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## **Introduction**

The Shadow report was prepared by a team led by the Centre for Women's Research (CENWOR). We were identified for this task by UNWOMEN. The team selected specialists for the five sectors-Law, Participation in Political and Public Life, Education and Training, Employment, Health and Rural Women.

Local consultations in different parts of the country were conducted by members of team. A stakeholders' meeting was organised in Colombo to validate the issues that had surfaced in the consultations and the sectoral reports that had been prepared. The final report incorporates all the findings including the responses to the Concluding Observations of the CEDAW Committee in 2011 and a discussion of the developments since 2011.

## Executive Summary

### 1. Law and Law Enforcement

The 8th Periodic report indicates that most of the issues referred to in CEDAW Concluding Observations in regular periodic progress reviews from 2000 have not been addressed. The same explanations are repeated as justifications for inaction, and the same assurances are given of legislation soon to be enacted in areas specified in some Concluding Observations of the Committee in several reviews. However the 8th periodic report for the first time takes a very strong position on culture and religious constraints preventing law and policy reform. Yet Sri Lanka did not enter reservations when it ratified CEDAW in 1981, and as the Shadow Report responses indicate, has a long and positive tradition of legal reform that modified cultural and religious practices on grounds of public interest. These changes have been important for women.

Key areas of concern are the failure to enact legislation to strengthen gender architecture and rights in conformity with CEDAW in a Womens' Rights Act, and reform discriminatory personal laws. Discrimination in other areas of law are denied or not recognised in the 8th periodic report. Yet discrimination continues in areas like divorce child custody non marital families. The state has failed to address Concluding Observations on the need to repeal the colonial Land Development Ordinance, and the Vagrants Ordinance, and change criminal laws on abortion homosexuality and marital rape. Temporary special measures in conformity with the CEDAW norm of substantive equality were not introduced in the period under consideration, and jurisprudence on affirmative action for women reinforced this tardiness. The abysmally low indicators on political participation continue without any initiative to respond to CEDAW Concluding Observations in this area.

Though there have been some initiatives in public administration to recognise women as heads of households, as stated in the 8th Periodic Report, the approach has not been maintained with consistency, leading to contradictions in laws and continued discrimination. Regulations and public administration policies result in discrimination against widows female heads of household, and married women seeking domestic employment overseas as migrant workers. Access to livelihood and personal security remains a problem for all women, and especially women in areas affected by the conflict in the North and East.

Some new problems that need legal interventions have surfaced. There is an emerging problem of early marriage and sexual exploitation of girls below the age set for the Penal Code offence of statutory rape. Sexual harassment in many areas that impact on women's lives has not been addressed. While useful legal reforms have been introduced in line with international norms of CEDAW and other instruments in re domestic violence in 2005 and trafficking in 2006, enforcement has been weak. Politicisation of law enforcement agencies, and erosion of opportunities for womens' activism for law and policy reform is evident. There has been a growing lack of public confidence in the rule of law and administration of justice. New government took office in 2015 and the 8th Periodic report has said that new commitments to advance gender equality have been made.

Constitutional reforms of the new government in 2015 through the 19th Amendment to the Constitution failed to use the opportunity to establish an empowered and well resourced National Commission on Women as an independent Commission under the Constitution. The discriminatory regulation on migrant women domestic workers was not abolished but strengthened, with more discriminatory positions that reinforce perceptions that a woman has sole responsibility for care of young children. However a new constitutional reform process that has just commenced, and a committee on Transitional Justice measures headed by a woman and with several women professionals and gender activists may contribute to changes that will carry forward a womens' rights agenda effectively. The Prime minister has also introduced measures to ensure holistic government interventions to implement the recent report(2016) of the Task Force on Violence against Women appointed by him, with leadership to be given from the Ministry of Womens' Affairs. The Task Force has also prioritised the need for extensive reform of family law and personal laws and called for implementation of the Family Law report commissioned by a former minister of Justice in 2010.

### 2. Participation in Political and Public Life.

Since universal franchise in 1931 women have had the right to vote and to seek election to national and local assemblies. Although women have been active as voters their representation in political assemblies has minimal, not exceeding 5% over the years. This

situation has not changed since 2011. In 2010, 5.8% members of Parliament were women. At the 2015 election the percentage decreased to 4.9%. Provincial Councils have 17 women out of 417 (4.1%) and in Local Councils 2.03% were women.

In 2011, Sri Lanka adopted the for the Protection and Promotion of Human rights (2010-2016) which has a component to achieve 30% minimum representation of women in Parliament and local government. In response to a campaign since the late 1990s for a quota for women in political institutions, the Local Authority Elections was amended in 2012 to include a quota of 25% at nominations to be shared by women and youth. This provision was considered unacceptable as there was no specific quota for women. The current government that took office in 2015 has adopted a 25% quota for women in nominations for local political institutions.

While multiple reasons have been adduced for low representation of women, the significant fact is the decrease in 2015 despite the island wide campaigns by non government organizations and the National Committees on Women. Current evidence is that political parties are the single major barrier to women's participation. Political parties are male dominated and are reluctant to nominate women as they believe that women are not 'winners'.

### **Women in decision making**

The percentage of women in high level positions in the public and private sectors have been low over the years. However more women have reached such positions in recent years. Examples are the increase in the women Secretaries in Ministries. The first woman Chief Justice was appointed in 2011, and women are Supreme Court and Appeal Court judges. The first woman Attorney General was appointed in 2011. In the higher education sector women have been Vice Chancellors and a woman was the Chairperson of the University Grants Commission. However only 28% of women academics are Professors. Overall the 'glass ceiling' still operates as a barrier to promotion to high office. One reason is the gender related task of women administrators to combine their family and work roles.

### **3. Education**

Universal free education till undergraduate level in universities since 1945 and a wide range of incentives continue to increase access to education.

**General education-** Compulsory education was extended to 16 years. Gender parity in enrolment has been achieved in primary and junior secondary education and more female students than male students are enrolled in senior secondary education. Retention rates are higher among female students. Two major programmes have been implemented since 2011. The World Bank project supports acquisition of knowledge, skills and attitudes to meet the requirements of a knowledge economy, It also continues earlier policies to promote equitable access, quality of education and governance, The ADB project has in addition a Gender Action Plan but this proposal has not been implemented through lack of commitment of administrators. No attempt has been made to combat gender inequality. Negative factors that affect implementation are also poverty, disability, child abuse in schools, unequal distribution of education facilities, disasters, and weak governance.

