

LABOUR MANAGEMENT PROCEDURE (LMP)

**INCLUSIVE RURAL
CONNECTIVITY AND
DEVELOPMENT PROJECT
(IRCDP)**

Ministry of Highways

Sri Lanka

ROAD DEVELOPMENT AUTHORITY

April 2021

Abbreviations

CEB	Ceylon Electricity Board
DFIE	District Factory Inspecting Engineer
DOL	Department of Labor
EFC	Employers' Federation of Ceylon
EPF	Employees' Provident Fund
ESDD	Environmental and Social Development Division
ESF	Environmental and Social Framework
EHSGs	Environmental Health and Safety Guidelines
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards
ETF	Employees' Trust Fund
EWYPC	Employment of Women, Young People and Children Act
GBV	Gender Based Violence
GOSL	Government of Sri Lanka
GSBS	Good Shed Bus Stand
IRCDP	Inclusive Road Connectivity and Development Project
ILO	International Labor Organization
LMP	Labor Management Procedure
NIC	National Identity Card
NLAC	National Labor Advisory Council
OHS	Occupational Health and Safety
PDO	Project Development Objective
PMU	Project Management Unit
RDA	Road Development Authority
SBD	Standard Bidding Documents
SEA	Sexual Exploitation and Abuse
SH	Sexual Harassment
SOEA	Shop and Office Employees Act
SLTB	Sri Lanka Transport Board
TA	Technical Assistance
ToD	Transit oriented Development
WB	World Bank
WBG	World Bank Group

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1. Project Context: Background

Sri Lanka is a lower-middle-income country with a GDP per capita of US\$3,852 (2019) and a total population of 21.8 million. Following 30 years of civil war that ended in 2009, the economy grew at an average 5.3 percent during the period 2010-2019, reflecting a peace dividend and a determined policy thrust towards reconstruction and growth, although growth slowed down in the last few years. The country has been gradually transitioning from a predominantly rural-based production towards a more urbanized economy oriented around manufacturing and services. Sri Lanka has also made notable strides in reducing poverty and sharing prosperity among the less well-off. The US\$3.20 poverty headcount rate declined from 19.4 percent in 2009/10 to 11.0 percent in 2016. Extreme poverty is rare and concentrated in some geographical pockets. Social indicators including human capital outcomes, and high literacy rates compare favourably with those in middle-income countries.

However, weak fiscal buffers and a high debt burden have constrained the government's ability to support growth and facilitate economic transformation. Sri Lanka's revenue collection (12.6 percent of GDP, 2019) is low relative to its peers. As a share of GDP, the Public and Publicly Guaranteed debt rose from 78.5 percent in 2015 to 94.3 percent in 2019. The COVID-19 induced crisis is further exerting a severe impact on the economy, while exacerbating an already challenging macroeconomic situation. Real GDP is expected to have contracted by 6.7 percent in 2020. Key transmission channels include a decline in export earnings (tourism, textiles, tea) and subdued domestic demand. The pandemic triggered sharp jobs and earnings losses in the informal sector and some formal sectors such as the apparel industry. As a result, poverty is expected to have increased to 12.5 percent in 2020, after falling further to 9.1 percent in 2019.

The rural areas form a significant part of Sri Lanka's economy; yet lag behind the more urban areas in terms of development, connectivity and accessibility to basic services and economic opportunities. Rural population accounts for over 80 percent¹ of Sri Lanka's total population and contributes to 52.7 percent² of the country's labor force. With the majority of the working aged rural people engaged in agricultural activities³, agriculture naturally forms the primary source of livelihood of the rural communities. Rural areas are also home to a large majority (77 percent) of the country's elderly (aged 60 years and above). However, poverty at 12.2 percent is significantly higher than the urban poverty rate at 5.2 percent. More importantly, over 90 percent of the poor reside in rural areas. Among those working in the rural sector only 35 percent are women while 65 percent⁴ are men. Rural areas are also characterized by higher incidence of fertility and mortality than the urban sector.⁵

Sri Lanka's road network is around 120,000km (classified roads); the network consists of three main classes of roads: (i) national highways - Class A and B (12,380 km, 10%), (ii) provincial roads - Class C and D (18,900 km, 16%), (iii) local/rural roads - Class R (88,200 km, 74%). While nearly 100 % of national roads are paved, only 67% of the provincial roads and 13% of rural roads are paved and are in good condition. Most rural roads have been poorly designed, with no consideration to road safety or climate impacts.⁶ Poor road conditions at the provincial and rural level are further exacerbated by lack of proper maintenance due to limited funding allocations.

¹ Economic and Social Statistics of Sri Lanka 2020, Central Bank of Sri Lanka -

https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/statistics/otherpub/ess_2020_e1.pdf

² Economic and Social Statistics of Sri Lanka 2020, Central Bank of Sri Lanka -

https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/statistics/otherpub/ess_2020_e1.pdf

³ Aging population of Sri Lanka – A thematic Report based on Census of Population and Housing 2020, Department of Census and Statistics - https://srilanka.unfpa.org/sites/default/files/pub-pdf/UNFPA%20Ageing%20Monograph%20Report_0.pdf

⁴ <http://www.statistics.gov.lk/GenderStatistics/StaticalInformation/ContributiontoEconomy/EconomicallyActivePopulationbySectorAndSex2017-2019> (Accessed 25th March 2021)

⁵ Aging population of Sri Lanka – A thematic Report based on Census of Population and Housing 2020, Department of Census and Statistics - https://srilanka.unfpa.org/sites/default/files/pub-pdf/UNFPA%20Ageing%20Monograph%20Report_0.pdf

⁶ Rural Roads and Community Access in Sri Lanka: An Overview, Amal Kumarage, 2003

Road transport, being the only mode of transport in many rural areas plays a key role connecting the rural population with economic and social opportunities. Rural roads attribute to 95 % of passengers and 98 % of freight movement in the country. Therefore, uninterrupted road connectivity and accessibility to health care, education, employment opportunities, and other basic services is critical for the rural communities. Road network connectivity also plays an important role in agriculture supply chains, the primary source of livelihoods of the rural communities in Sri Lanka. Hence, there is a need for a more market integrated approach to road infrastructure development to ensure that produces can reach consumers (both in domestic and export markets) efficiently and without loss in quality.

The Government of Sri Lanka (GOSL) recently initiated a 100,000 km rural roads development program as part of the Government’s national development program “Vistas of Prosperity and Splendour”. This is expected to complement the other ongoing provincial and rural road initiatives financed by the World Bank and the Asian Development Bank (ADB). The ADB is financing two separate “Integrated Road Investment Programs” (iRoad I and II), totalling US\$1.7 billion and covering the rehabilitation of almost 7,000 km of roads, predominantly rural roads with some national and provincial roads as well. The World Bank’s ongoing Transport Connectivity and Asset Management Project (TCAMP) is financing the rehabilitation of around 400km of provincial roads across all nine provinces of the country. While these programs have been quite successful with improved connectivity and accessibility for some rural communities, they cover less than 10% of the 100,000 km rural roads program. The GOSL is now looking to scale up ongoing initiatives by building on the success and lessons learnt and establish a data driven and comprehensive system to enhance rural transport infrastructure in an inclusive manner in order to support the rural community. This project is expected to be part of this broader government initiative to improve rural connectivity.

1.1 Project Description

The project has the following three components:

Component	Description
Component 1: Institutional Strengthening and Capacity Enhancements (US\$20 million)	<p>Sub-Component 1.1. Improvement of institutional and policy framework of the road sector: The sub-component aims at improving overall management of the Sri Lankan roads sector to increase efficiencies and improve its ability to respond to evolving road transport needs and challenges. It will include the following:</p> <ul style="list-style-type: none"> a. Review the institutional set up to identify opportunities for streamlining the structural set-up and mandates of the public institutions responsible for managing the road sector. b. Explore different mechanisms to improve financing of road construction and maintenance at the provincial and local level within the governing framework. <p>Sub-Component 1.2. Institutional capacity building: This sub-component will focus on building the immediate and medium-term capacity of the relevant stakeholders in the road sector.</p> <ul style="list-style-type: none"> a. <i>Capacity building for public sector institutions on (a)road management practices, (b) climate resilient road network planning, design, maintenance, and knowledge development, (c) road safety management, (d) prevention of sexual exploitation and abuse and sexual harassment (SEA/SH) and gender-based violence (GBV).</i> b. <i>Capacity building for service providers in the local construction industry:</i> This will support capacity building for contractors on

	<p>bidding, road safety standards, climate resilient road construction/maintenance, and institutionalization of practices related to occupational health and safety, as well as public health and environmental management in civil works.</p> <p>c. <i>Incremental cost of project implementation:</i> This will finance eligible project management costs such as costs associated with travel, office space, IT equipment and facilities and office infrastructure, workshops, and other incidental expenses.</p> <p>Sub-Component 1.3. Development of a Digital Rural Connectivity Assessment Tool: This subcomponent will support the development of a digital tool to systematically monitor and prioritize provincial and rural roads for rehabilitation and improvement based on key set of criteria on connectivity, accessibility, and climate vulnerability. This tool will be used to carry out a provincial/rural road network assessment and strategic prioritization of investments financed under Component 2 (Phase 2) of the program.</p>
<p>Component 2: Safe and Climate Resilient Rural Roads (US\$450 million)</p>	<p>Sub-component 2.1. Rural roads improvement: This component will finance planning, review and monitoring, knowledge sharing, design, civil works, and contract management related to rehabilitation / improvement and maintenance of an estimated 3000 kms of priority provincial and rural roads spread across the country. These improvements will include among others: i) strengthening the existing pavement with asphalt concrete (AC) and aggregate base concrete (ABC) layers and improving culverts, bridges and drainage structures; ii) enhancing climate resilience to withstand flooding, landslides etc. through the use of bioengineering solutions such as grass and tree planting to improve road slope protection, improving drainage capacity and use of resilient pavement materials; iii) improving safety through alignment improvements, providing crash barriers, signage, and markings. The use of innovative and sustainable construction material will be explored to reduce costs and impact on the environment as well as to optimize the use of limited local materials. The component will be implemented in two phases:</p> <p>Phase 1 - First Year rural roads improvement program: In the first year, the project will finance the rehabilitation of a pre-identified priority list of rural roads by GOSL, limited to a few selected provinces due to COVID travel constraints. An estimated 500 km of road sections will be selected based on a comprehensive set of criteria including, connectivity to national road network, markets, schools, hospitals as well as environmental and social impacts. The location and design of about 100kms of roads to be rehabilitated or upgraded has been identified as front runner investments to be procured after appraisal.</p> <p>Phase 2 - Second-to-Fifth Year comprehensive infrastructure improvement program: The project will finance road improvements prioritized systematically through community consultations with the use of transect walk and evidence-based assessment using the tool developed under Component 1.3.</p> <p>Sub-component 2.2. Engineering and related consultancies: The</p>

	<p>subcomponent will support carrying out feasibility studies, preparation of project reports and bidding documents, management of the procurement process including bid evaluations, supervision of contracts, technical audits and investigations, and other road contracts related work.</p>
<p>Component 3: Improved Accessibility to Services (US\$30 million)</p>	<p>Sub-component 3.1. Improvement of economic and social facilities: This component will finance planning, review and monitoring, knowledge sharing, design, civil works, and contract management related to rehabilitation / improvement and maintenance of selected ancillary infrastructure.</p> <p>Similar to the prioritization of roads, the ancillary infrastructure will be prioritized using key criteria such as connectivity to essential community services, trade, key value chains and climate vulnerability of the area assessed through community consultations via transect walk and the tool to be developed under Component 1.3. Improvements will include rehabilitation and upgradation of these selected infrastructures with a particular focus on improving safety and climate resilience. The selection and specific interventions will be identified in Phase 2 of the project.</p> <p>The improvement of these ancillary infrastructures will be included within the road contracts. The project will explore both community-based models and private sector participation in sustainable maintenance (and operation where applicable) of these infrastructures.</p> <p>These ancillary infrastructures will broadly include (a) improvement of agro-logistics infrastructure such as rehabilitating common user warehouses and consolidation facilities, farm/agri produce collection centers, improving cold storage facilities, and (b) improvement of community infrastructure such as community centers, playgrounds for children, community childcare and health care facilities, village markets etc.</p> <p>Sub-component 3.2. Community development initiatives: This will include community mobilization and public awareness activities to empower vulnerable communities in rural areas on participatory planning and monitoring of roads, road safety, GBV, and managing climate resilient vulnerabilities.</p>

1.2 Labor Management Procedures

The World Bank’s Environmental and Social Standard 2 (ESS2): defines four categories of workers:

- **Direct workers** - people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project.
- **Contracted workers** - people employed or engaged through third parties to perform work related to core functions of the project, regardless of location. These could be either international or national workers.
- **Primary supply workers** - people employed or engaged by the Borrower’s primary suppliers (primary supply workers).

- **Community workers** - people employed or engaged in providing community labor, generally voluntarily. There will be no community workers engaged on the Project.
- **Civil Servant**- those employed directly by the Government.

The purpose of the LMP is to identify the main labor requirements and labor related risks associated with the project and to determine the resources necessary to address project-related labor issues. The LMP will enable different project-related parties, including staff of the project management unit (PMU), the Supervision Consultant, the contractors, sub-contractors and workers of the project, to have a clear understanding of what is required on a specific labor issue. The LMP is a living document, which is initiated early in project preparation, and is reviewed and updated throughout development and implementation of the project.

2. Overview of Labor Use under IRCDP

While the exact labor use in IRCDP will be determined during the implementation stage (including the number, characteristics and timing of labor requirements), below is an overview and a summary table (Table 1) of anticipated project workers in IRCDP based on the screening and scoping for the project.

Category of Workers:

2.1 Direct Workers

2.1.1 Project Management Unit (PMU)

The PMU will be responsible for the management and supervision of overall implementation of IRCDP, including construction work by the contractor(s). The PMU will require staffs in specific technical areas with sufficient expertise to manage the overall implementation of the project. Accordingly, the PMU will engage approximately 46 staffs with expertise in project management and coordination, financial management, procurement, engineering, environmental/social management, monitoring and evaluation, among other supporting staff. The timing of labor requirements for the PMU is from the project preparation to the completion of the project.

2.1.2 Supervision Consultant to the project

Supervision Consulting Firm (herewith referred to as "Supervision Consultant") to the project will be appointed by the Road Development Authority (RDA), to administer and supervise the civil works carried out by the contractors. The core staff of the Supervision Consultant will be recruited from commencement till the end of the project. Expert staff will be recruited as per the programme of the contract within different construction stages.

At the design stage, the Supervision Consultant firm will engage the following individuals in their team: Team Leader (Design), Geotechnical Engineer, Structural Engineers, Highway Design Engineer, Electrical Engineer and CAD Draftsmen. The time requirement for the design stage is approximately nine months.

