



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
15 October 2019

Original: English
English, French and Spanish only

**Committee on the Elimination of Discrimination
against Women**

**Concluding observations on the eighth periodic report of
Sri Lanka**

Addendum

**Information provided by Sri Lanka in follow-up to the
concluding observations***

[Date received: 3 October 2019]

* The present document is being issued without formal editing.



Introduction

1. On 29 May 2015, the Committee on the Elimination of Discrimination against Women (hereinafter ‘the Committee’) considered the eighth periodic report of Sri Lanka (CEDAW/C/LKA/8). In its Concluding Observations (CEDAW/C/LKA/CO/8) issued on 3 March 2017, the Committee requested Sri Lanka to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 13(a), 13(b), 23(d), and 25(c).

Follow-up information relating to paragraph 13 (a) of the concluding observations (CEDAW/C/LKA/CO/8)

Actions taken to repeal discriminatory provisions of the Land Development Ordinance

2. At a meeting held between the Ministry of Women, the Ministry of Land and Parliamentary Reforms, and the National Committee on Women (NCW) on 17 October 2017 it was decided to amend the Land Development Ordinance. Accordingly, preliminary steps have been adopted to amend Schedule 3 of the Land Development Ordinance which currently provides for preferential treatment of male successors over female successors.

3. Current legislation does not provide for joint ownership. In accordance with the Committee’s recommendations, steps will be taken to hold discussions and consultations with relevant stakeholders including policy makers, non-governmental organisations to lobby for the adoption of a provision to enable joint ownership.

4. The GoSL has further taken a policy decision to amend the scheme for allocating marks to prioritise the applications for State allocated lands presented by widowed women and female headed households. All Provincial Land Commissioners have also been advised through a circular to prioritise applications submitted by female heads of households and widowed women.

5. GoSL has also decided to evaluate, through information obtained from selected land secretariats, whether women have been prioritised in state land allocation processes.

6. The issue of joint ownership has also arisen with respect to allocation of State lands under the State Lands Ordinance No. 8 of 1947. Currently, the State Land Ordinance does not provide for co-ownership. However, the Ministry of Women is currently following up on the possibility of introducing co-ownership in the light of this issue having been raised by an NGO named Centre on Housing Rights and Evictions (CHRE).

7. Under Goal 8, the National Human Rights Action Plan (NHRAP) 2017–2021 also identifies the necessity of providing equal rights and access to ownership and control over economic resources including land. It further identifies the necessity of amending discriminatory provisions in the LDO and the other personal laws on land alienation. However, the Progress Report released by the NCW in June 2018 noted that there has been poor progress in accelerating the enactment of the relevant amendment. Therefore, the Ministry of Women is currently striving to achieve the recommendations made by the Committee.

Follow-up information relating to paragraph 13 (b) of the concluding observations

Amendment to the Personal Laws

8. As emphasised in previous periodic reports, the GoSL is of the view that reforms to personal laws should be initiated by the respective communities. Nevertheless, several successful substantive changes have been made in this regard by the GoSL.

Muslim Personal Law

9. Two separate sets of recommendations have been forwarded to the Government with recommendations to amend the Muslim Marriage and Divorce Act (MMDA) Act No 13 of 1951. One set of recommendations/proposals have been submitted by the Ministry of Women and the other from the Report of the Committee appointed to consider amendments to the MMDA. For purposes of clarity, this Interim Report solely refers to the actions adopted / proposals made at the State level.¹

Proposals of Ministry of Women for Reforming Muslim Personal Law

10. The recommendations made by the Ministry of Women in September 2017 are currently being considered by the Attorney General's Department.

11. Ministry of Women made these proposals in collaboration with Muslim Women's Rights Organisations, Civil Society Organisations and Women's Rights Activists.

12. Ministry's proposed reforms are in two categories: Marriage, and Quazi Courts & Composition.

Marriage

13. Under the theme of marriage, proposals were made concerning the legal age of marriage, consent, polygamy, divorce, dowry, and maintenance. The Ministry of Women proposed that the general law pertaining to marriage reflected in the General Marriage and Registrations Ordinance be made applicable to all Muslims as proposed by both the Marriage and Divorce Commission Report – 1959 and the Concluding Observations of the CEDAW Committee.

