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| **Response to Request for Information from the Special Rapporteur on the Rights of the Persons with Disabilities****Sri Lanka**Prepared by the Law and Society TrustIn Consultation with Persons with Disabilities, Activists and Researchers10/21/2016For more information please contact: dinushika@lawandsocietytrust.org; vijay@lawandsocietytrust.org  |

Abbreviations 3

Introduction 4

Sri Lanka 4

Status of services provided to meet the special needs of the PwDs 6

(2) Residential and community support 7

(3) Interpretation and Communication Support 9

Referral procedures and Access to information 9

Partnership between State institutions and private service providers 10

Sensitivity of the services provided for the specific needs of the diverse subgroups of PwDs 10

Infants 10

Educational attainment 11

Status of Participation of PwDs in Economic Activity 12

Disabilities caused by the armed conflict 13

Mental Health 13

Women with disabilities (WwDs) 14

Participation of the PwDs in designing, planning, implementing and evaluating the support services 15

Conclusion 15

Bibliography 17

Kirinde C, ‘*Education compulsory for children between 5 and 16 years’*, 18

List of persons interviewed 19

Annexure I – Extracts of constitutional and legal provisions on the rights of the PwDs 21

Annexure II - Structure of state institutions dealing with disability 23

Annexure III – List of the services provided by the state 24

Annexure IV – Statistics on PwDs in DCS statistics 26

Annexure V – Sri Lanka: National Action Plan for Disability (January 2014) – A summary 27

# Abbreviations

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|  |  |
|  |  |
| CBR | Community based rehabilitation |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CSO | Civil Society Organisation |
| DCS | Department of Census and Statistics, Sri Lanka |
| DPO | Disabled People’s Organisation |
| ICCPR | International Covenant for Civil and Political Rights |
| MoE | Ministry of Education, Sri Lanka |
| NCPD | National Council for Persons with Disabilities |
| NGONSPD  | Non-Governmental OrganisationNational Secretariat for Persons with Disabilities |
| PwD | Persons with Disabilities  |
| UDA | Urban Development Authority |
| UN | United Nations |
| WHO | World Health Organization  |
| WwD | Women with Disabilities  |

#  Introduction

Persons with disabilities (PwD) have been consistently marginalized in the Sri Lankan polity due to the absence of a rights-based approach. Attempts to introduce a rights-based approach through legislative and policy frameworks have remained largely rhetorical, not translated into reality. The dominant approach remains premised on charity and welfare, contrary to the obligations in the Convention on the Right of Persons with Disabilities (CRPD). This report assesses the quality of services accorded by the state to PwDs, highlighting that intensive, integrated and progressive support mechanisms are required to uphold their inherent dignity and autonomy.

The report was drafted combining the research findings and interviews conducted with various stakeholders including the government institutions, Disabled People’s Organisations (DPOs) and other civil society organisations (CSOs), researchers and academics, and activists in the field. A meeting was also organized to bring together these actors to share information and perspectives regarding support services.[[1]](#footnote-1) The drafting was undertaken over a three-week period. The primary challenges faced in the course of preparing this report was the dearth of comprehensive statistics, and contradictions in statistics issued by different official agencies, itself underlines the depth of exclusion, invisibility and misrecognition.

# Sri Lanka

Whereas the island boasts a diverse populace, there is virtually no recognition of PwDs as part of this diversity and appreciation of the diversity within PwDs has been virtually nil. The census of population carried out by the Department of Census and Statistics (DCS) in 2012 records 8.7% of the total population as PwDs but significant concerns remain regarding the definition and criteria for identifying PwDs.[[2]](#footnote-2) Rather than recognising disability as an evolving concept, legislative definition of PwDs emphasize their dependency—highlighting insensitivity towards disability.[[3]](#footnote-3) Thus, policy pronouncements notwithstanding, persons with intellectual disabilities, [paraplegics](https://www.google.com/search?client=firefox-b-ab&q=paraplegics&spell=1&sa=X&ved=0ahUKEwizhOvtz-PPAhXKpY8KHXiBDk8QvwUIGygA) and those with severe disabilities are frequently denied accommodation in enjoyment of their most fundamental human rights and participation in society.

The fundamental rights chapter of the Constitution of Sri Lanka does not provide for the right to life and dignity. Atop the theoretical deficiencies, the fundamental rights jurisprudence is remains narrow, the Supreme Court’s rejection of the application of the International Covenant on Civil and Political Rights (ICCPR) in *Singarasa v AG[[4]](#footnote-4)* being a milestone in the regressive trend. Moreover, the Constitution does not expressly recognise disability as a prohibited ground of discrimination though PwDs are generally accepted[[5]](#footnote-5) as entitled to equal protection of the law.[[6]](#footnote-6) Article 12 (4) of the Constitution does allow for ‘special provision’ for the ‘advancement’ of PwDs.[[7]](#footnote-7) However, there has been only one decision on the fundamental rights of the PwDs thus far, a clear indication of invisibility of PwDs in so far as judicial enforcement of rights are concerned.[[8]](#footnote-8) Economic, geographic, ethnic and gender related barriers as well as severe delays[[9]](#footnote-9) pose heightened challenges for PwDs’ accessing justice. Additionally, physical inaccessibility of courts and communication barriers caused by the lack of sign language interpreters, for example, result in further denial of access to justice. The Legal Aid Commission has not been endowed with sufficient resources to make an impact in eradicating these barriers.[[10]](#footnote-10)

Recognition of the rights of PwDs under the current legislative framework[[11]](#footnote-11) is limited to accessibility, and educational and employment opportunities.[[12]](#footnote-12) Whereas attempts at legislative enshrinement of the rights of PwDs as recognised by the CRPD are underway, no meaningful consultation has been initiated with the community. This is especially important in shifting the ground in areas such as the right to political participation, crucial to a complete political citizenship but invisible to conventional and paternalist points of view that prioritise needs. Thus, for instance, the legislation merely provides for an ‘accompanying person’ to vote on behalf of the PwD,[[13]](#footnote-13) in effect amounting to their disenfranchisement.[[14]](#footnote-14) Furthermore, PwDs are extremely underrepresented in elected offices: only two PwDs being present in the governance system, in the Parliament and the Provincial Council.[[15]](#footnote-15)

