



**South Asia Co-operative Environment
Programme (SACEP)
Plastic Free Rivers and Seas for South Asia
(P171269)**

LABOUR MANAGEMENT PROCEDURES

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1. INTRODUCTION

World Bank Environmental and Social Framework (ESF) Environmental Social Standard (ESS) two (ESS2) on 'Labour and Working Conditions' recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. Borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions. The objectives of ESS2 are:

- To promote safety and health at work.
- To promote the fair treatment, non-discrimination, and equal opportunity of project workers.
- To protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, following this ESS) and migrant workers, contracted workers, community workers, and primary supply workers, as appropriate.
- To prevent the use of all forms of forced labour and child labour.
- To support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.
- To provide project workers with accessible means to raise workplace concerns.

Accordingly, the purpose of this Labour Management Procedures (LMP) is to facilitate the planning and implementation of the project by identifying the main labour requirements and the associated risks and determining the resources necessary to address the project-related labour issues. The LMP sets out general guidance relevant to different forms of labour to be used during the implementation of 'Plastic Free Rivers and Seas for South Asia Project'. Accordingly, this document details the type of workers likely to be deployed by the project and the management thereof.

2. PROJECT BACKGROUND AND ACTIVITIES

Plastic waste that pollutes the land, flows into rivers and ends up in oceans, threatens development and has far-reaching economic, ecological, and health impacts. South Asia is the third-largest contributor to global plastic waste, and unless action is taken, the region's waste is estimated to double by 2050.

The Plastic Free Rivers and Seas for South Asia project will help coordinate activities and facilitate the region's transition to a circular plastic economy by encouraging investments and greater collaboration between the public and private sectors and across countries. Since many of South Asia's rivers and seas span across national boundaries, a regional approach is necessary to address plastic pollution that leaches into waterways and ends up in the ocean.

The objective of the Project is to strengthen innovation and coordination of circular economy solutions to plastic pollution flowing into South Asian Seas.

The Project consists of the following parts:

Component 1. Supporting Competitive Block Grant Investments to Reduce Plastic Waste

1.1 Supporting circular plastic economy solutions to reduce plastic waste by implementing a program of regional competitive block grant investments, providing Regional Competitive Block Grants ("RBGs") to eligible organizations in South Asia ("Eligible RBG Beneficiaries").

1.2 Facilitating exchange of circular plastic economy knowledge between Eligible RBG Beneficiaries and selected South Asian countries and promoting awareness-raising activities.

Component 2. Leveraging Public and Private Sector Engagement and Solutions

2.1 Supporting the development of strategies, action plans, policies, and standards to harmonize plastic pollution mitigation measures through (a) developing and implementing a multi-year plastic policy support program, working with leading universities and organizations; (b) developing a database for lifecycle analysis, data collection, and modelling related to plastic across selected industry value chains; and (c) supporting communication activities.

2.2 Supporting circular use of plastic in the economy through regional public-private collaboration and engagement in South Asia, including designing and organizing annual or more frequent meetings of representatives from public and private sectors.

Component 3. Strengthening Regional Integration Institutions

3.1. (a) Carrying out works to support the construction of SACEP's new headquarters and providing technical assistance to, and building capacity of, SACEP to discharge its functions, including coordination with relevant regional organizations and uniform collection, analysis, and interpretation of pollution data.

(b) Supporting the development of a fund for the sustainability of existing activities and accelerating circular plastic economy solutions ("Sustainability Fund").

3.2. Supporting SACEP in the implementation and overall management of the Project, regarding the aspects related to social and environmental safeguards, monitoring, reporting and evaluation, complaints handling mechanisms, as well as financial audits.

3. OVERVIEW OF LABOUR USE ON THE PROJECT

As per ESS2, project workers can be defined in the following four areas:

1. **Direct workers:** people employed or engaged directly by the Borrower (including project proponent and project implementing agencies) to work specifically concerning the project.
2. **Contracted workers:** people employed or engaged through third parties to perform work related to the core functions of the project regardless of the location.
3. **Primary supply workers:** people employed or engaged by the borrower's primary suppliers.
4. **Community workers:** people engaged and employed in providing community labour.

For this project, direct workers and contracted workers are the most applicable, as at this stage, significant community labour is not envisioned for the project. In the context of this project, Direct Workers are project-based staff and consultants hired by SACEP/PIU and Partner Institutions and Contracted Workers are people employed by the Regional Competitive Block Grants (RBGs) recipients. The workers hired by the Contractor selected to construct the SACEP's new headquarters also come under the category of Contracted Workers.

It is unlikely that the project will source any core materials critical for the project on an on-going basis from selected suppliers. Therefore, primary supply workers are not relevant to the project. As per paragraph 09 of ESS2, labour management procedures should be developed and implemented for direct workers and contracted workers of the project. Thus, the procedures identified in this LMP applies to direct workers and contracted workers.

Direct workers

Project Implementation Unit

The Project Implementation Unit (PIU) will be established by the SACEP Secretariat and be administratively housed within the Secretariat as a subsidiary organ, which can be established according to its existing mandate. The PIU is responsible for all aspects of the day-to-day management of the project, including planning, budgeting, technical coordination, implementation supervision, M&E, and ensuring compliance with the World Bank Environmental and Social (E&S) standards.

Besides, PIU has technical capabilities to advise the SACEP Member States on national and regional planning and will hire (through the project) and second through partnership arrangements with the Member States and project partners [UNEP, UNDP, and PARLEY] the necessary skills required. The PIU will be constituted by direct project workers who will be recruited for the project.

Specifically, the PIU will comprise Project Director, Financial Management Specialist, Procurement Specialist, Monitoring and Evaluation Specialist, Environmental and Social Development Specialist, Stakeholder Engagement Specialist, Communications Specialist, Legal Specialist and consultants hired by the PIU and Partner Institutions to carry out studies, policy works, etc.

- **Project Director** will oversee the project team on the overall day-to-day management and coordination and implementation of the subcomponents of the project. The Project Director will also closely liaise with the Task Team from the World Bank and other stakeholders.
- **Financial Management Specialist** will assist the project team to lead the financial management activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents.
- **Procurement Specialist** will lead the procurement activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents. Specifically,

the Procurement Specialist will work with the Environment and Social specialists to ensure that all the procurement documents adequately reflect the environment and social issues, where relevant.

- **Monitoring and Evaluation Specialist** (regional level) will be hired and responsible for the overall implementation of the SACEP M&E function, implementation of the M&E plan, and drafting and revising the M&E manual. S/he will report directly to the Project Director. Monthly, quarterly, semi-annual and annual progress reports will be prepared and discussed during regular supervisions with the World Bank. The Monitoring and Evaluation Specialist will collect, process and manage data, including those relating to social and environmental issues associated with the project, as appropriate, from various sources including those from Regional Competitive Block Grants (RGB) sub-projects.
- **Environmental and Social Development Specialist** will provide overall policy and technical directions for environmental and social management under the Project, as defined by the Environmental and Social Commitment Plan (ESCP), Environmental and Social Management Framework (ESMF), Stakeholder Engagement Plan (SEP) and these Labour Management Procedures (LMP). Environmental and Social Development Specialist will primarily be responsible for ensuring that project activities avoid or minimize negative environmental and social impacts; and where they cannot be avoided, that impacts are identified and the necessary mitigation measures are developed and implemented following the relevant laws as well as the World Bank policies.
- **Stakeholder Engagement Specialist** will be responsible for implementing stakeholder engagement activities. The Stakeholder Engagement Specialist will oversee all planned stakeholder engagement activities or in the process of being implemented including interact with related and complementary support activities that require ad hoc or intensive stakeholder engagement, proactively identify stakeholders, project risks and opportunities and inform Project Director ensure that the necessary planning can be done to either mitigate risk or exploit opportunities.
- **Communications Specialist** will be responsible to provide updates to the media, increase the visibility of the project, to increase the awareness of the public on project interventions and to ensure that safeguard issues are adequately communicated to the public. The communication specialist will report to the Project Director.
- **Legal Specialist** will be responsible to provide legal support for the project, especially since the project involves many long-term contracts made with the RBG recipients, thus to manage these contracts and to provide legal feedback. The Legal Specialist will report to the Project Director.
- **Occupational Health & Safety (OHS) Specialist** will be responsible to provide advisory support regarding the occupational health and safety of the project, especially since the project involves many long-term contracts made with the RBG recipients, thus to manage these contracts and to provide necessary guidance. The OHS Specialist will report to the Project Director.

In addition to these permanent staff required for the full duration of the project, the project may hire other technical staff for a limited duration based on specific needs. All these staffs, including consultants assigned to serve in the PIU, are considered as direct workers of the project under ESS2 and the respective standards/provisions will apply to them.

Moreover, the staff assigned by the implementation partners for the project will also be defined as project direct workers. However, as per paragraph 8 of ESS2, they will be bound by their existing employment contracts and provisions under this LMP will not apply to such parties. Besides, various specialist consultancies may be hired (firms or otherwise) to support project implementation. The provisions given under this LMP will not strictly apply to such consultancies. Nevertheless, their health and safety need to be considered, and the measures adopted by the project for addressing occupational health and safety issues will apply to them.

Timing of labour requirements: Direct workers are eligible to work for a fixed contract period as decided by the PIU. Contracts will be renewed for an agreed period, as decided by the PIU, based on satisfactory services. Consultants will be engaged under short term contracts of not more than six months and the labour requirement including the schedule and deliverables will be stipulated in their respective contracts.

Project Contracted Workers

As per ESS2, project contracted workers are defined as those employed by third parties for the support of the implementation of the project. This includes workers hired by the Contractor for the construction of SACEP's new headquarters for both during construction and implementation under project component 3.1 and workers hired by RBG recipients under project component 1.1.

Labour Management Plans will be prepared by the respective RBG recipients and contractors as a part of Contractor's ESMPs based on the provisions of these Labour Management Procedures and the details of labour to be used in those contracts. RBG grantees and Contractors are required to abide by the relevant principles of ESS2 stipulated in these Labour Management Procedures (LMP). They are also required to implement occupational health and safety measures specified in the LMP. These plans will be reviewed and cleared by the PIU, as appropriate.

Timing of labour requirements: Contracted workers are eligible to work for a contract period fixed by the PIU, and then recruited by the RBG recipient/Contractor. Their contracts will be renewed, if required, based on satisfactory services.

Primary Supply Workers

Based on the requirement in every component, primary supply workers will be recruited by the suppliers as required. It will be ensured (and monitored periodically by the PIU) that no children are recruited and supplied as a worker. Furthermore, it will be monitored like above that these workers are not subject to 'forced labour' in any manner. The PIU will be responsible to make sure that these standards are followed strictly. If any deviation is identified the PIU will take action as prescribed in the contract/ agreement following the LMP.

Timing of labour requirements: Their tenure service will be based on supplies as procured.

4. ASSESSMENT OF KEY POTENTIAL LABOUR RISKS

The project will stimulate partnerships among civil society organizations, youth groups and other stakeholders to support regional and community-based behaviour change and awareness-raising; provide funding for innovative solutions; and support youth-led movements, among other things. Based on the overall positive and beneficial impacts of the project, which outweigh whatever residual risks and impacts there may be on the adoption of environment-friendly, sustainable and resource-efficient technologies and practices on 3Rs, the overall Environmental and Social risk classification of the project was assessed to be Moderate. According to the Gender-Based Violence (GBV) risk assessment, the project is classified as Low Risk for GBV.

Two major components of the project in which potential labour risks involved are the Regional Block Grants (RBG) and the construction of SACEP's new Headquarters Building.

The presence of informal workers is common in waste management in the project sites and currently, there is a lack of clarity regarding how this and other forms of labour will be managed under the RBGs in the community-level activities to be carried out; the innovative technologies and solutions to be deployed, and the coordination arrangements to be established.

There will be health risks and impacts to those working in plastic collection and recycling/repurposing due to potential exposure to harmful materials and chemicals during the recycling process if proper health and safety measures in workplaces are not implemented and depending on the technology adopted to recycle and repurpose plastics.

Specific criteria for the management of the RBGs have been prepared under the Project Operational Manual¹ and will be applied to ensure fair and equitable access to funding, especially by women's organizations².

During the construction and operation of SACEP's new Headquarters, a relatively small number of workers will be involved and most of the workers will be from the local communities. Establishment of labour camps is not envisaged. Possibility of labour influx from outside areas will be minimal. Following are the key possible labour risks that have been identified by the environmental and social assessment:

- Possible accidents or emergencies.
- Assignment of child and forced labour and use of unscrupulous labour practices.
- The conduct of hazardous work, such as working at heights or in confined spaces, use of heavy machinery, exposure to harmful materials and chemicals.
- Lack of Occupational Health and Safety (OHS) practices and procedures, especially in the context of COVID-19 outbreak.
- Since the workers will have to be close to one another, the risk of communicable disease spread, especially COVID-19 among workers as well as their immediate family members is high. Lack of knowledge, lack of provision of PPEs and training, lack of social distancing measures may exacerbate the situation. The project will be implemented in accordance with WHO guidance on what should be done to treat a person who becomes sick or displays symptoms that could be associated with the COVID-19 virus.

¹ Project Operational Manual: Section 4.3.1 Specification of selection criteria - RBG proposals for W1 would also be screened for how women are currently involved in their entity and how with IDA proceeds, and how they would directly and indirectly incrementally benefit. Each recipient would be technically audited for gender inclusion to verify (Annex 3). Moreover, at least 5 W1 proposals would support eligible female-led organizations and all recipients would have to demonstrate female participation of at least 30 percent by EOP. Fifty percent of those showcased under W2 and invited in knowledge exchanges would be women.

² Both women-led and/ or women's rights

- Rise in incidences of Gender-Based Violence (GBV) as well as transactional sex work (given workers will have money in this time of general unemployment situation due to virus outbreak).
- Supply of essentials as well as Project-related goods and equipment may be hampered due to supply chain disruption due to COVID-19 lockdown.

Child and Forced Labour: The risk of child labour will be mitigated through Certification of labourers' age. This will be done by using the legally recognized documents such as the National Identification Card, and Birth Certificate. Further, awareness-raising sessions will be conducted regularly among the communities, as well as for RBGs and contractors. To sensitize on prohibition and negative impacts of child and forced Labour. SACEP will ensure this as relevant.

Sexual Exploitation and Abuse (SEA)/ Sexual Harassment (SH)/Gender-based violence (GBV): Potential risks of SEA/SH/GBV by the project staff vis-à-vis the female staffs, and others as related with the project, are low as assessed during the GBV Assessment process. Nevertheless, an orientation on Gender/SEA/SH/GBV will be conducted for the PIU staffs and other related staffs, and will be followed up with refreshers sessions annually.

As mentioned in the ESCP and the GRM section of the SEP, the relevant GBV mitigation measures for this project are:

- Identification of service providers in Sri Lanka (World Bank has a list of service providers that can be used by the PIU)
- Ensure codes of conduct are signed by workers employed by the construction company – workers should understand that incidences of GBV/SEA/SH will not be tolerated
- Training of workers (on code of conduct)
- Ensure GRM includes special provisions for handling GBV complaints confidentially

Occupational health and safety: SACEP has existing corporate requirements for contractor training and safety, records of which are inspected monthly and audited bi-annually.

5. OVERVIEW OF LABOUR LEGISLATION: TERMS AND CONDITIONS

Terms and conditions of employment of workers into the sub-projects shall be following national labour legislation of respective participating countries (Please see at Annex 1). Terms and conditions of employment of workers to be based at SACEP Secretariat shall be according to the ‘Rules and Regulations of South Asia Co-operative Environment Programme’³ approved at the 4th Meeting of the Governing Council of SACEP held on 25 – 26 April 1988 in Kabul, Afghanistan and decisions of the consecutive meetings of the Governing Council and Consultative Committee. These SACEP’s rules and regulations were made in consistence with Labour Legislation in Sri Lanka (as the SACEP HQ is based in Sri Lanka) and with the requirements of ESS2.