At the construction stage, the Supervision Consultant firm will include a Team Leader, a Contract/Claim Specialist, Resident Engineer, Project Engineers, Quantity Surveyor, Environment and Social expert, Health and Safety expert, CAD draftsman, and various other Engineers with certain expertise such as Structural Engineer, etc.

The procurement process for selecting the Supervision Consultant will commence during project preparation stage and will be recruited within a stipulated time, to start the process of selection of the contractors. The Supervision Consultant firm will carry out their work until the completion of the project.

2.2 Contract Workers

It is not yet clear at this stage of the Project on the number of contracts likely to be awarded, as there are different types of construction packages at different locations. Currently, there are 22 front runner roads within Ratnapura district for which five (5) contractors will be hired. Depending on the specific requirements of the project, sub-contractors will be employed by the main contractor. As per the method and duration of construction, human resources input will be estimated during the preparation of the bid proposal.

On completion of detailed design of the project (construction at the first phase of the Project- will be limited to project areas where no private land acquisition will be undertaken), the construction can be commenced. Contractor's team for each package will comprise of a Project Manager, structural Engineers, Quantity Surveyors, Landscape Experts, Health and Safety Expert, Environment and Social Expert, and other categories of skilled and unskilled laborers- ranging from a minimum of 51 to a maximum of 55 workers, will be engaged till the completion of the construction work. The contractor's staff should also include female workforce as main and supporting staff. Among the contractors' staff some will be permanent workers, while some are likely to be recruited from the outside. The following include the different categories of anticipated contract workers:

2.2.1 Skilled Staff of the Primary Contractor (Construction Company)

As discussed already, the project will engage several permanent technical staff of the primary contractors during the construction period, including project managers, project engineers, environmental officer social officers, construction foreman, health and safety expert, administration and finance officer. Further, utility relocation will either be carried out by the respective service providers such as Ceylon Electricity Board, National Water Supply & Drainage Board, Sri Lanka Telecom, Municipal Councils (for sewer lines) etc., or in some instances, a separate contractor may also be engaged. The permanent staff may also include female officers (such as engineers, safety officers, and supporting staff).

2.2.2 Skilled Workers Engaged by Sub-contractors

The contractors may engage a sub-contractor for specialized technical work. For instance, improvement of culverts, bridges and drainage structures or bio-engineering solutions under the project may be awarded to a specialized sub-contractor by the contractor. This would involve workers such as structural engineers, geotechnical engineers, utility engineers, heavy and light vehicle drivers, storekeepers, etc. The contractor may engage such sub-contractors locally or nationally.

2.2.3 Unskilled Community Members Engaged by the Contractor

The project is designed to maximize the employment generation at the local level by engaging workers from the communities as both skilled and unskilled labor. To ensure equal opportunities in employment, the contractor will be contractually required to coordinate with the PMU to prioritize the host communities particularly women in their engagement in civil works, community-based maintenance arrangements and monitoring activities. The work assigned for unskilled female workers may also include traffic management, sand spreading, hand compacting, external landscaping works, and daily site cleaning and rubbish removal. The use of brokers or intermediaries to source unskilled workers is also possible.

2.3 Primary Supply Workers

The construction related works will require primary supplies essential for the functions of the infrastructure, such as soil, aggregates, bitumen, pre-cast concrete beams, etc. Where the contractor will source such materials directly from primary suppliers on an ongoing basis, the workers engaged by such primary suppliers are deemed 'primary supply workers,' as defined in ESS2. The number and type of primary suppliers will be determined at project implementation stage. The timing of labor use of primary supply workers will cover the construction stage of the project (see Section 12 for more details on primary supply workers).

2.4 Community Workers

The project will not engage community workers as defined under ESS2. The community members to be engaged by the contractor will be categorized and managed as “contract workers”.

Table 1: Overview of Indicative Labor Use in IRCDP

Type of project workers	Characteristics of project workers	Timing of labor requirements	Indicative number of workers
Direct workers			
Staff of the PMU	Seconded from RDA to PMU. If certain expertise is not available in the permanent staff of RDA, those will be recruited from outside under contract basis.	<u>PMU</u> : From project preparation until project completion	About 46 workers
Staff of Supervision Consultant	International and national experts will be recruited by the Supervision Consultant, as per requirement.	From design stage until project completion, as per the requirement of the contract activity of the programme.	About 38 workers
Contracted workers			
Technical experts hired by the contractor	Experts will be recruited on permanent and contractual basis. May include female staff.	Timing of labor requirement will vary as per the requirement of the contract activity of the programme.	Approx. 6 to 10 workers
Skilled workers engaged by the contractor	Mostly comprise of permanent technical staff. May include female staff.	Timing of labor requirement will vary as per the requirement of the contract activity of the programme	Total: about 5 workers
Un-skilled workers	Mostly comprise of local host community members or migrant population, with targeted focus on hiring women workers (20%).	From design stage until project completion as per the requirement of the contract activity of the programme.	Total: about 15 workers
Primary supply workers			
Workers engaged by primary suppliers (e.g., quarry sites)	They are most likely to be local workers	The construction stage of the project	Primary supply workers will be identified during the project implementation stage
Community workers	Not applicable	Not applicable	Not applicable

2.5 Other Stakeholders in Connection with the Project

Stakeholders working in connection with IRCDP other than the above-mentioned project workers will include the following.

2.5.1 Government officials⁷

The provincial and rural roads to be improved under the project are under the purview of different provincial and local authorities⁸. RDA will enter into memorandums of understanding (MoUs) with the Provincial Road Development Authorities (PRDAs)/ Municipal Councils, Urban Councils, and Pradeshiya Sabhas to rehabilitate or improve and transfer the completed road sections and other

⁷ Government officials are at times also referred to as ‘civil servants’.

⁸ Provincial Road Development Authorities, Municipal Councils, Urban Councils, Pradeshiya Sabhas etc.

infrastructure to the relevant authorities. The authorities will play a critical role in the planning, implementation, and maintenance phase.

Ceylon Electricity Board (CEB), Sri Lanka Telecom, Water Supply and Drainage Board, and Sri Lanka police are other stakeholders who will be engaged/involved in the construction phase. They will remain subject to the terms and conditions of their existing public sector employment, which are governed by Sri Lanka's Constitution and the powers vested in the Public Service Rules in terms of the appointment, promotion, transfer, disciplinary control and dismissal of the public officers, including different Management Services Circulars, Public Service Commission (PSC) Circulars, and the Government Gazette notifications/announcements issued so far. There will be no legal transfer of their employment or engagement to the project, nor would the project pay for their salaries.

The laws and regulations in Sri Lanka prohibit child labor and forced labor. Further, majority of the government officials involved in the Project are not expected to be exposed to Occupational Health and Safety (OHS) risks under the project, as they will not engage in project-related civil works. Only those who will be sent for technical work or direct supervision of construction sites may be exposed to OHS risks as they may get directly involved in supervision of the IRCDP. However, due to the Covid-19 pandemic, the occupational health and safety needs of all government officials involved in the project will be considered and measures adopted by the project in response to Covid-19 will apply to them.

3. Assessment of Key Potential Labor Risks

3.1 Project Activities

The type of workers likely to be engaged under the project is provided in Table 2 below.

Table 2: Project Activities and Types of Workers

Component	Project Activities	Category of workers
Component 1	<p>Improvement of institutional and policy framework of the road sector: (a) Study to review institutional set up to identify opportunities for streamlining the structural set-up and mandates of public institutions responsible for managing the road sector. (b) Explore different mechanisms to improve financing of road construction and maintenance of rural roads within the governing framework.</p> <p>Institutional capacity building: (a) public sector institutions on road management practices, climate resilient road network planning, design, maintenance and knowledge development, road safety management, prevention of GBV/SEA/SH in road development activities (b) service providers in local construction industry on bidding, road safety standards, climate resilient road construction/maintenance, and institutionalization of OHS practices and environmental management in civil works.</p> <p>Development of a Digital Rural Connectivity Assessment Tool to systematically monitor and prioritize rural roads for rehabilitation and improvement based on key set of criteria on connectivity, accessibility and climate vulnerability.</p>	Direct workers- PMU and Supervision Consultants; other consultants/firms hired by the PMU.
Component 2	<p>Rural roads improvement: Rehabilitation / improvement and maintenance of an estimated 3000 km of priority rural roads. Improvements will include among others: i) strengthening the existing pavement with asphalt concrete (AC) and aggregate base concrete (ABC) layers and improving culverts, bridges and drainage structures; ii) enhancing climate resilience to withstand flooding, landslides etc. through the use of bioengineering solutions such as grass and tree planting to improve road slope protection, improving drainage capacity and use of resilient pavement materials; iii) improving safety through alignment improvements, providing crash barriers, signage, and markings. The use of innovative and sustainable construction material will be explored to reduce costs and impact on the environment as well as to optimize the use of limited local materials.</p> <p>The contracts will include 3/5-year performance-based maintenance of roads post construction.</p>	<p>Direct workers, Contract workers, Primary supply workers</p> <p><i>[Project will explore innovative maintenance contracts involving local communities/micro-enterprise contractors with a clear strategy and action plan to employ female workforce in various road maintenance activities.]</i></p>

Component 3	<p>Improvement of economic and social facilities to augment the rural roads investments. The project will explore both community-based models and private sector participation in sustainable maintenance (and operation where applicable) of these infrastructures. These ancillary infrastructures will broadly include the following:</p> <ul style="list-style-type: none"> Improvement of agro-logistics infrastructure such as rehabilitating common user warehouses and consolidation facilities, farm/agri produce collection centres, improving cold storage facilities, improving existing economic centres, improving accessibility of such facilities for women through adequate design improvements (lighting, sanitation facilities etc.) etc., where applicable. Improvement of community infrastructure such as community centres, playgrounds for children, community childcare and health care facilities, village markets etc. 	<p>Direct workers, Contract workers, Primary supply workers</p> <p><i>[Project will explore innovative maintenance contracts involving local communities/micro-enterprise contractors with a clear strategy and action plan to employ female workforce in various road maintenance activities.]</i></p>
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3.2 Key Labor Risks

Drawing up on the experiences of other similar projects carried out under the RDA, the following key labor risks are anticipated during the implementation of IRCDP:

3.2.1 Occupational Health and Safety (OHS)

Construction activities under IRCDP will pose the following key labor risks:

- Emission of polluted air from the road traffic and construction vehicles, and risks from exposure to hazardous substances (cement, chemicals used in construction, etc.) will affect the workers' health conditions
- The construction activities involving heavy machineries will be quite noisy, and such loud, repetitive, and excessive noise may pose long term hearing problems, such as deafness. Noise can also be a dangerous distraction and may distract the worker from the task at hand, which can cause accidents.
- Heavy materials and equipment are expected to be constantly lifted and moved around by workers at site, which poses health and safety risks.
- Collapsing of material borrow excavation with workers inside, is also a risk with the type of prevailing materials in the area.

Working at height for the elevated levels will also pose the risk of falling. With the hot and dry climate experienced in Sri Lanka during the dry season, heat stroke and exhaustion also pose a risk to the construction workers.

Other risks include:

- Likely incidents of child labor or forced labor
- Violence against Women and Children (Sexual Exploitation and Abuse/Sexual Harassment) risks for workers and community
- Spread of sexuality transmitted disease and communicable diseases such as Covid-19.
- Unequal pay for men and women, especially among unskilled workers
- Below the minimum wage payment especially for unskilled workers
- Adverse social and environmental impact on host community from project induced labour influx (presence of migrant workers, especially for unskilled work)
- Exposure of workers to vector transmitted disease such as malaria, dengue and insect sting, poor sanitation and unhygienic working conditions.
- Threats/objections directed towards the workers by host community for any possible damages to their properties

- Conflict with host community due to increased demand and competition for local social and health services, ecosystem, and natural resources, etc.
- Inadequate knowledge of appropriate work practices and labor law requirements.
- Reluctance to wear Personal Protective Equipment (PPE) or not providing adequate PPE to the workers.
- Not providing adequate rest periods, food/water/shade/hygiene facilities and accommodation (where labor camps are set up) to workers on sites.

Specialized knowledge and expertise are required by the Contractor to implement the Occupational Health and Safety (OHS) Management Plan⁹, effectively as indicated in the ESMPs to be prepared during the construction and operational phases of IRCDP.

3.2.2 *Child labor*

According to the ILO, there has been significant decline in the use of child labor in Sri Lanka, including in terms of working children, child labor and children in hazardous forms of child labor; however, child labor has not been eliminated either. In 2016, 1 per cent of children in Sri Lanka were engaged as child labor of which, most (close to 90 per cent) are engaged in hazardous forms of child labor.¹⁰ The majority of working children, child laborers, and those that engage in hazardous forms of work are boys. Children engaged in child labor including in hazardous forms, have been found to be engaged as plant and machine operators and assemblers and in other elementary occupations in labor-intensive tasks such as construction.¹¹

3.2.3 *Forced labor*

Sri Lanka has made significant efforts to address issues of forced labor, including prohibition of forced labor in Section 358A of the Penal Code (Amendment) Act No. 16 of 2006 and the ratification of the Protocol of 2014 to the Forced Labor Convention, thus becoming the 31st ILO Member State, first country in South Asia and the second in the Asia-Pacific to do so. Additional measures to combat trafficking in persons have also been notable, especially through the establishment of the “Anti-Human Trafficking Unit” with 13 police officers to investigate cases of trafficking in persons in 2016. It has also developed a National Strategy Plan to Monitor and Combat Human Trafficking (2015-2019) which is based on the four pillars of prevention, protection, prosecution and partnership.¹² However, there continues to be reports of children being subjected to bonded and forced labor in domestic service, agriculture on dry zone farming areas (tea estates), as well as in fireworks and fish-drying industries.¹³ In relation to IRCDP, the risks of forced labor is low since forced labor is mostly confined to commercial sexual exploitation in tourist areas as part of the sex tourism industry,¹⁴ domestic work, sometimes as a result of human trafficking;¹⁵ and specific vulnerability of migrant workers from Sri Lanka to trafficking and forced labor abroad due to abusive recruitment and employment practices.¹⁶

3.2.4 *Labor Influx*

The screening and scoping of the 22 frontrunner roads reveals that the project will be able to tap into labor available from surrounding areas of Ratnapura district. However, skilled labor force, though partially, may need to be brought in from outside the project area. This may result in influx

⁹ The OHS Management Plan will be prepared by the contractor during pre-construction stage and submitted to the Supervision Consultant for approval.

¹⁰ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_616216.pdf

¹¹ https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2018/Sri%20Lanka.pdf; https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_616216.pdf

¹² https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS_685140/lang--en/index.htm

¹³ <https://www.refworld.org/pdfid/5448a8760.pdf>

¹⁴ <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/sri-lanka>

¹⁵ <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/sri-lanka>

¹⁶ <https://lk.usembassy.gov/wp-content/uploads/sites/149/2019-Trafficking-in-Persons-Report-Sri-Lanka.pdf>

of other people (“followers”) who follow/accompany the incoming workforce with the aim of selling them goods and services, or in pursuit of job or business opportunities. The rapid migration to and settlement of workers and ‘followers’ can have adverse impacts on the host community, in terms of increased risks of social conflict, illicit behavior, burden on and competition for public service provision, such as water, electricity, medical services, transport, education, and social services, risk of communicable diseases and burden on local health services, including sexually transmitted diseases, and gender based violence, particularly in the form of inappropriate behavior.