Revamping of subject allocations to the ministries and abrupt discontinuation and initiation of policies and projects as a consequence of presidential and parliamentary elections is a common problem in the Sri Lankan executive setup. Currently, the Ministry of Social Empowerment and Welfare is the main executive body dealing with matters relating to PwDs. This in itself entrenches the welfare approach and thwarts issues of PwDs from being approached holistically through cooperation of all relevant ministries. Furthermore, the National Council for Persons with Disabilities (NCPD), the main body to uphold the rights of PwDs, being placed under the purview of the Ministry impedes its capacity to function as an independent mechanism to promote, protect and monitor the implementation of rights of PwDs as envisaged by the CRPD.[[16]](#footnote-16)

The Provincial Councils, the second tier of governance, also provide services to PwDs. However, the system suffers serious drawbacks given the limited extent of devolved powers and financial capabilities, which affects mainstreaming the rights of PwDs at the provincial level. The central agencies, on the other hand, work directly through departments and agencies in administrative districts. However, as opposed to effective collaboration between the centre and the provinces, this only results in mission conflict and lack of accountability, since passing on the responsibility to the other system is more frequent.

Pervading culture and attitudes, which perceive disability as a penance for past sins and a burden, influence the dominant charity-based discourse on matters relating to PwDs. The attitudinal barriers play a major role in stagnation of policies and regulations. They further frustrate the accessibility, inclusivity and participation of PwDs in different spheres such as education, employment, transportation, sports and media, political participation and economic relationships with banks and insurance companies. Marginalization of the PwDs is multiplied where intersectionalities operate, namely gender, ethnicity, geographical location, social and economic status. For instance, PwDs residing in the estate sector in the central uplands, already amongst areas with the most entrenched poverty and exclusion, face extreme difficulties in accessing the services provided by the state due to low levels of literacy, economic and social disadvantages and the mountain terrain.[[17]](#footnote-17)

# Status of services provided to meet the special needs of the PwDs

Personal assistance, which is one of the primary modes of support, receives minimal attention. The families of PwDs are socially obliged to play the role of personal assistant. As a consequence, the PwDs are viewed as dependent on their family members. On the other hand, the state has income–support schemes in place to support ‘needy’ PwDs. This includes provision for a monthly allowance of Rs. 3000 (approximately 20 USD), and the following one time allowances: for construction of a new house of Rs. 250 000 (1700 USD), self-employment and medical assistance for surgical needs up to Rs.25000 (170 USD) and Rs. 20000 (136 USD) respectively, medicine and traveling allowance of Rs. 20000, and educational assistance of up to Rs. 10000 (68 USD). However provisions notwithstanding there are many complications involved in obtaining the financial assistance.

## Income-support through a monthly allowance

The state draws an inevitable link between disability and poverty. Distribution of funds is largely on welfare to bail out indigent families with PwDs. In providing the monthly allowance of Rs. 3000, priority is given for the family where the breadwinner is disabled and the disability is severe. It has been noted that the monthly allowance is largely insufficient to cover the cost of living.[[18]](#footnote-18)

In terms of geographic distribution, a relatively higher number of PwDs from the districts of Kurunegala (9.81%), Jaffna (6.56%) and Ampara (5.76%) receive monthly allowances.[[19]](#footnote-19) Conversely the highest number of PwDs is in fact reported from Nuwara Eliya, Kandy, and Ratnapura.[[20]](#footnote-20) The reason for the mismatch in the number of PwDs and the PwDs who receive assistance remains unclear but is likely reflective of the problems of accessibility of the financial assistance schemes, especially in the up-country estate areas.[[21]](#footnote-21)

Delivery arrangements are channeled through the Social Service Officers in the Provincial Council and the respective Divisional Secretariat. For a PwD to be eligible for the above mentioned allowance, his/her monthly income should be below Rs. 6000 (41 USD). The NSPD also requires the medical doctor’s certification on the type and severity of the disability to be produced along with a recommendation of the Divisional Secretary.[[22]](#footnote-22) The criteria and process of applications require the PwD to be dependent on several layers of government structures and approvals, ranging from the village level administrative officer, the social services officer, and the medical officer of health. Moreover, the process of selection is also adversely impacted by political patronage and discrimination.

### (2) Residential and community support

The onus of providing **residential support** has fallen largely on private actors.[[23]](#footnote-23) Welfare societies maintain ‘homes’[[24]](#footnote-24) and as of 2016, 115 homes were registered under the Department of Social Services. Details in terms of the quality of services and their underlying approach are not maintained. Some homes have a special education school linked to them. These welfare societies depend largely on external funding they receive through charity while state intervention and support is limited to state institutions. There is no independent mechanism to monitor the level of residential care provided by private institutions. This becomes a matter of grave concern specifically where children with disabilities and persons with intellectual disabilities are treated in homes without staff with specialised training and skills.[[25]](#footnote-25)

**Community Based Rehabilitation (CBR)** programmes exist both within the government and non-governmental sectors. The state does train officers at the Divisional and District Secretariats according to the WHO manual.[[26]](#footnote-26) However the impact has been minimal, largely due to the lack of follow-up after training, which itself is mostly limited to a ‘series of lectures’.[[27]](#footnote-27) Moreover, the participation of PwDs in CBR has been limited to persons with ‘less-severe’ disabilities. There are limitations in providing rehabilitation equipment and devices to fulfill the community-based physical rehabilitation needs of low-income PwDs.[[28]](#footnote-28) For instance, the lack of provisioning of appropriate prosthetics and orthotics has forced many PwDs being weighed down with outdated devices. CBR as a comprehensive programme for the empowerment of PwDs requires commitment, persistence as well as resources and cannot function effectively within the ‘welfare’ framework. CSOs and non-government organisations (NGOs) have tried to fill this void through their own CBR initiatives but, inevitably, with limited reach and success.[[29]](#footnote-29)

Assistive devices and technologies required by PwDs are provided by the NSPD.[[30]](#footnote-30) Provision is limited to ‘needy persons’ certified by a list of authorities—the Grama Niladhari,[[31]](#footnote-31) Social Services Officer and the Divisional Secretary.[[32]](#footnote-32) However, the lack of transparency and complicated procedural requirements in the process increases its susceptibility to abuse of power.[[33]](#footnote-33) In addition, the quality and adequacy of devices have remained a concern thus far. There were instances reported where the assistive devices that were provided did not cater to the requirements of the particular disability.[[34]](#footnote-34) The follow-up on assistive devices is weak, with weak or no mechanisms in place for repair or replacement of such devices.