According to the institutional structure for implementing the project, the PIU will be established within the existing institutional architecture of SACEP and the PIU will be administratively housed within the SACEP Secretariat as a subsidiary organ. Recruiting authority for the personnel to the PIU is Director General of SACEP and terms and conditions apply to these contracts are SACEP’s terms and conditions (Referred in Annex 1). SACEP is registered as a Specialized Agencies of the UN and Other Agencies under the Ministry of Foreign Affairs, Sri Lanka and therefore enjoys privileges given by the government of Sri Lanka similar to UN agencies. SACEP secretariat is based in Colombo, Sri Lanka and because of that, Sri Lanka’s labour laws apply to the areas not covered by SACEP’s terms and conditions.

Table 1. Main gaps of government systems concerning the WB ESF Standards

WB ESF Standard	Gaps
ESS2: Labour and Working Conditions	<p>(i) In general labour related legislations do not specifically require that development projects be assessed and reviewed in terms of labour and working conditions including OHS requirements before approval.</p> <p>(ii) The labour-related legislation does not require development projects to prepare the Labour Management Plans/ Procedure or OHS Plan.</p>
ESS4: Community Health and Safety	Covered under ESIA but the systems do not provide clear requirements for the development projects and implementation. Health issues are within the purview of the related line ministry/ department, but usually, it is not involved in project preparation and oversight.

³ Rules and Regulations of South Asia Co-operative Environment Programme, As at November 2019

6. BRIEF OVERVIEW OF LABOUR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

The National Occupational Safety laws of each participating countries (Please see at Annex 1) of the project are relevant to the RBG sub-projects and other project activities which employ local workers. The main aim is to enhance the safety and health of workers active under sub-project activities through the prevention of accidents and fire on the work station and the promotion of a healthy and secure working environment (e.g. exposure to harmful materials and chemicals, temperature, light, sound, furniture, ambient air, provision of drinking water). RBG recipients will be requested to prepare and submit the Occupational and Health and Safety Plan for RBG subprojects. The RBG recipient/Contractor is obliged to properly implement and maintain adherence to all regulations and directives in the Occupational and Health and Safety Plan. In case of violations, work may be stopped until problems are properly resolved. Any accident on the work station must be reported immediately to the PIU of SACEP.

The PIU within SACEP is enforcing the stance of the International Labour Organization (ILO) in supporting the need for safe work for all. Occupational Health and Safety (OHS) involves the health and safety of everyone involved, not only the employees and the employers of a workplace but also the wider community and indirect stakeholders.

Main measures of OHS are as follows:

- Procedures to ensure establishing and maintaining a safe working environment shall be developed by parties who employ or engage project workers.
- Clear processes and procedures shall be available to workers to enable them to report work situations that they believe are not safe or healthy, and accordingly, remove themselves.
- Ensure that all employees with special needs are given directions, notices, information and instructions by any method of communication.
- Facilities appropriate to the circumstances of the works will be provided to the project workers.
- All parties who employ or engage the workers will collaborate in applying the OSH requirements.
- A system of regular review of OHS performance and the working environment will be put on place.

The project's OHS Specialist to help RBG recipient/contractor implementing sub-project activities to conduct a risk assessment at the worksite through the following steps:

- Identify at the work site possible hazards to safety and health for employees and visitors;
- Identify who could be harmed and what type of injury might occur;
- Assess the risk and identify and decide on OHS control measures;
- Nominate a person within the operational team responsible for taking control measures and indicate a timeframe;
- Develop an action plan to deal with the most important things first;
- Record and display the above findings and circulate among sub-project staff and employees implementing activities.
- Review systematically whether the risk assessment is still valid which helps to make sure that OHS standards are still practiced.

Table 2: Conformance of the Regional Labour Standards with key elements of the ESS2

Key Elements of ESS2	Provisions in the Labour Legislations	Steps planned
Equal Opportunity and Non-discrimination	The laws contain important provisions prohibiting discrimination based on sex and disability, including equal wages for equal work.	Code of Conduct (Annex 4) will be followed.
Timely payment	Wages must be paid before the expiry of the 7 th working day after the last day of the wage period.	Code of Conduct (Annex 4) will be followed.
Working hours and overtime	48 hours per week extendable up to 60 hours with 12 hrs overtime.	Code of Conduct (Annex 4) will be followed.
Worker rights	Regular leaves and benefits. The employer must provide reasons for termination.	Code of Conduct (Annex 4) will be followed.
Prevents use of all forms of forced labour and child labour	Below 14 years of age shall not be required or allowed to work in any factory. 14 years of age shall allow working in a factory if s/he is trainee or s/he has a certificate of fitness and government permission if the nature of employment is considered non-hazardous. Otherwise, all forms of child labour are banned.	Code of Conduct (Annex 4) will be followed.
<i>Protection of Workers</i>		
OHS	The law provides for comprehensive OHS and empowers DIFE to conduct inspections of establishments and to impose penalties for violations or non-compliance.	Code of Conduct (Annex 4) will be followed.
Children at the Working Age	Children (14 - 18) shall be assigned only light work and not be assigned to hazardous tasks.	Code of Conduct (Annex 4) will be followed.
Women	8 weeks paid maternity leave for expectant mothers is mandatory.	Code of Conduct (Annex 4) will be followed.
Person with Disabilities (PWD)	Person with Disabilities (PWD) Rights and Protection Act 2013 provides for rights to discrimination-free employment opportunities.	Code of Conduct (Annex 4) will be followed.
Migrant Workers	No special provisions for migrant workers	Code of Conduct (Annex 4) will be followed.

Contractor Workers	In the case where the wages of a worker employed by a contractor are not paid by the contractor, the wages must be paid by the employer of the establishment.	Code of Conduct (Annex 4) will be followed.
Freedom of association and collective bargaining	Employees are allowed to form a union with at least 20% of the employees participating, but the government does not permit any unionization in the Export Processing Zones.	Code of Conduct (Annex 4) will be followed.
Access to a grievance redress mechanism	<p>Employees can seek direct civil law redress from the Labour Courts for complaints regarding terms and conditions employment and wages.</p> <p>While health and safety, maternity welfare and child labour offences are subject to criminal prosecution.</p> <p>In general, there is institutional GRM for labour in Bangladesh as per the standards/provisions of the Bank's ESS2.</p>	Code of Conduct (Annex 4) will be followed.

7. RESPONSIBLE STAFF AND PROCEDURES

The overview of responsible staff and oversight mechanisms will be described in further detail in the ESMF. This is an overview – the details will flow from the ESMF and can be taken further forward during the implementation stage.

Generally, the management of community health and safety of development projects is covered under the regulations related to the Environmental Compliance Assessment (ECA) and Environmental Clearance Rules (ECR). Typically, OHS (Occupational Health and Safety) measures extend to the general public at construction sites.

There are two components of OHS. One is the physical safety of project communities who are exposed to the project activities during construction and operation, including risks of accidents and risks of violence due to increase in crimes and cultural conflict between locals and migrant population.

The other pertains to the exposure and/or increased risks of diseases by the community due to influx of people during construction and operation and due to the changes in the project area, including pollution and ecological change. The physical safety aspects are partly addressed by the OHS provisions of Labour Act. Other laws have specific provisions that address part of ESS4.

The summary of responsibility concerning labour issues is as follows:

Overall Management. The PIU established under SACEP has the overall responsibility to oversee all aspects of the implementation of the LMP, in particular, to ensure RBG recipients/contractor compliance. PIU will address all LMP aspects as part of procurement for works as well as during contractor induction and granting RBGs. The RBG recipients/contractors are subsequently responsible for the management of labour issues in the field. The RBG recipients/Contractors will be required to adopt and implement good labour management practices acceptable to the SACEP and the World Bank.

Occupational Health and Safety (OHS). RBG recipients/Contractors must ensure day-to-day compliance with acceptable safety measures and will record safety incidents. Minor incidents are reported to PIU every month, serious incidents are reported immediately. Minor incidents are reflected in the quarterly reports to the World Bank, major issues are flagged to the World Bank immediately.

Labour and Working Conditions. RBG recipients/Contractors will comply with the provision of labour conditions including non-discrimination, wages, safer working conditions etc. PIU will carry out periodic monitoring to ensure that labour working conditions are met as per national legislation of participatory countries of the project.

Worker Grievances. A Grievance Redress Mechanism (GRM) has been detailed with this LMP including the setup of a Grievance Redress Committee (GRC). RBG recipients/Contractors will be required to abide by the provisions of the GRM. The Environmental and Social Development Specialist will review records every month. PIU will keep abreast of resolutions and reflect in quarterly reports to the World Bank.

GBV/SEA/SH, waste management, communicable diseases. RBG recipients/Contractors will be fully responsible to ensure that their workers know and are trained on their obligations concerning the avoidance of any form of GBV/SEA/SH, safe disposal of wastes and reporting of communicable diseases if they contract any, especially during COVID-19 outbreak situation. Continuous motivation, monitoring and reporting on the same is the responsibility of the RBG recipients/Contractor. The PIU will have a monitoring team to ensure the same.

Additional Training. RBG recipients/Contractors are required to ensure that the assigned workers are adequately trained and briefed with overall safety arrangement, use of equipment (especially PPE), GRM procedure, working conditions of the project. Training on the use of PPE, hygiene facilities and behaviour, GBV/SEA and preparation and obtaining signed code of conduct are also RBG recipient's/Contractor's responsibility.

Verification, Monitoring and Evaluation (M&E). M&E will be an integral part of the project under the responsibility of the PIU. Project monitoring will be carried out annually and is the responsibility of the SACEP M&E function. The focus will be the Results Framework of the project and the intermediate PDO indicators as well as the immediate (component) indicators. Besides, SACEP M&E function will also provide oversight to the collection of data about physical and financial progress as well as compliance with safeguards policies and fiduciary regulations. SACEP will work through the NFPs to fulfil the M&E objectives and implementation of the M&E plan and manual. An M&E specialist (regional level) will be hired and responsible for the overall implementation of the SACEP M&E function, implementation of the M&E plan, and drafting and revising the M&E manual. S/he will report directly to the Project Director. Monthly, quarterly, semi-annual and annual progress reports will be prepared and discussed during regular supervisions with the World Bank. SACEP governance meetings and other consultative meetings with the SAS programme and other initiatives supported by SACEP will be organized in addition to regular World Bank supervision missions to report on M&E and use M&E data for policy formulation and decision-making in addition to project management purposes.

Raising awareness. The project will take initiative to organize sessions on raising awareness of the communities, project staffs and other relevant stakeholders on issues relevant to the project's compliance and standards (e.g. labour standards, gender-based violence et al). This, in addition to the project's Communication Strategy, will ensure effective and efficient participation of different stakeholders of the project.

7.1. Specific Responsibilities of Borrower to Address COVID-19 Outbreak before Employing Workers

The PIU will confirm that adequate precautions to prevent or minimize an outbreak of COVID-19 have been taken and they have identified what to do in the event of an outbreak. The project will take necessary measures to address issues related to the COVID-19 by using a systematic approach that emphasizes on the collaboration of labourers and the management through active engagement. The best way to control COVID-19 is to systematically prevent it from entering the workplace in the first place.

Suggestions on how to do this are set out below:

- The PIU should request details from the RBG recipients/Contractors of the measures being taken to address the risks. The contract should include health and safety requirements, and these can be used as the basis for identification of, and requirements to implement COVID-19 specific measures. The measures may be presented as a contingency plan, as an extension of the existing project emergency and preparedness plan or as standalone procedures. This request should be made in writing (following any relevant procedure set out in the contract between SACEP and the RBG recipients/contractors).
- In making the request, it may be helpful for the PIU to specify the areas that should be covered. This should include current and relevant guidance provided by national authorities, WHO and other relevant organizations.
- Communicating and implementing COVID-19 related norms as prescribed by the government in the project area by the PIU and all RBGs through training, and targeted interventions

relevant to assigned tasks including but not limited to induction training, and training of safety.

- The PIU should require the RBG recipients/Contractors to convene regular meetings with the local health authorities and to take their advice in designing and implementing the agreed measures. Regular review, coordination, and updates to the plan as COVID-19 outbreak conditions change, including as new information about the virus, its transmission, and impacts become available.
- Where possible, a person should be identified as a focal point to deal with COVID-19 issues. This can be a work supervisor or a health and safety specialist. This person can be responsible for coordinating preparation of the site and making sure that the measures taken are communicated to the workers, those entering the site and the local community. It is also advisable to designate at least one back-up person, in case the focal point becomes ill; that person should be aware of the arrangements that are in place.
- The PIU may provide support to sub-projects in identifying appropriate mitigation measures, particularly where these will involve interface with local services, in particular health and emergency services. In many cases, the PIU can play a valuable role in connecting project representatives with local government agencies and helping coordinate a strategic response, which takes into account the availability of resources. To be most effective, sub-projects should consult and coordinate with relevant Government agencies and other projects in the vicinity.
- Workers should be encouraged to use the existing project grievance mechanism to report concerns relating to COVID-19, preparations being made by the project to address COVID-19 related issues, how procedures are being implemented, and concerns about the health of their co-workers and other staff.
- Prepare an SOP related to receipt of raw materials, accessories, machines, tools, accessories, and any other goods into project premises, including what is imported from outside the country. This should include quarantine and checking the area for what is brought into project sites. Training and awareness-raising on the COVID-19 related needs of specific workers, including pregnant workers, workers with disabilities and workers with family responsibilities and/or dependents.
- Ensure that the medical officers and welfare officers are trained to support workers in accessing these services if required. Actively encourage sick employees to stay home. Promote awareness-raising among RBG recipients and contractors to avoid penalization of employees for taking sick leave.
- Establishing hand wash stations at the main gate with an adequate number of liquid soaps; ensuring hand wash/sanitization for all the visitors and employees while entering into the office. Project office and/ or sites should complete disinfection before workers enter the office or project sites. Routine cleaning is being continued with more attention to disinfect the premise with first aid boxes, dining tables, pantry and production tools and equipment.
- Posting awareness poster with several emergency instructions throughout the office or project sites and distributing leaflet on COVID-19, including information related to health services. If possible use social media, SMS, apps for sharing awareness information.

8. POLICIES AND PROCEDURES

Decisions relating to the employment or treatment of project workers will not be made based on personal characteristics unrelated to inherent job requirements. The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination based on gender, ethnicity, sexual orientation, etc. concerning any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices.

Most environmental and social impacts of subprojects resulting from activities directly under the control of RBG recipients and contractors will be mitigated directly by the concerned RBG recipients/contractors. As a consequence, ensuring that RBG recipients/contractors effectively mitigate the related impacts of the project activities is the core of the Program's approach. SACEP will incorporate standardized environmental and social clauses in the tender documentation and contract documents, for potential bidders to be aware of environmental and social performance requirements that shall be expected from them, can reflect that in their bids, and required to implement the clauses for the duration of the contract. SACEP will enforce compliance by RBG recipients/contractors with these clauses.

As a core contractual requirement, the RBG recipient/contractor is required to ensure all documentation related to environmental and social management, including the LMP, is available for inspection at any time by the SACEP or SACEP appointed agents. The contractual arrangements with each project work must be clearly defined following national law. A full set of contractual requirements related to environmental and social risk and impact management will be provided in the Programs' Environmental and Social Impact Assessment. All environmental and social requirements will be included in the bidding documents and contracts in addition to any additional clauses, which are contained, in the Programs environmental and social instruments.