3.2.5 *Labor Disputes over Terms and Conditions of Employment*

While the labor management practices in Sri Lanka is geared towards avoidance of disputes¹⁷, construction disputes are reportedly increasing due to the scarcity of skilled labor in the light of the increasing construction demand. The increased demand is not only driving up build-out costs and prolonging project schedules, it is also leading to the ineffective implementation/enforceability of solutions and decisions made by the dispute resolution mechanisms.¹⁸In the case of IRCDP, likely causes for labor disputes may include poor labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in the work environment. Further, there is also a risk that employers such as contractors/sub-contractors may retaliate against workers for demanding legitimate working conditions, or raising concerns regarding unsafe or unhealthy work situations, or any grievances raised, and such situations could lead to labor unrest.

3.2.6 *Discrimination and Exclusion of Vulnerable/Disadvantaged Groups*

In 2020, the estimated youth unemployment rate in Sri Lanka was at 20.83 percent.¹⁹ Widespread unemployment of youth in Sri Lanka could lead to increased risk of vulnerable/disadvantaged groups from being unable to benefit from employment opportunities under the project. Such groups will include women and persons with disabilities. Sexual harassment and other forms of abusive behavior by co-workers will also have the potential to compromise the safety and well-being of the vulnerable groups of workers and the local communities, while adversely affecting project performance. This may also include potential risk of sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers supported under the project.

¹⁷ <http://dl.lib.mrt.ac.lk/handle/123/11960>

¹⁸ <https://www.iosrjournals.org/iosr-jbm/papers/Vol23-issue2/Series-7/E2302073541.pdf>; <http://www.sundaytimes.lk/170122/business-times/challenges-in-the-skilled-worker-shortage-in-construction-sector-225295.html>

¹⁹ <https://www.statista.com/statistics/813026/youth-unemployment-rate-in-sri-lanka/>

4. Brief Overview of Labor Legislation

4.1 National Regulations

As Sri Lanka lacks a single unified labor law/code, a number of statutes govern employment and industrial relations in the private sector of the country. The terms and conditions of employment are governed by the Wages Board Ordinance No. 27 of 1941, the Shop and Office Employees' Act No. 19 of 1954, Factories Ordinance No. 45 of 1942, and the Employment of Trainees (Private Sector) Act No. 8 of 1978. Labor/industrial relations are governed by the Trade Unions Ordinance No. 14 of 1935, the Industrial Dispute Act No. 43 of 1950, the Termination of Employment of Workmen (Special Provision) Act No. 45 of 1971, and the Employees' Councils Act No. 32 of 1979. The well-being of employees is governed by the Employment of Women, Young Persons, and Children Act No. 47 of 1956, the Maternity Benefits Ordinance No. 32 of 1939, and the Employment of Females in Mines Ordinance No. 13 of 1937. Occupational Safety and Health (OSH) is governed by the Factories Ordinance (Sections 35-66) (consolidation) of 2001, Factories Ordinance No. 45 of 1942, National Institute of Occupational Safety and Health Act, No. 38 of 2009 (b), and the Workmen's Compensation Ordinance No. 19 of 1934 (See Table 3 for a summary of the main provisions under these Acts and Ordinances).

Table 3: Summary of Applicable Laws and their Provisions

Applicable Laws	Provisions
<ul style="list-style-type: none"> • 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 	Basic terms and conditions of employment, including those pertaining to working hours, leave and holidays and work arrangements
<ul style="list-style-type: none"> • National Minimum Age 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 	Wage fixation
<ul style="list-style-type: none"> • Industrial Disputes Act No.43 of 1950, • Trade Unions Ordinance No.14 of 1935, • Constitution of the Democratic Socialist Republic of Sri Lanka 	Statutory provisions relating to Labor/Industrial Relations Right to form or join a Trade Union of one's choice flow
<ul style="list-style-type: none"> • Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971 	Non-disciplinary terminations
<ul style="list-style-type: none"> • 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 	Health, safety, and general well-being of employees
<ul style="list-style-type: none"> • Workmen's Compensation Ordinance No.19 of 1934 	A detailed computation of compensation due in the event of a variety of work-related injuries and illnesses
<ul style="list-style-type: none"> • Employees Provident Fund Act No.15 of 1958 • Employees Trust Fund Act No. 46 of 1986 • Payment of Gratuity Act No.12 of 1983. 	Social protection
<ul style="list-style-type: none"> • Gazette Notification No. 1695/32 dated Friday, March 4, 2010 • Employment of Women, Young Persons and Children's Act No. 47 of 1956 	Protection of women workers and children against GBV and exploitation

- Employment of Women, Young Persons and Children's Amendment Act No. 8 of 2003
- Employment of Women, Young Persons and Children's Amendment Act 24 of 2006
- The Factories Ordinance No. 45 of 1942
- The Shop and Office Employees Act No. 19 of 1954
- ILO Convention 138 on the Minimum Age for Employment
- ILO Convention 182 on the Worst Forms of Child Labour read in conjunction with Recommendation 190

Together, these labor regulations cover aspects such as working age, work hours, contracting rules, leave policies, maternity leave, minimum wage, labor taxes and dismissal rules, among others, as required under the ESS 2. However, despite the plethora of laws and regulations in Sri Lanka, their implementation has been noted as being challenging due to their incomplete application and weak enforcement of these legal provisions.²⁰

While the above-mentioned laws cover many important aspects of employment in the private sector, also required under the ESS 2 are issues relating to the age of employment, wages, working hours, leave and holidays, maternity protection, occupational safety and health, industrial relations and dispute resolution, freedom of association and collective bargaining, terminal benefits etc., which are not extensively/clearly legislated on. In such cases, the common law principles and/or judicial decisions need to be referred to for the relevant legal principles. For instance, while many statutory provisions are included in employment contracts, there is no single statute governing employment contracts or types of employment. The *Shop and Office Employees Act* is the only statute which states that employees should be issued with written Letters of Appointment and sets out the matters which must be included in it. A few statutes do cover specific employments, such as the (obsolete) *Service Contracts Ordinance No.11 of 1865* and the narrowly applicable (and rarely used) *Employment of Trainees (Private Sector) Act No.8 of 1978*. Areas of practical significance such as probation, transfers, and bonus payments have not been legislated on, nor are an age of retirement stipulated by law for private sector employees. These matters therefore are required to be determined in the case of bonus, transfer and retirement age by contractual provisions or the practice in the organization, and in the case of probation by the contract, common law principles and judicial decisions.

Two areas which are likely to be very important to the IRCDP, and would need specific guidelines are (i) dismissal on disciplinary grounds, which too has not been legislated on, but which has a body of judicial decisions to be considered, and (ii) Third Party Work Arrangements such as "outsourcing", sub-contracting and obtaining of labor/manpower through labor contractors or manpower suppliers, where there is no single law, but several provisions of existing laws require consideration.

4.2 ILO Conventions Ratified by Sri Lanka

Sri Lanka has ratified 43 of the International Labor Organization (ILO) Conventions, including all the eight core conventions on labor standards.²¹ Of the 43 ILO Conventions ratified so far, 30 are in

²⁰ Ergon Associates (2019) Targeted Surveys on application of core labour standards Sri Lanka. Directorate-General for Employment, Social Affairs and Inclusion EU Programme for Employment and Social Innovation, 31 August 2019

²¹ The eight core conventions include: The Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1957 (No. 111); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182).

force, 10 have been denounced, and three have been repealed.²² 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 labor, the effective abolition of child labor, 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 Labor Convention of 2006 (MLC).²³ 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.

4.3 Basic Labor Standards in Sri Lanka

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

4.3.1 Terms and Conditions

Working age:

The minimum age for admission to work or employment in Sri Lanka is 14 years, which is one year lower to the general minimum age of 15 years set out in ILO's Minimum Age Convention No 29 of 1973, but is compliant with the alternative general minimum age applicable to countries at lower stages of development, as set out in this Convention. The general prohibition on the employment of children under 14 years of age is subject to two exceptions (Gazette Extraordinary No. 1116/5 of 26.01.2000) – 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 of 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.

Under the *Employment of Women, Young Persons and Children Act*, 'Young Persons' have been separated into two categories – age 14-16 years and 16-18 years, and these 'Young Persons' may be employed subject to work hour limitations and other safeguards. A person under 18 years of age cannot be engaged in "hazardous employment" as defined in the 1984 Amendment to the *Employment of Women, Young Persons and Children Act*.

²² http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103172

²³ This particular ILO Convention is unique in that it is a consolidation of several pre-existing ILO Conventions on the seafarers and maritime matters, where a somewhat different process of ratification is allowed for Amendments etc.

Work hours:

There are three laws in Sri Lanka that 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*.²⁴The 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 in excess of normal maximum working hours on any day or week (overtime) should be paid at a rate of 1.5 times the employee's hourly wage. The hourly rate is calculated as follows:

$\frac{\text{basic monthly wage} + \text{cost of living allowances (excluding NRCLG}^{25}) + \text{BRAWA}^{26}}{8 \times 30}$

- A male over 18 years of age can be required to work up to 12 hours of overtime a week. As the law precludes females and males under 18 years from working more than 9 hours (including intervals for rest or meals) on any day, overtime on a normal 8-hour day is not permissible, in strict law.

The provisions of the *Wages Boards Ordinance, 1941* as well as the Decisions of Wages Boards established there under for various Trades are to be considered. These provisions are significantly different to those stipulated by the SOE Act. There can also be considerable variation between the decisions of the various Wages Boards on overtime rates, work performed on holidays etc. The general principles of work hours as per the *Wage Boards Ordinance* include:

- The normal working day stipulated by most Wages Boards Decisions consists of nine (09) hours, inclusive of a one (01) hour meal interval.
- The law permits a Wages Board to fix the normal working hours for a week for the Trade up to a maximum of 48 hours.
- Work beyond such normal working hours is considered overtime and should be remunerated at the rate set out in the respective Decisions.
- Section 24 of the *Wages Boards Ordinance* gives Wages Boards considerable discretion in determining the day on which a weekly holiday should be granted, to whom, whether paid or unpaid, and whether it is granted subject to any conditions. Most Wages Boards have fixed the weekly holiday as Sunday, but where the day is not stipulated; employers in that Trade are afforded the flexibility to decide on which day of the week the holiday is to be granted.

Contracting Rules:

In Sri Lanka, 'employment' is not dependent on the existence of a written document. Section 48 of The *Industrial Dispute Act* 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, oral or in writing.

²⁴ For details on working hours and holidays see: <https://salary.lk/home/labour-law/leave-and-holidays/working-hours-and-holidays>

²⁵ Non-Recruiting Cost of Living Gratuity

²⁶ Budgetary Relief Allowance of Workers Act

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 apprentice²⁷. Fixed Term Contracts in Projects often have special clauses on the contract ending date- as either the time mentioned as the end date of the contract or the project end date, whichever comes first. Trainees (not management trainees) and Apprentices are not generally considered to be employees, unless the Decisions of a Wages Board specifically includes these categories as employees, or they are specifically included in the definition of “Employee” in a Statute.

Another sub employment type, albeit one that is now less frequently encountered in the Private Sector, is the ‘Casual’. It is unwise to engage casuals without any form of documentation/contract, as such persons would then be in a position to claim a more permanent employment relationship. Casuals are generally paid on a daily basis. Whatever the basis of payment, whether daily, weekly or fortnightly, EPF and ETF contributions must be made on the remuneration. Another form of employment includes seasonal employment where employees/ labors recruited for specific task such as planting and harvesting works in the agriculture sector or additional workforce required for commercial business during festive seasons. This form of employment is not very prevalent in Sri Lanka and is not anticipated to be used for IRCDP either.

The public sector mostly engages employees on a permanent basis until retirement at age 55,²⁸ but also employs contract workers who are paid on a daily basis. Employees in the private sector are mostly engaged on time-bound contracts. Temporary workers are hired based on a particular task required for a limited time period. Likewise, Contract workers²⁹ are contracted for a specific task at a fixed level of pay that does not involve overtime payments or additional ad hoc allowances. However, in reality, there is not much difference between these two types since both are limited in terms of duration, at fixed levels of pay, and both can be required to work overtime and if so must be compensated according to the applicable legal provisions on overtime payment. Some fixed term contracts may grant allowances for transport and the like.

Probation Period:

Probation is not provided for by any statute in Sri Lanka, though the concept itself is well entrenched in private sector employment in the country, with many judicial decisions further interpreting its scope. Probationary period is generally considered a trial period, to be specifically set out in certain employment contracts, during which employer and employee alike may end the employment relationship for performance related or other reasons, without a requirement to give notice or even assign a reason. While the duration of probation is at discretion of the employer, a probationary period should not exceed a total period of 12 months, due to the operation of the *Termination of Employment of Workmen (Special Provisions) Act (TEWA)*.

Remuneration of a Project Management Cadre:

Management Services Circular No: 01/2019³⁰ provides board procedural and implementation guidelines with regard to the cadre and remuneration management of a project. This circular is deemed effective from 20.01.2019. With the implementation of this circular, the Management Service Circular No. 01/2016 dated 24.03.2016 and 01/2016 (i) dated 16.12.2016, will be rescinded. For the purpose of this circular, a “Project” means a planned set of interrelated tasks to be executed over a fixed period of time and within certain costs and other limitations to achieve a particular objective/s. The cost stipulated in the approval of the Cabinet of Ministers for the Project is considered as the total cost of the project. This circular is applicable only for the foreign-funded projects and the share of foreign fund of the project cost should be more than 60%. The

²⁷ Apprentices work on a temporary basis, and the time period depends on the time required for practical instruction in a given trade.

²⁸ However, public sector employees can continue to work until 60 years without requesting for service extensions.

²⁹ Seasonal workers also fall into this category.

³⁰ www.treasury.gov.lk/documents/10181/47156/01.2019+Reduced.pdf/a696c6e9-a9e8-4702-a7df-5ab76ed8ca53?version=1.0

circular lays out the remuneration package, qualifications and the experiences expected for each level of the cadre and the selection procedure of the staff for project management cadre.

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.³¹ Thereafter, an employee is provisioned for 7 days of paid annual leave.³² Further, there are provisions in the law for 7 paid days of “casual leave” – from the second (calendar) year of employment onward. Casual leave has been defined in the law as leave for personal business, ill-health or other reasonable cause, and as such there is no separate category of leave called “Sick Leave” in the SOE Act.