Funding was reported to be a major concern for all services. The constraints in annual allocation of state funds have forced a narrowing of priorities in providing support services to PwDs[[35]](#footnote-35) and the decline in range and quality of services is largely felt in the outreach to the community of PwDs.

###  (3) Interpretation and Communication Support

The severe lack of certified sign language interpreters[[36]](#footnote-36) coupled with their uneven geographic distribution—concentration largely in Colombo—poses serious problems in accessibility and communication for the hearing impaired. In cases where a sign language interpreter is required in another district, the Department has to send interpreters from Colombo. It was reported however that the NSPD and the National Institute of Education have commenced certified courses to train officers in sign language to fill in the demand for certified interpreters. While the exact number of deaf-blind interpreters is not available,[[37]](#footnote-37) the number of teachers/ trainers in Braille education stands at 371. [[38]](#footnote-38)

Although braille education is said to be accessible in the education sector, through university[[39]](#footnote-39), the College of Education and specifically tailored courses, students with visual impairments continue to face difficulties in accessing education in school and university. In instances of national examinations for school students, the Ministry of Education (MoE) provides assistive devices after the application is scrutinized by the Department of Examinations. For this purpose the Department of Examinations assesses the disability of the student, whereby the student is required to go through a tedious set of procedures to prove his/her level of disability. All of this raises concerns of equality before the law that acts as a barrier to accessing education.

## Referral procedures and Access to information

Referral procedures are in the main facilitated through informal channels and there are no official records of referrals. It was reported that a medical doctor serving in a Government Hospital could direct a PwD for CBR[[40]](#footnote-40) or to the special needs education unit to obtain necessary training prior to being integrated into inclusive education.[[41]](#footnote-41) The system of making referrals is limited to a small network of institutions under the ministries of empowerment and social welfare, and health, and education, and its impact is hard to assess in the absence of records and information.

The information regarding various financial assistance schemes is accessible through the website of the respective ministry in all three languages. However the application form for assistance is available only in Sinhala. Accessibility of information remains a concern because PwDs who do not have sufficient means of income, are not aware of the use of technology or not conversant in Sinhala will have problems in accessing the application through the website. Moreover, information on communication support is not made widely available.[[42]](#footnote-42) As a result, levels of training and awareness on communication support have remained relatively low barring the PwDs from participating in public affairs.

## Partnership between State institutions and private service providers

Collaboration between the State and private actors has remained minimal over time. Although there are instances of public-private partnerships, such as to improve access to education of children with disabilities,[[43]](#footnote-43) the Ministry does not have official records of such partnerships. However state institutions often partner with registered NGOs working on disability rights on short-term projects.[[44]](#footnote-44) But these projects seldom extend beyond organizing events or specific programmes and do not translate into substantive longer-term collaborations targeting a broader positive transformation in the status of rights of the PwDs. Presently 12 NGOs are working in partnership with the CBR programme. In addition, private businesses are also in contact with the Department of Social Services to recruit PwDs who go through the vocational training conducted by the State.

# Sensitivity of the services provided for the specific needs of the diverse subgroups of PwDs

## Infants

Data from the DCS are confined to the statistics of persons with disabilities 5 years and over.[[45]](#footnote-45) Non-recognition of the infants with disabilities amounts to overlooking an integral aspect of their identity from a very young age. Whereas the CBR programme was designed to pay special attention to the infants between the ages of 0-5 based on WHO guidelines, the shortcomings of the programme discussed above impedes this goal.[[46]](#footnote-46)

##

## Educational attainment

Although Sri Lanka boasts the highest literacy rate in South Asia—95.7%,[[47]](#footnote-47) there are serious concerns regarding the education of children with disabilities. Only 70.9 % of children with disabilities aged 5-14 attend school,[[48]](#footnote-48) whereas the Education Ordinance[[49]](#footnote-49) requires all children to receive compulsory education up to age of 14, which was raised to 16 in 2016.[[50]](#footnote-50) The information about the 29.1% of children with disabilities who do not receive school education is not accounted for. This position falls short of state obligations under the CRPD in that the Convention calls for inclusive, quality, free and compulsory primary education and secondary education for PwDs on the basis of equality.

As modes of special assistance for the children with disabilities, 25 schools function as special schools despite the CRPD requirement of non-exclusion of PwDs from the general education system on the basis of disability.[[51]](#footnote-51) Besides, the Non-formal and Special Education Unit of the MoE has Special Education Units in 704 state schools but this only amounts to 6.94% of the all government schools as at 2015.[[52]](#footnote-52) This is mainly due to resource constraints and lack of trained staff. Whereas the CRPD requires fostering respect for the rights of the PwDs from an early age and throughout their period of education, non-receptive attitudes and also a focus on competition amongst teachers and parents alike hampers inclusivity of children with disabilities in the general education system. Therefore, there is a high dropout rate from schools on which statistics are unavailable.

In relation to the physical accessibility of education, the Urban Development Authority (UDA) is responsible for implementing the Accessibility Regulations, while the NSPD and the Non-formal and Special Education Unit in the MoE monitor the implementation of the regulations. At the university level, accessibility of buildings and lecture halls remain a major concern. Some universities have programmes to supply assistive devices and provide reasonable accommodation during the examinations.[[53]](#footnote-53) However, these programmes are carried out on a purely voluntary basis driven virtually exclusively by individual commitment.

Resource constraints were reported to be a major challenge in implementation. As regards provision of income support, the educational assistance provided by the NSPD has two drawbacks: firstly, the scope of assistance is limited to the ‘book list’ and secondly, the sum does not meet the educational needs of PwDs for a sufficient time. Attendance of PwDs in tertiary education is the lowest: 2.6%[[54]](#footnote-54), which has adverse implications for their overall education experience and eligibility for higher positions in both government and private sector. The government has a special university admission scheme for PwDs, but admission is limited to bio-science, physical science, commerce and arts.[[55]](#footnote-55) While PwDs can enroll in private tertiary education institutes, their profit focus in effect limits enrollment capacity to those who can afford it. Further, there are concerns regarding the quality of private tertiary education institutions in general as there is no systematic regulation and assessment of their quality.