Under no circumstances will SACEP, RBGs, Contractors, suppliers or sub-contractors engage forced labour. Forced labour includes bonded labour (working against an impossible debt), excessive limitations of freedom of movement, excessive notice periods, retaining the worker's identity or other government-issued documents or personal belonging, the imposition of recruitment or employment fees payable at the commencement of employment, loss or delay of wages that impede the workers' right to end employment within their legal rights, substantial or inappropriate fines, physical punishment, use of security or other personnel to force or extract work from project workers, or other restrictions that compel a project worker to work in a non-voluntary basis can be referenced or annexed to the LMP, together with any other supporting documentation.

This section sets out the mitigation measures that will be adopted by the project to address the risks mentioned in the previous section, including those relating to responding to the specific risks to workers posed by COVID-19. As specified in the SACEP's Rule and Regulations, Labour Legislations of Sri Lanka and other participating countries (Please see at Annex 1) of the project and ESS 2 of the World Bank, the employment of project workers will be based on the principles of non-discrimination and equal opportunity.

There will be no discrimination concerning any aspects of the employment relationship, such as recruitment, compensation, working conditions and terms of employment, access to training, promotion or termination of employment. The following measures will be developed and adopted by the RBG recipients/contractors and monitored by PIU to ensure fair treatment of all employees:

- As per the above-mentioned labour regulations requirements, recruitment procedures will be transparent, public and non-discriminatory concerning ethnicity, religion, disability, gender, and other grounds.
- Employment applications will be considered following the application procedures established by the project.
- Maximum working hours for project staff will not exceed eight (08) hours a day and forty-five (45) hours a week, excluding intervals for rest or meals. Hours worked more than the normal hours of work will not exceed 12 hours a week and a worker will be entitled to a proportionate increase in remuneration which is equal to at least 1.5 times the employee's hourly wage.
- All project staff employed for the project will be above 18 years. To prevent engagement of under-aged labour, all contracts, including those with the RBG recipients, will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance.
- Labour will be preferentially recruited from the local areas.
- The contracted workers will not pay any hiring fees. If any hiring fees are to be incurred, these will be paid by the RBG recipients/Contractors.
- The labour contracts will be developed in both English and local language of participating countries of the project to be understandable by all workers.
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulties with understanding the documentation.
- While communicating with women workers, it is to be ensured that they understand their rights and process of raising issues and grievances related to their employment.
- PIU will include in contracts that no forced or child labour would be allowed.

To ensure the enforcement of the provisions mentioned here for the contract workers by the RBG recipients/contractors, the conditions highlighted here will be included in the contracts signed with all the RBG recipients/contractors.

RBG recipients/Contractors will - maintain labour relations with local communities through a code of conduct (CoC). The CoC commits all persons engaged by the RBG recipient/contractor, including subcontractors and suppliers, to acceptable standards of behaviour.

The CoC shall include sanctions for non-compliance, including non-compliance with specific policies related to gender-based violence, sexual exploitation and sexual harassment (e.g., termination).

The CoC shall be written in the local language of a participating country (for the expatriate worker, it'll be usually in English) in a reader-friendly style and signed by each worker to indicate that they have:

- i. Received a copy of the CoC as part of their contract;
- ii. Had the CoC explained to them as part of the induction process;
- iii. Acknowledged that adherence to this CoC is a mandatory condition of employment;

- iv. Understood that violations of the CoC can result in serious consequences, up to and including dismissal, or referral to legal authorities.

A copy of the CoC shall be displayed in a location easily accessible to the community and project-affected people. It shall be provided in the local language.

RBG recipients/Contractors shall address the risk of gender-based violence, through:

- i. Mandatory training and awareness-raising for the workforce about refraining from unacceptable conduct toward local community members, specifically women. Training may be repeated;
- ii. Informing workers about national laws that make sexual harassment and gender-based violence a punishable offence which is prosecuted;
- iii. Adopting a policy to cooperate with law enforcement agencies in investigating complaints about gender-based violence.

This process shall be under the portfolio of a designated Officer who shall identify and engage the relevant stakeholders on GBV issues.

9. AGE OF EMPLOYMENT

Several definitions of “child” involving different age limit exist in law in Sri Lanka and other participating countries (Please see at Annex 1), including the definition in the National Child Protection Act No.50 of 1998, which defines a child as any person under 18 years of age. However, for purposes of employment, the definitions/age limits set out in the Shop & Office Employees Act (SOE ACT) and the Employment of Women, Young Persons & Children Act (EWYP&C Act) are to be considered when discussing child labour in Sri Lanka, together with the provisions on the Core ILO Conventions on the elimination of child labour- viz. Conventions 28 (Minimum Age Convention) and 132 (Elimination of the Worst Forms of Child Labour). Other laws impacting on child labour and protections offered to workers under 18 years of age include the Estate Labour (Indian) Ordinance, the Factories Ordinance and the Mines and Minerals Law.

The EWYP&C Act defines a child as a person who is under the age of 14 years. Gazette Extra Ordinary No.1116/5 of 26th January 2006 contains a general prohibition on the employment of children under 14 years of age. It recognizes two exceptions to this general prohibition – work done by children in technical schools if such work is approved or supervised by a public authority, and work by children which is supervised by parents or guardian in light agricultural or horticultural or similar work carried on by members of the same family before the commencement of regular school hours or after they end. The SOE Act, on the other hand, completely prohibits the employment of any person under the age of 14 years in a shop or office. Male children between the ages of 14 and 18 cannot be employed before 6.00 a.m. or after 6.00 p.m. except in specified types of employment.

The EWYP&C Act defines a “young person” as a person who has attained the age of 14 years, but who is under the age of 18 years. The Act further distinguishes between young persons between the ages of 14 and 16 years, and those between the ages of 16 and 18 years, and sets very detailed guidelines to regulate for their employment. As per Section 13 in the 2006 Amendment of the EWYPC, where a child is employed in contravention of the provisions of the subsection, the employer shall be guilty of an offence chargeable in the Magistrate Court. The employer can be fined or imprisoned or both and; the Magistrate could also order the employer to pay compensation to the child in question.

In terms of hazardous work, the government passed two legislations and the announcement was published by Gazette notification 1667/41 of 2010 and No. 1695/32 dated Friday, March 4, 2010, a list of forty-nine trades/ occupations which have been listed as Hazardous Work. In 2006, Section 20 of the EWYPC was amended to address the special issue of hazardous labour by children between the vulnerable age group of 14 to 18 years. The penalty for employing children in violation of the Employment of Women, Young Persons and Children Act 8 of 2003 varies from Rs. 5,000 to Rs 10,000 fines, imprisonment of not less than 12 months or both.

According to the World Bank standards and guidelines, the minimum age of employment for this project shall be 18 years (given the potentially hazardous situation posed by COVID-19) and to ensure compliance, all employees will be required to produce National Identification Cards as proof of their identity and age which is the national identification document required for employment.

If any RBG recipient/contractor employs a person under the age of 18 years, measures to address the same will be taken by PIU.

10. TERMS AND CONDITIONS

This section sets out the mitigation measures that will be adopted by the project to address the risks mentioned in previous sections, including those relating to responding to the specific risks to workers posed by COVID-19.

a) Terms of Employment: Direct Workers

- All project staff will be provided with an employment contract as per the requirements of the relevant labour legislature/regulations mentioned in Section 5 of this LMP.
- All project staff employed for the project will be above 18 years. To prevent engagement of under-aged labour, all contracts, including those with the RBG recipients, will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance. The RBG recipients/contractors will be required to maintain labour registry of all contract workers with age verification.
- Maximum working hours for project staff will not exceed eight (08) hours a day and forty-five (45) hours a week, excluding intervals for rest or meals. Hours worked more than the normal hours of work will not exceed 12 hours a week and will entitle a worker to a proportionate increase in remuneration which is equal to at least 1.5 times the employee's hourly wage
- Equal training opportunity will be available to all staff working in the project without discrimination, based on gender or otherwise. It is the responsibility of the Project Director to ensure that such discrimination does not exist.
- All staff will be entitled to 21 days' leave with pay for every year of continuous service; and 84 working days of paid maternity leave. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.
- Staff will be made aware of the avenues available to seek redress for victims of sexual harassment. Staff will be able to lodge complaints directly to SACEP.
- Staff will be provided EPF and ETF contribution and deductions will be made from their salaries for their contribution.
- A daily subsistence allowance (DSA) will be provided to all project staff covering lodging, meals, gratuities and transport costs when travelling in the field. The rate of DSA will be determined based on the rates at locations where the project is implemented and will be revised based on changes to rates.
- Any foreign party employed by the project will have a valid work permit and a work visa while working in any of the project sites in all SACEP countries.
- All staff will be made aware of GRM available for the staff as specified under this LMP.

To ensure enforcement of these aspects highlighted in the LMP, these provisions will be included in the employment contracts of all direct workers.

b) Terms and Conditions: Contracted Workers

- List of workers to be utilized concerning the project, with proof of employment will be required to be submitted to PIU by all RBG recipients/contractors.
- Work can only commence once the following conditions are met:
 - Toolbox training completed by all staff employed by the RBG recipient/contractor
 - All the required Personal Protective Equipment are acquired by the RBG recipient/contractor for all workers
- Any newly employed party by the RBG recipient/contractor will be required to complete the toolbox before commencing any physical work.
- As per the provisions of the employment, all contracted workers employed for the project will be above 18 years.
- All RBG recipients and contractors will be required to provide documentary evidence (passport, identity card or birth certificate) confirming the age of employees to PIU before involving them on activities of the project.
- Maximum working hours for staff will not exceed the maximum limit set in the contract between SACEP and RBG recipients/Contractors i.e. 48 hours a week. To confirm this, monthly attendance and duty sheets need to be submitted to PIU.
- An internal transparent and accountable system will be established within the company/organization to tackle issues of sexual harassment, physical and psychological harassment and workplace bullying. Details of this system will be shared with PIU before signing any contracts or agreements.
- The leave policy of the company/organization will be shared and confirmed that it is in line with national laws and regulations.
- All contracted staff will be made aware of the grievance redress mechanism available for the staff specified under this LMP.

To ensure the enforcement of the provisions mentioned here for the contract workers by RBG recipients/contractors, the conditions highlighted here will be included in the contracts signed with all RBG recipients/contractors.

11. GRIEVANCE REDRESS MECHANISM

For this project SACEP will follow the Grievance Mechanism (GM) proposed in the SEP for this project and will include the following key principles in it:

- Stakeholder engagement is vital toward ownership and sustainability of project initiatives and outcomes; thus, stakeholder feedback, including complaints, need to be heard
- Complaints shall be addressed promptly and transparently, and without retribution to the complainant
- The process of receipt, investigation, and resolution of complaints shall be fair, consistent, and respectful
- Complaints and grievances shall be resolved at the lowest possible level for resolution

In any working environment, both employers and employees need to be fully conversant with all aspects of disciplinary processes, the grievance handling procedures and the legal requirements and rights involved. Project's Legal and OHS Specialist will guide and support the PIU in implementing an effective dispute management system consideration must be given to the disputes resulting from the following:

1. Disciplinary action
2. Individual grievances
3. Collective grievances and negotiation of collective grievances
4. Gender-based violence, sexual exploitation and workplace sexual harassment

All the RBG recipients and contractors who will be engaged in the project will be required to produce their grievance procedure as a requirement for tender which at a minimum comply with these requirements. Besides, good international practice recommends that the procedures be transparent, is confidential, adheres to non-retribution practices and includes right to representation. After they are engaged, they will be required to produce proof that each employee has been inducted and signed that they have been oriented to the GRM procedure.

12. CONTRACTOR MANAGEMENT

SACEP's new headquarter premise will be built under this project. The land will be given by the government of Sri Lanka. Selection of contractors shall be made according to the World Bank procurement procedures. The PIU, after receiving bids from the contractors, will ensure that the contractors are legitimate and licensed according to the Sri Lankan labour law, and the Contractors Association. Selection of RBG recipients shall be made according to the criteria set in Project Operational Manual (POM) and this LMP.

RBG recipients'/Contractors' labour management records and reports that may be reviewed would include representative samples of employment contracts or arrangements between third parties and contracted workers, records relating to grievances received and their resolution, reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions, records relating to incidents of non-compliance with national law, and records of training provided for contracted workers to explain occupational health and safety risks and preventive measures.

The Environmental and Social Management Framework (ESMF), POM and this LMP form an integral part of the bidding documents to be issued to RBG recipients/contractors, and shall also be a part of the awarded contracts to these RBG recipients/contractors. Besides, proper training and orientation shall be made by the PIU at different stages of awarding and implementation to RBG recipients/contractors, to ensure full understanding and compliance. The Environmental and Social Development Specialist will be assigned to the task.

Performance of RBG recipients/contractors shall be managed and monitored by the PIU and the National Focal Points of SACEP as set out in POM. Regular supervision checkups shall be conducted to ensure compliance with all the ESS requirements.

The application of this requirement will be proportionate to the activities and the size of the contract, in a manner acceptable to SACEP and the World Bank:

- a. **Labour conditions:** records of workers engaged under the Project, including contracts, registry of induction of workers including CoC, hours worked, remuneration and deductions (including overtime), collective bargaining agreements;
- b. **Safety:** recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).
- c. **Workers:** number of workers, the indication of origin (expatriate, local, nonlocal nationals), gender, age with evidence that no child labour is involved, and skill level (unskilled, skilled, supervisory, professional, management).
- d. **Training/ induction:** dates, number of trainees, and topics.
- e. **Details of any security risks:** details of risks the RBG recipient/contractor may be exposed to while performing its work—the threats may come from third parties external to the project.
- f. **Worker grievances:** details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.

The Project's oversight of contractors is set out in section 5 of this LMP. The following procedures are currently in place for SACEP contractor management, but have been adjusted to adhere to LMP provisions:

1. Ensure that RBG recipients/Contractors have valid contracts with clearly define service-level agreement per the national law and all environmental and social clauses, as applicable: Project Management Office, and reviewed by SACEP.
2. RBG recipients/Contractor induction to SACEP standards and LMP: Project Implementation Unit, attended by SACEP team.
3. Monthly submission of records: RBG recipient/Contractor submission to Project Implementation Unit,
4. Monthly site visits (at a minimum) and reports: Project Implementation Unit, and other Officers.
5. Evaluation of contractor requirements. This includes training, OH&S files, certifications and others. The evaluation results in Portfolio Reports which includes recommendations for contract extension or termination.
6. Training needs identification recorded in Contractor Training Schedule.
7. Annual Contractor Management Plans submitted.

Annex 1: Summary of Labour Laws of Participating Countries

Standards for labour and Working Conditions are defined in the national labour laws and occupational health and safety policies of the SACEP member countries. Most of these legislations are comprehensive legislation. They mainly cover the following three areas: (i) Conditions of service and employment including wages and payment, establishment of Wages Boards, employment of young people, maternity benefits, working hours and leave; (ii) health, safety, hygiene, and welfare, and injury compensation; and, (iii) trade unions and industrial relations.

Table 3. Key Elements of the Labour-related Legislations

Issue	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
Work hours	35 hrs/wk.	56 hrs/wk.	48 hrs/wk.	48 hrs/wk.	48 hrs/wk.	48 hrs/wk.	48 hrs/wk.	45 hrs/wk.
Minimum wage	USD 65/m	USD 95/m	USD 52/m	USD 70/m	USD 420/m	USD 115/m	USD 107/m	USD 55/m
Employees (Trade) Union	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regular leaves and benefits	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Maternity leave	90 days	16 weeks	6 ms	6 ms	60 days	52 days	6 ms	12 wks.
Safe work environment	Moderate	Mod	Mod	Mod	Mod	Mod	Mod	Mod
Notice periods (termination)	1 mnth	30-120 days	1 mnth	30-90 days	2 months	30 days	1 month	1 month

Detailed information regarding each member country is given below.

Afghanistan

National acts, laws and regulations relevant to the project are, among others: Labour Law 2007; Environmental Act, 2007; Water Law, 2009; Interim Environmental Impact Assessment Regulations.

