

SRI LANKA UNIVERSAL PERIODIC REVIEW

SUBMISSION BY THE WOMEN & MEDIA COLLECTIVE, SRI LANKA

1. Discriminatory Laws

- Abortion is illegal unless the mother's life is in danger
- Marital Rape is only recognized in cases of judicial separation
- Muslim women have unequal rights in marriage and divorce under Muslim personal law. There is no minimum age of marriage and Polygamy is legal. In theory a women's consent is necessary for marriage, in practice, they could be married off without their consent. Men could divorce without giving a reason or compensation, women have to prove fault. Muslim women cannot be appointed as family court judges or registrars of marriages
- Same sex sexual relations criminalized
- Women discriminated under Vagrancy Ordinance and Brothels Ordinance
- Women's Charter (1993) not enacted as law. No National Commission on Women as stipulated in Charter.

2. Security and Violence

2.1. There are no comprehensive statistics on the incidence of violence against women. The National Committee on Women is in the process of setting up a data base but has little capacity for comprehensive data collection. In 2006, the Police Bureau for the Protection of Women and Children recorded **1,141 grave (including murder 144, grave injury 449, and rape 353) and 2,344 minor crimes (including sexual harassment 963, beating and causing injuries 1144) against women.**

- All the incidents in the category of grave crimes require prosecution but Police Department is not able to indicate if this has been done
- Police nor the Attorney General's Department able to furnish statistics on prosecutions, convictions or appeals
- AG's Department does not maintain records of rape convictions as they have no mechanism to monitor cases in High Court

2.2. Delays – often between five and twelve years before cases of sexual violations (rape/incest) are concluded due in part to two tier inquiry system (non summary inquiries and high court trials). Level of forensic expertise around the country is unequal. Very few hospitals have medical officers designated to examine sexual abuse cases. Only Judicial Medical Officers (JMOs) have the necessary training in examination. According to practicing lawyers, there are less than 10 JMOs in the country and victims sometimes wait days to be examined (Sri Lanka Shadow Report to CEDAW, 2002).

2.3. Domestic Violence –Majority of police complaints resolved through police mediation or referral to Mediation Boards - very limited use of the Domestic Violence Act (2005). Only 33 cases filed under the DV Act (2007). Problems include lack of adequate knowledge of the Act (police, judiciary, lawyers and women); reluctance of Magistrates to issue ex parte orders; insufficient legal and other support services (including shelters – only one state run shelter) inadequate follow-up mechanisms to ensure the enforcement of Protection Orders. Research

and complaints received by institutions working with women affected by domestic violence record a significant incidence of rape within marriage (Women in Need, Centre for Women's Research, Women and Media Collective). Murder is sometimes preceded by offenses of sexual or physical abuse.

2.4. Abortion – Over 500-750 illegal abortions a day (UNFPA 2007). Maternal mortality low but deaths due to septic abortions 11.7%. (Family Health Bureau, Min. of Health 2005). State resistance to attempts to decriminalize abortion, at least in cases of rape, incest or foetal abnormalities, despite recommendations in Women's Charter (1993).

2.5. Politically motivated Murder and Disappearances of Women – 20 murders of women have been reported from the Jaffna peninsula and Mannar by University Teachers for Human Rights, Jaffna and the North East Secretariat for Human Rights, Kilinochchi between November 2005 and December 2006. Some of these are allegedly by the security forces while others are by the LTTE. 16 politically motivated murders of women reported in the Press between January and September 2007 were recorded by INFORM. 15 disappearances of women were recorded by the Women's Development Centre, Jaffna between January 2006 to January 2007.

2.6. Custodial Rape - There have been a number of reports of sexual violence against women where the alleged perpetrators have been armed forces personnel and the police (as well as personnel from state institutions such as schools and children's homes). Not all cases are reported and there is no systematic documentation available. There were press reports of 37 sexual offences allegedly committed by armed forces personnel or by deserters in 1998. (Sri Lanka Shadow Report to CEDAW, 2002). There have been no convictions in cases of custodial rape where security forces personnel have been implicated or charged, except the Krishanthi Kumaraswamy rape and murder judgment of 1998.

2.7. Arrest and Detention - Large numbers of women have been detained following cordon and search operations, for periods of at least 24 hours and safeguards to protect women in custody (as contained in presidential directives for the welfare of detainees issued in July 1997) are ignored. Women held under the public security laws have complained that they are not afforded basic safeguards (a woman warden is supposed to be present in every police station when women are being held there but this rarely happens; police do not ensure the presence of women wardens even when they organize large scale cordon and search operations). Menstruation in custody (especially in police custody) is a major problem. Women held in custody sometimes forgotten and held longer than necessary because they are visited less often.