**Technical and Vocational education**—World Bank and ADB projects support moving to high technological and other skills programmes to meet the demands of a knowledge economy. ADB developed a Gender Action Plan which was not followed up. The participation of women in the training programmes of the Vocational Training Authority, the National Apprenticeship and Training Authority, the Department of Technical Training and the University of Vocational and Technical programmes have wide gender imbalances in technical related courses reinforcing stereotypical 'feminine' and 'male' courses and resulting in the high unemployment rates of women. The only change is the increase in enrolment in Information Technology courses

**Higher education-**More women are enrolled in the 15 universities than men but gender has been a non issue in higher education policy till the establishment of a Gender Centre in the University Grants Commission in 2016. However gender specific courses are conducted in university courses except in Management and Science in the University of Colombo. A very low percentage of women continue to be enrolled in engineering courses.

## 4. Employment

The widest gender inequalities horizontally and vertically are seen in the labour market. In the issue of labour rights, Constitutional provisions are restricted to the public sector, and labour legislation is limited to the public and private formal sectors. The informal sector in which the majority of women work are unprotected and even the ILO Conventions that are applicable to the informal sector have yet to be ratified.

In the policy context, new developments since 2011 are the measures proposed to mainstream gender in employment policies which have been extended even to overcoming attitudinal barriers such as combating gender role stereotypes in training and employment. The 2014 Action plan has yet to be implemented to assess results. In contrast, the new restrictions imposed in labour migration policy only on women such as raising the minimum age for migration and the Family background Report are perceived to be violations of women's human rights and the concept of gender equality. For the first time, support for Small and Medium Enterprises (SMEs) has been introduced through Banks but is not extended to micro enterprises.

Labour force participation rates underscore wide gender inequalities. The unemployment rates of women continue to be at least double those of men despite the decline in unemployment rates in recent years.

Factors that affect implementation are (i) the failure to promote higher skills intensive manufacturing industries to meet the changing needs of the evolving 'knowledge economy' and to avoid the 'middle income trap'. (ii) and the impact of gender role stereotypes that prevent women acquiring the skills in demand in the labour market and the inequitable gender division of household responsibilities that restricts women's path to penetrating the 'glass ceiling' to the highest level in the employment hierarchy. Overarching is the gender ideology of unequal power relations between men and women.

## 5. Health

Sri Lanka has sustained the implementation of a free health service to the entire population since independence, which included dedicated health interventions for women and girls, based on a life cycle approach. These included services during pregnancy, at delivery, during early childhood and school ages, particularly adolescence, adulthood, and the older ages. Both preventative and curative services are universally available in rural and urban areas. The service retained its free status since independence. Ante natal care through clinics, and trained care at delivery is available for all pregnant women. These mostly occur in hospital maternity units as decided by most Sri Lankan mothers. This also includes post natal care. Access to all forms of family planning services, and the control of all sexually transmitted infections including HIV/AIDS is available. Life expectancy for women has continued to steadily increase, compared to men. It has, led to a growing population of ageing women, for whom, geriatric and other essential health services are now needed, and which are yet to be fully developed. Maternal undernutrition and anaemia remain persisting issues, and need to be better addressed.

Teenage pregnancies are of growing concern in geographical pockets, mostly in the more rural areas, These lead to pregnancies and underage marriages which are not legal as the age of marriage is 18 years. There are also increasing numbers of pregnancies due to sexual abuse and incest for which girls and the women who are denied their right a therapeutic abortion which is safe, not placing their life in jeopardy. This also includes women victims of sexual abuse and rape, and others involved in illicit relationships who also have to resort to illegal abortions placing their health and even life in danger. They also abandon these newborns. This occurs because societal stigmatization which remains largely traditional. The problem could also affect migrant women, girls working in the free trade zone and other employment situations. Although adolescent health services are provided, access to contraceptives are only available to girls from 16 years onwards. Since there is a trend towards earlier menarche and sexual contact in some rural areas, there is a need to reconsider this age accordingly. While the health sector has responded to women victims of domestic violence through special clinics in out patient departments of all hospitals, this needs further strengthening and development. Most women victims are reluctant to report domestic violence, thus more effective screening is necessary in other speciality health units as well. Sri Lanka has succeeded in maintaining a low HIV/AIDS prevalence status. Female sex workers are known to have good access to STI/AIDS prevention services, and information. It is reported that they practice a high condom use which is preventative of such

infections. Mother to child HIV transmission is relatively low, but continued vigilance is essential, including regular screening during pregnancy.

## **6. Rural Women**

The prevailing gender ideology is that men are capable of more work than women and women's labour is of less value than that of men, the result being that women are paid almost 50% lower wages than men, and are still not accepted as equal partners in the production process. Examples, fishing industry, plantation industry. The state party needs to streamline the wage structure to ensure equal wages in the agricultural sector, irrespective of gender differences.

Further, as machinery and new technology is introduced women get pushed out of their traditional work and lose their livelihoods. Women's contribution to family work is unpaid and continues to be unaccounted for in economic terms. Self –employment and micro – enterprises for women, are on the increase. However, women face many hardships, due to additional work load, difficulty in finding raw materials, access to credit facilities and to markets. The issue of land ownership and the concept of head of household continues to place women in a disadvantaged position. States Parties should ensure that women have the same rights as men, to access all resources including credit facilities, markets and registration of their enterprises.

# Responses to CEDAW Committee Concluding Observations

## 1. Law and Law Enforcement

### 01. Concluding Observation

The CEDAW Committee in its Concluding Observations of 2011 (CEDAW/C/LKA/Co/7 of 4.2.2011) stated that many questions raised in previous Concluding Observations had been left unanswered.