## Status of Participation of PwDs in Economic Activity

According to the data from the DCS, 70.93% of PwDs are not economically active. Out of the persons who are not economically active, 47.96% are too old to work and 36.92% are engaged in household work, while the rest is a composite of students, children not attending school, income recipients, pensioners, social workers and others. Lack of physical accessibility, communicational and social barriers affect economic activeness of the PwDs.[[56]](#footnote-56)

The employment ratio of PwDs is 41.1%, with an immediately visible difference between employment of males (61.6%) and females (24.4%).[[57]](#footnote-57) However, the data does not reveal any further information about the sectors, the nature or designation of the employment, which is a critical lacuna, for the sector and designation has a direct bearing on the quality of life, autonomy and dignity of the PwDs. Furthermore, it would also provide an insight on the extent to which PwDs access higher positions in employment. Interviewees noted that such positions are often barred to PwDs in the public sector due to lack of facilities and non-receptive attitudes and in private sector mainly due to lack of qualifications and lack of fluency in English.[[58]](#footnote-58) The government has a 3% quota for employment of PwDs in all ministries, departments and corporations since 1988[[59]](#footnote-59) but it has been observed that the circular has not been given effect to, and thus its impact remains minimal.[[60]](#footnote-60)

In addition, the self-employment allowance provided by the NSPD is lacking in follow up and overall the support falls far short of the holistic approach delineated in the CRPD that calls for effective access to vocational guidance, placement services and continuing training. The CBR programme works together with 9 state vocational training institutions to provide officially recognised qualifications, job placements and instruments necessary for self-employment. However, the vocational training and the tools provided thereafter tend to mismatch with the demands of the market.[[61]](#footnote-61)

## Disabilities caused by the armed conflict

The three-decade old war that ended in 2009 contributed significantly to the increase in the number of PwDs in Sri Lanka. Combatants as well as civilians suffered disability, though its effect is most acutely felt in the north and eastern provinces. This is further aggravated by invisible psychiatric disabilities also caused by the war. While the soldiers with disabilities in the military are generally viewed as heroes, LTTE ex combatants are viewed with suspicion and their daily activities are subjected to military surveillance. Discrimination and abuse is multiplied in the case of female ex combatants. In any case, the services and community support required by PwDs affected by war is far greater but not enough is being done to enhance the quality of their lives.[[62]](#footnote-62)

## Mental Health

The definition provided in the Protection of the Rights of Persons with Disabilities Act[[63]](#footnote-63) speaks of ‘persons with deficiency in mental capabilities’, thus including the persons with intellectual disabilities and severe psychiatric disabilities. Sri Lanka, as a country that suffered three decades of war, needs to invest in facilitating mental health especially for the people who lived in the war zones. However the services provided by the state have largely been ad hoc, if at all, and complemented by initiatives from CSOs, which have also faced numerous obstacles in undertaking psycho-social interventions in the north and east. An alarming level of lack of awareness affects people with intellectual and psychiatric disabilities. In particular, the adults who face learning and severe psychiatric disabilities are overlooked as a community in relation to persons with physical disabilities. Lack of residential and community support for such persons is also reported.[[64]](#footnote-64) In addition, there is a limited number of psychiatrists to treat persons with psychiatric disabilities and the lack of trained staff to provide assistance further marginalise persons with psychiatric disabilities. Moreover, psychiatrists often tend to emphasise medication and pharmaco-therapies with little attention to occupational therapy and social intervention.[[65]](#footnote-65)

Moreover, in instances where the persons receive treatment, they are often detained and treated against their will, which jeopardises the dignity of such persons. Standards and safeguards in relation to treatment and its monitoring are not provided for in the current legislation that governs mental health issues in Sri Lanka.[[66]](#footnote-66) Drafting of a new legislation on mental health and the Mental Health Policy are underway, but again there are concerns over limited consultation.

In Batticaloa for example, also a district affected by the war, it was noted that while community centers to look after elders were available, they did not have adequate facilities to accommodate the elders with disabilities. The hospitals that provide rehabilitation include one children’s hospital with facilities no more than basic and with a limited number of physiotherapists. While CBR and rehabilitation hospitals are vital to re-integrating persons traumatised by the war and suffering from intellectual/ psychiatric disabilities,[[67]](#footnote-67) the lack of such facilities in adequate measure in war-torn provinces raises grave concerns and underlines how the mental health issues of PwDs are treated.

## Women with disabilities (WwDs)

There is a dearth of data focusing on WwD. However, WwD face systemic and multiple-discrimination based on gender and disabilities, which is gravely overlooked.[[68]](#footnote-68) No special schemes have been commenced by State institutions to cater to WwD. The Women’s Bureau[[69]](#footnote-69) that is meant to focus on enabling women to overcome difficulties in different areas does not however have a separate unit for girls and WwD. They are also not given due recognition in key governmental institutions, for instance, the National Committee on Women that comes under the purview of the Ministry of Women and Child Affairs does not have representation of WwD, despite their demands.

WwD face additional barriers in accessing education, vocational training, and judicial services.[[70]](#footnote-70) In addition to the discrimination, the overprotective attitudes of their families often amount to oppression. WwD, especially intellectual and psychiatric disabilities, are also vulnerable to experiencing higher rates of domestic violence (which often goes unreported) and desertion by their husbands. Social prejudices and spousal domination are also instrumental in hampering sexual and reproductive rights of WwD.

CSOs have however attempted to address this lacuna by forming collectives or groups of WwD and connecting with them.[[71]](#footnote-71) Initiatives of such organisations generally revolve around leadership and vocational training, improving sanitation facilities for the families with PwD, livelihood and income generation, and provision of counseling services. Working in collective groups has helped the WwD empowerment and interdependence. However civil society organisations focus their work in specific geographical areas and their reach is limited and hence also their impact.

