution of Women', Regional and Country Studies Branch, Industrial Policy and Perspectives Division, mimeo.

UNIDO (1995,1997), *International Yearbook of Industrial Statistics 1995 and 1997*, Edward Elgar Publishing Ltd., London.

Uyangoda, Jayadeva (1996), Role of Trade Unions in the Context of Sri Lanka's Macroeconomic Transition, Paper presented at the *National Conference on Human Resources Management*, organised by the Institute of Personnel Management, Sri Lanka, at the BMICH, November 8-9, 1996.

Voice of Women (1983), *Women Workers in the Free Trade Zone of Sri Lanka, A Survey*, Voice of Women Publication Series No. 1, Voice of Women, Sri Lanka.

Weerakoon, A.W.H.W (1996), paper presented at the Seminar on Industrial Law, Organised by the Law Commission of Sri Lanka, 27 January 1996.

Wijesinghe, Thilan (1998), 'The Impact of Foreign Direct Investment on Industrialisation', paper presented at Seminar on *50 Years of Independent Sri Lanka: Economic Development 1948-98 and Prospects*, Central Bank of Sri Lanka, March 23-24, 1998.

Women's Bureau of Sri Lanka [19--?], *Maternity Leave Benefits for Women in the Public and Private Sector, A Survey*, Ministry of Plan Implementation, Colombo, Sri Lanka.[75]

World Bank (1993), *Proceedings of the World Bank Annual Conference on Development Economics: 1992,* Washington, D.C.: World Bank, 1993.

World Bank (1995a), Workers In An Integrating World, *World Development Report 1995.*

[75] Although the publication is undated, it can be inferred that the document was published sometime between 1978 and 1985.

Stabilization and Liberalization: A Closer Look at the Sri Lankan Experience 1977-93 (December 1994)

Power Sector Development Issues - Private Power Generation - Part 2 (January 1995)

Contract Farming and Export Horticulture: Can Agribusiness Revitalise the Peasant Sector in Sri Lanka? (February 1995)

Economic Reform and Governance : Second Wave of Liberalization in Sri Lanka - 1989-93 (May 1995)

Sri Lanka : State of the Economy 1995 (August 1995)

Responding To Future Challenges in Education and Training - Policy Issues at the Higher and Tertiary Levels (September 1995)

İong-Run Trends in the Sri Lankan Economy (November 1995)

How Open Has the Sri Lankan Economy Become? Trends in Trade and Trade Taxes : 1977-93 (December 1995)

Macroeconomic Policy Implications of Foreign Capital Inflows: The Sri Lankan Experience (December 1995)

Sri Lankan Welfare State: Retrospect & Prospect (January 1996)

Japan's Role in Asian Development: Lessons for Sri Lanka (March 1996)

Producer Price Statistics for Staple Foodcrops in Sri Lanka: The Case of Paddy (April 1996)

The Uruguay Round and MFA Quotas: The Textiles and Garment Industries in Sri Lanka - The Next 10 years (May 1996) .

The Uruguay Round Agreement on Agriculture: Implications for Sri Lanka (June 1996)

Policy Issues on Promoting Backward Linkages from the Garment Industry in Sri Lanka (August 1996)

Sri Lanka : State of the Economy 1996 (September 1996)

Enhancing the Effectiveness of Public Policy Management: The Challenges for Sri Lanka (October 1996)

Policy Issues in the Electricity Sector of Sri Lanka (November 1996)

Public Accountability, Public Expenditure Management and Governance in Sri Lanka, 1948-1993 (December 1996)

The Labour Situation on Sri Lankan Tea Estates - A View to 2005 (March 1997)

Rural Poverty and an Agrarian Crisis in Sri Lanka, 1985-95: Making Sense of the Picture (April 1997)

Export Processing Zones in Sri Lanka -- Costs, Benefits, Profits and Policy Issues (May 1997)

Cultivating the Pearl: Australia's Economic Relations With Sri Lanka (June 1997)

Electricity Pricing Policy in Sri Lanka (July 1997)

The Problems and Prospects of Sri Lanka's Handloom Industry (September 1997)

Populations Projections in Sri Lanka (August 1997)

Credit-Based, Participatory Poverty Alleviation Strategies in Sri Lanka: What Have We Learned? (October 1997)

Performance Contracting: A Strategy for Public Enterprise Reform in Sri Lanka? (November 1997)

Organization and Financing of Public Sector Health Care Delivery in Sri Lanka : The Need for Radical Change (December 1997)

Sri Lanka : State of the Economy 1997 (December 1997)

Globalization – Liberalizing the Capital Account in Sri Lanka (January 1998)

A Method to Analyze Viability of Private Sector Participation in New Infrastructure Projects in Sri Lanka (February 1998)

The Introduction of Effluent Charges as a Means for Controlling Industrial Water Pollution in Sri Lanka (March 1998)

Capital Account Liberalization and Financial Crises in East Asia (July 1998)

Sri Lanka : State of the Economy 1997 (October 1998)

A Strategy for Nature Tourism Management in Sri Lanka (November 1998)

INSTITUTE OF POLICY STUDIES

99 St Michael's Road
Colombo 3, SRI LANKA

Telephone: 94 1 431 368

Facsimile: 94 1 431 395

email: ips@sri.lanka.net

ISBN 955-9122-74-6

Printed by Karunaratne & Sons Ltd