#### **Women's Commission – Gender Architecture**

In 1993 the then government adopted a comprehensive policy document, The Women's Charter, which attempted to bring the UN CEDAW Convention into domestic law, policies and programs of the State. It established a National Committee on Women as an initial institutional mechanism to carry this agenda forward. The first Committee and the Committees that followed attempted to do so by preparing legislation for a high powered independent Women's Commission on the lines of other independent Commissions such as the Public Service Commission, the Police Commission and the Human Rights Commission created by the Constitution. This draft legislation prepared by gender experts nominated by the then National Committee on Women in 2007, was approved by Cabinet, and forwarded to the Attorney General for preparation of a Bill to be presented in Parliament. However, over a period of 9 years various bills diluting the original draft Act of 2007 have been circulated, objected to by Women's groups and other civil society actors and have in light of controversy, not emerged as legislation.

When the 19<sup>th</sup> Amendment to the Constitution was passed in 2015 under the new regime, it re-established the concept of Independent Commissions, and created new ones. A Women's Commission was **not** placed on the agenda. Therefore the establishment of such an independent high powered commission remains as yet, a long, unfulfilled, need.

This is especially so in an environment where the National Committee on Women has been progressively weakened and under resourced. Even the concept of a dedicated Women's Ministry was eliminated by executive decisions of the previous government, in the period under review. For the first time, the subject of Women's Affairs was combined with Child Development in a single Ministry. It will be seen that this link led to regulations and policies which undermined CEDAW obligations. (See Section on migrant work and Violence against Women)

This is especially an independent Women's Commission established under the Constitution can help to cushion against varying approaches to the gender equality agenda being adopted by successive governments, on the basis of executive or administrative decisions. It can also help to ensure consistency in implementing commitments on gender inequality. Currently, responses are ad hoc, often contradictory. There is no procedure for ensuring Concluding Observations of CEDAW or other treaty bodies are circulated to all government agencies and implemented. Nor is there a coordinating mechanism in the Ministry of Foreign Affairs that links to the gender architecture so that treaty commitments impact on government's initiatives on law reform, policy and resource allocations.

It is time to ask for a specific time frame on this initiative, and a Consultative and transparent approach to the drafting of this legislation, and an appointment procedure that will enable a Women's Commission to function like the independent Commissions established according to procedures incorporated in the Constitution. A Constitutional reform process has been initiated by the new government, and this matter of establishing an independent Women's Commission should be given priority, as a national commitment to gender equality.

#### **(i) Legal Status of the Convention in Domestic Law**

The proposed 2007 draft Act on the National Commission on Women included provisions that incorporated the norm of substantive equality in CEDAW so as to clarify the Constitutional provisions in this regard, and the meaning of non-discrimination. Alternatively there have been proposals for the establishment of an Equality Act that would address the current limitation in the Constitution, where only Executive and Administrative Action of public sector action can be challenged for violation of equality

rights. The situation on Non- State actors is not clear and this has been pointed out repeatedly and raised in CEDAW Committee Concluding Observations. This aspect and its implications for women have, disappointingly, not been addressed in the 8<sup>th</sup> Periodic Report. The power of judicial review is very restricted under the Constitution {Art 16 and 80 (3). There has also not been a single case in which the Supreme Court has cited or used CEDAW, and an effort to argue its relevance was not successful in litigation on the constitutionality of a Local Government Bill (SD 02/2010, 16/11/2010) under the previous regime.

## **(ii) Discriminatory Laws**

### **Personal Laws : Reform of ‘Customary ‘Law**

Sri Lanka did not enter any reservations to Articles of CEDAW when it ratified the Convention in 1981. Yet it has consistently maintained its unwillingness to address discrimination in the plural family laws that apply on the basis of ethnicity, location and or religion.

This very strongly articulated defence of personal laws which conflicts with CEDAW, represents an intransigence that has not even been publicly acknowledged nationally by successive Governments. For instance in 1983 the then Minister of Justice appointed a Committee to consider reform of Personal Laws. Anti- personal law, reform lobbies succeeded in undermining this initiative and the Committee ceased to function. Muslim women’s groups have consistently worked on the issue of reform of Muslim personal law, and been members of government committees appointed to consider reform. One Minister of Justice appointed a committee of experts in 2009 to consider reform of the personal law of Muslims and Tamils as part of an initiative on reform of family laws. The Committee appointed at the same time in 2009 to consider reforms in the general area of family law, chaired by a former CEDAW member included, far reaching recommendations on reform of the personal law known as Kandyan Law, considering this a part of the Committee’s mandate , as it was excluded from the mandate of the other Committee. A Task Force of on Violence against Women and the Girl Child, appointed by the Prime Minister to implement a report commissioned by him as Leader of the opposition has included reform of personal law as high priority in their proposals. The Prime Minister has given his official approval for government initiatives to implement the Action Plan of the Task Force. It is therefore important to sustain in Concluding Observations the CEDAW Committee approach to reform of personal law in Sri Lanka.

Shadow reports based on research and changing social and economic conditions have highlighted that:

- a) Discrimination in personal laws is not a matter of Static “culture” or “sacred belief”. Many transformations have occurred over time because of diverse influences. Colonial legal norms and values, and discriminatory legislative provisions have reinforced discrimination, and sometimes undermined progressive provisions in these laws that were beneficial to women.
- b) Discrimination in personal laws impacts on the daily lives of women governed by these laws in regard to important matters such as economic rights, land rights, matrimonial relief, custody of children and financial support rights, and domestic violence. Egalitarian statutory laws have not necessarily undermined the impact of this discrimination.
- c) The fact that the discrimination in the legal provision continues means that public institutions, like administrative authorities and Courts of Law can reinforce these values and practices through their decisions.
- d) Women’s groups in some communities such as Muslim Women’s Groups, have agitated for reform within their legal traditions for many decades .
- e) There is a uniformly applicable body of Sri Lanka law called the General Law, which regulates some specific aspects of the family of all women, including some governed by Tesawalamai and Kandyan law. Besides persons governed by these personal laws can sometimes exercise choice to be governed by General law (eg. regarding wills or marriage). Consequently there is a legal environment conducive to formulation of a civil Code of uniformly applicable family law that can be accessed by all women.