There is provision in the law for 9 statutory holidays to be declared. 8 such holidays are granted at present, on designated days of national or religious significance. These are paid holidays for SOE Act covered employees.³³ Each Wages Board prescribes the statutory holidays to which employees governed by the Decisions are entitled. Where a statutory holiday falls on the weekly holiday, then the only consequence is that such holiday will be paid for but no alternative holiday need be granted, except in the case of few wage boards.³⁴ Some Wages Boards Decisions provide for overtime work on statutory holidays. In most cases, the rate of remuneration for overtime work on a statutory holiday is thrice the hourly rate.

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)*. The latter Statute is very wide in its reach, applying to most women workers – “women workers employed in any trade.”³⁵ 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. Further, a specified portion of the maternity leave entitlement can be availed of as pre-confinement leave, and a 42 working days of paid leave (SOE Act) or 06 weeks of paid leave (MBO) are granted in the event of the birth of a dead child or the issue of a “viable foetus” (as defined in the two Laws). Both SOE Act and the MBO mandate two nursing intervals per day be granted to children until the child is 12 months old. The nursing intervals are to be granted in addition to any other intervals available, are required to be granted at such time as the female employee requires and be regarded as time worked. However, females in the informal economy, including those involved in small time construction work are rarely, if ever granted leave or any other statutory benefits or protections on maternity.

³¹ This is the only leave available during this period, in law.

³² The Act requires that seven days of annual leave are to be taken on a consecutive basis. No provision in law to carry forward or accumulate unutilized annual leave.

³³ An employee may be required to work on a Statutory holiday – in strict law, the prior permission of the Commissioner General of Labour is required in order to do so, though this provision is observed more in the breach. When an employee works on a Statutory Holiday, the employer is required, in law, to EITHER pay an extra day's wage with EPF and ETF contributions thereon, OR grant an alternative holiday before 31st December that year. This obligation arises irrespective of the number of hours worked on the Statutory Holiday. Overtime work is not permitted in law, on Statutory Holidays

³⁴ These wage boards include: Textile Manufacturing Trade, Biscuit, Confectionery & Chocolate Manufacturing Trade, Coconut Growing Trade, Rubber Growing & Manufacturing Trade, Paddy Hulling Trade and the Tea Growing & Manufacturing Trade

³⁵ Three (03) categories are specifically excluded from its coverage – (i) females covered by the Shop and Office Employees Act, (ii) females employed in an industry, business or undertaking which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or to persons who are destitute, dumb, deaf or blind, and (iii) females whose employment is of a casual nature (the test here is whether the employment and not the worker is casual).

Minimum wage:

There are several laws that relate to payment and fixing of wages.³⁶ The *Wages Board Ordinance of 1941* mandates the Minister of Labor to establish a Wages Board³⁷ for any trade to which provisions of the Ordinance have been applied. In total, 43 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and occupation in consultation with unions and employers. Additionally, minimum wage rates are also set by employment status (for example, trainees/apprenticeship and piece-rate workers).

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 SLR 10,000 (about US\$67.56) and minimum daily wage of SLR 400.00, while the Budgetary Relief Allowance of Workers Act (BRAWA) No. 4 of 2016³⁸ establishes that a wage supplement of SLR 2,500 (about US\$16.89) is applicable to all workers earning less than SLR 40,000 per month (about US\$270).³⁹ *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*.

Employee Provident Fund, Trust Fund and Gratuity:

The Employees Provident Fund (EPF) was established under the *Act No. 15 of 1958* and is currently the largest Social Security Scheme in Sri Lanka. According to the EPF Act, an employee is required to contribute a minimum of 8% and the employer a minimum of 12% of the total salary of the employee monthly.⁴⁰ Further, the *Employees' Trust Fund Act No 15 of 1980* established the Employees' Trust Fund (ETF) to supplement the functions of the Employee Provident Fund (EPF). Under the ETF, employers must contribute 3% of payroll to the ETF on behalf of their employees, who do not contribute to this fund. All employees from the private sector and all public servants who are not entitled to a civil pension (or till such an employee becomes eligible to receive a civil pension) are covered by this act.⁴¹

Further, in Sri Lanka, severance pay for workers with long job tenure is considered among the most generous in the world – 97.5 weeks of salary for a worker with 10 years of tenure, and for job tenure of 25 to 34 years, severance pay can reach up to 48 monthly salaries (or 208 salary weeks).⁴² In addition to severance pay, the Payment of Gratuity Act No. 12 of 1983 (as amended) requires employers⁴³ to pay any dismissed employee with at least five years of tenure a gratuity equal to half a month's salary for each year of completed service. For employees with less than five years of tenure, the gratuity will be equal to fourteen days' wage or salary for each year of completed service.

It is also to be noted that when an Agent (i.e. includes a Contractor or Sub-contractor) fails to make Statutory Payments, liability for such payments may devolve on the Principal. Therefore, there is a need to ensure that EPF and ETF remittances are duly made for all relevant workers

³⁶ Wage is defined in the National Minimum Wages Act as the contractual wage or salary of the worker or the wage prescribed under the Wages Boards Ordinance (Chapter 136) for the industry or service to which the worker belongs, and wages or basic salary together with the cost of living allowance, special living allowance or any other similar allowances.

³⁷ The number of representative members of a Wages Board is determined by the Minister, and is divided equally between employers' representatives and workers' representatives.

³⁸ In addition to the 2016 BRAWA entitlements, the 2005 BRAWA prescribes Rs.1,000/- payable to employees earning less than Rs.20,000/- per month (with marginal relief granted in respect of monthly wages between Rs.20,000/- and Rs. 21,000/). This payment is a continuing requirement for this wage bracket until the employee's wage reaches Rs.21,000/- and Labour Department Officials on inspections often require that it be shown separately in the Pay slip.

³⁹ Minimum wages are revised on an annual basis or at the request of trade unions, with wage increases tied to the Colombo Cost of Living Index (CCLI) and Cost of Living Allowance (COLA).

⁴⁰ <http://www.epf.lk/>

⁴¹ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_636599.pdf

⁴² Note that "salary" includes the basic salary or wages plus cost of living allowances or any other similar allowances.

⁴³ Applicable to employers with fifteen or more employees during the preceding twelve months.

engaged in IRCDP, and that any gratuity due in is paid within the prescribed time limits should be present in all outsourcing and sub-contracting agreements.

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 on the basis of 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.

4.3.2 Overview of 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*, and the *National Institute of Occupational Safety and Health Act No. 38 of 2009*. 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 in regard to 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, vapors, 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 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 following accidents and industrial diseases to the District Factory Inspecting Engineer (DFIE):

- All fatal accidents,
- Accidents that disable any person for more than three days from earning full wages at work,
- Accidents that make any person unconscious as a result of heat, exhaustion, electric shock or inhalation of irrespirable or poisonous fumes or gases.
- Every case of dangerous occurrence such as explosions, fire, collapse of buildings, collapse of cranes, etc. and prescribed 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*.

Regarding 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 in order 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.

4.3.3 *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”.⁴⁴

While there are no equal opportunity legislations in Sri Lanka at present, some discriminatory provisions that previously existed in few labor laws such as the different wages set out for men and women in some wage boards, have been remedied. Having said that, 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 in relation to 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. For instance, both the SOE Act and the MBO contain provisions on prohibition on termination due only to “pregnancy, childbirth or any consequential illness”, and also preclude an employer from issuing 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 of time.

4.3.4 *Child Labor*

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,

⁴⁴https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_551675.pdf

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: *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 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 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.⁴⁵

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 labor 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.⁴⁶

4.3.5 Forced Labor

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 to cruel, inhuman or degrading treatment or punishment. In addition, 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 labor in Sri Lanka while also listing several actions which can be considered as forced labor.⁴⁷ 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 labor include: *Employment of Women, Young Persons, and Children*

⁴⁵<https://salary.lk/labour-law/fair-treatment/child-labour/child-labour>; <http://www.employers.lk/child-labour>

⁴⁶ Gazette Notification No. 1695/32 dated Friday, March 4, 2010; Employment of Women, Young Persons and Children’s Amendment Act 24 of 2006; <https://salary.lk/labour-law/fair-treatment/child-labour/child-labour>

⁴⁷ In addition, *child trafficking* is prohibited under Section 360 of the Penal Code (Amendment) Act No. 16 of 2006; Section 360 of the Penal Code (Amendment) Act No. 22 of 1995 (18, 19). Prohibition of commercial sexual exploitation of children is mentioned under Sections 286 of the Penal Code (Amendment) Act No. 29 of 1998; Section 360 of the Penal Code (Amendment) Act No. 22 of 1995; and prohibition of using children in illicit activities is provided for under Section 360C of the Penal Code (Amendment) Act No 16 of 2006; Section 288B of the Penal code (Amendment) Act No. 29 of 1998.

Act No. 47 of 1956,⁴⁸ *Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956*,⁴⁹ *Industrial Dispute Act*,⁵⁰ and the *Shop and Office Employment Act 1954*. For instance, 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 fields⁵¹ 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 Labor Convention, 1930, thereby becoming the second country in Asia and thirty-first worldwide to ratify the Protocol.⁵²

4.4 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. In Sri Lanka, there are 2,074 registered trade unions, of which 54.5 per cent are in the public sector, 27.5 per cent in public corporations and 18 per cent in the private sector. The number of members covered by the trade unions is amounting to 9.5 per cent of the total workforce of Sri Lanka.⁵³

Additionally, there is also an organization of employers, the Employers' Federation of Ceylon (EFC), the principal organization of employers, established to promote employer interests in addressing labor and social issues, industrial relations and labor laws in Sri Lanka. The Council, the policy making body of the EFC, has 25 elected and co-opted members representing various groups of employers and the Secretariat. The Chairman of the EFC is the Chairman of the Council. The executive arm of the EFC is the Secretariat, headed by the Director-General.⁵⁴

4.5 Sexual Exploitation and Abuse/ Sexual Harassment at Workplace

Sexual harassment at work can be described as unwanted or unwelcome conduct of a sexual nature, the imposition or rejection of which can have negative employment consequences for the victim as well as an undesirable effect on the work environment. Although both women and men can be victims of sexual harassment at work or elsewhere, women are disproportionately affected, and as a result it may also be considered to be a form of gender-based violence or even as a form of discrimination based on sex.

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.⁵⁵ 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 (in relation to any other

⁴⁸ Section 20A of The Employment of Women, Young Persons, and Children Act No. 47 of 1956 has set the minimum age for hazardous work at age 18.

⁴⁹ The Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956 lists hazardous occupations prohibited for children;

⁵⁰ The Industrial Dispute Act introduced the right for workers to leave a job after serving due notice to the employer.

⁵¹ https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-colombo/documents/publication/wcms_700567.pdf

⁵² https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS_685140/lang-en/index.htm

⁵³ <https://www.ilo.org/colombo/areasofwork/workers-and-employers-organizations/lang-en/index.htm>

⁵⁴ <http://www.employers.lk/about-us>

⁵⁵ https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-colombo/documents/publication/wcms_525537.pdf

person in the transaction of his/her official duties), 'solicits or accepts any gratification⁵⁶ 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 favoring...'

The punishment for sexual harassment in the *Penal Code* includes a term of imprisonment with hard labor 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.'⁵⁷

⁵⁶ 'Gratification' here is taken to include sexual gratification, and take the form of a sexual bribe when demanded in return for recruitment, transfers, promotions and other terms, conditions and benefits of employment.

⁵⁷https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_525537.pdf

5. Brief Overview of Institutional Framework for Management of Labor in Sri Lanka

5.1 General Roles and Responsibilities

The Ministry of Labor is the central government ministry of Sri Lanka responsible for formulating and implementing national policy on labor, trade union relations, and other subjects under its purview. The Ministry of Labor is also the primary agency for providing occupational health & safety services in the country.

The National Labour Advisory Council (NLAC) is the national tripartite consultative mechanism established to provide consultation and facilitative co-operation between the government and the organizations of workers and employers at the national level on matters relating to social and labour policies and international labour standards.

The Department of Labor (DoL) within the Ministry of Labour has functional responsibilities in many different areas including enforcement of labour laws. The DoL is divided into 13 divisions, including those with responsibility over law enforcement, namely: the Labour Standards Division (enforces the labour law in shops and offices), the Occupational Hygiene Division and the Industrial Safety Division which enforces the Factories Ordinance to ensure the safety, health & welfare of workers in factories

The Industrial Safety Division of the Department of Labor⁵⁸ is responsible for ensuring occupational safety, health and welfare of the employee population in Sri Lanka. This division is headed by the Commissioner of Labor (Industrial Safety) and the Chief Factory Inspecting Engineer who are assisted by the Deputy Commissioner of Labor (Technical), the Deputy Chief Factory Inspecting Engineer and a team of Specialists Factory Inspecting Engineers. Services of the division are decentralized through District Factory Inspecting Engineers' (DFIE) officers, in various areas. A special division, the Division of Occupational Hygiene assists the Factory Inspectorate by carrying out environmental and biological monitoring of workplaces. This Division is headed by the Commissioner of Labor (Occupational Hygiene).

The National Institute of Occupational Safety and Health (NIOSH) was established on 28th April 2005 as an affiliated body to the Ministry of Labor. Among others, the objective of NIOSH is to advise the government in the formulation of a national policy on OHS and on the working environment both of employers and employees; advise the government on measures required for the prevention of accidents and injuries relating to occupations at work places; to conduct, undertake and assist in investigations in the field of occupational safety and health; provide advisory services to any institution or person on the correct use of equipment, hazardous substances, physical, chemical or biological agents or products or any other hazards; increase awareness of and adherence to appropriate health and safety legislation; etc.⁵⁹ Further, the Occupational Hygiene Division under the Department of Labor is also responsible for serving as a research and monitoring unit to support industrialists to maintain the work environment of factories as laid down under the Factories Ordinance, and supports the inspectorate when information on environmental factors in factories is required for enforcement purposes. The Division also conducts medical examinations to determine temporary and permanent disabilities to employees due to injuries.

5.2 Labor Inspection

⁵⁸ This responsibility has been vested to the Industrial Safety Division under the Factories Ordinance Act No. 45 of 1942 (post amendment). The term "factory" under the Act means premises in which persons are employed in manual labour for the purpose of trade or gain in making, repairing, ornamenting, finishing, washing, cleaning or adopting for sale of any article.

⁵⁹https://www.niosh.gov.lk/index.php?option=com_content&view=article&id=4&Itemid=124&lang=en

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 with respect to working time, wages, employee provident fund, working conditions and the working environment (including occupational safety and health).

The Labor 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.⁶⁰ 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. Beside 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.

5.3 Judicial Bodies

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 being 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 in to the accepted applications for compensation and settlement of the problem either by obtaining the claim or by rejecting it; collection of compensatory payments from employers; and payment of compensation to disabled or diseased workmen or to the dependents of dead workmen.

Labor Tribunals

Labor 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 Labor Tribunal is called the "president," and is appointed by the Judicial Service Commission from among practicing lawyers with at least 6 years' experience or from among Administrative officers with a degree and with 10 years' experience.