- The Labour Law (2007) sets a legal foundation for safe and decent working conditions in Afghanistan. Key relevant provisions provide guidance around non-discrimination in recruitment (Art. 9), compliance with international conventions (Art. 12), working hours (Art. 30), breaks (Art. 40), non-discrimination in payment (Art. 59), Labour Norms and Discipline states the general obligations of the employer, which include ensuring labour safety and security at work (Art. 91), obligations of employees, which include following safety rules and practising working environment hygiene (Art. 92), and special provisions for female and youth workers (Art. 121, 127-130), overtime pay, night shift differentials and retirement benefits.

National Labour Policy 2017 – 2020 sets the following specific objectives concerning labour safety and working conditions:

- Improve legislation environment and working conditions by establishment and enforcement of laws, regulations and standards.
- Facilitate the establishment and functioning of representative and democratic unions of workers, and employers; encourage social dialogue and collective bargaining for determining work-related matters and settling issues by the industrial partners.
- Facilitate the creation of equal opportunities for productive employment to all Afghans of working-age regardless of gender, ethnicity and religion.
- Enhance the employability and productivity of the country's workforce by increasing its capabilities through public and private skills development.
- Strengthen the role and partnership of the private sector, as a key driver of national development, in labour-related planning and decision-making to achieve optimal labour market outcomes.
- Facilitate and regulate the migration and employment of Afghan workers abroad and foreign workers in the country, and assist with the effective reintegration of Afghan returnees.

Also, Afghanistan has ratified several international treaties and conventions on labour-related conventions of the ILO. These include the following – the Equal Remuneration Convention 1951, the 1957 Abolition of Forced Labour Convention, Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Minimum Age Convention, 1973 (Minimum age specified: 15 years), Night Work (Women) Convention (Revised) 1948, the 1999 Worst Forms of Child Labour Convention, and the Tripartite Consultation (International Labour Standards) Convention, etc.

Legal Provisions for Occupational Health and Safety

Chapter 10 of the Labour Law narrates the roles and responsibilities of employers and employees related to occupational health and safety. The Labour Law also provides guidelines on safety training, hygiene laws, protective equipment and medical treatment where appropriate, benefits for health insurance, and shortened standard workweeks for pregnant and nursing mothers and children.

The legislation obliges employers to provide personal protective clothing or and supplies to workers exposed to dirty, dusty, wet, disruptive or any environments that might subject employees to rough or hazardous conditions. Workers shall be trained to carry out their work to avoid exposure to danger or injury and to be informed of any known hazards or illnesses associated with their work.

According to article 13 of National Labour Law – 2007; “The employees and personnel of food material industries, public catering establishments, the transaction of food materials, as well as the workers and personnel of water supply installations, must undergo the medical examinations provided for in paragraph 1 of this article to safeguard public health and hygiene”. Those workers who are directly

involved in the construction and installation of water supply facilities are required to present medical fitness/clearance during employment time. Contractors' OHS representative will be responsible to ensure the medical clearance of such workers.

Bangladesh

Terms and Conditions of employment are guided by The Bangladesh Labour Act, 2006 and Amendment 2013 that illustrate the basic conditions of employment which are materially consistent with ESS 2. The Act makes it mandatory for employers to furnish employees with written particulars of employment stating, hours of work, wages, leave entitlements, job description, grievance procedure, benefits if any etc. This Act also contains:

- Contracts of employment
- Leave entitlements, i.e. annual leave, sick leave, maternity leave and compassionate leave
- The protection of wages (prohibition against unlawful deductions)
- Retrenchment procedures
- Fair and unfair reasons for termination of employment
- Grievance mechanism

Chapter 6 of The Bangladesh Labour Act 2006 (Safety) specifically details the safety and working condition of the assigned workers. The salient aspects that this chapter illustrates are:

- Safety of building and machinery. It details with the inspection requirement of these installations and actions to be taken if these are found unsafe for workers.
- Fencing of machinery, machinery in motion, automatic machines. Details the fencing and safety requirement to be set around dangerous machinery.
- Floors, Stairs and Passages. Sets out the construction and setup requirement for safe access and ease of use.
- Excessive weights. Illustrates that no excessive weights to be lifted by any worker.
- Dangerous fumes and explosive and flammable gas. Details courses of action in case dangerous and explosive gases and fumes are in the work area.
- Personal protective equipment (PPE). Makes it mandatory to supply workers with quality PPE including helmet, gloves, boot, etc.

Chapter 7 of the same Act (Special Provision Relating to Health, Hygiene and Safety) details:

- Dangerous operations. All potentially dangerous operations to be declared and women and children to be barred from such operations.
- Notice on accident. Makes it mandatory to report any accident in the workplace.
- Notice on diseases. If any worker is infected with any disease listed in the Second Schedule of the Act, it is mandatory to notify and the employer is obligated to treat the worker.
- Restriction to Employ Women Worker. Lists specific assignments where women may not be employed.

Communicable Diseases (Prevention, Control and Eradication) Act 2018. The Act was passed in 2018 and the objective is to protect the people from the national and international spread of infectious diseases, to prevent, control and eradicate such diseases, to issue global alerts and to increase mutual support for the outbreak of the disease, to increase the capacity for precise risk management and to spread related education, to review the progress of diseases, to protect rights including systematic loss.

Bhutan

Terms and Conditions of employment are guided by the Labour and Employment Act of Bhutan 2007⁴ that illustrate the basic conditions of employment which are materially consistent with ESS 2. The Act makes it mandatory for employers to furnish employees with written particulars of employment stating, the duration, a specific task to be performed, notice period for termination of the contract and wages, working hours, probation period and leave provisions (Ch-V of the Act). This Act also contains:

- Compensation and Benefits (Ch-VI of the Act)
- Hours of Work and Leave (Ch-VII of the Act)
- Minimum wages, overtime (Ch-VIII of the Act)
- Minimum age of employment (Ch-X of the Act)
- Labour disputes resolution and workplace grievance redressal (Ch-XII of the Act)
- Workers Association (Ch-XI of the Act)

To enforce the Employment and Labour Act 2007, Department of Labour of the Ministry of Labour and Human Resources has formulated the 'Regulation on Working Conditions 2012'. These Regulations on employment conditions⁵ are necessary to implement the provisions of the Labour and Employment Act effectively.

⁴ <https://www.molhr.gov.bt/molhr/wp-content/uploads/2017/07/labouract.pdf>

⁵ www.molhr.gov.bt/molhr/wp-content/uploads/2020/01/Regulations-on-Working-Conditions-2012.pdf

India

The Constitution of India is the cornerstone of individual rights and liberties and also provides the basic framework within which all laws in India, including laws relating to labour and employment, must operate. The Constitution guarantees certain fundamental rights to individuals such as the right to life, privacy, and equality before the law and prohibition of discrimination in public education and employment based on religion, sect, gender and caste. The Constitution recognizes 'right to livelihood' as an integral part of the fundamental right to life.

The various labour and employment laws in India can be broadly categorized into two important themes, namely (i) employer-employee relations; and (ii) service or working conditions, such as wages, social security and working hours. Enactments such as the ID Act, the Trade Unions Act, the Industrial Employment (Standing Orders) Act, 1946 (the "IESO Act") and CLRA are focused primarily on employer-employee relations, whereas enactments such as the Factories Act, 1948 (the "FA Act"), the various S&E Acts, the Payment of Wages Act, 1936 (the "Wages Act"), the Minimum Wages Act, 1948 ("MW Act") and the Payment of Bonus Act, 1965 (the "Bonus Act") are focused primarily on service conditions of employees. There are both Central and State rules framed under each of the aforementioned enactments. Also, there are enactments such as the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (the "EPF Act"), the Employees State Insurance Act, 1948 (the "ESI Act") and the Payment of Gratuity Act, 1972, (the "PGA Act") which provide for certain social security benefits to employees.

The ID Act or the Industrial Disputes Act, 1947: The scope of this legislation, strictly speaking, is restricted to workmen alone. However, the principles and processes laid down in this legislation have been replicated in other statutes with wider application. The IDA covers industrial disputes, industrial action (i.e. strikes and lockouts), and regulation of retrenchment, layoffs, closure, and transfer of undertakings, envisages the constitution of a works committees and also regulates changes in certain service conditions of workmen.

S&E Act / Shops and Commercial Establishments Act: The S&E Act is State-specific – almost all States in India have enacted their own S&E Act. The S&E Act regulates the service conditions of employees engaged in shops and commercial establishments, which includes most private companies and firms. It regulates hours of work, payment of wages, overtime, leave, holidays and other conditions of service.

EPF Act / Employees Provident Fund and Miscellaneous Provisions Act, 1952: The EPF Act read with all rules and schemes framed thereunder is one of the major social security legislations in India. Under the EPF Act, both the employer and employee are required to contribute 12% of an employee's 'basic wages' to the Employees Provident Fund / EPF. The employer's contribution is also directed to a pension fund, from which an employee would be entitled to a monthly pension upon retirement. The EPF and pension scheme has extensive rules concerning contribution and withdrawal of funds.

Wages Act / Payment of Wages Act, 1936: The Wages Act regulates the mode and method of payment of wages to certain categories of employees, namely, those to whom the payable wages do not exceed INR 24,000 (~USD 330) per month, and to those employed in factories and industrial establishments. The Wages Act provides that wages must be paid without deductions of any kind except certain authorized deductions, such as taxes on income, fines, or deductions owing to absence from duty.

FA Act / Factories Act, 1948: The FA Act was enacted to regulate working conditions in factories where manufacturing operations are undertaken. It has extensive provisions in respect of health, safety and welfare of persons who work in factories.

MW Act / Minimum Wages Act, 1948: The MW Act provides for the payment of minimum rates of wages to employees working in specified kinds of employment, termed 'Scheduled Employment'.

Under the MW Act, the Government is required to fix industry-specific daily and monthly minimum wages, depending on the skill of the employee. Once minimum wages have been fixed, an employer is required to pay to every employee engaged in Scheduled Employment, wages at a rate that is not less than the minimum rate of wages fixed by the concerned Government for that class of employees.

IESO Act / Industrial Employment (Standing Orders) Act, 1946: The IESO Act is generally applicable to every industrial establishment wherein 100 or more workmen are employed, subject to any specific State rules in this regard. The IESO Act requires employers in industrial establishments to formally define conditions of employment, such as classification of workmen, manner of intimating wage rates, working hours, leave periods, recruitment, shift working, attendance, the procedure for availing leave, transfer of workmen, termination of workmen, and inquiries for misconduct. Such conditions are referred to as the 'Standing Orders'.

CLRA/Contract Labour (Regulation and Abolition) Act, 1970: The CLRA provides for the regulation of contract labour in establishments and provides for its abolition in certain circumstances. A 'workman' is deemed to be 'contract labour' if he is hired in connection with the work of an establishment, by or through a 'contractor', with or without the knowledge of the 'principal employer'. Every contractor under the CLRA Act must also be licensed and should undertake work through contract labour only following such license. The contractor is required to pay wages and provide facilities for the welfare and health of the contract labour, which includes providing restrooms, canteens, wholesome drinking water, toilets, washing facilities, and first aid facilities in every establishment.

The Maternity Benefit (Amendment) Act, 2017 (that amended the Maternity Benefit Act, 1961 ("MB Act")) came into force on April 1, 2017. Key changes include: (i) increased paid maternity leave from 12 weeks to 26 weeks for women employees, for the first two children;(ii)recognition of the rights of an adopting mother and of a commissioning mother (using a surrogate to bear a child) to claim paid maternity leave of 12 weeks; (iii) a 'work from home' option after the maternity leave expires; (iv) effective July 1, 2017, mandatory crèche (daycare) facilities for every establishment employing 50 or more employees, and the right of mothers to visit the crèche 4 times per day. Employers are also obligated to educate employees about these benefits.

The Rights of Persons with Disabilities Act, 2016 ("RPD") was notified on April 19, 2017, and rules notified on June 15, 2017. The Act was enacted in furtherance of India's obligations under the United Nations Convention on the Rights of Persons with Disabilities. Though the RPD Act does not impose any kind of compulsory reservation of posts in the private sector for persons with disabilities, it does seek to incentivize private-sector establishments to engage persons with disabilities.

The Act requires private establishments to frame an 'equal opportunity policy' which would detail the facilities and amenities to be provided for persons with disabilities, to enable them to effectively discharge their duties. Further, the head of the establishment is required to ensure that persons with disabilities are not unduly discriminated against. The establishments are also required to conform to certain building standards, website and document related standards to ensure greater accessibility for persons with disabilities.

The Payment of Gratuity (Amendment) Act, 2018 came into force on March 29, 2018, in terms of which the duration of maternity leave has been extended from 12 weeks to 26 weeks to calculate continuous service in the context of gratuity. The maximum limit of the gratuity benefit has also been increased from INR 1,000,000 (about \$14,000) to INR 2,000,000 (about \$28,000). Further, as per recent declarations in the Union Budget 2019, it is now proposed to increase this gratuity benefit to INR 30,00,000 (about \$42,000).

Maldives

The Constitution (2008) guarantees every citizen the right to engage in any occupation or employment, prohibits forced labour, entitles everyone to fair wages, equal remunerations, safe conditions of work, and equal opportunity for promotions. Besides, it also guarantees everyone the right to form trade unions and participate in their activities, right to strike, to rest and leisure, including limits on hours of work and periodic holidays with pay, and a right to a pension as well. These rights are ensured to everyone “without discrimination of any kind, including race, national origin, colour, sex, age, mental or physical disability, political or other opinions, property, birth or another status, or native island.”

Maldives is a party to all 08 of the fundamental conventions of the International Labour Organization (ILO), all ratified on 04th January 2013, and 02 of its technical conventions.

Employer/employee relationships are governed under the Employment Act (2/2008) and the subsequent amendments to it. An employer is defined in the Act as, “any person, company, government or association of persons employing according to an employment agreement which includes the use of services of non-independent contractors, successors, assigns of such employers, and any person to whom the rights of such employers are transferred following the law”. An employee is any person seeking to work according to an employment agreement. Maldives National Defense Force and Maldives Police Service are exempted from the Act.

The Act prohibits forced employment, and discrimination in granting of employment, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal and resolution of other employment-related issues; based on race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, family obligations, age or disability.

The law considers a minor to be a person under the age of 18. Chapter 3 of the Employment Act allows minors between the ages of 16 and 18 to be engaged in employment, provided consent is obtained from their legal guardian. Minors under the age of 16 are prohibited from engaging in employment unless it is as part of training for their education. A minor may also be employed in a family business with the consent of such minor and their family. All children are protected from employment that would have a detrimental effect on their health, education, safety or conduct. These rights are further stipulated in the Rights of the Child Act [19/2019] under which the Labour Relations Authority (LRA), is mandated to enact necessary regulations and monitoring the implementation of the same, for the prevention of child labour.

All employers are required to enter into an employment agreement in writing, with their employees. The Act recognizes three types of employment agreements, which are, (a) fixed-term contracts or agreements with a definite term, (b) agreements with an indefinite term or permanent employment agreements, and (c) agreements for a specific task or project.

Working hours of employees, under the Employment Act must not exceed 48 hours per week. This however does not cover overtime work. Employees may not work for more than six consecutive days without taking a day off. The employment agreement must stipulate how overtime work can be obtained from an employee. Employees working overtime are entitled to a payment of 1 ¼ time their hourly wage and if working on a public holiday, 1 ½ time their hourly wage.

Employees have a right not to be dismissed unfairly, without cause. The Act provides a list of disciplinary measures that can be taken reasonably against an employee due to misconduct and which must ordinarily be exhausted before any dismissal. This includes cautioning verbally, a written warning, 14-day suspension and demotion, in that order.

Entitled leaves for employees under the Act include 30 (thirty) days of paid annual leave, 30 (thirty) days of paid sick leave, 60 (sixty) days of paid maternity leave, upon expiry of which either parent may choose to take up to 01 (one) year of unpaid leave, 03 (three) days of paid paternity leave, 10 (ten) days of paid leave for family responsibility, and 05 (five) days of paid leave for a parent of a child undergoing circumcision.