2.8. Detention for soliciting: special detention centres for this category of crime. Lack of clarity as to when women can be released; often children below the age of 5 kept with mothers in these facilities (the same applies for general crimes). Women in special facilities such as the Methsevana Women's Detention home, mainly for women held under the Vagrants Ordinance, women 'astray', drug abusers, and mentally disabled women are only released if a family member, often a male, is available.

2.9. Girls: detention centres for girls - no separation between girls who have come into conflict with the criminal law and girls in need of care and protection (child workers/sexually abused girls/street children). Sexually abused girls held in custody until cases against perpetrators completed. Juvenile justice laws permit girls who come into conflict with criminal law to be held until they are 18, but, no mention of what happens to them afterwards - many of the girls end up entering sex work.

3. Housing rights

State land distribution policy awards property in the name of the head of household; customarily only men are viewed as heads of households, unless the man is dead or missing. Muslim women in the East owned almost 95% of the houses that were destroyed by the Tsunami and have been deprived of ownership to replacement houses which were registered in the name of the adult male in the family (Suriya Women's Development Centre, Batticaloa, 2007).

4. Internally Displaced Women

4.1. Constant military checks and round-ups in the resettlement areas make women particularly vulnerable. Militant groups roam around freely in these areas and cases of sexual assault have been reported. There is fear amongst families, both within and outside IDP camps, about security of, and sexual violence against young women, resulting in families arranging 'marriages' for their teenage daughters. Young girls are not sent to school due to the increased number of checkpoints. Women also experience gender violence in camp situations and there have been instances where such cases have been suppressed by management authorities. Women have no livelihood options and find it difficult to extricate themselves from violent situations, such as domestic violence (South Asians for Human Rights (SAHR) Mission 2007).

4.2. At many camps and welfare sites facilities are minimal with regard to health issues, such as family planning, child bearing and feeding infants. There is no systematic emergency response in place to address the reproductive health needs of women in situations of enforced displacement (SAHR 2007).

4.3. In camp situations men are better positioned to negotiate with authorities and are more likely to be consulted in decision making or asked to assist with camp matters. Single women or widows, responsible for family welfare among the displaced are particularly at a disadvantage with regard to accessing services and provisions (SAHR 2007).

5. Poverty and Women's Socio-Economic Rights

5.1. Labour Force, Female Employment and Unemployment

5.1.1. 8 million persons are in the labour force. Excluding data from the Northern and Eastern provinces, data from the first quarter of 2006 indicates that the All Island female labour force participation rate was 35.5%. The corresponding data for men was 69.3% in 2006. The female labour force participation rate was highest among the age group 20 (45.8%) to 39 years (47.2%). Women comprise 2.4 million of the labour force (Dept. of Census and Statistics, 2004).

5.1.2 39.9% of women were in the Agricultural sector, 26.1% in the Industrial sector and 34.0% in the Service sector. There has been a shift in the **unemployment rate** of women from 17.7% in 1996 to 10.1% in 2006, a significant shift compared to that of men from 8.2 to 5.5 in the corresponding period. Most of these women find employment as **semi-skilled or unskilled workers** who are in the lower echelons of the labour market (Dept. of Census and Statistics, 2004).

5.2. Poverty

5.2.1. The current official poverty line is Rs. 1423 (US\$ 14) per capita. The national poverty headcount for Sri Lanka in 2002 was 22.7 (excludes north and east data). In 2006 it was estimated

that inflation had increased significantly to 20%. An estimated 2 million households in poverty in the country (World Bank 2007). 80% of participants in State Poverty Alleviation Programme are women. Approximately 21% of households are female headed (excludes north and, east data - Dept. of Census and Statistics, 2004).

5.3. Wage disparities

5.3.1. In the private sector (formal) women who have passed the G.C.E. A/L examination and higher exams on average receive only 67% of the salary received by men of similar qualifications. In the informal sector this difference is greater (Dept. of Census and Statistics 2004).