# Participation of the PwDs in designing, planning, implementing and evaluating the support services

The NCPD includes PwDs and DPOs appointed by the President, on the recommendation of the Minister of Empowerment and Social Welfare, with the aim of promoting participatory decision making on the matters which affect PwDs. However, the members can be removed by the President unilaterally, reappointment depends on recommendation of the minister and as their remuneration is also determined by Ministers, the independence of the NCPD is severely compromised. Thus it has largely been playing a conventional role of overseeing procedures of various projects and schemes initiated by the State as opposed to proactively designing, planning, implementing and evaluating the support services for the PwDs.

The National Policy on Disability 2003, National Action Plan on Disability 2014 and the Accessibility Regulations of 2006 and 2009,[[72]](#footnote-72) produced with participation of DPOs, is the basic policy framework for provision of services for PwDs. They are to be implemented by the specified ministries, provincial councils and local authorities. However, there isn’t sufficient participation of PwDs in any of these bodies. Even the NSPD (which assists the NCPD) itself does not ensure the quota of employment of PwDs.

Lack of consultation at the grass root level and weak engagement with PwDs from rural areas was highlighted during the interviews as other weaknesses. These lead to support service schemes which do not meet the diverse special needs of the PwDs and further entrench inequalities within the community itself based on the severity of disability, level of mobility, economic and social standing and geographic location.

# Conclusion

The services provided by the state have been largely coloured by a welfare- approach. Accordingly, the people at the receiving end of financial assistance are the so-called ‘needy’ persons with disabilities. Facilitating accessibility in buildings and other public places whereby all PwDs would benefit has clearly not been prioritized by the state. Thus the state has actively contributed in isolating the community of PwDs as a whole from participating in public affairs. In addition, as far as the financial assistance is concerned, bureaucracy and lack of transparency delay the timely and efficient provision of service further compromise an already inadequate level of assistance.

Accordingly the system in place nurtures an environment conducive to keeping PwDs as dependents. It provides minimal space for effective participation of PwDs in decision-making, which directly affects their lives. All of this further entrenches discrimination and neglect of PwDs and their rights. The delay in bringing about legislation to give effect to the comprehensive framework of rights in the CRPD that was ratified by Sri Lanka is yet more evidence of the marginality of this issue within the corridors of power.

Though the policy framework on disability has increasingly adopted progressive language and rhetoric, their translation into reality and implementation is largely unsatisfactory. Sri Lanka is urgently in need of radical reforms and bottom-up approaches to ensure effective upholding of the rights of the PwDs.  This must range from ensuring adequate data and records pertaining to PwDs to auditing the full range of accessibility and support services so they reflect the priorities of the community rather than the state. The entire process however must be built on a transparent and inclusive approach that privileges the voice and leadership of PwDs in order that all policy initiatives are relevant, effective and sustainable.

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# List of persons interviewed

Director, National Secretariat for Persons with Disabilities

Co-coordinator, CBR unit of the Department of Social Services of the Department of Social Services

Director, Non formal and Special Education Unit of the Ministry of Education

National Secretariat for the Elders

Women’s Bureau, Ministry of Women and Child Affairs

Employers’ Federation of Ceylon

Navajeevana Rehabilitation, Tangalla

Motivation Sri Lanka

Sri Lanka Federation of Visually Handicapped

Basic Needs, Batticaloa

Parents and Teachers Organisation for Intellectually Disabled in Sri Lanka (PTOIDSL)

[Association of Persons with Rheumatic Diseases (APRD](https://www.facebook.com/Association-of-Persons-with-Rheumatic-Diseases-APRD-522050764624576/?ref=page_internal))

Lecturers and students from the University of Colombo and University of Kelaniya (from the faculties of arts, law and medicine)

MENCAFEP, Nuwara Eliya and Batticaloa

Center for Accessibility Monitoring and Information on Disability, Batticaloa

Northern Province Consortium Differently Abled, Kilinochchi

International Foundation for Electoral Systems

Women’s Development Centre, Kandy

Disability Organisations’ Joint Front (DOJF)

[Association of Women with Disabilities](http://www.akasa.lk/) (AKASA)

Independent consultants and activists

Occupational therapists, Medical doctors, Practitioners in the field of mental health, lawyers, families of PwDs

World Vision

Deaf Link

Christian Blind Mission (CBM), Sri Lanka

Narada Savana Foundation

Human Rights Commission, Sri Lanka

MyRight

Human Link, Ampara

# Annexure I – Extracts of constitutional and legal provisions on the rights of the PwDs

Constitution of the Democratic Socialist Republic of Sri Lanka 1978

Article 12 – Right to equality

(1) All persons are equal before the law and are entitled to the equal protection of the law.

(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds…

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

(4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

Protection of the Rights of Persons with Disabilities Act, No 28 of 1996

Section 23 - Provisions for the protection and advancement of persons with Disabilities

 (1) No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.

(2) No person with a disability shall, on the ground of such disability, be subject to any liability, restriction or condition with regard to access to, or use of, any building or place which any other member of the, public has access to or is entitled to use, whether on the payment of any fee or not.

Section 37 – Interpretation

"Person with disability" means any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life

Elections (Special Provisions) Act, No 28 of 2011

Amends the principal enactments on elections of Local Authorities, Parliamentary Elections, Referendums, Presidential elections and Provincial Councils elections to include,

(a) Any voter who is subject to a disability and such disability presents the voter from voting in accordance with the directions given for the guidance of the voters…, maybe accompanied by a person who shall mark the ballot paper of such a voter in the manner directed by the voter in the presence of the presiding officer and another member of his polling staff and cause such ballot paper to be placed in the ballot box.

(b) A persons subject to a disability who wishes to be accompanied by a person to vote shall be eligible to do so if such person produces a Certificate of Eligibility substantially in the form set out…in the Act, to the presiding member or another member of his staff.

(c) For the purposes of this section –

“accompanying person” shall be a person not less than eighteen years of age and shall-

(i) not be a candidate who is contesting at the relevant election;

(ii) not be a presiding officer, an authorized officer or a poling agent at the relevant election;

(iii) not be a person subject to a disability

“disability” in relation to a registered voter who is subject to a disability and who is eligible to vote…

(4A) Every person who is accompanying a voter who is subject to a disability, to a polling station to mark and place the ballot paper of such a voter in the ballot box as directed by the voter, shall maintain and aid in maintaining the secrecy of such voting.