## **02. Elimination of Discrimination and Reform of other Laws**

### **a) Women’s activism and law reform**

This is an area where the CEDAW Committee in its Concluding Observations expects the government to be positive in engaging with Gender advocates and Women’s groups that have given leadership in law reform initiatives to eliminate gender bias and discrimination in the statutory laws of the country. Most of the major post- independent legislative reforms (Gender Based Violence



including sexual harassment and abuse and domestic violence, Citizenship laws, Temporary Special Measures for political participation in local government bodies) are examples of effective activism. However the contribution has not been a sustained one. Family and personal law reform and reforms for economic change including labour rights and political participation continue to be areas where women's activism has not influenced law reform and policy directions of the State. Efforts in a litigation strategy on some women's rights in this period failed, and only elicited unsympathetic judicial responses which reinforced legalized discrimination against women. Women's groups contribution impacted on some programmatic interventions of the government, but not to the extent that this engagement strengthened law enforcement or allocations of resources for this purpose.

#### **(b) Temporary Special Measures**

Despite the activism of women's groups and the abysmal statistics on political participation, temporary special measures introduced in a law that was brought to parliament in 2010, provided only a single quota, for both women and youth, in local bodies. This legislation was challenged unsuccessfully by Women's groups in litigation in the Supreme Court, as a violation of women's rights to equality and temporary special measures under the Act 12 (1) and 12 (4) of the Constitution. The Supreme Court rejected the concept of Temporary Special measures or affirmative action to advance women's rights (Supreme Court Determination No SC/02/2010). Representation of women as heads of State institutions and in the Corporate Sector, and trade union participation continue to reflect significant gender imbalances. Though minimum wage laws exist for specific types of work, wage discrepancies exist in the informal sector and women are paid less for the same work, with market forces determining wages. Several other areas where there imbalances and gaps impact adversely on women, such as women with disabilities. Women heads of households and widows, especially in conflict affected areas, represent opportunities to introduce temporary special measures, but have not been addressed.

#### **(c) Family Law**

An evidence base of research indicates that a clear change in the law is necessary for effective impact. Discrimination against widows in family and other laws social and social customs is also ignored. The failure to reform family law to eliminate the concept, and inconsistency in this regard in the legal system (abolished in Maintenance Act (1999) retained in Colonial Widows and Orphans Social Security (pensions) laws), resulted in the concept still being applied in public administration, and legislation. (see later) Abortion statistics remain high, and the social and legal disadvantages associated with the status of unwed mothers and non-marital children impacts on families and women, who conceive these children in non-marital relationships.

The failure to recognize important areas of discrimination in Family Law that impact on the daily lives of women is difficult to understand. The denial however explains somewhat the failure of both the Law Commission and the Ministry of Justice to act on the report of the Family Law Reform Committee appointed by the Minister of Justice in 2009, to recommend comprehensive reforms in the Family Law applicable to the majority of Sri Lankans who are not governed by Thesawalamai or Muslim Personal Law applicable in minority communities.

The Family Law Reform Report (2010) submitted to the Ministry of Justice highlighted the specific reforms needed to eliminate discriminatory legal provisions in the statute law regulating the General Law of marriage and Kandyan Law. It also highlighted the areas (eg. Child custody) where legal reforms were needed urgently because of the discriminatory impact of colonial law, based mostly on principals of Roman Dutch law. In some areas, what is required are simple amendments to legislation, which will clarify and reiterate for instance the position taken in jurisprudence in the court, that a marriage contracted without consent or under the legal age of marriage (18 years for both sexes since 1995) is void and without legal consequences from the very beginning. This is an area that has raised serious concerns because of a new phenomenon of underage marriage which has been documented in the Tamil areas of the North and East, due to the impact of years of conflict and disruption of civilian life.

The CEDAW Committee's Concluding Observations have raised the issue many times and this an assurance has been the continuing response of successive governments in many progress reviews, over several decades! The failure to introduce this reform demonstrates an intransigence that contradicts the statement of intent in State Party reports of successive governments. It ignores consistently the evidence base of research on the realities of discrimination in the areas of women's land rights. The failure to introduce this reform once again reinforces the male preference in economic participation ideology embedded in the "head of family, male breadwinner, head of household" concept in family law.

#### **(d) Violence Against Women and Girls**

The CEDAW Committee in its Concluding observations has repeatedly focused on certain issues that require a response. Reforms to the Penal Code that criminalises homosexuality and abortion, and repeal of the Colonial Vagrants Ordinance which permits the police to arrest and remand female sex workers, have been highlighted. The Committee has repeatedly requested successive governments that have submitted reports, and engaged with the Committee in progress reviews to criminalise marital rape. These reforms have yet to be introduced.

It is clear from a strong, evidence base that criminalisation does impact to deny sexual and reproductive rights, and indirectly on the campaigns on HIV/Aids and Sexually Transmitted Diseases. While homosexuality in the upper strata of society, is ignored, and there are no criminal prosecutions the criminalisation of this conduct leads to police patrols on the streets harassing gay men and lesbian women, who belong to other social strata. Call for reform of the criminal law by activists and health professionals have been consistently ignored. Governments have been influenced by religious groups that do not want the law repealed. An effort to change the Colonial law on homosexuality as part of Penal Code reforms in 1995 failed because of the influence of these lobbies. By an error of the legal draftsman, the law on homosexuality was even expanded to cover lesbian sexual behaviour. The fact that the police do not use the criminal law to prosecute in the Courts provides governments with a rationale to ignore the need to repeal the penal provisions.

The CEDAW Committee has in many reviews commented on the high incidence of illegal abortions, and its impact on women. A reform initiative in 1995 was unsuccessful when the government withdrew the relevant amendments to the Penal Code after the amending law was presented in Parliament, succumbing to religious lobbies. Public advocacy and reform efforts over the years by gender activists, women's groups and health professionals, have not influenced governments to change the law. Official policies of the Government in the period 2011-2014 restricting the activities of Non-Governmental Organizations engaged in reproductive health and family planning programmes in the North and East, and attacks by extremist Buddhist monks on clinics offering family planning services in other areas, created an environment that was not conducive to abortion law reform. The Law Commission had consultation with health professionals on the issue of law reform, but there were no indications of policy change in this regard.

The Domestic Violence Act 2005 now provides a procedure for obtaining a civil remedy known as a Protection Order under the Act of for sexual violence and abuse. Research on the enforcement of the Domestic Violence Act, indicates many gaps in implementation. The lack of sympathy of the police, when complaints are brought by women, and attitudes of some members of the legal profession and the judiciary who lack awareness of the law and the policies behind it, have been documented. Similarly the delays in legal proceedings and the non-utilisation of the jurisdiction of the court to provide the range of reliefs provided in the Act have been documented. Changes to the Act must address gaps in the law that have surfaced, and improved resource allocation and training for effective law enforcement.