14. The Ministry of Women expresses concern that girls below 12 years of age continues to occur without approval even though Section 23 of the MMDA includes provisions restricting registration of marriages of Muslim girls below the age of 12 without prior inquiry and authorisation by a Quazi from the area in which the minor resides. The Ministry of Women proposed that the minimum age of marriage should be raised to 18 years without exceptions and that all marriages should be registered with signatures from both the bride and the bridegroom to prevent the male guardian (*wali*) from consenting on the bride's behalf.

15. The Ministry has also proposed the mandatory registration of all Muslim marriages to prevent 'serial bigamy'.

16. With respect to polygamy, the Ministry of Women has made two recommendations:

(a) Prohibit polygamy using examples of other Muslim countries which have abolished the practice in the best interest of the families; or, alternatively;

¹ Recommendations extracted from the Report of Committee appointed to propose amendments to the MMDA are indicated in Annexure 1.

(b) Introduce strict conditions in the law to restrict the practice of polygamy to minimize harm and injustice against the wives and children.

17. Noting the inequalities associated with both Talaq divorce and Fasah divorce, the Ministry of Women proposed that unilateral right to declare Talaq should be removed and that the procedure relevant to Fasah divorce should be amended to create equality. It was further proposed that maintenance should be provided to women under both methods of divorce and that matrimonial gains should be shared under both Talaq divorce and Fasah divorce.

18. The Ministry of Women proposed to abolish giving of dowry (*kaikuli*). The alternative proposal is that movable/immovable property given to each other at the time of the nikah ceremony should be registered to be returned to the relevant parties in the event of dissolution of marriage.

19. To rectify the arbitrary provision of maintenance (*mata'a*) as per the discretion of the Quazi judges, the Ministry of Women has proposed that *mata'a* should be awarded as a monthly or a lump sum based on guidelines for calculation.

Quazi Courts & Composition

20. Under Quazi Courts and Composition, the Ministry of Women made proposals on two sub-themes:

(a) Composition of Quazi Courts – that 50% should be female Quazi judges. Further, women should be allowed to be jurors, and members of the Advisory Board;

(b) Qualifications of Quazis – the Ministry of Women has proposed to amend the MMDA to require minimum qualifications of Quazi judges.

21. The Ministry of Women proposed to set up a monitoring mechanism under the Judicial Service Commission. The Commission is also expected to review and monitor the quality of the decisions of Quazis when required.

Tesawalamai Law

22. The Ministry of Women has proposed to amend the Matrimonial Rights and Inheritance (Jaffna) Ordinance [Jaffna Matrimonial and Inheritance Ordinance (JMRIO)] No. 1 of 1911.

23. JMRIO imposes restrictions on women with regard to alienation of immovable property. Reforms of the law will take into consideration such obsolete and discriminatory provisions in the law and also post-war circumstances where many women were widowed either due to the death or disappearance of the husband.

24. Cabinet Memorandum No. MWCA/CM/2016/08 concerning the National Plan for Women Headed Households also provides for national level policy formulation which is currently utilised in developing policies to amend discriminatory provisions in personal and territorial laws such as the Tesawalamai law.

25. It has been proposed that Section 6 of the JMRIO, which requires women to obtain husband's written consent when disposing of her property acquired during or before marriage irrespective of the said property lawfully being considered as her separate property, be amended to eliminate the discrimination embedded therein. In cases where husband withholds consent to prevent the wife from disposing of her immovable property, it is proposed to vest the District Court with the power to issue an order of consent.

26. At a discussion held in the Jaffna District Secretariat on 27 October 2017, it was also decided to amend Section 34 to allow children born out of wedlock to inherit intestate property not only of the mother, but also of the father.

Kandyan Law

General Recommendations for Amending Kandyan Law

27. The Ministry of Justice (MoJ) is currently considering recommendations made by the Committee on Family Law Reform (FLR). The Committee on FLR commenced its work on 7 September 2009 and completed its work in 2010 and the recommendations of the Committee are currently being considered to implement amendments to the Kandyan law.

28. The Committee on FLR reiterated that the Kandyan Law recognises the concept of divorce by mutual consent and irretrievable breakdown of the marriage. The Committee proposed that Section 19(2) of the GMO should be amended to introduce irretrievable breakdown of marriage as a ground for divorce premised on Kandyan Law's concept of divorce based on mutual consent.