A 'workman' as defined under the Section 48 of the *Industrial Disputes Act* or a trade union on her/his behalf, may submit an application to the Labor Tribunal. Recourse to the Labor Tribunal is not applicable to officers in the public service who usually resort to fundamental rights applications in respect of unjust or arbitrary treatment. In cases where it is the employee alleging unjustified termination of his/her contract, the burden of proof is on the employer to show that it was justified. However, if the employer makes the case that s/he did not terminate the workman but that the workman vacated the post, the burden of proof would first be on the workman to

⁶⁰ Districts include Anuradhapura, Colombo, Badulla, Kandy, Galle, Gampaha, Jaffna, Kalutara, Kurunegala, and Ratnapura.

prove that his/her services were terminated by the employer. Further, an employee can claim for gratuity and other benefits in the Labor Tribunal irrespective of whether the termination was by the employer or the employee. 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.⁶¹ 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.

⁶¹ The workman himself may indicate in his application whether he is seeking re-instatement or compensation.

6. Responsible Staff for Labor Management of the Project

6.1 Project Management Units

The Project Management Unit (PMU) will be responsible for the overall project implementation and coordination of the project activities, including compliance with environment and social requirements in line with the World Bank's ESF ESS-2 on Labor and Working Conditions. The PMU will have its own team of experts in its Environmental and Social Unit and will also engage a Supervision Consultant firm with expertise in environmental, social, occupational health and safety issues throughout the project period. The PMU will be responsible for the following tasks relevant to labor and working conditions:

- Undertake the overall implementation of this Labor Management Procedure (LMP)
- Engage and manage contractors/sub-contractors in accordance with this LMP and the applicable procurement documents
- Ensure that contractors prepare and submit their labor management procedures (Contractor's LMPs) that comply with this LMP and Contractor's ESMP (including OHS provisions) for approval, before the contractor is allowed to mobilize to the field.
- Monitor⁶² to ensure that contractors/sub-contractors are meeting obligations towards contract workers as included in the Contractor's LMP and ESMP and the applicable Procurement Documents.
- Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary supply workers.
- Ensure and monitor training of relevant project workers on labour standard requirements and appropriate GRMs for project workers.
- Ensure that the grievance mechanism for project workers is established and implemented and that workers are informed of it.
- Monitor the implementation of the Worker Codes of Conduct and any other measures to address risks of sexual exploitation and abuse (SEA)/sexual harassment (SH) and GBV.
- Report to the World Bank on labor welfare, including occupational health and safety performance.

6.2 Supervision Consultant (firm) to the Contract

RDA shall appoint the Supervision Consultant who shall carry out the duties assigned to him in the contract. The Supervision Consultant's staff shall include suitably qualified engineering, environmental, social and safety and other professionals to carry out the assign duties. The duties of the Supervision Consultant firm are approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Supervision Consultant firm and report to the performance of the contract to the RDA. The Supervision Consultant shall not relieve the Contractor from any responsibility it has under the contract.

6.3 Contractor(s)

The Contractors will be responsible for executing, completing and remedying the defects of all component of the work, in accordance with the contract. They shall be responsible for all

⁶² The PMU will establish resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The PMU will ensure that the contract with the engineering and supervision consultants (and third-party monitor, where applicable) explicitly set out their monitoring responsibility for the contractor's performance on labor and working conditions on a daily basis. Monitoring may include inspections, and/or spot checks of project location or work sites and/or of labor management records and reports compiled by the contractor. For more details, see Section 11 on 'Contractor Management.'

contractor's documents, temporary works, and such design of each item of work and materials required for the item to be in accordance with the contract.

Overall, contractor will be responsible for the following:

- Employ or appoint qualified environmental, social, occupational health and safety expert(s) to manage ESHS issues.
- Prepare and implement their labor management procedure (Contractor's LMP) and Contractor's ESMP (including OHS provisions)⁶³ which will apply to the contract workers including sub-contractors and primary supply workers who work on the project. These procedures and plans will be submitted to the PMU for review and approval before the contractor is allowed to mobilize to the field.
- Ensure all documentation related to environmental and social management, including the LMP, is available for inspection at any time by the PMU.
- Actively collaborate and consult with project workers in promoting understanding and methods for implementation of OHS requirements.
- Ensure availability of first aid boxes in all work locations.
- Provide employees with access to toilets and potable drinking water.
- Supervise their subcontractors' adherence to the LMP and ESMP.
- Ensure safety of site equipment, laborers and daily workers attending to the construction site and safety of citizens for each subproject site, as mandatory measures.
- Maintain records of recruitment and employment of contract workers (including subcontractors) with age verification to avoid child labor.
- Provide induction and regular training to contract workers on environmental, social, and occupational health and safety compliances.
- Require the primary supplier to identify and address risks of child labor, forced labor and serious safety issues for primary supply workers.
- Develop and implement the grievance redress mechanism for project workers, including ensuring that grievances received from their contracted workers are resolved promptly, and reporting the status of grievances and resolutions. Put in place processes for project workers to report work situations that they believe are not safe or healthy and to remove themselves from situations they have reasonable justification to believe are unsafe.
- Ensure that contractual arrangements with project workers are clearly defined.
- Ensure that all contracted and subcontracted workers understand and sign the Codes of Conduct prior to the commencement of works, take all other measures to prevent the risks of sexual exploitation and abuse (SEA)/sexual harassment (SH) as specified in the contractor's LMP/ESMP and supervise compliance with such measures.
- Report to the PMU on labor welfare and occupational health and safety performance.

6.4 Provincial Coordination Committee (PCC)

To ensure institutional ownership and coordination of activities at the local level, Provincial Coordination Committees (PCC) will be established for each province. The PCC will be chaired by the Chief Secretary of the respective province and will include representatives of the provincial and local authorities. However, for all practical purposes, progress of civil works including compliance with environmental and social standards will be supervised and assessed by the Supervision Consultants appointed by the RDA. .

⁶³ The Contractor's LMP and the Contractor's ESMP may be prepared as separate documents or integrated into a single document.

7. Labor Policies and Procedures for IRCDP

7.1 Policies and Procedures for Addressing Key Labor Risks

IRCDP will apply the following policies and procedures to address the key labor risks identified under Section 3.2. The summary of indicative procedures to implement the policies is presented in Table 5, which will also be included in the bid documents for the contractor.

7.1.1 Occupational health and safety

As per the relevant provisions of the *Factories Ordinance, 1942* (see Section 4.3.2), requirements under ESS2, World Bank Groups' General Environmental, Health and Safety Guidelines (EHSs⁶⁴), including the ESMF and ESMP prepared under IRCDP and the World Bank standard procurement documents,⁶⁵ the contractor will be responsible for managing all construction sites in such a way that the workers and the community are properly protected against possible OHS risks. Key elements of OHS measures will include: (a) identification of potential hazards to workers; (b) provision of preventive and protective measures; (c) training of workers and maintenance of training records; (d) documentation and reporting of occupational accidents and incidents; (e) emergency preparedness; and (f) remedies for occupational injuries and fatalities. Some of these measures have been detailed below:

- Ensuring workplace health and safety standards in full compliance with Sri Lankan law, at a minimum, and including (1) basic safety awareness training to be provided to all persons as a pre-condition for presence at an active construction site; (2) all vehicle drivers to have appropriate licenses, and all construction equipment operators to be trained including in safety procedures; (3) safe management of the construction area including stationing a flag-person where necessary; (4) all workers on construction sites to be equipped with hard helmets, safety boots and protective gloves; (5) secure scaffolding and fixed ladders to be provided for work above ground level; (6) first aid equipment and facilities to be provided in accordance with the Labour Law; (6) at least one supervisory staff trained in safety procedures to be present at all times when construction work is in progress; and (7) adequate provision of hygiene facilities, resting areas etc.
- All workplace health and safety incidents to be properly recorded in a register which will be shared with the supervising consultant. The register should include (1) time and place of incident; (2) type of incident; (3) type of injury or other impact occurring, and number of workers affected; and (4) actions taken (first aid, evacuation etc.).
- All workers to be covered by insurance against occupational hazards.
- All work sites to have a health and safety plan including identification of potential hazards and actions to be taken in case of emergency, including location of accident and emergency facilities.
- Any on-site accommodation to be safe and hygienic, including provision of an adequate supply of potable water, washing facilities, and sanitation.
- All necessary precautions to be taken to avoid or minimize the spread of diseases among contractor's personnel, including measures to avoid or minimize the transmission of communicable diseases that may be associated with the influx of temporary or permanent contract-related labor. Annex 1B provides a list of Covid-19 considerations for the contractors to adopt.

⁶⁴ The WBG General ESGs are technical reference documents with general statements of Good International Industry Practice, which provide guidance to users on general EHS issues. The applicability of the ESHGs should be tailored to the hazards and risks established for each project.

⁶⁵ The WB Standard Procurement Document for Work is likely to be used for project construction works, which will include relevant ESS provisions, such as the appointment of ESS officer, development of Contractor-ESMP, compliance with ESHS measures and reporting, and the use of Code of Conduct.

- Fair and non-discriminatory employment practices. Where contractors hire workers from the beneficiary community, disadvantaged and vulnerable community members are to have equal access to opportunities. Where large numbers of community members are employed, childcare facilities to be provided.
- Employment of children under 14 is prohibited.
- Under no circumstances will contractors, suppliers or sub-contractors engage in forced labor.
- Construction materials manufactured in Sri Lanka be procured only from suppliers able to certify that no forced labour (including debt bondage labour) or child labour (except as permitted by the Labour Law) has been used in production of the materials.
- All employees to be aware of their rights under the Labour Law, including the right to organize.
- All employees to be informed of their rights to submit a grievance through the Project Worker Grievance Mechanism.

These measures will be included in the Occupational Health and Safety Management Plan prepared by the Contractor during the pre-construction stage and submitted to the supervision consultant for approval.

7.1.2 Child labor

The minimum age of project workers eligible for any type of work under IRCDP (including construction work) is set at 18. The engagement of project workers between the age of 15 and 18 years will be allowed in rare instances, while employment of children below age 14 will be prohibited under IRCDP. To prevent engagement of under-aged labor, all contracts will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance. The contractor will be required to maintain labor registry of all contract workers with age verification. More details including the procedures for age verification are provided in Section 8.3.

7.1.3 Labor influx

To minimize the labor influx, IRCDP will contractually require the contractor to preferentially recruit unskilled labor from the local communities and nearby areas. All contract workers will be required to sign the codes of conduct (see Annex on the Guideline on Code of Conduct) prior to the commencement of work, which includes a provision to address the risk of SEA/SH. Relevant trainings will be provided to workers, such as induction and daily toolbox talks outlining expected conduct and local community values.

7.1.4 Labor disputes over terms and conditions of employment

To avoid labor disputes, fair terms and conditions will be applied for project workers in IRCDP (more details are provided in Section 9). The project will also have grievance mechanisms for project workers (direct workers and contract workers) in place to promptly address their workplace grievances (more details are provided in Section 10). Further, IRCDP will respect the workers' right of labor unions and freedom of association, as set out in *Trade Union Ordinance, 1935*.

7.1.5 Discrimination and exclusion of vulnerable/disadvantaged groups

The employment of project workers under IRCDP will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. To address the risk of exclusion of

vulnerable groups from employment opportunities, IRCDP will require the contractor to employ women as part of their workforce. The contractor will be also required to comply with the *Factories Ordinance 1942, Employment of Women, Young Persons and Children' Act 1956, Shop and Office Employees' Act 1954, and the Maternity Benefits Ordinance 1939* on gender equality in the work place, which will include provision of maternity leave and nursing breaks and sufficient and suitable toilet and washing facilities, separate for male and female workers. The contractor will also be required to enable safety in the workplace to address potential sexual exploitation abuse or harassment issues in recruitment or retention of skilled or unskilled female workers supported under the project.

7.1.6 Security Risks

Considering the security incident that occurred in Sri Lanka in April 2019, the project will take appropriate and proportionate security measures to minimize the potential risk to the workers. Key security measures will include security protection by public security personnel (such as by district police) to prevent terrorist attacks and restrictions on work hours if security risks become high (such as nighttime). While security measures to address external security risks (such as terrorism and armed insurgency) will be determined by relevant public security personnel, IRCDP will address internal security risks associated with the deployment of such security personnel on the community and project workers in line with the *WB Good Practice Note "Assessing and Managing the Risks and Impacts of the Use of Security Personnel"* (such as the training of security officers on the principles of proportionality in the use of force).

7.2 Monitoring and Reporting

The contractor will report to the Supervision Consultant on the status of implementation of the above policies and procedures on a monthly basis. Through the Supervision Consultant, the PMU will closely monitor the contractor/subcontractor on labor and occupational health and safety performance and report to the World Bank on a quarterly basis (see Section 11 for more details).

7.3 Fatality and serious incidents

In the event of an occupational fatality or serious injury, the PMU will report to the Bank as soon as becoming aware of such incidents and inform the government authorities (where available) in accordance with national reporting requirements. Corrective actions will be implemented in response to project-related incidents or accidents to avoid recurrence of such incidents. The PMU or, where relevant the contractor, will be required to conduct a root cause analysis for designing and implementing further corrective actions.