## **2. Stereotypes and discriminatory practices**

22. The Committee is concerned about the persistence of stereotypes regarding the roles, responsibilities and identities of women and men among the general public and the media. The Committee is concerned that gender role stereotyping perpetuates discrimination against women and girls and is reflected in their disadvantageous and unequal status in many areas, such as employment, decision-making, land ownership, education including sexual and reproductive education, sexual harassment and other forms of violence against women, including violence in family relations.

23. The Committee urges the State party to:

(a) Put in place a comprehensive strategy to modify or eliminate practices and stereotypes that discriminate against women in conformity with articles 2, 2 (f) and 5 (a) of the Convention. This strategy should include awareness-raising efforts targeting the general public and the media, including religious and community leaders, and be undertaken in collaboration with civil society and women's organizations.

(b) Use measures that target young people and adults to strengthen understanding of the equality of women and men, and to work through the educational system, both formal and informal, as well as with the mass media, to enhance a positive and non-stereotypical portrayal of women; and

(c) Monitor and review the measures taken in order to assess their impact and to take appropriate action, and include in next report clear information on this issue.

### **Response**

In employment women are increasingly opting for jobs hitherto perceived as 'masculine jobs' such as in technical fields and are holding the highest positions as Chief Justice and Attorney General, Secretary of the Ministry of Justice and Legal Draftsman's Department in the Justice sector, University Grants Commission Chairperson and Vice Chancellors in the education sector and are one third of the members of the Sri Lanka Army, Navy and Air Forces. Nevertheless gender role stereotypes and the 'glass ceiling' still operate to limit women aspirations. In education gender parity in access to education is misperceived as gender equality and no efforts are made to use the education content and process to assist women to challenge gender role stereotypes.

### **3. Participation in political and public life**

30. The Committee is concerned about the extremely low level of participation of women in politics and public life, including a low representation of women in Parliament, Provincial Councils and Local Authorities, at the decision-making level and in the diplomatic corps. The Committee is further concerned that no measures have been taken to encourage women to participate in political life and that the State party attributes the low representation of women to their own choice, their preoccupation with multiple roles, high costs of the electoral campaigns and the lack of confidence of political parties in the ability of women to garner votes.

31. The Committee reiterates its recommendation that the State party take all necessary measures to increase the representation of women in politics and public life at the local, provincial and national levels. The Committee also urges the State party to:

- (a) Pursue sustained policies aimed at the promotion of the full and equal participation of women in decision-making in all areas of public, political and professional life;
- (b) Fully utilize general recommendation No. 23 concerning women in public life and adopt temporary special measures, within a clear timeframe and with numerical targets, in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25; and
- (c) Implement awareness-raising campaigns, including on the purpose of introducing temporary special measures, such as quotas or financial support to women candidates, and to highlight the importance to society as a whole of women's full and equal participation in leadership positions in all sectors and at all levels.

### **Response**

The percentage of women in Parliament/National Assembly is hardly more than it was in 1931 when universal franchise was introduced. In 2010 women held 13 out of 225 seats (5.8%). In 2015 it decreased to 11 seats (4.9%). Under Local Government Provincial Councils have 17 out of 417 seats (4.1%) and in Local Councils 2.03%. This is in spite of a strong campaign by non governmental organizations island wide and also programs by the National Committee on Women. Political parties are seen to be the major barrier to increasing women's participation in politics as they lack commitment to nominate women and are themselves male dominant in structure. Studies indicate that women too are reluctant to compete and tend to accept male dominance. Agitation for a quota has continued over the years. The Local Authorities Elections (Amendment) Act No.22 of 2012 provided for a 25% quota at nominations shared jointly between women and youth. There was no specific guarantee of a quota for women. The current Government has introduced a quota of 25% of nomination for women at local elections.

The participation of women in decision making in public life has increased including at senior positions as explained in the responses to 22-23. Yet the glass ceiling continues to operate at policy levels while women are disadvantaged by their constraints in combining family and work responsibilities.

### **4. Education**

32. While noting the achievements of the State party in the area of women's education and efforts undertaken to eliminate gender role stereotyping in formal education, the Committee regrets the lack of data disaggregated by sex and ethnic groups at each level

of the education system. The Committee is also concerned about the persistence of gender role stereotyping in the educational system, resulting in girls' concentration in lower skill areas of vocational and technical education, as well as the lack of action of the State party to combat the persistent underrepresentation of women in the high education technical and engineering fields.

33. The Committee encourages the State party to:

- (a) Strengthen its efforts to achieve universal provision of quality education for girls at each level of the education system and from each ethnic group;
- (b) Continue its efforts to overcome gender role stereotyping in the formal education; and
- (c) Elaborate a policy aimed at promoting the access of girls to vocational and technical education and women in higher education to science, engineering and other technical disciplines.

#### **Response**

Sri Lanka has nearly achieved universal primary and junior secondary education. Girls/women are a majority in senior secondary and higher education. Studies have shown that the reasons for early leaving are poverty and its corollary, child labour, disability, child abuse, teen age pregnancies, and natural disaster. At higher levels poverty and disability continue to operate. Quality is affected by wide social and economic disparities in the distribution of educational facilities. This is despite the provision of universal free education to undergraduate level and the extensive incentives offered. Programmes have been introduced to reduce disparities but enforcement is weak.

Gender role stereotyping has declined minimally in formal education as gender is virtually invisible in the school curriculum. Consequently gender imbalances in access to vocational and technical education and in technology related higher education courses are wide. A positive development has been the increase in the participation in Information and Communication Technology programmes and the decline in imbalances in this field.

### **5. Employment**

34. The Committee is concerned about the persistence of discrimination against women in the labour market, in particular the concentration of women in low-skilled and low-paid jobs and the high rate of unemployment affecting women despite the achievements of the State party in the area of education. The Committee expresses its concern at the lack of protection of women working in the informal sector and the lack of specific law on sexual harassment. It is further concerned that, despite the State party's ratification of the ILO Convention No. 100 on Equal Remuneration, the principle of equal remuneration for men and women for work of equal value has not been reflected in national legislation.