29. Some general recommendations of the FLR Committee were as follows:

(a) Any disadvantage to a spouse with no assets should be addressed by introducing amendments to the Kandyan Law to ensure that family provision is premised on economic necessity;

(b) All grounds for divorce, except mutual consent and separation from bed and board, specified in Section 32 of the Marriage and Divorce (Kandyan) Act should be repealed. The Committee further recommended that the period of separation qualifying for divorce should be a minimum of one year, and the reference to two years as an additional ground should be removed for redundancy.

Law Relating to Dowry Property under Kandyan Law

30. The Committee on FLR recommended that the following amendments be incorporated into the GMO to encapsulate those governed by both the GMO as well as the Kandyan Law:

(a) All property gifted to a woman at the time of marriage or afterwards as a marriage gift from her own family or friends shall be considered her separate property;

(b) All property gifted to a man, on the occasion of marriage from the bride's side as support for marriage will be held by him in trust for her as beneficial owner;

(c) Property gifted to a woman on the occasion of marriage from the bride groom's side as support for the marriage will be held by her in trust for him as beneficial owner.

Follow-up information relating to paragraph 23 (d) of the concluding observations

National Plan of Action for Addressing Sexual and Gender Based Violence

Effective Implementation of the National Plan of Action

31. In June 2016, Sri Lanka adopted the Policy Framework and National Plan of Action to Address Sexual and Gender Based Violence (SGBV) in Sri Lanka. This Policy Framework applies across nine key areas: child affairs, disaster management, economic development and employment, education, empowerment and prevention, foreign employment, health, justice and law reform, and media.

32. The GoSL, through the Department of Census and Statistics (DCS) in collaboration with the United Nations Population Fund (UNFPA), is currently

conducting a survey on gender based violence (GBV) with a view of identifying prevalence and incidences of such violence against women (VAW) and girls in Sri Lanka.

33. On 6 December 2016 a Ministerial Communication numbered 16/2522/740/013 was forwarded by the Ministry of Women concerning the necessity to minimise VAW in public institutions, and to ensure both gender equality and equity in public institutions.

34. As per Cabinet Memorandum No: MWCA/02//01/07 dated 15 November 2016 and Circular No 01 of 2017 of the Ministry of Women, the following proposals made by the Ministerial Communication No: 16/2522/740/013 have been approved:

(a) To establish gender mainstreaming programmes in all Ministries and to appoint an Additional Secretary / Director tasked to implement such programmes and to appoint a suitable officer for the said post without distinction as regards gender;

(b) To include the already approved 53 Women's Centre Officials of the Ministry of Women into the approved cadre positions of the respective ministries and to appoint a suitable Development Officer to aid the tasks to be performed by the proposed Additional Secretary / Director;

(c) To appoint a Sectoral Oversight Committee consisting of the Secretary of the Ministry of Women, two activists from Non – Governmental Organizations (ngos), and the Additional Secretary / Director bearing the responsibility assigned by respective Ministries to oversee and follow up on the Programme on Gender Mainstreaming.

35. Circular No 01 of 2017 of Ministry of Women has further requested Secretaries to all Ministries to effectively set up Gender Mainstreaming Programmes.

36. The GoSL has also appointed a Committee to draw up an Action Plan to Address Sexual Harassment in Public Transportation.

37. Amendments to Prevention of Domestic Violence Act No. 34 of 2005 have been approved by the Cabinet of Ministers by decision taken on 06 March 2018 and are at present being evaluated by the Legal Draftsman's Department.

38. The amendments proposed to the Domestic Violence Act are:

(a) To increase the categories of persons who can institute legal action on behalf of an adult person or children subject to domestic violence;

(b) Simplifying the process of filing an application;

(c) Removing the requirement of mandatory counselling in order to ensure the protection of an aggrieved party;

(d) Amending the existing method of follow-up action;

(e) Implementation of temporary protection orders effectively.

39. The Ministry of Women has developed a media policy to ensure equality and non-discrimination, and to avoid stereotypical portrayal of women in media.

40. Presently, the Ministry of Women coordinates with the MoJ to expand Section 365A of the Penal Code on 'acts of gross indecency between. The amendment is expected to incorporate sexual violence committed through cyber crimes.

41. The Ministry of Women also works alongside the Ministry of Education to introduce gender-sensitive policies to all levels of education, and to conduct a study on and respond to gender stereotyping in textbooks, syllabi, and other materials.