6. Women Overseas Migrant Workers

6.1. Poverty incidence in the origin district is strongly associated with migration to Colombo. A large number of migrants come from poorer districts in the South and North and East. Migrant women domestic workers are issued with visas which do not categorise them as workers with rights stipulated locally or internationally. The most frequent violations reported by migrant workers in 2005 ranged from physical or sexual harassment, non-payment of agreed wages, lack of communication. Deaths of migrant workers overseas are categorised as accidental, homicide, suicide (Sri Lanka Bureau for Foreign Employment, 2006). Migrant workers are regarded as temporary workers who are part of the international informal sector and trade unions most often do not take up their rights. In March 2007 the Government attempted to impose a ban on women with children under the age of 5 from seeking overseas employment. Migrant workers overseas do not have facilities to exercise their voting rights in Sri Lanka.

7. Women in the Industrial Sector

7.1. Women employees in Free Trade Zones do not have access to leave which government sector employees are entitled to. These women are often compelled to work overtime without consent. Physical stress from intensity of the nature of work, often affects their ability to engage continuously in productive employment.

8. Reproductive rights

8.1. The Women's Rights Bill (drafts of 2001 and 2005), which adheres to the Sri Lanka Women's Charter of 1993 and international treaties and conventions on women's rights has yet to be finalised and approved by Parliament. Sterilisation requires the completion of an eligibility form approved by the Family Health Worker/Public Health Midwife, the *Graama Sevaka*, and the husband. The 'mandatory' requirement of approval by the spouse curtails women's ability to be free from coerced pregnancy.

8.2. There are no legal provisions which recognise marital rape in Sri Lanka. Over 500-750 illegal abortions a day (UNFPA 2007); the majority of women who seek abortions are married.

8.3 High incidents of anaemia among adolescent girls which may be a result of the onset of discriminatory practices within families as children get older. This trend has also been noted in relatively high levels in under-age pregnancies in Sri Lanka. The indicators of anemia in pregnant women is similar to Pakistan (Save the Children 2006). This stems directly from social practices that mitigate against equal access to food within the family based household. The incidence of low birth weight (when compared to other countries of the region) is not in keeping with the reduced maternal

and infant mortality rates. In 2005, the reported national percentage low-birth weight babies was 11.5% of live births. Regional differences were noted for areas such as Nuwara Eliya (17%), Ampara (14%) and Moneragala (13.9%). The proportion of teenage pregnancies high (9% or more) in Ampara, Batticaloa, Moneragala, Trincomalee, Jaffna and Puttalam (Family Health Bureau 2007). These are areas mostly affected by the conflict and/or extreme poverty.

8.4. In 2001 the number of widows far outweighed the number of widowers; 471,429 (5.5% of total female population) compared to 78,165 (0.9% of total male population) – Dept. of Census and Statistics 2005. A key factor which needs to be considered in both social welfare as well as reproductive health programmes in the country.

9. Rights in Marriage

9.1. The laws governing marriage, divorce and maintenance for Muslim women pre-date the current Sri Lankan Constitution. The present laws violate CEDAW principles. Muslim women have unequal rights in marriage and divorce. Polygamy is recognized in the Muslim Personal Law.

10. Political Representation of Women in Sri Lanka

10.1. Women's Representation in Elected Bodies

10.1.1. Parliament 2004 - 4.8%, Provincial Councils 1997 - 3.3% Local government 2002 - 1.97%, Cabinet 2007 – Of 52 ministerial positions, 3 are held by women, of 35 non cabinet ministerial positions none held by women, of 20 Deputy ministerial positions none are women.

10.1.2. Three major constraints in addition to constraints relating to culture, attitudes, etc.

10. 1.3. Electoral System

- There has been no substantial change in the number of women representatives since independence in 1948 (never above 6%). The change in Sri Lanka's electoral system from a simple majority system of elections to a system based on proportional representation in 1989 also failed to have a positive impact on women's representation unlike the experience of other countries.
- The current system of elections poses a number of challenges for women candidates. In the much larger constituency under PR women face both financial and time constraints in canvassing for votes. The type of PR used in Sri Lanka which has a system of preference voting, has also created competition within candidates of the same party.

10.1.4. Lack of Support from Political Parties

- Although women play an important role in campaigning and mobilizing support for political parties, they are marginalized from decision making structures within parties, and ignored as potential candidates during election times. The percentage of women receiving nominations is lower than 10%.

10.1.5. Violence

- Levels of violence in electoral politics is extremely high and tend to marginalize women from politics. There is thuggery, voter intimidation, and vote rigging but also assaults on candidates and their supporters, including women.
- In some elections, there have been gender specific and sexualized forms of violence.