35. The Committee urges the State party to:

- (a) Ensure equal opportunities for women and men in the formal labour market through, inter alia, temporary special measures aimed at eliminating both horizontal and vertical occupational segregation, in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25;
- (b) Elaborate a plan of action for the protection of women working in the informal sector including women's access to social security and other benefits; and
- (c) Include in its next periodic report legislative and other measures taken to protect women from sexual harassment in the workplace.

#### **Response**

While unemployment rates of women and men have declined sharply in recent years, the unemployment rates of women have been consistently around double the rates of men, and women have not been able to transfer their equal or more participation rates in education to the employment sector. This is because the education process has created minimal change in the acceptance of gender role stereotypes. Consequently women and their families continue to prefer culturally perceived 'feminine' jobs, thereby slowing the pace of change. The major change has been in the preference for Information technology related employment at basic skills level. In this sector too few women are in highly skilled jobs.

The informal sector in which the majority of women are employed is still unprotected by labour legislation, and the three recent ILO Conventions pertaining to subcontracted workers, migrant workers and domestic workers have yet to be ratified although discussions are purported to be on going at policy level. Home based/ self employed workers are yet excluded from such schemes. Pension schemes for farmers and a few other categories in the informal sector have been initiated with very limited success as such workers lack resources to contribute. A recent development has been that for the first time support has been introduced through banks to Small and Medium Enterprises (SMEs). Micro enterprises still receive minimal recognition.

## 6. Health

36. While the Committee acknowledges the achievements of the State party in the area of maternal healthcare. It is concerned about the limited knowledge of reproductive health and the low rate of use of contraceptives, the high level of teenage pregnancies especially in less developed and conflict-affected areas, as well as the low accessibility to family planning and the increase in prevalence of HIV/AIDS infection among women. The Committee is also concerned that abortion is a punishable offence under the law, unless the purpose is to save the life of the mother and regrets that about 10 per cent of maternal majority is reported as the direct result of clandestine abortion.

37. Within the framework of the Committee's general recommendation No. 24, the Committee urges the State party:

- (a) Ensure that family planning and reproductive health education are widely promoted in particular for internally displaced women and girls as well as less developed and conflict affected areas, with special attention to the prevention of early pregnancies of girls and the control of sexually transmitted diseases, HIV/AIDS
- (b) Reduce Maternal Mortality Rates (MMR) and Maternal Death rates by identifying and addressing the causes of such deaths.
- (c) Take measures to ensure that women do not seek unsafe medical procedures such as illegal abortions, providing them with quality services to access abortion services and prevent the complications of unsafe abortions.
- (d) Review the laws relating to abortion with a view to removing punitive provisions against such women and those responsible.

### Response

- Services related to family planning and reproductive health are provided free on an islandwide and equitable basis as a component of Family health services through the Ministry of Health. This includes the provision of condoms and oral contraceptives. Such services are also provided in as well as hospitals and out patient facilities. Pharmacies provide such items for payment. Family Health workers provide such items in the field to communities, but, only to married couples. This includes information and services related to the control of sexually transmitted diseases and HIV/AIDS prevention.

At present contraceptives are only provided to girls from 16 years. But, there are some pregnancies in remote rural areas in girls at 14 years. Girls are reaching puberty at earlier ages. Thus is is recommended that the age be lowered to 14 years. It is also recommended that services to adolescents are kept confidential, and that they are given counseling and information. Since there are very few internally displaced persons, there are efforts to increase services and supplies to all previous conflict affected areas, as well as remote rural areas , including the estate areas. Such services need to be monitored. Service provision needs to be supported by information and education programmes.

- A system of maternal death surveillance has been established .and maternal death audits. Every maternal death is investigated, causes determined and action taken to prevent such deaths. This has led to a sustained decline in maternal mortality. Community Health Physicians collaborate with Obstetricians and Gynaecologists in this effort which has led to a positive outcome for mothers. Access to emergency obstetric care has also reduced maternal deaths.
- Several lobby groups, particularly the SL College of Obstetricians and Gynaecologists have lobbied with the political leadership and policy makers regarding this issue, but, the outcome has been negative.
- Several lobby groups particularly health professionals have tried but failed so far to get government commitment to do so.

## 7. Rural Women

38. The Committee expresses, its concern about the lack of data on disparities between urban and rural women and reiterates its concern about the increase of the number of widows as a result of the conflict, and the tsunami in 2004, many of whom are elderly, illiterate and with meagre means of sustenance. The Committee notes that discriminatory practices prevent women from acquiring ownership of land since only the “head of household” is authorized to sign official documentation such as land ownership certificates and to receive pieces of land from Government.

39. The Committee urges the State party:

- (a) To ensure that a gender perspective is included in the National Development Agenda;
- (b) To collect data on the situation of rural women and disparities between rural and urban women and include such data and analysis in the next periodic report;
- (c) To develop policies and programmes, including income-generation schemes, to improve the situation of women heads of households and older women;
- (d) To abolish the concept of “head of household” in administrative practice and recognize joint or co-ownership of land;
- e) To speedily amend the Land Development Ordinance in order to ensure that joint or co-ownership be granted to both spouses when the State allocates land to married couples.

### Response:

The government has emphasized rural development in the Development Agenda, but no attention is being paid to address women’s concerns and women’s marginalization within rural communities.

- Gender segregated data is still not collected as relevant to rural women.
- Women are still not accepted as equal partners in the production process mainly due to the fact that they are not considered “head of Household” and not considered as Co-owners of land by the administrators.
- With regards to non-agricultural activities in the rural sector, self –employment and micro – enterprises are on the increase. They are an important source of income to these households. Many women are engaged in such activities but face many hardships, such as additional work load, difficulty in finding raw materials, access to credit facilities and to markets and the elderly and women heads of households face more discrimination due to poverty, remoteness, less accessibility to services and less knowledge and awareness, and lack of social security.
- The state has failed to address Concluding Observations on the need to repeal the colonial Land Development Ordinance. This has denied rural women’s access to agricultural credit and loans and women do not have the same rights to resources such as land and credit as men.

## 8. Migrant women

42. While welcoming the protective measures taken by the State party for women who migrate from Sri Lanka, the Committee remains concerned that these women remain vulnerable to illegal employment agencies, and that many work in exploitative situations and experience violence and abuse at the hands of their employers.