On March 2019, the government decided to grant all government employees with a paid maternity leave and paternity leave of 06 (six) months and 01 (one) month, respectively.

All employers are obligated under the Act to take measures for the safety and protection of their employees, without any charge. These measures include;

- providing a safe workplace environment and procuring of secure tools and machinery for carrying out work, and ensuring the continued safety of the same;
- provide resources necessary to carry out the work with safety;
- provide protective attire and equipment if the nature of work is such that it is not possible to eliminate or control health hazards arising out of work;
- provide education and training to employees on the use of protective gear and safety equipment, and disseminate information to employees on all issues of related concern;
- conduct regular health checks for employees involved in any work that may cause physical ill health or for employees working with chemical or biological materials that may pose a threat to their health;
- provide or arrange for appropriate medical care for employees injured during their employment
- facilitate first aid to employees who are involved in emergencies or accidents.

The Employment Act 2008 is notably silent on the right to strike or the right to form trade unions and is lacking any provisions on collective bargaining. While these are constitutional rights, and Maldives remains a party to the ILO Convention on Right to Organize and Collective Bargaining (No. 98), there is a lack of a specific legislative framework ensuring the right to organize and collectively bargain. Employees can however create clubs and associations, which are governed under the Associations Act (1/2003). Such clubs and association are required under the law to be registered at the ministry with the relevant mandate.

Redress, Labour Relation Authority and Employment Tribunal

Labour Relations Authority (LRA) formed under Article 77 of the Employment Act (2008) is mandated with implementing the necessary administrative measures to ensure compliance with the Act. The Authority also issues regulations governing employer/employee relationships. As such employees can lodge complaints to LRA, regarding an employer's action which they deem is in contravention of the law, and request to enforce compliance.

The Tribunal established under Article 85 of the Employment Act consists of 07 (seven) members appointed by the President. The members hold office for a tenure of 05 (five) years and should have the educational qualifications and experience to comprehend and resolve employment-related issues.

The Tribunal reviews and deliberates at the first instance on matters of employment. Decisions of the Tribunal are appealed at the High Court.

Health and Safety Regulation for Construction industry (2019/R-156)

The aim and objective of this regulation are to provide a minimum standard for safety and security of the community and labour force. The regulation suggests that if the value of the project exceeds 1.5 million Maldivian Rufiyaa, health and safety aspects regarding the project need to be defined and training given to the labour force. It states that safety nets need to be installed and other precautionary measures are taken such that the neighbouring households are not impacted as a result

of the project². It also stipulates that Personal Protective Equipment (PPE) that is relevant to the work undertaken should be worn. In this regard, it states that safety helmets, safety shoes, safety goggles, welding mask and gloves need to be used where required. The same article stipulates that it is the responsibility of the employer to provide PPE to the employee.

Furthermore, the Emergency Response Plan (ERP) is required for projects that exceed MVR 1.5 million. The provision requires the emergency response plan to be visible and the drill for the emergency response plan to be undertaken at least twice every year. Moreover, a complete first aid kit and a trained first aid person should always be available at the construction site for such projects. The contractor is also required to assign a site safety supervisor. Such a person should have a minimum five-year experience working as a site supervisor.

The regulation also stipulates that for projects above MVR 5 million third party insurance needs to be taken to cover for damages. The regulation also has provisions that highlight that all open pits should be covered or demarcated with the fence, to have pedestrian detour if work is undertaken next to a road, If work is undertaken in height safety warning signs or warning flags or lights need to be installed at the site and all idle equipment's need to be switched off. The regulation also suggests that the construction boundary needs to be hoarded. As per the regulation, the minimum height of the hoarding should be 1800 millimetres.

If working above 03 meters it is stated that a guardrail should be there to prevent falling from a height. Moreover, it is stated that safety harness and belt need to be used when working at such heights. The regulation also has special provisions when working on roofs. Use of static line and inertia reel when working on roofs and ensuring that they are installed appropriately. Preassembling the materials required as much as possible before lifting to the roof, to minimize work undertaken on the roof. Scaffolding should be installed by a person who has special training and experience for installing scaffolding⁹. The regulation also states that While installing safety network should be undertaken using a mobile scaffolding or a tower scaffolding⁹. All scaffolding used on-site needs to be tested at least once a week.

Specific provisions are also there regarding electricity supply. In this regard one of the following conditions should be met:

1. All electric equipment should be connected to a supply that does not exceed 230 V.
2. To install an earth circuit monitor on the electricity supply line.
3. Use of equipment that has double insulation.
4. Utilize the earth leakage circuit breaker.

The switchboard installed to provide temporary power should be covered to prevent weather damage.

The regulation stipulates that all electrical equipment used on the site needs to be tested every 03 months to ensure functionality and safety. The regulation also highlights that where chemicals and hazardous materials are used each contractor needs to identify a plan to handle such material and the identified plan needs to be implemented in the worksite. It is also suggested when handling hazardous materials, the workers need to be fully covered.

If any flammable materials are on-site firefighting equipment should be available and fire protection clothing should be available on site. The regulation suggests that heavy machinery like cranes should not be used in any areas where the public could access. Moreover, the same article states that cranes should operate 04 meters away from any overhead electric lines. Moreover, cranes should be inspected every 12 months and the records of the inspection should be kept available in the crane.

To keep log records of any accidents that occur in the site and reporting any such incident to police is also specified in the regulation. The regulation also specified non-compliance penalties.

Prevention of Sexual Harassment Act (16/2014)

Prevention of Sexual Harassment Act (16/2014) prohibits employers and employees from subjecting those who work under them or their co-workers to any extent any type of sexual harassment. Sexual Harassment is defined in the Act as, any sexual act committed against a person without their consent. A sexual act, for the Act, is any action, whether physical, verbal or otherwise, which according to a reasonable person, suggests a sexual intent towards the victim. Any such act is to be proven on the balance of probability. The employer has to take reasonable steps to ensure that the work environment is an environment that is free from sexual harassment and one in which such acts does not negatively affect the work of employees. Employers are obliged to establish policies to prevent sexual harassment and have such policies published,

Every government office including the presidents' office, independent institutions, parliament, the courts and all workplaces with more than 30 employees must have, under the Act, a Sexual Harassment Prevention Committee, with the function, among other things, of hearing complaints, investigating potential acts of harassment and take proper action against perpetrators following the Employment Act. The Committee consists of 03 members out of which one must be female. The Committee can, depending on the gravity of the action, take disciplinary actions ranging from cautioning, suspension, demotion and dismissal. Decisions must be taken within 60 days of receiving a complaint. Decisions of the Committee can be appealed at Employment Tribunal.

Gender Equality Act 2016 (18/2016)

Employers are further mandated under the Gender Equality Act (18/2016), to ensure non-discrimination based on gender. The Act stipulates that all government offices and private businesses must take appropriate measures to achieve the following goals;

- Abolish gender-based discrimination, including direct and indirect discrimination.
- Abolish all systemic discrimination caused by established systems with unequal practices.
- Promote equal opportunities for men and women.
- Promote notions and ideas of gender equality to eliminate undesired preconceptions against a certain gender.

Providing equal opportunity under the Act includes, (a) eliminating weaknesses or difficulties caused by inequality between men and women, (b) reducing the negative effects of inequality between men and women, (c) facilitating the special needs of a particular gender to achieve ease of attainment of services, and (d) evaluating the degree of participation of each gender in public life and public services and take appropriate steps to balance such participation.

Public and private sector employers are further mandated under the Act to;

- a. Provide equal opportunity to men and women in the employment, training and advancement of position.
- b. Provide equal wages to men and women who perform the same responsibilities at the same place of employment.
- c. Men and women at the same place of employment with work adequately equal in value and weight shall be given equal wages, overtime compensation, benefits and allowances.
- d. Employment opportunities shall not be offered or advertised to restrict a particular gender, except in circumstances the work is required to be undertaken by a particular gender.
- e. Announcements and advertisements for work that is likely to attract more men than women must be designed to invite and not to exclude women.
- f. Take all possible steps to eliminate obstructions to the employment of women and to create conducive work environments for women.
- g. Establish a complaints mechanism.

Maldives Pension Act (18/2016)

Employers must enroll their employees in the Maldives Retirement Pension Scheme, and it is obligatory on the employees to participate in the scheme, under Article 12 of the Maldives Pension Act (18/2016). Failure to do so would amount to an offence under the Act. And as such the employment agreement is required to have provisions for deductions for pension contributions by the employee.

Each person who is considered a participant of the Retirement Pension Scheme of the Maldives is required to pay a minimum of 7% of the employee's pensionable wage, and the employer must also pay a minimum of 7% of the pensionable wage to the scheme.

Nepal

The fundamental right of the labour management begins with the constitutional right stipulated into the constitution of Nepal, 2015 through various articles such as the right against exploitation (article 29); the right to a clean and healthy environment (article 30); rights to fair labour practice including appropriate remuneration, facilities and contributory social security (article 34) Policies relating to labour and employment (Article 51).

More specifically, the Labour Management Provisions has been reflected in Labour act, 2017, Labour rule, 2018, Child Labour (Prohibition and Regulation) Act, 2056 (2000).

The Child Labour (Prohibition and Regulation) Act, 2000 is the main legal expedient to prohibit engaging children in factories, mines or similar risky activities and to make necessary provisions concerning their health, security, services and facilities while engaging them in other activities. Under Section 3 of the Act, the child has not attained the age of 14 years is strictly prohibited to be engaged in works as a labourer. Equally, under Section 4, engagement of the child in works as a labourer against his/her will by way of persuasion, misrepresentation or by subjecting he/she to any influence or fear or threat or coercion or by any other means is prohibited. Under Section 6, in case any Enterprise, engaging a child in works, must get an approval from the concerned labour office (LO) or any authority or official prescribed by that office and form the fathers, mother or guardian of the child.

The Labour Act (2017), described all things related to labour and workforce including wage and salary, termination, redressing, work environment, female worker, recruitment, unionization, child labour and so on. The salient features of Labour legislative provisions are as follows

Work hours: Working hours continue to be 8 hours a day and 48 hours a week as per article 28 of The Labour Act, (2017). Overtime has been increased to 24 hours per week from 20 hours a week. The act provides an arrangement for transportation while engaging female worker for the extended period after the sunset.

Wages: The term "Wages" means all economic benefits including salary, any bonus, and remuneration for overtime work, holiday or leave, termination of employment or other additional remuneration payable under the terms of employment. Every employer is responsible for the payment of wages to labourers employed by them. In the case where the wages of a worker employed by a contractor are not paid by the contractor, the wages must be paid by the employer of the establishment. The maximum wage period is one month. The wages of every worker must be paid before the expiry of the 7th working day after the last day of the wage period in respect of which the wages are payable. Public sector labourers' wages are set by the National Pay and Wages Commission and may not be disputed. The legal workweek is 48 hours, with one day off mandated.

The Ministry of Labour, Employment and Social Security has recently prescribed the minimum remuneration/wage of the workers is NRs 13450.00 under article 106 of the Labour Act, 2017, by publishing a notice in Nepal Gazette (Volume 68, August 16, 2018 (2075-04-31) Number 20) on Aug. 16, 2018 (2075-04-31) ("Gazette Notice"). In addition to the Minimum Wage/Remuneration, Provident Fund and Gratuity will be provided following the Labour Act and Contribution Based Social Security Act 2017 and other applicable prevailing laws.

Where the employment of a worker is terminated by retirement or by the employer, whether by way of retrenchment, discharge, removal, dismissal or otherwise, the wages payable to him must be paid before the expiry of the 30th working day from the day on which his employment is so terminated. Wages have to be paid in legal tender, through cheque and in some cases (given the requirement of the labourers) through an electronic transfer in favour of the bank account of the worker or through any other digital medium. Wages must be paid on a working day. No deduction can be made from the wages of a worker except those authorized by the Labour.

Workers union: The Labour Act, (2017) entrusted the right of labour to involve or affiliation with the trade union organization. The law also provides the provision of formation of trade union where the number of workers exceeds 10. The committee formed following such provisions will be responsible for collective bargaining agreement and is authorized to submit collective demands, negotiate and settle the demand, among other things. The act also entrusts to form a Labour relation committee comprised of management and workers where more than ten labours are employed for handling and settlement of workplace issues. The discrimination will not be accepted against developing alternative mechanisms to express their grievances and protect their rights regarding working conditions, terms of employment as well as collective bargaining or alternative mechanisms.

Regular leaves and benefits: According to the Labour Act, (2017), every worker must enjoy paid sick leave, casual leave, and festive holiday, mourning leave. The labourers would get festival allowances as per the rules. The act provides the provision of terminal benefits to the permanent and for certain benefits such as gratuity the worker should have completed a certain year of services.

Maternity/Paternity leave: According to the Labour Act, (2017), the female worker will get paid maternity leave. An expectant mother would be entitled to 98 days of maternity leave. Fully paid up to 60 days after submission of the necessary documents. The act also has a provision of the 15 days fully paid paternity leave.

Safe work environment- Health/ Safety/ Welfare: The Labour Act, (2017) entrusts to constitute a Safety and Health Committee where 20 or more workers are engaged (article 74). Also, the employer shall constitute the Collective Bargaining Committee (article 116) where 10 or more workers are engaged in the entity. This act also ensures worker safety, health and resolving any kind of disputes and unfairness.

Social Security: The Labour Act, (2017) requires the retirement fund such as (a) gratuity and (b) provident fund to be deposited in the Social Security Fund. Contributory based Social Security Act, 2017 for a different type of benefits including accidental and maternity.

Notice periods: The Labour Act, (2017) made provision on the termination of employment voluntarily by submitting a resignation letter. The employer must approve the resignation within 15 days and provide a notice thereof to the worker. Even if the employer does not approve the resignation, the resignation becomes effective on the next day of the expiry of the 15days time. However, if the worker continues to work in the entity even on the effectiveness of resignation in such situation the resignation is deemed cancelled. Termination is considered a “discharge” in the case that a worker is fired for reasons of mental or physical incapacity, illness or other reasons not related to misconduct by the worker. An employer must pay compensation when a termination is unrelated to discharge or dismissal and must give justification when they do terminate on grounds of discharge or dismissal.

The act (article 132) also prohibits sexual harassment and violence in the workplace. If anyone found to be involved in the sexual misconduct the service may be terminated based on the seriousness of the offence.

Occupational Health and Safety

The special provision related to OHS and the working condition has been stipulated in section 12 of Labour Act, 2017 and section 7 of Labour Rule 2018, and The IFC General EHS Guidelines 2007. The provisions are made to protect the labour and concerned people at the workplace against hazards to safety and health arising in connection with the activities. This act entrusts the employer with the obligation to ensure the safety and health of all its employees, and also to mitigate risks of exposure to any hazards in the workplace.

The Labour Act 2017 provides more stringent sanctions for the violation of the provision of such act. The sanctions include fines, imprisonment and both. The authority to impose sanction also depends

on the nature of the violation. As per the act, there are three institutions viz; the labour office, labour and occupation safety department and labour court. If an entity is found of discriminating among the labour, they will be fined up to NRs 100,000 and order to maintain equality may be given. Similarly engaging a worker without appointment letter or employment agreement fine up to NRs. 500,000 at a rate of NRs. 10,000 per worker; the order to conclude an employment agreement and provide an appointment letter shall also be given.

Likewise, for engaging a bonded labour, imprisonment up to 2 years or fine up to NRs. 500,000 or both. The Labour Court can require the entity to provide such bonded labour with remuneration, allowance and other facilities, as well as to indemnify the bonded labour with an amount double such remuneration, allowance and other facilities. If the entity does not make health and safety arrangements knowingly and as a result, the worker dies or suffers physical or mental injury: Imprisonment up to 2 years, except otherwise provided. Such a person suffering the injury should be compensated.