Table 4: Overview of IRDCP Policies and Indicative Procedures to Address Key Labor Risks (To be incorporated into the bid documents)

Key Labor Risks	Policies to Address Risks	Procedures to back up the policy
OHS Risks	<ul style="list-style-type: none"> Abide by OHS requirements as set out in Factory Ordinance, ESS2 (including WBG EHSGs), the ESMP for IRCDP which will include a health and safety plan and WB standard procurement documents 	<ul style="list-style-type: none"> Select legitimate and reliable contractors through screening OHS records. Require contractors to prepare OHS Management Plan prior to commencement of construction and submit it to the supervision consultant for approval. Address adequately OHS risks with non-compliance remedies in procurement documents. Require contractors to engage qualified staff with adequate knowledge of ESHS standards Provide routine workplace OHS awareness training. Conduct routine monitoring and reporting on OHS performance.
Child labor	<ul style="list-style-type: none"> Set the minimum age of project workers eligible for any type for work (including construction work) at 18 years. Allow the engagement of project workers between the age of 15 and 18 years in rare instances (in particular, vulnerable individuals) only for non-hazardous work that would not interfere with the child’s education or be harmful to the child’s health or physical, mental, spiritual, moral or social development in accordance with ESS2. <p>Children below the age of 14 years are prohibited to work under the project.</p>	<ul style="list-style-type: none"> Adopt strict measures/process for age verification for employment in the project. Include set minimum age for project workers’ in procurement documents. Raise awareness on child protection with contractors and in the communities. Maintain labor registry of all contract workers with age verification. Develop remedial procedures to deal with child labor incidents.
Labor Influx	<ul style="list-style-type: none"> Minimize the labor influx through tapping the local workforce. Minimize labor-related risks on the community, including GBV/SEA/SH risks, through the adoption of codes of conduct for workers. 	<ul style="list-style-type: none"> Require the contractor to preferentially engage unskilled local workforce from the local communities. Make all contract workers sign codes of conduct Conduct induction and toolbox talks outlining expected codes of conduct and local community values. Introduce disciplinary measures for non-compliance and misconduct by workers.
Labor disputes	<ul style="list-style-type: none"> Respect the national regulations related to trade unions and industrial relations, and promptly address workplace grievances to minimize the risk of labor disputes. 	<ul style="list-style-type: none"> Provide fair terms and conditions in worker contracts. Have grievance mechanisms in place to promptly address workplace concerns. Respect national code on workers’ right of labor unions & freedom of association, incl. Shop & Office Employees Act, Factories Ordinance,

Key Labor Risks	Policies to Address Risks	Procedures to back up the policy
Discrimination and exclusion of vulnerable or disadvantaged groups related to employment in the project	<ul style="list-style-type: none"> Promote non-discrimination and equal opportunity with respect to all aspects of employment. 	Termination of Employment of Workmen, Trade Unions Ordinance, etc. <ul style="list-style-type: none"> Require the contractor to employ vulnerable groups (particularly women in the affected communities) as part of the workforce. Provide maternity leave & nursing breaks, when relevant. Arrange sufficient and suitable toilet and washing facilities, separate for male and female workers. Require the contractor to address potential sexual exploitation and abuse and sexual harassment issues in recruitment or in relation to the retention of skilled or unskilled female workers.
Security risks	<ul style="list-style-type: none"> Take appropriate and proportionate measures to minimize the potential security risks to the workers. 	<ul style="list-style-type: none"> Arrange for security protection to be determined by security authorities to address external security risks (such as terrorism and armed insurgency). Restrict work hours to minimize security threat. Maintain low profile of the site and workers. Address internal security risks associated with the deployment of security personnel on the community and project workers in line with the WB Good Practice Note “Assessing and Managing the Risks and Impacts of the Use of Security Personnel” (such as the training of security officers on the principles of proportionality in the use of force.).

The provisions mentioned in Table 5, will be incorporated into the bid documents for contractors.

8. Age of Employment

8.1 Age limitation for hazardous work

As presented above, the *Employment of Women, Young Persons and Children Act (EWYPC)* provides that it is unlawful to employ children under the age of 14 years. The same Act amended in 2006 proscribes employment of children aged 14-18 years in hazardous work, providing that the minimum age for employment on underground work in quarries or mines shall be 18 years. Hazardous Occupations Regulations Gazette of 20th August 2010 lists out 49 types of work (including one limitation on time, one on working at height, and one on load to be carried) in which no person can employ a person under 18 years of age. Construction is not included in this list. However, several processes linked to construction have been prohibited, including “any type of work cutting or carrying of stones” and “any type of work involving leveling, ramping or tarring for the purpose of road construction or land reclamation.” Similarly, ESS2 (para 19) sets out further conditions on the minimum age, stating that a child over the minimum age and under the age of 18 will not be employed or engaged in connection with the Bank-financed project in a manner that is likely to be hazardous⁶⁶ or interfere with the child’s education or be harmful to the child’s health or physical, mental and any other relevant development. Considering these national and the ESF requirements, the minimum age for **hazardous** work under IRCDP (including construction) is set at 18 (for example, work at quarries to obtain construction materials; work with dangerous machinery, equipment or tools; work involving handling or transport of heavy loads; or work at height).

8.2 Minimum age for project workers

The national *Employment of Women, Young Persons and Children Act (EWYPC)* as well as ESS2 allow persons under 18 and over 15 to be engaged if the work is **non-hazardous** and does not interfere with the child’s education and not harmful to the child’s development (for example, administrative work, site cleaning or rubbish removal). The *Hazardous Occupations Regulations No. 1667/41 of 2010*⁶⁷(xxii) specifically states that no person shall employ a person under 18 years of age “in any type of work involving the collection or disposal of garbage or sewage or the scavenging of garbage.” Further ESS2, set out in footnote (d) is relevant. According to it, the rubbish being removed should not include substances which might be harmful to the health of the young person, “in unhealthy environments exposing children to hazardous substances, agents or processes. Considering this, the minimum age of project workers for such (non-hazardous) work under IRCDP is set at 15 but subject to certain conditions described under section 4.3.4 of this report. This is also consistent with the objectives of IRCDP to provide inclusive income opportunities for vulnerable groups including the youth. However, the engagement of project workers between the age of 15 and 18 years (in particular, vulnerable individuals) will be only allowed subject to prior risk assessment and regular monitoring on health and safety conditions, hours of work and any other aspects as required under the national *Employment of Women, Young Persons and Children Act (EWYPC)* and ESS2.

⁶⁶ Examples of hazardous work activities prohibited for persons between the minimum age and 18 under ESS2 include work: (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

⁶⁷In 2010, the Government of Sri Lanka, through Gazette Notification No 1667/41 of 2010.08.20 under the *Employment of Women, Young Persons and Children Act No.47 of 1956*, approved the Hazardous Occupation Regulations, where a new section, 20 A, was added prohibiting the employment of children in hazardous occupations and identifying 51 hazardous forms of child labor.

8.3 Process of age verification

In order to prevent engagement of under-aged labor, all contracts with work contractors will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance, and it will be well communicated to all potential stakeholders including the local community where the unskilled workforce will be sourced. The contractor is required to maintain labor registry of all contract workers with age information. Verification of the age will be undertaken prior to the engagement of labor and be documented. Below is indicative age verification means that will be used under IRCDP, including in cases where national identity card (NIC) is unavailable:

- a) Check the date of birth on official documents, such as birth certificate, NIC or other credible records,
- b) Obtain written confirmation from the medical practitioner,
- c) Obtain written and signed declaration from the worker and his/her parents or guardian; or
- d) Inquire with the local community leader, community action group or with other credible community sources.

8.4 Responsible remedial measures

In case a project worker who does not satisfy the age-limit and is identified working on the project (i.e., over 18 years old for hazardous work; and over 15 years for non-hazardous work), the employer (contractor, subcontractor or primary supplier) will be required to terminate the engagement of such a project worker in a responsible manner. Indicative approach may include:

- a) Offer a project employment to a member of the family who satisfies the age limit in exchange of keeping the under-aged worker away from work.
- b) If a family member who satisfies the age limit is not available, require the employer (using the contractual penalty provisions) to continue the wage payment to the underage worker without engaging in work for an agreed period.
- c) If the worker is over 15 years old and under 18, consider transferring the worker to an alternative position that is not hazardous and does not interfere his/her education.

9. Terms and Conditions

9.1 Types of Workers

9.1.1 Direct workers

The terms and conditions for direct workers in PMU, and the Supervision Consultant will be governed by the Standard of the World Bank Consultancy contracts.

9.1.2 Contract workers

The labor laws of Sri Lanka presented in Section 4 (Overview of Labor Legislation) above is the guiding legislation on employment terms and conditions for contract workers. As the Contractor/s would probably be a Private Sector entity, the labour laws of Sri Lanka – the Statute laws set out in foregoing Part 4 of this document, as well as principles of common law and judicial decisions, where relevant - will apply to the employment contracts entered into between the Contractor/s and its employees. Where not specifically stated, such provisions will be read into the contracts. Any terms which are contrary to or less beneficial than any statutory entitlement will not be valid. E.g. leave provisions which operate less favorable than those granted in terms of a written law (Statute). Below are key components⁶⁸of the terms and conditions that should be applied to contract workers under the project.⁶⁹

9.2 Employment Terms and Conditions

All terms and conditions as outlined in the World Bank Environmental and Social Framework (ESF) ESS2, paragraphs 10 to 15 apply to contracted workers. In addition,

- In line with national law, the maximum working hours that does not exceed 8 hours a day, or 45 hours in a week.
- Employers shall guarantee that the workers shall have at least one resting day per week. The employers shall also make arrangements for the employees to take vacation according to the law and any other holidays prescribed by laws and regulations.
- Employment opportunities will be available to all. This includes equal pay for equal work, regardless of whether the person performing the work is male or female.
- The wages paid by the employers to the workers shall not be lower than the local Sri Lankan minimum wage.
- Provisions of the Labor Law must be followed, including maternity leave for female employees, if applicable.

9.2.1 Provision of written individual contract of employment

A written individual contract of employment will be provided to workers that specify the following: (a) name of workers; (b) address, occupation, age and sex of workers; (c) employer's name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract (h) Labor protection and working conditions; (i) Workers' Code of Conduct; (j) grievance redressal mechanism and (k) responsibility for breach of labor contract. Depending on the origin of the

⁶⁸ While there are other provisions applicable to labor engagement as set out in Section 4, the applicability of such provisions will be reviewed during the contracting stage, when the approach to work implementation is better understood.

⁶⁹ It should be noted that some provisions (such as annual leave) will not be applicable to short-term unskilled contracted workers.

employer and the employee, employment terms and conditions will be communicated in a language that is understandable to both parties. In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulty in understanding the documentation. The Worker should sign (or where he/she is not literate place a thumb print) on the duplicate of the employment contract, which should be retained by the Employer (Contractor). If the PMU requires an original, the document should be prepared in triplicate.

9.2.2 Notice for termination of contract

Either of the contracting parties may terminate a contract of employment by giving written notice as under: (a) not less than ten days in the case of manual workers; or (b) not less than 30 days in the case of non-manual workers. No notice needs to be given in case the duration of contract does not exceed one month.

The type of contract issued is also to be considered, in the termination the contracts. In a fixed term or temporary contract under 12 months, the notice clause is enforceable. However, in permanent contracts, or even fixed term contracts of a longer duration, the effect of the Termination Act limits the ability of the employer to affect a non-disciplinary termination using this clause.

9.2.3 Minimum wages

The fair market rate will be identified and applied for the project workers but will not be below the minimum monthly wage of SLR 10,000/- (about US\$67.56) set by The National Minimum Wages Act, No. 3 of 2016 and SLR 21,000/- per month as provided in the Budgetary Relief Allowances of *Workers Act No. 4 of 2016* in Sri Lanka.

9.2.4 Hours of work

The normal hour of work of a project worker will not exceed 8 hours a day or 45 hours a week. Hours worked in excess of 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.

9.3 Leave and Rest Period

9.3.1 Rest per week

Every worker shall be entitled to 1 day's rest each week, following 45 hours of work in a week. Workers will also be entitled to a rest day on public holidays recognized as such by the State.

9.3.2 Annual leave

Workers will be entitled to 21 days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.

9.3.3 Maternity leave.

According to SOE Act, a female worker shall be entitled to 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. Similarly, MB Ordinance provides for 12 weeks of paid maternity leave, on the same basis, without differentiation on account of the number of surviving children. An employee is entitled to utilize leave up to a maximum of 14 days prior to confinement and the balance of leave after confinement. Maternity leave shall be in addition to other paid leave/holidays she is entitled to.

9.4 Other issues related to terms and conditions

9.4.1 Deductions from remuneration

No deductions other than those prescribed by the labor laws or regulations made there under or any other law or collective labor agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The contractor shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.

9.4.2 Medical treatment of injured and sick workers

It will be the duty of the employer to arrange at his own expense for the conveyance to the nearest hospital of any injured or sick worker who can be so conveyed and who cannot be treated on the spot with the means available.

9.4.3 Collective Agreements

A collective agreement is an agreement relating to terms and conditions of work concluded between the representatives of one or more trade unions, on the one hand, and the representatives of one or more employers, on the other hand. Where collective agreements exist between the employer and project workers, such agreements will be applied, where relevant.

10. Grievance Redressing Mechanism

10.1 General principles and Processes

While the project will have in place a grievance redress mechanism to address concerns of project-affected parties, the nature of workplace concerns of workers is usually different. For example, typical workplace grievances include demand for employment opportunities; labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in the work environment. Therefore, a separate grievance mechanism will be established for project workers (direct workers and contract workers), as required in ESS2. Handling of grievances will be objective, prompt, and responsive to the needs and concerns of the aggrieved workers. Different ways for workers to submit their grievances will be made available, such as submissions in person, by phone, text message, mail and email. The mechanism will also allow for anonymous grievances to be raised and addressed. Individuals who submit their comments or grievances may request that their name be kept confidential. The grievance raised will be recorded and acknowledged within one day. While the timeframe for redress will depend on the nature of the grievance, health and safety concerns in work environment or any other urgent issues will be addressed within two weeks or less. Where the grievance cannot be addressed within one week by the contractor or the supervision consultant, the aggrieved worker will be informed in writing, so that the worker can consider proceeding to the appeal processes (see below for more details). The GRM should be communicated to all workers (such as workers from the community) as part of project engagement. Special communications will be held with the vulnerable workers identified at each location. All project workers will be informed of the Grievance Mechanism process as part of their contract and induction package.

Each grievance record should be allocated a unique number reflecting year and sequence of received grievance (for example 2020-01, 2020-02 etc.). Grievance records (letter, email, record of conversation) should be stored together, electronically or in hard copy. The contractor/PMU will be responsible for undertaking a regular (at least monthly) review of all grievances to analyse and respond to any common issues detected. Supervising Contractor is also responsible for overseeing the GRM.

10.2 Direct workers

Considering the number of direct workers employed under IRCDP, the project will have an effective grievance system for direct workers. Each unit engaging direct workers (PMU, the contractor and supervision consultants) will hold periodic team meetings to discuss any workplace concerns. Aggrieved direct workers can also submit grievances by phone, text message, letter, and email. He/she may also choose to remain anonymous and raise concerns to a person other than its immediate supervisor. The grievance raised by workers will be recorded with the actions taken by each unit. The summary of grievance cases will be reported to the World Bank as part of its periodic progress report.

The PMU, contractors and supervision consultants will designate a person within their unit to address all work-related grievances. The information on GRM and contact details of the designated person will be shared with direct workers at the time of their recruitment.

10.3 Contract workers

The site manager and any other technical staff of the contractor, capable of managing OHS risks, will hold a daily team meeting with all present contract workers at site at the end of the daily work

to discuss any workplace grievances. The grievance raised will be recorded with the actions taken by the contractor. Aggrieved contract workers can also submit grievances in person, through phone, text message, letter, and/or email to the site manager and/or to the technical expert capable of managing OHS risks. The summary of grievance cases will be reported to the Supervision Consultant and the PMU as part of contractor's periodic report. Where the aggrieved workers wish to escalate their issue or raise their concerns anonymously and/or to a person other than their immediate supervisor, the workers may raise their issue with the Supervision Consultant and PMU.

The contract workers will be informed of the grievance mechanism at the induction session prior to the commencement of work. The contact information of the site manager/technical expert, PMU and the supervision consultant will be shared with contract workers.

10.4 National appeal process

As per the laws related to labor dispute resolution, any individual labour dispute can be submitted by any of the parties to the competent district labour inspector for conciliation, where such labour inspector is available. The inspector is mandated to attempt to settle the dispute within 180 days of its submission.