43. The Committee urges the State party to take a rights-based approach in order to empower women migrant workers, in particular through implementing bilateral conventions with recipient countries and assisting migrant women who seek for redress.

### Response

The Labour Migration Policy of 2009 is being implemented since 2012 and a National Action Plan formulated. Bilateral agreements have been undertaken with some receiving countries-Italy, Kuwait, Iraq, Oman .

The minimal age limit of female domestic workers has been increased- Saudi Arabia to 25 years, other ME countries to 23 years and other countries to 21years. A submission of a mandatory Family Background Report has been made mandatory from 2013 to

protect small children below 5 years left behind by mothers. These age limits and the Family Background Report have been contested on the grounds of violation of the human rights of women and gender based discrimination that ignores the role of male parents in the family.

Regulations have been introduced to minimise illegal practices by foreign employment agencies a valid licence, grading of agencies, regulations, guidelines and monitoring. However, abuses within the country as sub agents who are active in the field are unsupervised or controlled, and abuses in workplaces as a result of the actions of agencies in Sri Lanka in collusion with those in receiving countries continue. Exploitation by employers result in death or injury are highlighted by the media. Recent studies for the first time of impact on the health of domestic workers has led to a Migration Health Policy.

## **9. Data collection and analysis**

46. While noting that comprehensive statistics have been provided as regards the health of children, the Committee is concerned by the limited availability of data disaggregated by sex and ethnic group in other fields, including violence against women, polygamy, the situation of internally displaced women and the disparities between urban and rural women, which are necessary for an accurate assessment of the situation of women, for informed and targeted policymaking, and for the systematic monitoring and evaluation of progress achieved towards the realization of women's substantive equality in regard to all areas covered by the Convention.

47. The Committee calls upon the State party to continue to enhance the collection of comprehensive data disaggregated by sex and of measurable indicators to assess trends in the situation of women and progress towards the realization of women's substantive equality, and draws the State party's attention to the Committee's general recommendation No. 9 in this regard.

### **Response**

The 2012 Census and annual Central Bank reports provide data disaggregated by sex and districts and even divisions in some instances pertaining to health, education, formal sector employment including migration and Export Processing Zones and Industrial Estates. Macro data is not available on poverty as analysis is based on household studies. Country level data is not available on gender based violence, sexual abuse, teen age pregnancies and marriage and the informal sector as data collection is based on households. Studies provide in depth information but cannot be generalized although they provide rich insights to problems.

# Priority Issues

## 1. Law and Law Enforcement

- i. Enactment of the promised Women's Rights Act in conformity with CEDAW norm of Substantive Equality, and to respond to limitations of Constitution on enforcement of Equality and other fundamental rights, and also permit actions against non State actors for violation of fundamental rights. These changes are essential to give the Convention an appropriate status in the legal system, where it can influence governance and social and economic changes.
- ii. Reforms to strengthen and resource adequately the gender architecture. Providing in the Constitution for a high powered and independent Women's Commission, similar to other Independent Commissions.
- iii. Reform of personal laws in line with CEDAW commitments. Exploring possibility to introduce Civil Code of family law that will also eliminate discrimination in family law and provide for a legal regime on family relations for all SL women and men.
- iv. Eliminate areas of discrimination in Family law and implement report of Family Law Reform Committee appointed by Minister of Justice and submitted in 2010. This addresses discrimination in General and Kandyan law on divorce, matrimonial property child custody, inheritance, Non marital families, family support.
- v. Access to State lands by reforms to Land Development Ordinance.
- vi. Reforms to respond to concerns of widows and female heads of household especially in regard to access to livelihoods and personal security, pension benefits and inheritance rights. There is an urgent need for a holistic and consistent approach to eliminating the male head of household concept from family law and public regulations which reinforces stereotypical values on women's care responsibilities, and limits livelihood opportunities and choices. Repeal of discriminatory regulations based on this concept re Women migrant domestic helpers.
- vii. Need for Temporary Special measures already identified in areas such as political participation, decision making in public and private sector in areas where there is persistent gender imbalance, to create employment opportunities to eliminate continuing gender gaps, encourage trade union participation as office bearers, respond to problems of Widows and Female heads of household affected by conflict and women with disabilities.
- viii. Need to respond to emerging problem of early marriage of under age girls, because of pregnancy resulting from sexual exploitation of young girls and or adolescent sexuality. Urgent need for minimum sentences or guidelines to prevent suspension of sentences by trial courts for persons convicted of child sexual exploitation, and rape of adult women including gang rape.
- ix. Need to strengthen law enforcement and prevent impunity for VAW and especially in areas of domestic violence, sexual harassment and trafficking, where legal reforms have been introduced but not effectively implemented. Institutional reforms re Police and support services for victims with adequate human and financial resources to strengthen law enforcement on VAW.
- x. Repeal of Vagrants Ordinance and provisions in Penal code on abortion homosexuality and marital rape and introduction of necessary reforms identified in research in these areas and in report of Task Force on Violence against Women and Girls 2016

## 2. Participation in political and public life.

- i. Ensure that sex disaggregated data is collected in relation to nominations by political parties.
- ii. Sensitise political parties to the importance of nominating women to contest elections to national and local assemblies.
- iii. Make it mandatory for political parties to nominate women candidates to contest elections and also appoint as nominated members
- iv. Create a mechanism to enable the National Committee of Women in collaboration with civil society organizations to monitor progress in the nomination of women fill the 25% quota contest local elections .
- v. Extend current campaigns to ensure nominations to national rlrcctions.
- vi. Continue the island wide campaigns to motivate women to accept nominations to contest elections
- vii. Strengthen current capacity building and training programmes to ensure that women have the confidence and skills to contest elections and to function as proactive members of political assemblies and hold leadership positions .

### Women in decision making



- viii. The state and women's organisations conduct programmes to motivate women to aspire to penetrating the 'glass ceiling' and reach the higher positions in the professions and services.
- ix. Organise child care centres and elders centres in the locality to enable mothers of young children and women with responsibilities for care of elders to fulfill their potential and access opportunities to engage in economic activities on terms of gender equality.
- x. The state ensure absence of gender bias in promotions to the highest positions in public life.