(4B) It shall be the duty of the presiding officer to maintain a record of relevant information of every person accompanying a voter who is subject to a disability to a polling station to mark the ballot paper of such voter.

# Annexure II - Structure of state institutions dealing with disability

**Central government**

Ministry of Social Empowerment and Welfare

National Council for Persons with Disabilities (NCPD)

 Department of Social Services

District Secretariat level

Divisional Secretariat level

The CBR Programme

National Secretariat for Persons with Disabilities (NSPD)

**Provincial Councils**

Provincial directors on Social Services

# Annexure III – List of the services provided by the state

Under the purview of the NSPD:[[73]](#footnote-73)

[Construction of a new house - Rs. 250,000.00](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#construction-of-a-new-house-rs-250-000-00)

* The applicant should own a piece of land - a certified copy of the Deed has to be submitted
* Monthly income should be below Rs. 6000.00
* Age limit should be 18-70
* An Estimate has to be submitted
* All the above documents and a Completed application along with the recommendation of Divisional Secretary has to be submitted
* An application could be obtained from the Divisional Secretariat.

[Accessibility facilities for the persons with disabilities](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#accessibility-facilities-for-the-persons-with-disabilities)

* In accordance with the Protection of the Rights of Persons with Disabilities Act No. 28 of 1996, all existing public buildings, public place and where common services are available, shall be made accessible to persons with disabilities is compliance with the Disabled Persons (Accessibility) Regulations, no 01 of 2006 published in the Government Gazettes Extra Ordinary No 1467/15 on 17.10.2006 and No 1619/24 on 18.09.2009. However, this Gazette extra ordinary is being amended to fit to the present and actions are in the progress in connection with the awareness on the strong need of providing the accessibility facilities in institutional levels.

[Self Employment Assistance](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#self-employment-assistance)

* The applicant’s monthly  income should be below Rs. 6000.00
* An Estimate for the self employment should be submitted
* The completed application and estimate have to be sent along with the Divisional Secretary’s recommendation
* Medical Certificate
* Maximum amount is Rs. 25,000.00

[Medical Assistance](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#medical-assistance)

Medical assistance is provided for surgeries

* A letter of request for financial assistance
* A letter of recommendation by Divisional Secretary
* Medical certificates
* Cost for treatment/surgery
* Maximum amount payable is Rs. 20,000.00

[To purchase medicine and traveling expenses](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#to-purchase-medicine-and-traveling-expenses)

* Maximum amount to be paid is Rs. 20,000.00
* A Prescription of medicine to be purchased has to be submitted (certified by the medical officer)
* An Estimate for the medicine from Osusala has to be submitted

[Assistive Devices](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#assistive-devices)

Following assistive devices are provided for the needy persons:

* Tricycles
* Wheel chairs
* Elbow
* Commode Wheel Chair
* Hearing Aid
* Crutches
* Spectacles
* A recommendation letter from Divisional Secretary has to be submitted
* Prescriptions for spectacles and eye lenses have to be submitted

Payment of Rs. 3,000.00 for

* Families with low income level (below Rs.3000.00 monthly)
* Number of disabled persons in the family is considered for the selection of recipients
* Priority is given if the breadwinner is disabled
* If the person is severely disabled, priority is given.

[Educational Assistance](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#educational-assistance)

* The applicant’s monthly  income should be below Rs.6000/-
* A quotation for the required book list  should be submitted
* The completed application and quotation have to be sent along with the Divisional Secretary’s recommendation
* Medical Certificate of the disable person.
* Maximum amount is Rs. 10,000/-

[Payment of Rs.3, 000/- for CKDU kidney patients](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#payment-of-rs-3-000-for-ckdu-kidney-patients)

* Families with low income level (below Rs.3000/- monthly)
* The completed application has to be sent along with the Divisional Secretary’s recommendation.
* Dully filled Medical Certificate.
* CKDU Kidney patients have been selected for the payment of Rs. 3,000.00 upon the recommendation of the Ministry of health in severely spreader district of Kurunegala, Ampara, Vavuniya, Mathale, Hambanthota, Polonnaruwa, Mullaitive, Anuradapura, Trincomalee.

[Provision of Assistance for Victoria home](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#provision-of-assistance-for-victoria-home)

* A sum of Rs 8mn has been allocated to pay the salaries of the staff and water and electricity bills of Victoria Home, Rajagiriya where the severely disabled incurables are detained.

[Sign Language Courses](http://socialemwelfare.gov.lk/web/index.php?option=com_content&view=article&id=30&Itemid=151&lang=en#sign-language-courses)

* It is important to communicate with the disabled persons to facilitate their services easily. The National Secretariat for Persons with Disability has commenced a programme for training Government Officers in sign Language; Brail Methodology, \*Mobility and Orientation.

# Annexure IV – Statistics on PwDs in DCS statistics

http://www.statistics.gov.lk/page.asp?page=Population%20and%20Housing

# Annexure V – Sri Lanka: National Action Plan for Disability (January 2014) – A summary

|  |  |  |
| --- | --- | --- |
|  | Design of thematic and focus areas | State sections responsible for implementation |
| 1. | Empowerment  | Ministries - Social Services, health, education, child development and women’s affairs, economic development, labour, culture and arts affairs, defence and urban development, disaster management, external affairs, finance & planning, higher education, housing, indeginious medicine, justice, land & land development, mass media and information, national heritage, productiveity promotion, provincial councils and local government, public administration, sports, transportTelecommunication Regulatory CommisionDepartment of ElectionsProvincial Councils Local authorities  |
| 2. | Health and rehabilitation  |
| 3. | Education |
| 4. | Work and Employment |
| 5. | Mainstreaming and enabling environemnts  |
| 6. | Data and research  |
| 7. | Social and institutional cohesion  |