10.5 Grievances related to Gender Based Violence (GBV)/SEA/SH.

To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, the grievance mechanism will have a different and sensitive approach to GBV/SEA/SH related cases. The GRM committee for IRCDP will be trained on how to respond to GBV/SEA/SH cases in a sensitive manner. Where such a case is reported, it would immediately be referred to the appropriate service providers, such as medical and psychological support, emergency accommodation, and any other necessary services. Prior to the start of the construction works, the GBV Service Providers will be mapped and identified to refer cases as required. Further, such GBV/SEA/SH incidents will be immediately notified both to the PMU and the World Bank, with the consent of the survivor.

Data on GBV/SEA/SH cases will not be collected through the grievance mechanism unless operators have been trained on the empathetic, non-judgmental and confidential collection of these complaints. Only the nature of the complaint (what the complainant says in her/his own words) and additional demographic data, such as age and gender, will be collected as usual.

11. Contractor Management

11.1 Selection of Contractors

The project will use the World Bank Standard Procurement guideline for preparation of the bidding documents, award and administer contracts. The bidding document will include the LMP to comply with the labor and occupational, health and safety requirements. The PMU will make reasonable efforts to select contractors who have good track records of complying with the LMPs in the bidding document. As such, the PMU may review the following information:

- Business licenses, registrations, permits, and approvals
- Company standardization under ISO certification and Environmental and Social Management Systems

- Public records, for example, corporate registers and public documents relating to violations of applicable labor law; accident and fatality records and notifications to authorities; labor-related litigations
- Documents relating to the contractor's labor management system and OHS system (e.g., HR manuals, safety program)
- Company ESHS personnel and their qualifications
- Previous contracts with contractors and suppliers (showing inclusion of provisions and terms reflecting requirements on labor and working conditions).

11.2 Contractual Provisions and Non-Compliance Remedies

The PMU will incorporate the agreed labor management requirements as specified in the bidding documents into contractual agreements with the contractor, together with appropriate non-compliance remedies. The bidding documents need to be fully aligned with the ESF requirements and contain ESHS guidelines, including non-compliance remedies. In the case of subcontracting/selection of the primary supplies, the contractor will include equivalent requirements and non-compliance remedies in their contractual agreements with subcontractors/primary supplies.

Contractual provisions will require that contractors:

- Monitor, keep records and report on terms and conditions related to labor management.
- Provide workers with evidence of all payments made, including benefits and any valid deductions.
- Keep records regarding labor conditions and workers engaged under the Project, including contracts, registry of induction of workers including Codes of Conduct, hours worked, remuneration and deductions (including overtime).
- Record safety 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, etc.).
- Report evidence that no child labor is involved.
- Provide training/induction dates, number of trainees, and topics.
- Keep record of details of any worker grievances 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.
- Workers will sign the Worker's Codes of Conduct

11.3 Performance Monitoring

The contract agreement will establish all the resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The Supervision Consultant will explicitly set out their monitoring responsibility for the contractor's performance on labor and working conditions daily. Any issue/s reported to the PMU, will be informed to the Supervision Consultant to correct/rectify per the LMP and the country law. The monitoring may include inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by the contractor. Contractors' labor management records and reports that will be reviewed would typically include the following:

- Representative samples of employment contracts and signed codes of conduct.
- Grievances received from the community and workers and their resolution.
- Reports relating to fatalities and incidents and implementation of corrective actions.;

- Records relating to incidents of non-compliance with national labor laws and regulations and the provisions of the LMP; and
- Records of training provided for contract workers to explain occupational health and safety risks and preventive measures.

12. Primary Supply Workers

12.1 Potential risks in primary supply workers

The construction work under IRCDP will require primary supplies including construction materials essential for the functions of the priority infrastructure, such as aggregates, bitumen and precast concrete interlocking blocks. Some contractors may be able to produce such construction materials by their workforce. However, where the contractor will source (a) essential materials (b) directly from primary suppliers (c) on an ongoing basis, the workers engaged by such primary suppliers (that meet all three criteria (a) to (c)) are deemed “primary supply workers”, as defined in ESS2.

As discussed in Section 3 (Key Labor Risks), OHS risks, labor disputes, discrimination and exclusion of vulnerable groups, forced labor, child labor, etc., are deemed to be generally significant in the construction sector, though risks of child labor and forced labor in the case of the Project is envisaged to be less. To address these potential risks, the following measures as described in Section 12.2 and 12.3, will be taken.

12.2 Selection of primary suppliers

When sourcing construction materials from primary suppliers, as per the agreement, the contractor will require identifying the risk of child labor/forced labor and serious safety risks in producing the construction materials by the primary suppliers. To avoid this risk, it is necessary to include the LMP to the agreement/purchase order made between the contractor and the primary supplier. The Supervision Consultant will review the primary supplier’s agreement/purchase order and monitor the primary suppliers and where appropriate take corrective measures to avoid the above risks. Any issue/s reported to the PMU, will be informed to the contractor through the Supervision Consultant to correct/rectify the issue as per the LMP and the country law.

12.3 Remedial process

If primary supplier will not comply to agreement/purchase order made between the contractor and the primary supplier within reasonable period after informing the corrective/rectify measure, then primary supplier will be terminated and introduce another primary supplier who can be demonstrated to meet the relevant requirements.

ANNEX I A: Guideline on Codes of Conduct

1. Satisfactory codes of conduct will contain obligations on all project workers (including sub-contractors) to comply with the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the stakeholders, the location and the project sector or to specific project requirements.
2. The Codes of Conduct should be written in plain language and signed by each worker to indicate that they have:
 - received a copy of the codes of conduct.
 - had the code explained to them.
 - acknowledged that adherence to this Codes of Conduct is a condition of employment; and
 - Understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.
3. The Contractor should conduct continuous awareness raising and training activities to ensure that workers abide by the Codes of Conduct (such as through toolbox talks). The Contractor should also ensure that local communities are aware of the Codes of Conduct and enable them to report any concerns or non-compliance.
4. The issues to be addressed include:
 - a) Compliance with applicable **laws, rules, and regulations** of the jurisdiction
 - b) Compliance with applicable **health and safety requirements** (including wearing prescribed personal protective equipment (PPE), preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
 - c) The use of **illegal substances**
 - d) **Non-Discrimination** (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction)
 - e) **Interactions with community members** (for example to convey an attitude of respect and non-discrimination)
 - f) **Sexual harassment** (for example to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
 - g) **Violence or exploitation** (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior)
 - h) **Protection of children** (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas)
 - i) **Sanitation** requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
 - j) Avoidance of **conflicts of interest** (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection)
 - k) **Respecting reasonable work instructions** (including regarding environmental and social norms)
 - l) **Protection and proper use of property** (for example, to prohibit theft, carelessness or waste)
 - m) Duty to **report violations of this Code**
 - n) **No retaliation against workers** who report violations of the Code, if that report is made in good faith.

Annex IB: COVID-19 Considerations for Contractors

The Contractor should identify measures to address the COVID-19 situation. What will be possible will depend on the context of the project: the location, existing project resources, availability of supplies, capacity of local emergency/health services, the extent to which the virus already exist in the area. A systematic approach to planning, recognizing the challenges associated with rapidly changing circumstances, will help the project put in place the best measures possible to address the situation. Measures to address COVID-19 may be presented in different ways (as a contingency plan, as an extension of the existing project emergency and preparedness plan or as standalone procedures). PMU and contractors should refer to guidance issued by relevant authorities, both national and international (e.g. WHO), which is regularly updated.

Addressing COVID-19 at a project site goes beyond occupational health and safety and is a broader project issue which will require the involvement of different members of a project management team. In many cases, the most effective approach will be to establish procedures to address the issues, and then to ensure that these procedures are implemented systematically. Where appropriate given the project context, a designated team should be established to address COVID-19 issues, including PMU representatives, the Supervising Consultants, management (e.g. the project manager) of the contractor and sub-contractors, security, and medical and OHS professionals. Procedures should be clear and straightforward, improved as necessary, and supervised and monitored by the COVID-19 focal point(s). Procedures should be documented, distributed to all contractors, and discussed at regular meetings to facilitate adaptive management. The issues set out below include a number that represent expected good workplace management but are especially pertinent in preparing the project response to COVID-19.

(a) ASSESSING WORKFORCE CHARACTERISTICS

Many construction sites will have a mix of workers e.g. workers from the local communities; workers from a different part of the country; workers from another country. Workers will be employed under different terms and conditions and be accommodated in different ways. Assessing these different aspects of the workforce will help in identifying appropriate mitigation measures:

- The Contractor should prepare a detailed profile of the project work force, key work activities, schedule for carrying out such activities, different durations of contract and rotations (e.g. 4 weeks on, 4 weeks off).
- This should include a breakdown of workers who reside at home (i.e. workers from the community), workers who lodge within the local community and workers in on-site accommodation. Where possible, it should also identify workers that may be more at risk from COVID-19, those with underlying health issues or who may be otherwise at risk.
- Consideration should be given to ways in which to minimize movement in and out of site. This could include lengthening the term of existing contracts, to avoid workers returning home to affected areas, or returning to site from affected areas.
- Workers accommodated on site should be required to minimize contact with people near the site, and in certain cases be prohibited from leaving the site for the duration of their contract, so that contact with local communities is avoided.
- Consideration should be given to requiring workers lodging in the local community to move to site accommodation (subject to availability) where they would be subject to the same restrictions.
- Workers from local communities, who return home daily, weekly or monthly, will be more difficult to manage. They should be subject to health checks at entry to the site (as set out above) and at some point, circumstances may make it necessary to require them to either use accommodation on site or not to come to work.

(b) ENTRY/EXIT TO THE WORK SITE AND CHECKS ON COMMENCEMENT OF WORK

Entry/exit to the work site should be controlled and documented for both workers and other parties, including support staff and suppliers. Possible measures may include:

- Establishing a system for controlling entry/exit to the site, securing the boundaries of the site, and establishing designating entry/exit points (if they do not already exist). Entry/exit to the site should be documented.
- Training security staff on the (enhanced) system that has been put in place for securing the site and controlling entry and exit, the behaviors required of them in enforcing such system and any COVID -19 specific considerations.
- Training staff who will be monitoring entry to the site, providing them with the resources they need to document entry of workers, conducting temperature checks and recording details of any worker that is denied entry.
- Confirming that workers are fit for work before they enter the site or start work. While procedures should already be in place for this, special attention should be paid to workers with underlying health issues or who may be otherwise at risk. Consideration should be given to demobilization of staff with underlying health issues.
- Checking and recording temperatures of workers and other people entering the site or requiring self-reporting prior to or on entering the site.
- Providing daily briefings to workers prior to commencing work, focusing on COVID-19 specific considerations including cough etiquette, hand hygiene and distancing measures, using demonstrations and participatory methods.
- During the daily briefings, reminding workers to self-monitor for possible symptoms (fever, cough) and to report to their supervisor or the COVID-19 focal point if they have symptoms or are feeling unwell.
- Preventing a worker from an affected area or who has been in contact with an infected person from returning to the site for 14 days or (if that is not possible) isolating such worker for 14 days.
- Preventing a sick worker from entering the site, referring them to local health facilities if necessary or requiring them to isolate at home for 14 days.

(c) GENERAL HYGIENE

Requirements on general hygiene should be communicated and monitored, to include:

- Training workers and staff on site on the signs and symptoms of COVID-19, how it is spread, how to protect themselves (including regular hand washing and social distancing) and what to do if they or other people have symptoms (for further information see [WHO COVID-19 advice for the public](#)).
- Placing posters and signs around the site, with images and text in local languages.
- Ensuring hand washing facilities supplied with soap, disposable paper towels and closed waste bins exist at key places throughout site, including at entrances/exits to work areas; where there is a toilet, canteen or food distribution, or provision of drinking water; in worker accommodation; at waste stations; at stores; and in common spaces. Where hand washing facilities do not exist or are not adequate, arrangements should be made to set them up. Alcohol based sanitizer (if available, 60-95% alcohol) can also be used.
- Review worker accommodations, and assess them in light of the requirements set out in [IFC/EBRD guidance on Workers' Accommodation: processes and standards](#), which provides valuable guidance as to good practice for accommodation.
- Setting aside part of worker accommodation for precautionary self-quarantine as well as more formal isolation of staff who may be infected (see paragraph (f)).

(d) CLEANING AND WASTE DISPOSAL

Conduct regular and thorough cleaning of all site facilities, including offices, accommodation, canteens, common spaces. Review cleaning protocols for key construction equipment (particularly if it is being operated by different workers). This should include:

- Providing cleaning staff with adequate cleaning equipment, materials and disinfectant.
- Review general cleaning systems, training cleaning staff on appropriate cleaning procedures and appropriate frequency in high use or high-risk areas.
- Where it is anticipated that cleaners will be required to clean areas that have been or are suspected to have been contaminated with COVID-19, providing them with appropriate PPE: gowns or aprons, gloves, eye protection (masks, goggles or face screens) and boots or closed work shoes. If appropriate PPE is not available, cleaners should be provided with best available alternatives.
- Training cleaners in proper hygiene (including hand washing) prior to, during and after conducting cleaning activities; how to safely use PPE (where required); in waste control (including for used PPE and cleaning materials).
- Any medical waste produced during the care of ill workers should be collected safely in designated containers or bags and treated and disposed of following relevant requirements (e.g., national, WHO). If open burning and incineration of medical wastes is necessary, this should be for as limited a duration as possible. Waste should be reduced and segregated, so that only the smallest amount of waste is incinerated (for further information [see WHO interim guidance on water, sanitation and waste management for COVID-19](#)).

(e) ADJUSTING WORK PRACTICES

Consider changes to work processes and timings to reduce or minimize contact between workers, recognizing that this is likely to impact the project schedule. Such measures could include:

- Decreasing the size of work teams.
- Limiting the number of workers on site at any one time.
- Changing to a 24-hour work rotation.
- Adapting or redesigning work processes for specific work activities and tasks to enable social distancing, and training workers on these processes.
- Continuing with the usual safety trainings, adding COVID-19 specific considerations. Training should include proper use of normal PPE. While as of the date of this note, general advice is that construction workers do not require COVID-19 specific PPE, this should be kept under review (for further information see [WHO interim guidance on rational use of personal protective equipment \(PPE\) for COVID-19](#)).
- Reviewing work methods to reduce use of construction PPE, in case supplies become scarce or the PPE is needed for medical workers or cleaners. This could include, e.g. trying to reduce the need for dust masks by checking that water sprinkling systems are in good working order and are maintained or reducing the speed limit for haul trucks.
- Arranging (where possible) for work breaks to be taken in outdoor areas within the site.
- Consider changing canteen layouts and phasing meal times to allow for social distancing and phasing access to and/or temporarily restricting access to leisure facilities that may exist on site, including gyms.
- At some point, it may be necessary to review the overall project schedule, to assess the extent to which it needs to be adjusted (or work stopped completely) to reflect prudent work practices,

potential exposure of both workers and the community and availability of supplies, taking into account Government advice and instructions.