42. In April 2018, the Ministry of Women also developed a curriculum for Capacity Development of the Sectoral Implementing Teams on Gender and Addressing SGBV.

This was adopted under an umbrella plan to address SGBV through the amalgamated efforts of multiple ministries and other State agencies.

43. The Ministry of Women has adopted further measures to act under the Cabinet Note bearing number 06/0746/223/003 dated 03 May 2006 entitled 'Establishment of Committees of Inquiries Regarding Sexual Harassment at Work Place'. It has further been decided to set up ten committees within the Ministry and other institutions to follow up on the progress of activities intended to eliminate sexual harassment at work places.

44. Cabinet approval has been granted for the policy on the establishment of committees at public sector institutions to eliminate GBV. Investigation Committees have accordingly been set up to inquire into GBV.

Allocation of Adequate Resources and Other Services

45. The Ministry of Women has set up Women and Children's Units (WCU) at the Divisional Level to provide protection and care to women and children.

46. Additionally, the Ministry of Women has established Child and Women Development Units (CWDU). The Ministry of Women contributes to the CWDU by utilising the services of Women Development Officers, Counselling Officers and Assistants, Child Rights Promotion Officers, Early Childhood Development Assistants, Child Protection and Psychosocial Officers and Relief Sisters.

47. Centres for Collecting Information and Counselling have also been set up within Child and Women Development Units. These units work in collaboration with the Children and Women Bureau of Sri Lanka Police. Children and Women Bureaus have been established in every Police Station in Sri Lanka.

48. In 2013, the GoSL initiated a shelter programme named 'Mithuru Piyasa'. Several Mithuru Piyasa centres have been established at Government Base Hospitals and other government and non-government institutions. These counters are maintained by the Ministry of Health. Mithuru Piyasa centres collaborate with child protection, education, legal services and justice, non-governmental organizations, police, probation officers, and social services. Mithuru Piyasa provides special care for women and children who have been subjected to abuse.

49. Ministry of Women also provides counselling services. The Counselling Officers are attached to 321 Divisional Secretariats and such officers provide psycho-social counselling for women affected by violence.

50. The NCW has established a Women's Helpline that can be reached by dialling 1938. Received complaints are studied and referred to the GoSL, NGOs, and other relevant entities that can provide assistance, relief, and direct the complainants for counselling, and legal aid services in keeping with both the nature of the problem complained of, as well as the requirements of the complainant.

51. At present, the 1938 Women's Helpline is only operational from 08:30 a.m. to 05:00 p.m. on weekdays. Relevant measures have been adopted to make the Helpline accessible at all times. In October 2017, a training was provided to the officers of the 1938 Helpline at the Ministry of Women concerning the maintenance of confidentiality of complaints received.

52. The NCW has also established a Centre for Gender Based Complaints. As the Centre has received a higher proportion of complaints concerning domestic violence, and family disputes, necessary actions have been adopted to popularise family counselling with a view to addressing the root causes of issues.

53. In addition to these initiatives, the Legal Aid Commission of Sri Lanka, through its 70 branches spread across the country, provides legal support to women.

54. For administration and maintenance of Safe Houses for Women, the Ministry of Women has invested a total cost of Rs. 4,863,000 in 2017 and 3,700,000 in 2018. Safe Houses have been established for the purposes of psychologically and financially empowering, and providing protection to women who have been subject to violence.

Maintenance of Shelters and the Provision of Ancillary Services

55. The Ministry of Women has set up thirteen shelters of which six are situated in rural locations, three in the North and the East, and four in the South. These shelters are managed jointly by the Ministry of Women and by NGOs working on issues of SGBV.

56. As per Cabinet Memorandum bearing no: MWCA/CM/2017/02 dated 27 January 2017, the Ministry of Women decided to adopt necessary steps to strengthen and improve the services provided for survivors of violence through Temporary Shelters for Providing Protection to Women Victims of Violence. Expertise and support for the effective maintenance of Temporary Shelters was sought by the Ministry of Women from Women in Need (WIN), and Jaffna Social Action Centre (JSAC), which have respectively had twenty five years, and thirteen years of experience in maintaining such Temporary Shelters.