1. On 17th October 2016. [↑](#footnote-ref-1)
2. See, for instance Dinesha Samararatne and Karen Soldatic, ‘Disability without Dignity: Rights, Women and Disability in Rural and Post-war contexts in Sri Lanka’ (unpublished) 3. [↑](#footnote-ref-2)
3. Protection of the Rights of Persons with Disabilities Act No. 28 of 1996 is the governing legislation on PwD. Section 37 defines a PwD as any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life. [↑](#footnote-ref-3)
4. *Singarasa v Attorney General*, SC Spl (LA) No 182/99 [↑](#footnote-ref-4)
5. Padmani Mendis, *Training and Employment of People with Disabilities: Sri Lanka 2003* (International Labour Organisation 2004) 16. [↑](#footnote-ref-5)
6. Articles 12(1) and (2) of the 1978 Constitution of Sri Lanka [↑](#footnote-ref-6)
7. However, the Supreme Court has held that ‘special provision’ does not amount to affirmative action. See Re *Local Authorities Elections (Amendment) Bill* SC (Special Determination) 6/2010) [↑](#footnote-ref-7)
8. *Dr. Ajith Perera v Attorney General* SC FR No 221/2009 SC Minutes 27 April 2011 [↑](#footnote-ref-8)
9. It takes an average of ten years and two months for a criminal case, as estimated by the Attorney General’s Department. [↑](#footnote-ref-9)
10. The Commission does not have a separate desk nor any accessibility facilities for PwD. This impedes the right of the PwD to obtain legal aid. [↑](#footnote-ref-10)
11. Protection of the Rights of Persons with Disabilities Act No 28 of 1996, amended by Act, No 33 of 2003. [↑](#footnote-ref-11)
12. Section 23, Protection of the Rights of Persons with Disabilities Act, No 28 of 1996 [↑](#footnote-ref-12)
13. Elections (Special Provisions) Act, No. 28 of 2011. [↑](#footnote-ref-13)
14. An observation by a Disability Inclusion Consultant – International Foundation for Electoral Systems. [↑](#footnote-ref-14)
15. A female Member of Parliament representing the Wanni district, and a member of the Uva Provincial Council. [↑](#footnote-ref-15)
16. Article 33 of the CRPD requires independent mechanisms in place. [↑](#footnote-ref-16)
17. The estate employees have generally been discriminated as labourers belonging to the Indian-origin, they were provided citizenship only in 2003. They consist of the most neglected ethnic minority community in Sri Lanka. See *Submission to the CERD*, IMADR Asia Committee, July 2016 < <http://imadr.org/wordpress/wp-content/uploads/2016/07/IMADR_Sri-Lanka_CERD90_July2016.pdf>> accessed on 19.10.2016. [↑](#footnote-ref-17)
18. According to the Central Bank statistics, mean household expenditure for a month is 41,444 in 2012-2013. Accordingly Rs. 3000 per month is grossly inadequate to cover costs of basic needs of the family. See *Sri Lanka Socio - Economic Data 2015,* Central Bank of Sri Lanka (June, 2015) accessed at <<http://www.cbsl.gov.lk/pics_n_docs/10_pub/_docs/statistics/other/Socio_Econ_Data_2015_e.pdf>> on 19.10.2016 [↑](#footnote-ref-18)
19. Number of beneficiaries in 2016 is 30654, according to the NSPD. [↑](#footnote-ref-19)
20. Padmani Mendis, ‘Ratification and Implementation of the UN Convention on the Rights of Persons with Disabilities’*,*(Submission to Human Rights Commission of Sri Lanka, 2016). [↑](#footnote-ref-20)
21. Nuware Eliya records of 94.36% of the population living in rural and estate sectors in Sri Lanka. According to the CBSL Socio-Economic Data in 2015, the median income per person in the estate sector and in the rural sector (is 7100 and 10,843 respectively in 2012/13 which) are lower than the average per capita income for the same year, (Rs. 11,819). However, Nuwara Eliya ranks 17th in the list of number of beneficiaries who receive the monthly allowance. See, *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) 16; *Socio - Economic Data 2015* (n 14) [↑](#footnote-ref-21)
22. Income level is to be certified by the Divisional Secretary/ Grama Niladhari. [↑](#footnote-ref-22)
23. Private actors in the field include civil society organisations religious institutions. [↑](#footnote-ref-23)
24. Also called ‘nivasa’ or ‘illam’ refers to the residential support. [↑](#footnote-ref-24)
25. See Mental Health, p 13 [↑](#footnote-ref-25)
26. As part of the CBR process, the ‘self-help groups’ are created comprising of PwD and their families to equip the stakeholders with skills and knowledge. According to the Unit, currently 492 officers conduct training in accordance with the WHO manual and the national policy on disability. [↑](#footnote-ref-26)
27. As observed by a medical doctor who is also a disability rights advocate. [↑](#footnote-ref-27)
28. CBR noted they carry out this to a limited extent though it’s in the mandate of NSPD. [↑](#footnote-ref-28)
29. A number of CSOs stated the obstacles in accessing aid due to taxes and poaching of their trained staff by the government. [↑](#footnote-ref-29)
30. ##  Assistive devices and technologies are defined as those whose primary purpose is to maintain or improve an individual’s functioning and independence to facilitate participation and to enhance overall well-being. They can also help prevent impairments and secondary health conditions. See *Disability and rehabilitation*, World Health Organization <[http://www.who.int/disabilities/technology/en/>](http://www.who.int/disabilities/technology/en/%3E%20)  accessed on 20.10.2016