(f) PROJECT MEDICAL SERVICES

Consider whether existing project medical services are adequate, taking into account existing infrastructure (size of clinic/medical post, number of beds, isolation facilities), medical staff, equipment and supplies, procedures and training. Where these are not adequate, consider upgrading services where possible, including:

- Expanding medical infrastructure and preparing areas where patients can be isolated. Guidance on setting up isolation facilities is set out in [WHO interim guidance on considerations for quarantine of individuals in the context of containment for COVID-19](#). Isolation facilities should be located away from worker accommodation and ongoing work activities. Where possible, workers should be provided with a single well-ventilated room (open windows and door). Where this is not possible, isolation facilities should allow at least 1 meter between workers in the same room, separating workers with curtains, if possible. Sick workers should limit their movements, avoiding common areas and facilities and not be allowed visitors until they have been clear of symptoms for 14 days. If they need to use common areas and facilities (e.g. kitchens or canteens), they should only do so when unaffected workers are not present and the area/facilities should be cleaned prior to and after such use.
- Training medical staff, which should include current WHO advice on COVID-19 and recommendations on the specifics of COVID-19. Where COVID-19 infection is suspected, medical providers on site should follow [WHO interim guidance on infection prevention and control during health care when novel coronavirus \(nCoV\) infection is suspected](#).
- Training medical staff in testing, if testing is available.
- Assessing the current stock of equipment, supplies and medicines on site, and obtaining additional stock, where required and possible. This could include medical PPE, such as gowns, aprons, medical masks, gloves, and eye protection. Refer to WHO guidance as to what is advised (for further information see [WHO interim guidance on rational use of personal protective equipment \(PPE\) for COVID-19](#)).
- If PPE items are unavailable due to world-wide shortages, medical staff on the project should agree on alternatives and try to procure them. Alternatives that may commonly be found on construction sites include dust masks, construction gloves and eye goggles. While these items are not recommended, they should be used as a last resort if no medical PPE is available.
- Ventilators will not normally be available on work sites, and in any event, intubation should only be conducted by experienced medical staff. If a worker is extremely ill and unable to breathe properly on his or her own, they should be referred immediately to the local hospital (see (g) below).
- Review existing methods for dealing with medical waste, including systems for storage and disposal (for further information see [WHO interim guidance on water, sanitation and waste management for COVID-19](#), and [WHO guidance on safe management of wastes from health-care activities](#)).

(g) LOCAL MEDICAL AND OTHER SERVICES

Given the limited scope of project medical services, the project may need to refer sick workers to local medical services. Preparation for this includes:

- Obtaining information as to the resources and capacity of local medical services (e.g. number of beds, availability of trained staff and essential supplies).

- Conducting preliminary discussions with specific medical facilities, to agree what should be done in the event of ill workers needing to be referred.
- Considering ways in which the project may be able to support local medical services in preparing for members of the community becoming ill, recognizing that the elderly or those with pre-existing medical conditions require additional support to access appropriate treatment if they become ill.
- Clarifying the way in which an ill worker will be transported to the medical facility, and checking availability of such transportation.
- Establishing an agreed protocol for communications with local emergency/medical services.
- Agreeing with the local medical services/specific medical facilities the scope of services to be provided, the procedure for in-take of patients and (where relevant) any costs or payments that may be involved.
- A procedure should also be prepared so that project management knows what to do in the unfortunate event that a worker ill with COVID-19 dies. While normal project procedures will continue to apply, COVID-19 may raise other issues because of the infectious nature of the disease. The project should liaise with the relevant local authorities to coordinate what should be done, including any reporting or other requirements under national law.

(h) INSTANCES OR SPREAD OF THE VIRUS

WHO provides detailed advice on what should be done to treat a person who becomes sick or displays symptoms that could be associated with the COVID-19 virus (for further information see [WHO interim guidance on infection prevention and control during health care when novel coronavirus \(nCoV\) infection is suspected](#)). The project should set out risk-based procedures to be followed, with differentiated approaches based on case severity (mild, moderate, severe, critical) and risk factors (such as age, hypertension, diabetes) (for further information see [WHO interim guidance on operational considerations for case management of COVID-19 in health facility and community](#)). These may include the following:

- If a worker has symptoms of COVID-19 (e.g. fever, dry cough, fatigue) the worker should be removed immediately from work activities and isolated on site.
- If testing is available on site, the worker should be tested on site. If a test is not available at site, the worker should be transported to the local health facilities to be tested (if testing is available).
- If the test is positive for COVID-19 or no testing is available, the worker should continue to be isolated. This will either be at the work site or at home. If at home, the worker should be transported to their home in transportation provided by the project.
- Extensive cleaning procedures with high-alcohol content disinfectant should be undertaken in the area where the worker was present, prior to any further work being undertaken in that area. Tools used by the worker should be cleaned using disinfectant and PPE disposed of.
- Co-workers (i.e. workers with whom the sick worker was in close contact) should be required to stop work, and be required to quarantine themselves for 14 days, even if they have no symptoms.
- Family and other close contacts of the worker should be required to quarantine themselves for 14 days, even if they have no symptoms.
- If a case of COVID-19 is confirmed in a worker on the site, visitors should be restricted from entering the site and worker groups should be isolated from each other as much as possible.
- If workers live at home and has a family member who has a confirmed or suspected case of COVID-19, the worker should quarantine themselves and not be allowed on the project site for 14 days, even if they have no symptoms.
- Workers should continue to be paid throughout periods of illness, isolation or quarantine, or if they are required to stop work, in accordance with national law.

- Medical care (whether on site or in a local hospital or clinic) required by a worker should be paid for by the employer.

(i) CONTINUITY OF SUPPLIES AND PROJECT ACTIVITIES

Where COVID-19 occurs, either in the project site or the community, access to the project site may be restricted, and movement of supplies may be affected.

- Identify back-up individuals, in case key people within the project management team (PIU, Supervising Engineer, Contractor, sub-contractors) become ill, and communicate who these are so that people are aware of the arrangements that have been put in place.
- Document procedures, so that people know what they are, and are not reliant on one person's knowledge.
- Understand the supply chain for necessary supplies of energy, water, food, medical supplies and cleaning equipment, consider how it could be impacted, and what alternatives are available. Early pro-active review of international, regional and national supply chains, especially for those supplies that are critical for the project, is important (e.g. fuel, food, medical, cleaning and other essential supplies). Planning for a 1-2 month interruption of critical goods may be appropriate for projects in more remote areas.
- Place orders for/procure critical supplies. If not available, consider alternatives (where feasible).
- Consider existing security arrangements, and whether these will be adequate in the event of interruption to normal project operations.
- Consider at what point it may become necessary for the project to significantly reduce activities or to stop work completely, and what should be done to prepare for this, and to re-start work when it becomes possible or feasible.

(j) TRAINING AND COMMUNICATION WITH WORKERS

Workers need to be provided with regular opportunities to understand their situation, and how they can best protect themselves, their families and the community. They should be made aware of the procedures that have been put in place by the project, and their own responsibilities in implementing them.

- It is important to be aware that in communities close to the site and amongst workers without access to project management, social media is likely to be a major source of information. This raises the importance of regular information and engagement with workers (e.g. through training, town halls, tool boxes) that emphasizes what management is doing to deal with the risks of COVID-19. Allaying fear is an important aspect of work force peace of mind and business continuity. Workers should be given an opportunity to ask questions, express their concerns, and make suggestions.
- Training of workers should be conducted regularly, as discussed in the sections above, providing workers with a clear understanding of how they are expected to behave and carry out their work duties.
- Training should address issues of discrimination or prejudice if a worker becomes ill and provide an understanding of the trajectory of the virus, where workers return to work.
- Training should cover all issues that would normally be required on the work site, including use of safety procedures, use of construction PPE, occupational health and safety issues, and code of conduct, taking into account that work practices may have been adjusted.

- Communications should be clear, based on fact and designed to be easily understood by workers, for example by displaying posters on handwashing and social distancing, and what to do if a worker displays symptoms.

(k) COMMUNICATION AND CONTACT WITH THE COMMUNITY

Relations with the community should be carefully managed, with a focus on measures that are being implemented to safeguard both workers and the community. The community may be concerned about the presence of non-local workers, or the risks posed to the community by local workers presence on the project site. The project should set out risk-based procedures to be followed , which may reflect WHO guidance (for further information see [WHO Risk Communication and Community Engagement \(RCCE\) Action Plan Guidance COVID-19 Preparedness and Response](#)). The following good practice should be considered:

- Communications should be clear, regular, based on fact and designed to be easily understood by community members.
- Communications should utilize available means. In most cases, face-to-face meetings with the community or community representatives will not be possible. Other forms of communication should be used; posters, pamphlets, radio, text message, electronic meetings. The means used should take into account the ability of different members of the community to access them, to make sure that communication reaches these groups.
- The community should be made aware of procedures put in place at site to address issues related to COVID-19. This should include all measures being implemented to limit or prohibit contact between workers and the community. These need to be communicated clearly, as some measures will have financial implications for the community (e.g. if workers are paying for lodging or using local facilities). The community should be made aware of the procedure for entry/exit to the site, the training being given to workers and the procedure that will be followed by the project if a worker becomes sick.
- If project representatives, contractors or workers are interacting with the community, they should practice social distancing and follow other COVID-19 guidance issued by relevant authorities, both national and international (e.g. WHO).

ANNEX 2: Assessment of implementation for Labour Requirement of Inclusive Road Connectivity and Development Project

Staff Requirement of Project Management Unit (PMU) – To be finalised		Period of Implementation and No of Employees															
No.	Staff Category	Year 2021				Year 2022				Year 2023				Year 2024			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Project Director			1	1	1	1	1	1	1	1	1	1	1	1	1	1
2	Deputy Project Director(3 No's)			3	3	3	3	3	3	3	3	3	3	3	3	3	3
3	Procurement/Claim Specialist			1	1	1	1	1	1	1	1	1	1	1	1	1	1
4	Senior Project Engineer			3	3	3	4	5	5	5	5	5	5	5	5	5	5
5	Engineer(Highways)			3	3	3	3	3	3	3	3	3	3	3	3	3	3
6	Engineer(Bridges)			1	1	2	2	2	2	2	2	2	2	2	2	2	2
7	Technical Officer			-	-	3	3	6	6	8	8	10	10	10	10	10	10
8	Project Accountant			1	1	1	1	1	1	1	1	1	1	1	1	1	1
9	Account Assistant(2 No./3 No. later)			2	2	3	3	3	3	3	3	3	3	3	3	3	3
10	Senior Environmental Specialist and Social Specialist (1 No. each)			2	2	2	2	2	2	2	2	2	2	2	2	2	2
11	Environmental Officer and Social Officer (3 No. each)			6	6	6	6	6	6	6	6	6	6	6	6	6	6
12	MIS Administrator			1	1	1	1	1	1	1	1	1	1	1	1	1	1
13	Administrative Officer			1	1	1	1	1	1	1	1	1	1	1	1	1	1
14	Project Secretary			1	1	1	1	1	1	1	1	1	1	1	1	1	1
15	Supportive Staff			6	6	6	6	6	6	6	6	6	6	6	6	6	6

Staff Requirement of the Supervision Consultant to the project – For one consultancy Firm – To be finalised		Period of Implementation and No of Employees															
		Year 2021				Year 2022				Year 2023				Year 2024			
No.	Staff Category	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Team Leader			1	1	1	1	1	1	1	1	1	1	1	1	1	1
2	Deputy Team Leader			1	1	1	1	1	1	1	1	1	1	1	1	1	1
3	Contract/Claim Specialist			1													
4	Bridge Engineer			1	1	1	1	1	1	1	1	1	1	1	1	1	1
5	Highway Engineer			1	1	1	1	1	1	1	1	1	1	1	1	1	1
6	Senior Engineer (ITS)			1	1	1	1	1	1	1	1	1	1	1	1	1	1
7	Geo Technical Engineer (No. 1)																
	Material Engineer			4	4	4	4	4	4	4	4	4	4	4	4	4	4
8	Resident Engineer/s (3 No.'s for corridor I,II,III)			3	3	3	3	3	3	3	3	3	3	3	3	3	3
9	Site Engineers			2	2	2	3	3	3	5	5	5	5	5	5	5	5
10	Senior Quantity Surveyor			1	1	1	1	1	1	1	1	1	1	1	1	1	1
11	Assistant Quantity Surveyors			3	3	3	3	3	3	3	3	3	3	3	3	3	3
12	Surveyors			3	3	3	3	3	3	3	3	3	3	3			
13	Environmental Specialist			1	1	1	1	1	1	1	1	1	1	1	1	1	1
14	Social Specialist			1	1	1	1	1	1	1	1	1	1	1	1	1	1
15	Environmental Officer & Social Officer			2	2	2	2	2	2	2	2	2	2	2	2	2	2
16	Office Manager			1	1	1	1	1	1	1	1	1	1	1	1	1	1
17	MIS Officer			1	1	1	1	1	1	1	1	1	1	1	1	1	1
18	CAD Draftsmen			2	2	2	2	2	2	2	2	2	2	2	2	1	1
19	Supportive staff			20	20	20	20	20	20	20	20	20	20	20	20	15	10

Staff Requirement of the Contractor – For one contract – To be finalised		Period of Implementation and No of Employees															
No.	Staff Category	Year 2021				Year 2022				Year 2023				Year 2024			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	Project Manager			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Engineer-Utility			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Engineer-Piling									1	1						
	Geotechnical Engineer	Will be hired on assignment basis															
	Material Engineer			1	1	1	1	1	1	1	1	1	1	1	1		
	Quantity Surveyor			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Safety Manager			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Safety Officer			1	2	3	3	3	3	3	3	3	3	3	3	2	1
	Environment and Social Safeguards Officer			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	QA/QC Engineers			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Project Engineers			1	2	3	3	3	3	3	3	3	3	3	3	2	1
	Document Controllers			1	2	2	2	2	2	2	2	2	2	2	2	2	1
	Store Keeper			3	3	3	3	3	3	3	3	3	3	3	3	3	3
	Finance Manager			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Purchasing Manager			1	1	1	1	1	1	1	1	1	1	1	1	1	1
	Technical Officers			3	3	5	5	5	5	5	5	5	5	5	5	3	3
	Work Supervisors			1	3	4	4	4	4	4	4	4	4	4	3	2	1
	Machine Operators			1	2	3	5	5	5	5	5	5	5	5	3	2	1
	Heavy Vehicle Drivers			2	4	6	6	6	6	6	6	6	6	4	4	2	1
	Light Vehicle Drivers			5	8	10	10	10	10	10	10	10	10	8	8	5	5
	Skilled Labour			5	5	10	10	10	10	10	10	10	10	10	10	5	5
	Unskilled Labour			10	10	15	30	30	30	30	30	30	30	30	25	20	15
	Supporting staff			10	15	15	15	15	15	15	15	15	15	15	15	10	10