Pakistan

Under the Constitution, labour is regarded as a 'concurrent subject', which means that it is the responsibility of both the Federal and Provincial Governments. However, for the sake of uniformity, laws are enacted by the Federal Government, stipulating that Provincial Governments may make rules and regulations of their own according to the conditions prevailing in or for the specific requirements of the Provinces.

The Constitution of Pakistan contains a range of provisions with regards to labour rights found in Part II: Fundamental Rights and Principles of Policy.

- Article 11 of the Constitution prohibits all forms of slavery, forced labour and child labour;
- Article 17 provides for a fundamental right to exercise the freedom of association and the right to form unions;
- Article 18 prescribes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business;
- Article 25 lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone;
- Article 37(e) makes provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

Contract of Employment

While Article 18 of the Constitution affords every citizen with the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business, the Industrial and Commercial Employment (Standing Orders) Ordinance was enacted in 1968 to address the relationship between employer and employee and the contract of employment. The Ordinance applies to all industrial and commercial establishments throughout the country employing 20 or more workers and provides for the security of employment. In the case of workers in other establishments, domestic servants, farm workers or casual labour engaged by contractors, their labour contracts are generally unwritten and can be enforced through the courts based on oral evidence or past practice.

Every employer in an industrial or commercial establishment is required to issue a formal appointment letter at the time of employment of each worker. The obligatory contents of each labour contract, if written, are confined to the main terms and conditions of employment, namely nature and tenure of appointment, pay allowances and other fringe benefits admissible, terms and conditions of appointment.

Termination of the Contract

The services of a permanent worker cannot be terminated for any reason other than misconduct unless one month's notice or wages in lieu thereof has been furnished by the employer or by the worker if he or she so chooses to leave his or her service. One month's wages are calculated based on the average wage earned during the last three months of service. Other categories of workers are not entitled to notice or pay instead of notice.

All terminations of service in any form must be documented in writing stating the reasons for such an act. If a worker is aggrieved by an order of termination he or she may proceed under Section 46 of the Industrial Relations Ordinance 2002, aimed at regulating the labour-management relations in the country, and bring his or her grievance to the attention of his or her employer, in writing, either him or herself, through the shop steward or his or her trade union within three months of the occurrence of the cause of action. Forms of termination have been described as removed, retrenched, discharged or dismissed from service. To safeguard against any colourful exercise of power, victimization or unfair labour practices, the Labour Courts have been given powers to examine and intervene to find out

whether there has been a violation of the principles of natural justice and whether any action by the employer was bonafide or unjust.

Working hours

Under the Factories Act, 1934 no adult employee, defined as a worker who has completed his or her 18th year of age, can be required or permitted to work in any establishment over nine hours a day and 48 hours a week. Similarly, no young person, under the age of 18, can be required or permitted to work over seven hours a day and 42 hours a week. The Factories Act, which governs the conditions of work of industrial labour, applies to factories, employing ten or more workers. The Provincial Governments are further empowered to extend the provisions of the Act, to even five workers.

Section 8 of the West Pakistan Shops and Establishments Ordinance, 1969 likewise, restricts weekly work hours at 48 hours. The Shops and Establishments Ordinance regulates persons employed in shops and commercial establishments, who are neither covered by the Factories Act nor by the Mines Act. The Ordinance is exclusive in the whole of Pakistan except for the Federally Administered Tribal Areas. Section 22-B of the Mines Act, 1923 also fixes weekly hours of work for workers at 48 hours or 8 hours each day, with the limitation of spread-over 12 hours and interval for rest for one hour every six hours. Section 22-C further limits the spread-over to 8 hours for work done below ground level.

The law further provides that no worker shall be required to work continuously for more than six hours unless he or she has had an interval for rest or meals of at least one hour. During Ramadan (fasting month), special reduced working hours are observed in manufacturing, commercial and service organizations.

Paid Leave

As provided in the Factories Act, 1934, every worker who has completed twelve months of continuous service in a factory shall be allowed, during the subsequent period of twelve months, holidays for fourteen consecutive days. If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him or her, any holidays not taken by him or her shall be added to the holidays allotted to him or her in the succeeding period of twelve months.

A worker shall be deemed to have completed twelve months continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorized leave not exceeding ninety days in the aggregate for all three, or by a lock-out, or by a strike which is not an illegal strike, or by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorized leave shall be deemed not to include any weekly holiday allowed under section 35 which occurs at beginning or end of an interruption brought about by the leave.

Maternity Leave and Maternity Protection

While article 37 of the Constitution refers to maternity benefits for women in employment, there are two central enactments, one federal and the other provincial providing maternity benefits to women employed in certain occupations. The Maternity Benefit Ordinance, 1958 stipulates that upon the completion of four months employment or qualifying period, a worker may have up to six weeks prenatal and postnatal leave during which she is paid a salary drawn based on her last pay. The Ordinance applies to all industrial and commercial establishments employing women excluding the tribal areas. It also places restrictions on the dismissal of the woman during her maternity leave. Similarly, the Mines Maternity Benefit Act, 1941 applies to women employed in the mines in Pakistan.

Other Leave Entitlements

In addition to the 14 days of annual leave with pay, the Factories Act, 1934 provides that every worker is entitled to 10 days casual leave with full pay and further 16 days sick or medical leave on half-pay. Casual leave is granted upon contingent situations such as sudden illness or any other urgent purpose. Sick leave, on the other hand, maybe availed of on support of a medical certificate. Management should not refuse the leave asked for if it is supported by a medical certificate.

In addition to the leave entitlements, workers enjoy festival holidays as declared by the Federal Government. The Provincial Government under section 49 of the Factories Act, 1934, states all festival holidays, approximately 13 or as further declared, in the Official Gazette. Additionally, every worker is entitled to enjoy all such holidays with pay on all days declared and notified by the Provincial Government. If however, a worker is required to work on any festival holiday, one day's additional compensatory holiday with full pay and a substitute holiday shall be awarded.

Under agreements made with the Collective Bargaining Agent, employees who proceed on pilgrimage i.e., Hajj, Umra, Ziarat, are granted special leave up to 60 days.

Minimum Age and Protection of Young Workers

Article 11(3) of Pakistan's Constitution expressly prohibits the employment of children below the age of fourteen years in any factory, mine or other hazardous employment. Besides, the Constitution makes it a Principle of Policy of the State of Pakistan to protect the child, to remove illiteracy and provide free and compulsory education within the minimum possible period and to make provision for securing just and human conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex.

The Factories Act, 1934 allows for the employment of children between the ages of 14 and 18 years provided that each adolescent obtains a certificate of fitness from a certifying surgeon. A certifying surgeon, per section 52 of the Act, shall on the application of any child or adolescent who wishes to work in a factory, or, of the parent or guardian of such person, or of the factory in which such person wishes to work, examine such person and ascertain his or her fitness for such work.

The Act further restricts the employment of a child in a factory to five hours a day. The hours of work of a child should thus be arranged in such a way that they are not spread over more than seven-and-a-half hours in any day. Besides, no child or adolescent is allowed to work in a factory between 7 p.m. and 6 a.m. The Provincial Government may, by notification in the Official Gazette in respect of any class or classes of factories and for the whole year or any part of it, vary these limits to any span of thirteen hours between 5 a.m. and 7.30 p.m. Moreover, no child is permitted to work in any factory on any day on in which he or she has already been working in another factory.

Factories are further required to display and correctly maintain in every factory a Notice of Periods for Work for Children, indicating the periods within which children may be required to work. The manager of every factory in which children are employed is compelled to maintain a Register of Child Workers identifying the name and age of each child worker in the factory, the nature of his or her work, the group, if any, in which he or she is included, where his or her group works on shifts, the relay to which he or she is allotted, the number of his or her certificate of fitness granted under section 52, and any such other particulars as may be prescribed.

The provisions of the Factories Act, 1934 are cited in addition to, and not in derogation of the provisions of the Employment of Children Rules, 1995. The Employment of Children Rules extends to the whole of Pakistan except for the State of Azad Jammu and Kashmir and delimits finite labour conditions afforded for the protection of minors. Rule 6 insists on cleanliness in the place of work. No rubbish, filth or debris shall be allowed to accumulate or to remain in any part of the establishment and proper arrangements shall be made for maintaining in a reasonable clean and drained condition

for the workers of the establishment. Rule 7 further calls for proper ventilation in workplaces where injurious, poisonous or asphyxiating gases, dust or other impurities are evolved from any process carried on, in such establishment. As long as workers are present in an establishment, the latrines, passages, stairs, hoists, ground and all other parts of the establishment in so far as the entrance of the said places are not closed, must be lighted in such manner that safety is fully secured. Besides, in every establishment, an arrangement of drinking water for child and adolescent workers is to be provided free of charge. All shafts, couplings, collars, clutches, toothed wheels, pulleys, driving straps, chains projecting set screws, keys, nuts and belts on revolving parts, employed in the establishment, shall be securely fenced if in motion and within reach of a child worker and further may not be operated by a child worker.

Under the Employment of Children Rules, anyone who employs a child or permits a child to work in contravention of the Constitution is punishable by imprisonment for a term extending up to one year or may be fined up to Rs. 20,000 or subject to both. Repetition of the offence is punishable by imprisonment for a term extending up to two years and shall not be less than six months.

Equality

Article 38 of the Constitution imparts the State's obligations aimed at achieving equality in the form of securing the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants. All citizens are bestowed, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure and the necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective again of their sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.

Pay Issues

Wages are construed as the total remuneration payable to an employed person on the fulfilment of his or her contract of employment. It includes bonuses and any sum payable for want of a proper notice of discharge but excludes the value of accommodations i.e., the supply of light, water, medical attendance or other amenities excluded by the Provincial Government; the employer's contribution to a pension or provident fund, travelling allowance or concession or other special expenses entailed by the nature of his or her employment; and any gratuity payable on discharge.

The Payment of Wages Act, 1936, regulates the payment of wages to certain classes of industrial workers. It applies to those workers whose monthly wages do not exceed Rs. 3,000 (51.68 US\$) and are employed in factories, railways, plantations, workshops and establishments of contractors. The main objective is to regulate the payment of wages to certain classes of persons employed in the industry. The provisions of the Act can, however, be extended to other classes of workers by the Provincial Governments after giving three months' notice to the employers of their intention to do so. The Act stipulates that wages to workers employed in factories and on railways are to be paid within seven days of completion of the wages period if the number of workers employed therein is less than 1,000. In other cases, the time limit for payment of wages to the workers is 10 days. No deduction can be made from the wages of the workers excepts as specified in the Act, such as for fines, breach of contract and the cost of damage or loss incurred to the factory in any way other than an accident.

The employer is responsible for the payment of all wages required to be paid to persons employed by him or her. Similarly, any contractor employing persons in an industry is responsible for payment of wages to the persons he or she employs. The persons responsible for payment of wages must fix wage periods not exceeding one month. Wages should be paid on a working day within seven days of the

end of the wage period, or within ten days if 1,000 or more persons are employed. The wages of a person discharged should be paid not later than the second working day after his or her discharge.

Workers' Representation in the Enterprise

Until the adoption, on 29 October 2002, of the Industrial Relations Ordinance, 2002 (IRO 2002), which repealed the Industrial Relations Ordinance, 1969, Pakistan had a three-pronged system of participation in management (i.e., the Works Council, the Management Committee and the Joint Management Board), independent of each other and each having its sphere of activities.

The new text simplifies the system, introducing a single body in place of the three previous ones: the Joint Works Council (Article 24 of the IRO 2002). A Joint Works Council must be set up in any establishment employing fifty persons or more. It consists of no more than ten members, forty per cent of which are workers' representatives. In the previous system, the Management Committee and the Works Council were composed of an equal number of representatives of the employer and workers, whereas the Joint Management Board had a workers' participation of 30 per cent. The Convener of the Joint Works Council is from the management.

The Joint Works Council deals with matters, which were of the competency of the earlier Joint Management Board, such as the improvement in production, productivity and efficiency, provision of minimum facilities for those of the workers employed through contractors who are not covered by the laws relating to the welfare of workers. It has also taken up tasks of the previous Works Council, i.e. promoting the settlement of differences through bilateral negotiations, promoting conditions of safety and health for the workers, encouraging vocational training within the establishment, taking measures for facilitating good and harmonious working conditions in the establishment, provision of educational facilities for children of workers.

Freedom of Association

The right to association is guaranteed by Article 17 of the Pakistani Constitution imparting on every citizen the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality. Under Article 3 of the IRO 2002, workers, as well as employers in any establishment or industry, have the right to establish and to join associations of their choosing, subject to the respect of the law. Both workers' and employers' organizations have the right to establish and join federations and confederations and any such organization, federation and confederation shall have the right to affiliate with international organizations and confederations of workers' and employers' organizations.

Registration of Trade Unions

Registration of a trade union is to be made under the Industrial Relations Ordinance. Workers' trade unions are registered with the Registrar Trade Unions in the Province, and if the industry or establishment is nationwide with the National Industrial Relations Commission, after fulfilling several requirements, listed in Article 6 of the IRO 2002. Through its registration, the trade union obtains certain benefits: registration confers a legal existence as an entity separate from its members. Trade unions in Pakistan generally function on a plant-wide basis, with their membership contingent on the size of the industry/trade to which they belong. Once established, the trade unions and employers' associations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

Settlement of Individual Labour Disputes

According to Article 46 of the IRO 2002, a worker may bring his or her grievance in respect of any right guaranteed or secured by or under any law or any award or settlement to the notice of the employer in writing, either him or herself or through the shop steward or Collective Bargaining Agent, within one month of the day on which cause of such grievance arises. The IRO 2002 reduces the delay from

three months to one month. Where a worker brings his or her grievance to the notice of the employer, the employer must within fifteen days of the grievance, communicate his or her decision in writing to the worker.

If the employer fails to communicate a decision within the specified period or if the worker is dissatisfied with such decision, the worker or shop steward may take the matter to the Labour Court within two months.

Labour Courts

Section 33 of the Industrial Relations Ordinance, 2002 permits any CBA or any employer to apply to the Labour Court for the enforcement of any right guaranteed or secured by law or any award or settlement. The Provincial Government derives its authority to establish as many Labour Courts as it considers necessary under section 44 of the Ordinance. Each Labour Court is subject to jurisdictional limitations derived by its geographical parameters or concerning the industry or the classes of cases allocated. Each Labour Court consists of one Presiding Officer appointed by the Provincial Government.

The Labour Court adjudicates industrial disputes which have been referred to or brought before it; inquiries into or adjudicates any matter relating to the implementation or violation of a settlement which is referred to it by the Provincial Government; tries offences under the Industrial Relations Ordinance, and exercises and performs such other powers and functions conferred upon or assigned to it. While deliberating offences, the Labour Court follows as nearly as possible procedure as prescribed under the Code of Criminal Procedure, 1898. For purposes of adjudicating and determining any industrial disputes, the Labour Court is deemed to be a Civil Court and retains the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (Act V of 1908) including the enforcement of attendance and examination under oath, the production of documents and material objects, and the issuance of commissions for the examination of witnesses or documents.

An award or decision of a Labour Court is produced in writing and delivered in open Court with two copies subsequently forwarded to the Provincial Government. Upon receipt, the Provincial Government within one month publishes the award or decision in the Official Gazette.

The IRO 2002 abolished the Labour Appellate Tribunal. Any party aggrieved by an award or a decision given or a sentence passed by the Labour Court may now submit an appeal to the High Court (Article 48 of the IRO 2002). The High Court may vary or modify an award or decision or decision sanctioned by the Labour Court. It may, on its motion at any time, call for the record of any case or proceedings in which a Labour Court within its jurisdiction has passed an order, to satisfy itself as to the correctness, legality, or propriety of such order, and may pass such order, in relation thereto as it thinks fit, provided that the order does not adversely affect any person without giving such person a reasonable opportunity of being heard.