Follow-up information relating to paragraph 25 (c) of the concluding observations

Pending Criminal Investigations

Sexual Violence against Women and Pending Criminal Investigations

57. The crimes of which the details are provided in this section are extracted from police annual records along with data reported by the Police Children and Women's Bureau (PCWB). Information from the PCWB has been listed herein to indicate the trend of utilising specialised women and children police units for purposes of reporting sexual and gender-based violence against women. These numbers have however, not been incorporated into the total number of incidents as that results in duplicity of records.

Rape Related Statistics

58. Within 2015, 379 cases of rapes of women over 16 years of age have been reported to general police stations. Out of 377 cases which were recognised as true complaints, 88 complaints have been filed. In 9 cases the accused remained unknown and a total of 12 cases have been disposed of and by the end of 2015, investigations were pending concerning 232 complaints. 83 cases were pending before Magistrates Courts and 48 cases were pending with the Attorney General's Department. 2 cases were pending before High Courts. By the end of 2015, a total of 365 cases were pending.

59. In 2015, the number of rape cases reported to the Police Children and Women's Bureau (PCWB) were 305, and 198 cases have been solved. 9 cases of incest have been reported out of which 7 cases have been solved. 14 of the 28 cases of grave sexual abuse reported to the PCWB have been solved.

60. The number of rape cases of women over 16 years of age reported from 2016 were 350 out of which only 4 matters were designated false. 67 complaints have been filed and the accused was unknown in 7 cases. A total of 9 cases were disposed of, and investigation into 230 cases were pending by the end of 2016. Respectively 58, 42, and 7 cases were pending before the Magistrates Courts, the Attorney General's Department, and the High Courts. A total of 337 matters were pending by the end of 2016.

61. In 2017, a total of 294 rapes against women over 16 years were reported. 290 cases have been designated as true. In 6 cases, the accused had been unknown, and a total of 9 cases have been disposed of. A total of 52 complaints were filed. By the end of 2017, 204 cases were pending investigation, and 28 cases were pending before the Attorney General's Department. Out of the cases filed, 47 cases were pending before the Magistrate's Court whereas 2 cases were pending before the High Courts with a total of 281 cases pending finality.

62. In 2017, the PCWB received 220 complaints concerning rape and 95 of the said cases were resolved. 7 cases of incest were reported and 5 of the said cases were resolved in 2017. The number of grave sexual abuse cases reported in 2017 were 24 of which 10 cases have been inquired into.

63. From January to August 2018, 178 cases of rape have been reported to the PCWB out of which 100 cases are currently being investigated into. Investigations have been completed for 78 cases. In 9 of the reported instances, the accused remained unknown. 4 cases have been filed in court.

Statutory Rape

64. Currently, there is a police practice of recording some statutory rapes as having been committed 'with consent' despite such a categorisation being inconsistent with the law of Sri Lanka. The police reports indicate that both the victim and the perpetrator are below the age of sixteen in most such cases, and that they have engaged in 'consensual sex'. The GoSL recognises this as a challenge and is currently striving to alter this practice.

65. 1654 cases of 'statutory rape' were reported in 2015. The police has recorded 1339 of such cases as being committed 'with consent'. A total of 21 cases were disposed of and investigations were pending for 894 cases. 151 complaints were filed. 142 cases were pending before Magistrate's Courts and 593 cases were pending at the Attorney General's Department. 3 cases were pending before the High Court.

66. In 2016, 1686 statutory rape cases have been reported out of which the accused was unknown only in 10 instances. 1394 incidents were categorized as sexual intercourse that has occurred with the consent of the girl under the age of sixteen. 201 complaints have been filed. A total of 15 cases were disposed of. By the end of 2016, investigations were pending for 1047 cases. 184 cases were pending before the Magistrate's Court while 427 cases were pending before the Attorney General's Department. 12 cases had reached the High Court by the end of 2016.

67. The total number of statutory rape incidents reported in 2017 were 1438 of which 1206 were recorded as incidents of consensual sexual intercourse with a girl under the age of sixteen. Out of the total cases, in 8 cases the accused was unknown. 147 complaints have been filed. By the end of the year, 1024 cases were pending investigation. 257 incidents were pending before the Attorney General's Department, and 145 cases were pending before the Magistrate's Court.

Conclusion

68. In the light of the information provided in this report, the GoSL would like to express its commitment to fully achieving the recommendations made by the CEDAW Committee.

69. The GoSL remains seized of the difficulties pertaining to the amendment of personal laws and wishes to express its continuing commitment to address these challenges.