 [↑](#footnote-ref-30)
31. A Public Officer handling the affairs of the smallest administrative units, appointed by the Central government. [↑](#footnote-ref-31)
32. Ministry of Social Empowerment and Welfare <http://socialemwelfare.gov.lk/web/index.php?option=com\_content&view=article&id=30&Itemid=151&lang=en> accessed on 20.10.2016. [↑](#footnote-ref-32)
33. For instance, it was stated by the CSOs that services were easily accessible where a family member of a PwD is a public officer as opposed to where the PwD and his caregivers were illiterate. [↑](#footnote-ref-33)
34. For instance, no proper inquiry is made on the required wheelchair, among the different types of wheelchairs. [↑](#footnote-ref-34)
35. According to the CBR unit of the Department of Social Services. [↑](#footnote-ref-35)
36. Only 5 are available, according to the NSPD. [↑](#footnote-ref-36)
37. There was no awareness among the officials in state institution on the role of deaf-blind interpreters. [↑](#footnote-ref-37)
38. According to the non-formal and special education unit of the Ministry of Education. [↑](#footnote-ref-38)
39. 111 graduate teachers are available. [↑](#footnote-ref-39)
40. Information provided by the CBR during the interview. [↑](#footnote-ref-40)
41. Information by the Non Formal and Special Education Unit of the MoE [↑](#footnote-ref-41)
42. Although NSPD stated in the interview that it provides interpreters on request, no other evidence of providing sign language interpretation was provided. [↑](#footnote-ref-42)
43. For instance, an organisation that runs for profit, through their foundation for charity carries out special preschool education programme to the children with disabilities, together with the Ministry of Child and Women’s Affairs. [↑](#footnote-ref-43)
44. The NSPD and the CBR programme records of sports day and similar events with the collaboration of private actors. [↑](#footnote-ref-44)
45. *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) [↑](#footnote-ref-45)
46. See Community Based Rehabilitation, p7 [↑](#footnote-ref-46)
47. According to the *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) [↑](#footnote-ref-47)
48. 70.85% of the girl children with disabilities attend school. *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) [↑](#footnote-ref-48)
49. Education Ordinance, No 31 of 1939. [↑](#footnote-ref-49)
50. # Chandani Kirinde, ‘*Education compulsory for children between 5 and 16 years’*,

<http://www.sundaytimes.lk/160501/news/education-compulsory-for-children-between-5-and-16-years-191731.html> accessed on 20.10.2016. [↑](#footnote-ref-50)
51. The progress in terms of ‘inclusive education’ is stagnated to the stages of ‘exclusion’ and ‘segregation’ of children with disabilities in mainstream education. Further measures are required to reach ‘integration’ and achieve ‘quality inclusive education’. See, General Comment 4, Right to inclusive education CRPD/C/GC/4 (2016) [↑](#footnote-ref-51)
52. Data Management Branch, Ministry of Education, ‘Sri Lanka: Education Information 2015’ (2015) <<http://www.moe.gov.lk/english/images/Statistics/EducationData_2015.pdf>> accessed 06.10.2016. [↑](#footnote-ref-52)
53. University of Kelaniya, for instance. [↑](#footnote-ref-53)
54. Within the age group of 20-29 involved in under graduate/ post graduate studies. *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) [↑](#footnote-ref-54)
55. University Grants Commission Sri Lanka, 'Admission to Undergraduate Courses of the Universities in Sri Lanka - Academic year 2015/2016' (2016) 130 <<http://www.ugc.ac.lk/downloads/admissions/Handbook_2015_2016/ENGLISH%20HANDBOOK%202015-2016.pdf>> accessed on 20.10.2016. [↑](#footnote-ref-55)
56. Padmani Mendis, *Training and Employment of People with Disabilities: Sri Lanka 2003* (International Labour Organisation 2004) 12-14. [↑](#footnote-ref-56)
57. Calculated as the ratio of the employed to the working age population with disabilities. *Census of Population and Housing – 2012 Sri Lanka, POPULATION TABLES*, (Department of Census and Statistics 2012) [↑](#footnote-ref-57)
58. As observed by the Employers’ Federation of Ceylon. [↑](#footnote-ref-58)
59. Public Administration Circular No. 27/88 dated August 1988 cited in Padmani Mendis, *Training and Employment of People with Disabilities: Sri Lanka 2003* (International Labour Organisation 2004) 18. [↑](#footnote-ref-59)
60. Padmani Mendis, *Training and Employment of People with Disabilities: Sri Lanka 2003* (International Labour Organisation 2004) 18. [↑](#footnote-ref-60)
61. As stated by Dr. Padmani Mendis, Advisor on Disability and Rehabilitation. [↑](#footnote-ref-61)
62. CSOs and DPOs work actively on improving the conditions of persons with disabilities, affected by the armed conflict. However there is lack of support from the state. [↑](#footnote-ref-62)
63. No 28 of 1996. [↑](#footnote-ref-63)
64. As stated by CSOs working with Persons with psychiatric disabilities [↑](#footnote-ref-64)
65. Clinic based care and not community based ongoing care [↑](#footnote-ref-65)
66. The Mental Disease Ordinance, No 1 of 1873 is the current legislation relating to mental health which is based on the concepts and attitudes to mental disorder that prevailed in 1873 when this Law was first enacted. Many changes have taken place since then and the need to revise the existing Ordinance has been recognized. [↑](#footnote-ref-66)
67. Only 2 rehabilitation hospitals are available in the country, in Ragama and Digana, with few more hospitals having a separate unit for rehabilitation. [↑](#footnote-ref-67)
68. The twin-track approach stated in the General Comment 3, Women and girls with Disabilities CRPD/C/GC/3 (2016) is required in the long run to rectify the unequal state of affairs. However lack of political will and the systemic discrimination towards women that is perpetuated by patriarchal norms and behaviours pose greater challenges.

See, for instance, Dinesha Samararatne and Karen Soldatic, ‘Rural disabled women’s inclusion in post-armed conflict Sri Lanka’ (2014) Paper published by Social Scientists Association, Sri Lanka and University of New South Wales, Australia; Dinesha Samararatne and Karen Soldatic,(n2).

Also see, General Comment 3 of 2016. [↑](#footnote-ref-68)
69. Women’s Bureau is a State institution under the Ministry of Women and Child Affairs that functions as the ‘national machinery for women’s development in keeping with the state policies through socio – economic empowerment’. See Women’s Bureau, Ministry of Women and Child Affairs < <http://www.childwomenmin.gov.lk/English/institutes/womens-bureau>> accessed on 20.10.2016. [↑](#footnote-ref-69)
70. For a further note see, Dinesha Samararatne and Karen Soldatic, (2014) (n 69) 9. [↑](#footnote-ref-70)
71. For instance, CSOs in Anuradhapura and Kandy were involved in social mobilization of women. [↑](#footnote-ref-71)
72. Implementation of which is endorsed by *Dr. Ajith Perera v Attorney General* SC FR No 221/2009 SC Minutes 27 April 2011. [↑](#footnote-ref-72)
73. http://socialemwelfare.gov.lk/web/index.php?option=com\_content&view=article&id=30&Itemid=151&lang=en [↑](#footnote-ref-73)