Sri Lanka

As Sri Lanka lacks a single unified labour law/code, several statutes govern employment and industrial relations in the country (See Table 3 for a summary of the main provisions under these acts, ordinances, etc). Together, these labour regulations cover aspects such as working age, work hours, contracting rules, leave policies, maternity leave, minimum wage, labour taxes and dismissal rules, among others.

Applicable laws for basic terms and conditions of employment, including those about working hours, leave and holidays and work arrangements are:

- Shop and Office Employees' Act No 19 of 1954,
- Wages Boards Ordinance No.27 of 1941 and Decisions made thereunder,
- Factories Ordinance No.45 of 1942,
- Employment of Women, Young Persons and Children Act No. 47 of 1956
- Maternity Benefits Ordinance No.32 of 1939

Applicable laws for wage fixation are:

- National Minimum Wage Act No.03 of 2016,
- Budgetary Relief Allowance of Workers Laws of 2005 & 2016,
- Decisions of Wages Boards established in terms of the Wages Boards Ordinance

Statutory provisions relating to Labour/Industrial Relations Right to form or join a Trade Union of one's choice are:

- Industrial Disputes Act No.43 of 1950,
- Trade Unions Ordinance No.14 of 1935,
- Constitution of the Democratic Socialist Republic of Sri Lanka

Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971 provides provisions for Non-disciplinary terminations.

Applicable laws for health, safety and general well-being of employees, as well as special protections for female workers, pregnancy/childbirth and "young persons" in employment are:

- Factories Ordinance, Employment of Women Young Persons and Children Act,
- Shop & Office Employees Act,
- Maternity Benefits Ordinance
- National Institute of Occupational Safety and Health Act No.38 of 2009

Workmen's Compensation Ordinance No.19 of 1934 provides a detailed computation of compensation due in the event of a variety of work-related injuries and illnesses.

Applicable laws for social protection are:

- Employees Provident Fund Act No.15 of 1958,
- Employees Trust Fund Act No. 46 of 1986
- Payment of Gratuity Act No.12 of 1983.

Sri Lanka has ratified 43 of the International Labour Organization (ILO) Conventions, including all the eight core conventions on labour standards. Of the 43 ILO Conventions ratified so far, 30 are in force, 10 have been denounced, and three have been repealed. Further, four areas covered by the 8 core Conventions have not been correctly set out in the national mechanism. These include the freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation. The most recent ratification of ILO convention by the

Government of Sri Lanka was the January 2017 ratification of the Maritime Labour Convention of 2006 (MLC). The government has also expressed its interest in ratifying the Occupational Safety and Health Convention 1981 (No. 155). However, the employers have expressed reservations over provisions contained in it, especially relating to refusal to work.

Some basic standards from the labour laws and regulations of Sri Lanka, including the Labour Code, are as follows:

Contracting Rules

In Sri Lanka, 'employment' is not dependent on the existence of a written document. The Industrial Dispute Act, Section 48, defines a "Workman" as any person who has entered into or works under a contract with an employer in any capacity, whether the contract is expressed or implied, and oral or in writing. Generally, the type of employment contract largely depends on the worker category: permanent; temporary or contract worker (employees on fixed-term or temporary contracts of employment); and apprentice. The public sector mostly engages employees permanently until retirement at age 55 but also employs contract workers who are paid daily. Employees in the private sector are mostly engaged in time-bound contracts. Temporary workers are hired based on a particular task required for a limited period. Likewise, contract workers are contracted for a specific task at a fixed level of pay that does not involve overtime payments or additional ad hoc allowances.

Work hours

Three laws in Sri Lanka govern working hours, rest intervals, and holidays: the Wages Board Ordinance of 1941; the Shop and Office Employees Act of 1954; and the Factories Ordinance of 1950. The working hours, overtime restrictions and provisions relating to night work for young persons and women employed in 'Industrial Undertakings' are set out in the Employment of Women, Young Persons and Children Act. As per the Shop and Office Employees (SOE) Act, 1954:

- Normal maximum working hours are eight (08) hours a day and forty-five (45) hours a week, excluding intervals for rest or meals
- Work above normal maximum working hours on any day or week (overtime) should be remunerated at a rate of 1.5 times the employee's hourly wage.

The provisions of the Wages Boards Ordinance, as well as the Decisions of Wages Boards established thereunder for various Trades, are significantly different from those stipulated by the SOE Act.

Leave and Holidays

As per the Shop and Office Employees (SOE) Act, in the 1st (calendar) year of employment, an employee is granted one (01) day of leave for each completed period of two (02) months. Thereafter, an employee is provisioned for 7 days of paid annual leave. Further, there are provisions in the law for 7 paid days of "casual leave" – from the second (calendar) year of employment onward. Additionally, is also a provision in the law for 9 statutory holidays to be declared which are paid holidays for SOE Act covered employees.

Maternity leave

Maternity leave entitlements in the Private Sector are granted to female employees under either Part 1A of the Shop & Office Employees (SOE) Act or the Maternity Benefits Ordinance (MBO). However, there is no legal entitlement for paternity leave in the private sector in Sri Lanka; though in the case of public sector employees, there are 03 days available to male public sector employees, in the event of a birth of a child to their wife. As per the SOE Act, maternity leave and benefits include 84 working days of paid leave in respect of the birth of any child, irrespective of whether it is the first, second, third or any other child, provided it is a live birth. While as per the MBO, female employees are eligible

for 12 weeks of paid maternity leave, on the same basis, without differentiation on account of the number of surviving children.

Minimum wage

Several laws relate to payment and fixing of wages. The Wages Board Ordinance of 1941 mandates the Minister of Labour to establish a Wages Board for any trade to which provisions of the Ordinance have been applied. In March 2016, Sri Lanka adopted two new laws on wages designed to guarantee a minimum income for workers. The National Minimum Wages Act, No. 3 of 2016 mandates a national minimum monthly wage of Rs10, 000 (about US\$67.56) and a minimum daily wage of Rs.400.00, while the Budgetary Relief Allowance of Workers Act (BRAWA) No. 4 of 2016 establishes that a wage supplement of Rs 2,500 (about US\$16.89) applies to all workers earning less than Rs 40,000 per month (about US\$270). National Minimum Wages Act No.3 of 2016 sets out the penalties that may be imposed on errant employers in respect of a first, second offence and so forth. Further, the minimum wages established by the Wages Boards cannot be less than the national minimum wage as stipulated by the National Minimum Wages Act, NO. 3 of 2016.

Notice for termination of contract and dismissal rules

The Termination of Employment of Workers (Special Provisions) Act No 45 of 1971 (TEWA) sets out a compensation formula which must be adhered to in the event permission to terminate on non-disciplinary grounds is granted by the Commissioner-General of Labour, on an application under Section 2 of the Act. Compensation is made based on the last drawn salary and the years of service, though capped at Rs.1.25 million in all cases. Further, Voluntary Severance/Retirement Schemes (VSS/VRS) or packages are offered by employers who wish to expedite retrenchments or to avoid the uncertainty involved in seeking the permission to the Commissioner in a Section 2 Application under the TEWA.

Occupational Health and Safety

Sri Lanka has several laws dealing with or impacting on health and safety in the workplace, including Factories Ordinance No.45 of 1942, the National Institute of Occupational Safety and Health Act No. 38 of 2009 etc. Provisions relating to Occupational Safety and Health are set out mostly in the Factories Ordinance and Regulations framed thereunder. As a “Factory” has a very extensive definition encompassing almost every imaginable manufacturing process, this Statute has a very wide coverage. The Ordinance, Parts 11, 111, 1V & V deal with general provisions on health, safety and welfare respectively, while Part VI deals with notification and investigation of accidents and industrial diseases.

Provisions are made under the Ordinance concerning the following aspects which affect the work environment: Cleanliness, Overcrowding Temperature, Ventilation, Lighting, Drainage of floors, Sanitary conveniences, Prime movers, Transmission Machinery, Other machinery, Vessels containing dangerous liquids, Self-acting machinery, Hoists and lifts Chains, ropes and lifting tackle, Cranes and lifting machinery, Floor, passages and stairs, Safe means of access and safe place of employment, Places where dangerous fumes are liable to be emitted, Explosive or flammable gases, vapours, Steam boilers and pressure vessels, Means of escape in case of fires, Safety provisions in case of fire, Supply of drinking water, Washing facilities, Accommodation for clothing, First aid, Removal of dust and fumes, Meal rooms, Protection of eyes, Lifting the excess weight, Noise, Electricity. Apart from maintaining the provisions regarding the above aspects, the employer (known as the ‘occupier’ under the Ordinance), is responsible for notifying the District Factory Inspecting Engineer (DFIE) about accidents and industrial diseases.

Further, the Shop & Office Employees Act No.19 of 1956 contains several, fairly rudimentary, provisions on occupational safety, health and welfare required to be provided by shops and offices within the meaning of this Act, while the Employment of Women, Young Persons and Children Act No

47 of 1956, contains provisions relating to work time for women and children, conditions for employing women at night, which are intended to ensure the health, safety and general welfare of these categories of workers (as described in the earlier section). Other Laws impacting on OSH, include the Central Environmental Act No.47 of 1980, the Mines and Minerals Act No. 33 of 1992, the Municipality Ordinance No., the Control of Pesticides Act No.33 of 1980 and the Disease Among Labourers Act No.10 of 1956.

Concerning the investigation of work-related injuries, ill health, diseases and incidents, and their impact on safety and health performance, the provisions in the Factory Ordinance No.45 of 1942 are as follows:

- The investigation of the origin and underlying causes of work-related injuries, ill health, diseases and incidents should identify any failures in the OSH management system and should be documented.
- Such investigations should be carried out by competent persons, with the appropriate participation of workers and their representatives.
- Results of such investigations should be communicated to the safety and health committee, where it exists, and the committee should make appropriate recommendations.
- Results of investigations, in addition to any recommendations from the safety and health committee, should be communicated to appropriate persons for corrective action, included in the management review and considered for continual improvement activities.
- Corrective action resulting from such investigations should be implemented to avoid repetition of work-related injuries, ill health, diseases and incidents.
- Reports produced by external investigative agencies, such as inspectorates and social insurance institutions, should be acted upon in the same manner as internal investigations, taking into account issues of confidentiality.

Non-discrimination and Equal Opportunities

The Constitution of Sri Lanka (1978) states that all persons are equal before the law and are entitled to the equal protection of the law (Article 12(1)). Article 12(2) provides that “no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds”. However, Article 12(4) provides that these Constitutional provisions shall not prevent “special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons”. While there is no equal opportunity legislation in Sri Lanka at present, some discriminatory provisions that previously existed in few labour laws such as the different wages set out for men and women in some wages boards, have been remedied.

Covert discrimination may exist at recruitment and other stages of employment and are very difficult to identify or address as official complaints are not made, especially concerning gender-based discrimination. Measures to protect women from discriminatory activities include legal provisions to protect maternity, payment of 1.5 times of normal rate of payment for women for night works in the EWYP&C Act.

Both the SOE Act and the MBO contain provisions on the prohibition on termination due only to “pregnancy, childbirth or any consequential illness”, and also preclude an employer from issuing the notice of termination on any grounds on a female employee while she is on maternity leave, or in such a manner that such notice expires while she is on maternity leave. These Statues also both contain a prohibition on engaging a pregnant female employee on work which may be injurious to her health or that of her unborn child for a specified period.

Child Labour

Several definitions of “child” involving different age limit exist in law in Sri Lanka, including the definition in the National Child Protection Act No.50 of 1998, which defines a child as any person under 18 years of age. However, for purposes of employment, the definitions/age limits set out in the Shop & Office Employees Act (SOE ACT) and the Employment of Women, Young Persons & Children Act (EWYP&C Act) are to be considered when discussing child labour in Sri Lanka, together with the provisions on the Core ILO Conventions on the elimination of child labour- viz. Conventions 28 (Minimum Age Convention) and 132 (Elimination of the Worst Forms of Child Labour). Other laws impacting on child labour and protections offered to workers under 18 years of age include the Estate Labour (Indian) Ordinance, the Factories Ordinance and the Mines and Minerals Law.

The EWYP&C Act defines a child as a person who is under the age of 14 years. Gazette Extra Ordinary No.1116/5 of 26th January 2006 contains a general prohibition on the employment of children under 14 years of age. It recognizes two exceptions to this general prohibition – work done by children in technical schools if such work is approved or supervised by a public authority, and work by children which is supervised by parents or guardian in light agricultural or horticultural or similar work carried on by members of the same family before the commencement of regular school hours or after they end. The SOE Act, on the other hand, completely prohibits the employment of any person under the age of 14 years in a shop or office. Male children between the ages of 14 and 18 cannot be employed before 6.00 a.m. or after 6.00 p.m. except in specified types of employment.

The EWYP&C Act defines a “young person” as a person who has attained the age of 14 years, but who is under the age of 18 years. The Act further distinguishes between young persons between the ages of 14 and 16 years, and those between the ages of 16 and 18 years, and sets very detailed guidelines to regulate for their employment. As per Section 13 in the 2006 Amendment of the EWYPC, where a child is employed in contravention of the provisions of the subsection, the employer shall be guilty of an offence chargeable in the Magistrate Court. The employer can be fined or imprisoned or both and; the Magistrate could also order the employer to pay compensation to the child in question.

In terms of hazardous work, the government passed two legislations and the announcement was published by Gazette notification 1667/41 of 2010 and No. 1695/32 dated Friday, March 4, 2010, a list of forty-nine trades/ occupations which have been listed as Hazardous Work. In 2006, Section 20 of the EWYPC was amended to address the special issue of hazardous labour by children between the vulnerable age group between 14 to 18 years. The penalty for employing children in violation of the Employment of Women, Young Persons and Children Act 8 of 2003 varies from Rs 5,000 to Rs 10,000 fines, imprisonment of not less than 12 months or both.

Forced Labour

The Constitution of Sri Lanka prohibits forced or compulsory labour directly and indirectly; Article 11 of the constitution says that no person shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. Besides, Article 14 of the Constitution provides for freedom of association, lawful occupation, profession, trade, business or enterprises and freedom of movement. Section 358A of the Penal Code (Amendment) Act No. 16 of 2006 prohibits forced labour in Sri Lanka while also listing several actions which can be considered as forced labour.

Moreover, the section introduces imprisonment and fines for violating the law. If the victim is a child more sections of the Code will be applicable. Additionally, other laws and regulations relating to forced labour include Employment of Women, Young Persons, and Children Act No. 47 of 1956, Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956, Industrial Dispute Act, and the Shop and Office Employment Act 1954.

The Employment of Women, Young Persons and Children Act introduced several legal provisions for preventing forced or compulsory labour such as limits on night work, especially registration process

for underage workers, and special regulations for selected work or service fields while the Shop and Office Employment Act, 1954, provides legal protection for working hours, holidays, leaves, working conditions and much more. On 11 April 2019, Sri Lanka ratified the Protocol of 2014 to the Forced Labour Convention, 1930, thereby becoming the second country in Asia and thirty-first worldwide to ratify the Protocol.

Workers' and Employers' Organization

The Constitution of Sri Lanka grants the right for every person to join a trade union, while the Trade Union Ordinance permits any seven people to form such an organization.

GBV and Sexual Harassment at Workplace

Sexual harassment was criminalized in Sri Lanka in 1995 by including a new offence in the Penal Code. Specifically, Section 345 of the Penal Code states that anyone who 'by assault or use of force sexually harasses another, or by words or actions causes sexual annoyance or harassment to a person', commits the offence of sexual harassment. The offence of sexual harassment is further elaborated in the explanation by indicating that sexual harassment constitutes, 'unwelcome sexual advances by words or action by a person in authority, at a working place or any other place,' against men and/or women.