### **3. Education and Training**

- i. Ensure that the right to education and training is a Constitutional right and not merely a 'Policy Directive'
- ii. Ensure that the universal free education policy and the incentives offered are continued without emasculation

#### **General Education**

- i. Adopt measures to ensure that vulnerable 'hard to reach' children including those with disabilities are enrolled and retained in schools
- ii. Monitor the implementation of policies to eliminate the unequal distribution of education facilities including the current low provisions for science education
- iii. Take measures to eliminate corporal punishment and sexual abuse in schools
- iv. Eliminate politicization of appointments and energise local officials to monitor implementation of policies and programmes and to enforce existing compulsory education regulations to 16 years
- v. Introduce programmes/activities in the curriculum to empower girls to challenge gender role stereotypes and boys to accept the concept of gender equality
- vi. Sensitise policy makers, administrators and teachers to comprehend that gender parity in enrolment is not synonymous with gender equality and that gender role stereotypes require elimination to ensure equal rights to educational opportunities
- vii. Promote the concept of gender equality from early childhood education senior secondary education
- viii. Encourage female students to opt for courses leading to high skilled occupations to ensure that there will be gender equality in the 'knowledge economy'

#### **Technical and Vocational Training**

- i. Sensitise policy makers, administrators and trainers to the need to promote gender equality by reducing the continuing gender imbalances in technical related courses
- ii. Conduct gender sensitization programmes for student applying for admission to TVET courses to motivate them to opt for technical related courses
- iii. Encourage female trainees to proceed to courses leading to high skilled employment to enable them to participate in the 'knowledge economy'
- iv. Monitor the implementation of the Gender Action programmes developed by consultants

#### **Higher Education**

- i. Incorporate gender specific courses in all Faculties and Departments in the universities
- ii. Sensitise administrators, teachers and students to the importance of promoting gender equality to ensure the human rights of women
- iii. Encourage women academics to aspire to the highest positions in universities

### **4. Employment**

- i. Incorporate the provisions of International Conventions ratified by Sri Lanka are incorporated in national legislation
- ii. Extend the right employment in the Constitution to the private sector and informal sector
- iii. Ratify the recent ILO Conventions-C 177-Home Work Convention and C 189 Decent Work for Domestic Workers
- iv. Extend national labour legislation to the informal sector
- v. Introduce social security legislation for workers in the informal sector
- vi. Monitor the implementation of labour and social security legislation to ensure that there are no violations
- vii. Monitor the implementation of the provisions for gender mainstreaming and for discouragement of gender role stereotypes in the National Human Resources Policy (2012) and its Plan of Action

- viii. Remove the reduction in the minimum age for labour migration of women and the restrictive Family Background Report for women as these are violations of the human rights of women
- ix. Provide support for the development of micro enterprises as most women are engaged in these economic activities
- x. Promote the labour force participation of women to reduce the unemployment rates of women which are currently at least double those of men.
- xi. Encourage women to participate in high skilled employment to ensure that they meet the labour demand in the 'knowledge economy' to which Sri Lanka is moving
- xii. Provide child care and elderly care services to enable more women to be economically active
- xiii. Most importantly, take measures to combat the gender role stereotypes that confine women to 'feminine' jobs and discourage them from participating in more remunerative technical related employment
- xiv. Sensitise employers to remove the gender bias that prevents them from employing women in technical related employment

## 5. Health

- i. Reduce maternal undernutrition, low weight gain in pregnancy and anaemia, with particular emphasis on addressing geographical disparities, providing nutrition education and iron supplementation during pregnancy.
- ii. Prevent teenage pregnancies, particularly prevalent in rural areas, and facilitate access to confidential contraception services from 14 years, through the Family Health programme, and reduce teenage pregnancies.
- iii. Improve services related to subfertility, for more women in need of such services because of the increasing age of marriage.
- iv. Provide access to safe, therapeutic abortion services for girls and women affected by sexual abuse/rape, congenital anomalies of the foetus, and incest.
- v. Expand health care services to reach the increasing numbers of ageing women. This should include chronic care, neglect and abuse, access to services related to blindness, deafness, depression, alzheimers disease, osteoarthritis, breast and cervical cancer and mental health services.
- vi. Strengthen and expand the role of the health sector in the early detection of domestic violence, at hospital OPDs and other health facilities. Provide support for the prosecution of perpetrators and facilitate treatment, particularly access to mental health services.
- vii. Enable all women to access cancer screening services, provide early detection information and access to services when needed.
- viii. Continue strengthening of the maternal death surveillance system, but also enable the independent reporting of maternal deaths to the Sri Lanka medical Council in the event of malpractices.
- ix. Enable women who undergo a therapeutic abortion to obtain maternity leave, including those who have adopted children.
- x. Revise laws related to the marriage of muslim girls from 12 years to 18 years which is the stipulated age by law for all girls.
- xi. Expedite implementation of laws related to witness and victim protection which is relevant in situations of rape, incest and domestic violence
- xii. Address gaps in sex disaggregated data related to all health issues.

## 6. Rural Women

- i. State parties should ensure collection of Sex disaggregated data on rural production
- ii. State parties to take action to formulate a formal wage structure, and set minimum wages for agricultural activities
- iii. State parties to bring in legal reforms on land ownership issues and abolish the concept of Head of House hold.
- iv. In the process of Mechanization of agriculture, include women as participants.
- v. In non agricultural activities such as self-employment and micro-enterprises State parties grant state assistance and take action to register all such activities.
- vi. Minimise gender imbalances in enrollment in technological courses, including information technology and technical courses in vocational education institutions
- vii. Special attention to be paid to women in the plantation sector, and in the disadvantaged district of Moneragala, and the conflict-affected districts in the North and East.
- viii. Provision of adequate health care and social security for the elderly, the mentally ill, and the differently abled;
- ix. State to provide adequate support services such as crisis shelters, legal aid and counseling to women victims of violence.

- x. Action to be taken to protect Water quality in rural areas presently affected by fertilizer, agrochemicals, and industrial and domestic waste entering the system and creating health hazards.
- xi. Reduction in the costs of energy for domestic use.
- xii. Special provisions to be made to safeguard the interests of Migrant workers and female workers in the Free Trade Zones.