Similarly, the Bribery Act of 1956, in the public sector, mentions that a public servant can be charged with sexual harassment if he or she (concerning any other person in the transaction of his/her official duties), 'solicits or accepts any gratification as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favouring...'

The punishment for sexual harassment in the Penal Code includes a term of imprisonment with hard labour which may extend up to five years and/or a fine. The court may also order the offender to pay compensation to the victim. In the Public sector, the Bribery Act mentions punishment for public officials who solicit or accept 'sexual gratification with vigorous punishment for up to seven years and a fine not exceeding five thousand rupees.

Labour Inspection

Sri Lanka does not have a written labour inspection policy. Inspection activities are regulated by departmental circulars under the responsibility of the Commissioner-General of Labour. Broadly, however, the DoL is responsible for enforcement of labour laws through its inspection services including concerning working time, wages, employee provident fund, working conditions and the working environment (including occupational safety and health). The Labour Inspectorate functions are decentralized into 11 Zones, 36 District Offices and 17 Sub-District Offices. In all field offices, labour officers have responsibilities for labour inspection, conciliation as well as administration of the Employees Provident Fund (EPF). Aside from their enforcement functions, labour inspectors are also involved in conciliation work and assist in the collection of contributions to the EPF.

Further, the Industrial Safety Division is decentralized through District Factory Inspecting Engineers' (DFIE) offices in several districts. The District Factory Inspecting Engineers (DFIE) are responsible for enforcing the provisions under the Factory Ordinance Act No. 45 of 1942 (post amendment) within their areas of jurisdiction. For this purpose, each DFIE is assisted by a few Factory Inspecting Engineers. Each of them is expected to carry out 15 to 20 routine inspections a month. Besides this, they are also responsible for investigating fatal and serious accidents. In case of serious violations, especially leading to fatal accidents, the Inspectorate institutes legal action against the occupier of the factory.

Office of the Commissioner of Workmen's Compensation

The main function of this office is to inquire into the claims made by the workmen who meet with accidents in the course of their employment. This office functions entirely on a judicial capacity, with the Commissioner, Additional Commissioner and the Deputy Commissioner being full-time Judicial Officers, and the office is vested with both District Court and Magisterial powers in enforcing its orders. The activities carried out by the Commissioner include receipt of complaints claiming workmen's compensation; conducting inquiries into the accepted applications for compensation and settlement of the problem either by obtaining the claim or by rejecting it; a collection of compensatory payments from employers; and payment of compensation to disabled or diseased workmen or the dependents of dead workmen.

Labour Tribunals

Labour Tribunals were established as per Part IV of the Industrial Disputes Act. The Tribunal is a judicial body that provides the principal legal forum for employees to take disputes relating to termination of their employment for adjudication. The judge of the Labour Tribunal is called the "president," and 'workman' as defined under the Section 48 of the Industrial Disputes Act or a trade union on her/his behalf, may apply to the Labour Tribunal.

Recourse to the Labour Tribunal does not apply to officers in the public service who usually resort to fundamental rights applications in respect to unjust or arbitrary treatment. In the instance the Tribunal finds that the employer had unjustifiably terminated the workman's services, the Tribunal can either issue an order of reinstatement of the worker or compensation. However, the Tribunal will not normally order reinstatement where the employee's post was of a personal or confidential nature and the employer no longer desires to employ him/her.

SACEP's Terms & Conditions

Appointments of locally recruited staff

Appointments of locally recruited personnel are made by the Director-General, based on a scheme of recruitment approved by the Consultative Committee and SACEP, who also determines the salaries payable, with due regard to prevailing rates for the job and other relevant factors, and whether personnel are classed as officers' or as other staff. The Consultative Committee would from time to time approve the cadres. The Governing Council would adopt the organization structure.

Duties and Obligations:

By accepting an appointment in SACEP, locally recruited officers and other staff pledge themselves to discharge their functions and to regulate their conduct with the interests of SACEP only in view. They shall exercise the utmost discretion regarding all matters of official business. They shall neither seek nor accept instructions or advice from any authority external to SACEP. They shall not communicate to any unauthorized person or outside organization any information known to them because of their official position which has not been made public except in the course of their official duties as determined by the Director-General, nor shall they at any time use such information to private advantage.

No officer or other staff member shall be actively associated with the management of, or hold a financial interest in, any business concern if it were possible for him/her to benefit from such association or financial interest because of his / her position in SACEP. An officer or staff member becoming a candidate for any public office of a political character shall resign from SACEP. Officers and staff members shall abstain from political activity normally considered by the Government of Sri Lanka to be incompatible with the rules for comparable employees in the Sri Lanka public service.

Terms of Appointment:

Appointments of locally recruited personnel may be terminated at three months' notice on either side in the case of officers and one month's notice on either side in the case of other staff.

Medical and Hospital Charges:

- a) Locally recruited staff are covered by a surgical and hospital expenses insurance policy for him/herself and his/ her family, and the Director-General is authorized to review and revise the above benefits periodically.
- b) Notwithstanding (a) where the officer is outside Sri Lanka on official business, actual expenses in respect of emergency medical treatment may be met from official funds at the discretion of the Director-General.

Travel Allowance for Locally Recruited Officers:

When absent from Colombo on official visits, the Locally Recruited Officers will receive, in addition to his salary, the daily subsistence allowance applicable to staff members in the Director-General and Principal Officer category of the United Nations for each country visited, as set from time to time in administrative instructions from the Director-General.

In cases where the officer concerned does not find the per diem rate high enough to cover his / her reasonable expenses, he/she may claim actual expenses supported by vouchers. Officers are expected to travel in such a way as to economize time and expenses, long-distance travel will generally be by air, economy class.

Locally recruited officers will each be provided with air trip insurance cover for capital sums of pounds sterling 10,000.

Travel Allowance for other Locally Recruited Staff:

Other members of the locally recruited staff required to travel outside Colombo on official business will receive:

- a) an allowance to cover the cost of board and lodging laundry and incidental expenses as approved by the Director-General;
- b) if the transport is not provided, actual taxi fare from hotel to the place of work and back, subject to any, conditions the Director-General may prescribe;
- c) transport by the most economical means from Colombo to the destination and back (including the cost of air trip insurance for coverage of pounds sterling 10,000/-).

Leave Provisions:

- (a) **Annual Leave** - Locally recruited officers and other staff may be granted annual leave up to a maximum of twenty-five working days per annum which may be taken in or outside Sri Lanka. Annual leave will only be granted after completion of one year of continuous service. It will be credited in any calendar year only at the rate earned which shall be at the rate of two days per month for eleven months and three days for December.
- (b) **Casual Leave** - Casual leave up to a maximum of fourteen working days per annum may be granted at the discretion of the Director-General. Unused casual leave cannot be carried over as entitlement from one calendar year to the next.
- (c) **Sick Leave** - Absence due to sickness will be debited to casual and, if necessary annual leave. For this reason, locally recruited employees are required to accumulate and keep in reserve fifteen days annual leave. The Director-General may, at his discretion, grant a short extension of sick leave either as a debit against future leave or without pay or at half pay.
- (d) **Accumulated Annual Leave**
 - (ii) Locally recruited employees may, with the permission of the Director-General, accumulate annual leave up to a maximum of one hundred and fifty working days. On leaving the service of SACEP they shall be paid a cash equivalent of their accumulated annual leave.
 - (iii) As an exception, the Encashment of Accumulated Annual Leaves for permanent cadre Officers nominated by member states for a fixed term of three years are paid with an upper ceiling of 70% of the Accumulated Annual Leave as a Terminal Benefit at the end of the tenure.

Insurance coverages

- (i) Life Insurance
- (ii) Personal Accident Insurance
- (iii) Workmen Compensation Insurance

Provident Fund:

Locally recruited personnel are eligible for membership in the SACEP's Provident Fund set up to provide a lump sum payment to locally recruited staff upon the termination of their contract with the SACEP. The contribution of a member shall be 10 per cent of his / her gross monthly salary, while the SACEP shall contribute a sum equal to 15 per cent of such member's gross monthly salary.

Payment of Employees Trust Fund:

Locally recruited personnel are eligible for membership in the SACEP's Employees Trust Fund set up to provide a lump sum payment to locally recruited staff upon the termination of their contract with the SACEP. SACEP shall contribute a sum equal to 3 per cent of such member's gross monthly salary.

Payment of Overtime to Minor Staff:

Locally recruited minor staff are eligible for payment of overtime for working after regular office hours.

13th Month Salary:

Locally recruited personal shall become eligible for payment of the 13th Month Salary based on the overall performance.

Payment of Gratuity:

Locally recruited personnel on completion of five years of service shall become eligible for payment of gratuity, which amounts to one-half month's gross salary for every completed year of service, computed based on the last month's salary drawn by the person. The maximum admissible age of this facility is 60 years.

Hours of Work:

The Director-General shall determine the working hours and the working week of the Secretariat taking into consideration the prevailing local conditions.

Official Holidays:

The holidays observed will be week-ends and all public holidays declared by the Government of Sri Lanka. However, the Director-General may at his discretion grant additional holidays to mark special events during the year.

Apart from these terms and conditions, Sri Lankan labour legislation is applicable for the areas not covered by the above including maternity leave, minimum age, number of working hours, etc.

Maternity leave entitlements in the Public Sector are granted to female employees under Public Administration Circular Number 16/1996 and 4/2005 issued by the Ministry of Public Administration, Government of Sri Lanka.

However, there is no legal entitlement for paternity leave in the private sector in Sri Lanka; though in the case of public sector employees, there are 03 days available to male public sector employees, in the event of a birth of a child to their wife.

As per the circular, maternity leave and benefits include 84 working days of paid leave excluding holidays in respect of the birth of any child, irrespective of whether it is the first, second, third or any other child, provided it is a live birth.

Annex 2: Written Particulars of Employment

1. Name of Employer
2. Name of Employee
3. Date Employment began
4. Wage and Method of Calculation
5. Interval at which wages are paid
6. Normal Hours of work
7. Short description of employee's work
8. Probation Period
9. Annual Holiday Entitlement
10. Paid Public Holiday
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Nursing Break Entitlement (for female employee)
14. Notice employee entitled to receive
15. Notice the employer required to give
16. Pension Schedule, Provident Fund Gratuity Schedule etc.
17. Any other matter either party wishes to include

Notes:

(c) An employee is free to join a trade union or staff association, which is recognized by the undertaking. The address of the Trade Union or Staff Association is:

(b) The grievance procedure and disciplinary procedure in this undertaking requires to be followed when a grievance arises or disciplinary action that needs to be taken.....

© When any heading is inapplicable enter NIL.

.....
Employer's signature

.....
Witness

Employee's signature
.....

Witness
.....

Date

Date

Annex 3: Suggested Due Diligence for Social & Environmental Mitigation Measures in Contracts

Stage of Contractual Process	Due Diligence
Before bidding	<ul style="list-style-type: none"> • Ensure that the terms of reference clearly define the supervision officer’s responsibilities regarding oversight of, and reporting on, labour influx and workers’ camps. For high-risk projects, have independent safeguards supervision. • Ensure the team skills in the terms of reference include key staff qualified and experienced in managing similar projects, and demonstrated capacity to manage social and environmental issues, including issues on community health and safety. • Ensure that the project GRM is established and its use is widely publicized.
Preparation of bidding documents	<ul style="list-style-type: none"> • Review contract conditions included in bidding documents to: <ul style="list-style-type: none"> (i) Ensure that the relevant mitigation measures in the ESMP are reflected and budgeted in the contract, (ii) Ensure the ESMP forms part of, and is explicitly referred to in the bidding documents. (iii) Identify relevant provisions (workers, camps, child and forced labour, safety, grievance redress, etc.) regulating the contractor’s responsibility and identify any gaps, inconsistencies or areas of concern that could be addressed through additional provisions in the “particular conditions of contract” and/or technical specifications (iv) Include a requirement that all workers sign ‘Codes of Conduct’ governing behaviour, and identifying sanctions (v) Identify that training programs on implementing the Codes of Conduct, etc. will be undertaken by external providers • Ensure the contract conditions specify what type of penalty the contractor will face if the provisions of the ESMP and CESMP are not adhered to—including by sub-contractors. This may include direct incentives to contractors in the form of penalties for poor performance on social and

	<p>environmental matters or specific Performance Securities for ESMP and CESMP compliance.</p> <ul style="list-style-type: none"> • Ensure bidding documents make clear the responsibilities of the contractor to prepare and adhere to a CESMP based on the ESMP and that no civil works will commence until the CESMP has been approved by the supervision engineer. • Ensure the bidding documents detail how the contractor and supervision officer will be required to monitor and report on the impacts on the local community, issues related to labour influx and workers’ camps. • Propose Key Performance Indicators (KPIs) for Contract Management, reflecting issues and risks specific to the contract and the monitoring plan.
Bidding evaluation	<ul style="list-style-type: none"> • Review the Borrower’s bid evaluation report and request to review the bids where appropriate, to verify for the recommended bidder that documents related to the ESMP, safeguard implementation capacity, and other obligations of the contractor required to be submitted with the bid are sufficiently detailed and cover the contractual requirements. • Require the contractor’s representative or dedicated community liaison staff to have the ability to communicate in the language of the Borrower and/or the local language. • Verify that the contract management framework identifies lines of communication and that these are formalized and a consistent record is provided. • Ensure that the contractor meets the project’s OHS requirements for capability and experience.
After contract signing	<ul style="list-style-type: none"> • Before commencing works, the contractor submits site-specific CESMP(s) based on the ESMP, which includes specific management plans for (i) work activities; (ii) traffic management; (iii) occupational health and safety; (iv) environmental management; (v) social management; and (vi) labour influx. • Supervision officer reviews and approves the CESMP—with inputs from appropriate Government agencies—before any works start. For high-risk projects, the Bank should also review and clear the CESMP. The borrower should disclose the approved CESMP.

Annex 4: Code of Conduct

Preamble

The SACEP Code of Conduct defines labour standards that aim to achieve decent and humane working conditions. The Code's standards are based on national law and accepted good labour practices.

Companies affiliated with the SACEP are expected to comply with all relevant and applicable laws and regulations of the country in which workers are employed and to implement the Workplace Code in their applicable facilities. When differences or conflicts in standards arise, affiliated companies are expected to apply the highest standard.

The SACEP monitors compliance with the Workplace Code by carefully examining adherence to the Compliance Benchmarks and the Principles of Monitoring. The Compliance Benchmarks identify specific requirements for meeting each Code standard, while the Principles of Monitoring guide the assessment of compliance. The SACEP expects affiliated companies to make improvements when Code standards are not met and to develop sustainable mechanisms to ensure ongoing compliance.

The SACEP provides a model of collaboration, accountability, and transparency and catalyzes positive change in workplace conditions. As an organization that promotes continuous improvement, the SACEP strives to be a global leader in establishing best practices for the respectful and ethical treatment of workers, and in promoting sustainable conditions through which workers earn fair wages in safe and healthy workplaces.

Employment Relationship

Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labour and social security laws and regulations.

Non-discrimination

No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, based on gender, race, religion, age, disability, sexual orientation, nationality, political opinion, social group or ethnic origin.

Harassment or Abuse

Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Forced Labour

There shall be no use of forced labour, including bonded labour or other forms of forced labour.

Child Labour

No person shall be employed under the age of 14 or the age for completion of compulsory education, whichever is higher.

Freedom of Association and Collective Bargaining

Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Health, Safety and Environment

Employers shall provide a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt responsible measures to mitigate the negative impacts that the workplace has on the environment.

Hours of Work

Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country. The regular workweek shall not exceed 48 hours. Employers shall allow workers at least 24 consecutive hours of rest in every seven days. All overtime work shall be consensual. Employers shall not request overtime regularly and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 60 hours.

Compensation

Every worker has a right to compensation for a regular workweek that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract. Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the SACEP to take appropriate actions that seek to progressively realize a level of compensation that does.