Follow-up procedure to concluding observations on the eighth periodic report of Sri Lanka (CEDAW/C/LKA/CO/8)

**Submission by UNCT[[1]](#footnote-1) - February 2020**

The UNCT has been requested to provide information supplementing the information received from the Government of Sri Lanka (CEDAW/C/LKA/CO/8/ADD.1) under the procedure on follow-up to concluding observations of the Committee (specifically, CEDAW concluding observations para. 13(a) and (b), 23(d) and 25 (c).

**PARA. 13(a) Actions taken to repeal discriminatory provisions of the Land Development Ordinance**

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**PARA. 13 (b) Amendment to the Personal laws to remove discriminatory provisions**

The CEDAW Committee in its observation on the 8th periodic report of Sri Lanka[[2]](#footnote-2) referred to the constitutional reform process. This process has been stalled, and more alarmingly there are references to abolish the 19th amendment to the constitution, a constitutional provision that puts in place a constitutional council, which is a body that selects reputed individuals to key independent institutions in the country including the senior judiciary and the Human Rights Commission. While this has been criticized as being negative move which will adversely affect the claiming of rights of individuals. Much of the committee’s previous observations in this regard remain in place. An overarching provision of the Constitution is that it does not allow judicial review for discriminatory laws which existed prior to the enactment of the constitution.

***Muslim Personal Law***

The struggle for reform to the Muslim Marriage and Divorce Act has seen a negative twist, as nationalist actors are now pushing for repeal of the MMDA in its entirety in order to serve a “One Country One Law” discourse which is divisive, and paves the way for attacks against minorities. The proposed bill punctuates a movement to assimilate minorities and signals majoritarian intent. It is hoped that the Private member bills tabled by Dr. Thusitha Wijemanne calling for 18 years as a minimum age for marriage and an option for Muslims to enter into marriage under the scheme of the General Marriage Ordinance be supported by the committee as basic minimum measures in a context which no comprehensive reform has been yet delivered. These bills provide an initial response to the community to improve Muslim personal law and ensure equality to Muslims in Sri Lanka. These bills must be further strengthened by a call for comprehensive reform ensuring the full participation of Muslim women in the process.

**PARA. 23(d) Effective implementation of the National Plan of Action for Addressing Sexual and Gender Based Violence and allocation of adequate resources to ensure its implementation in a coordinated and effective manner**

* The Ministry of Women with the technical support from UNFPA is developing a digitalized monitoring and evaluation system to monitor the implementation of the National Plan of Action. At present the database has been developed and training will be conducted to the focal points of the nine ministries and access provided to report progress.
* Coordination and collaboration between sectors is being strengthened at the National and sub national level to effectively respond to victims and survivors of SGBV in line with international best practices and standard operating procedures and guidelines developed for first contact point health care providers for response on SGBV.
* National level consultation with key line ministries conducted to establish standards and guidelines for multi sectoral coordination. This is in line with the “Essential Services Package (ESP)” for women and girls subject to violence, the global joint UN guidance tool.
* Capacity building workshops of the Legal Aid Commission, Public Services Commission and the Human Rights Commission on the National Action Plan commitments and focused trainings on rights and laws on Sexual and Gender Based Violence and Sexual Reproductive Health and Rights were conducted with UNFPA support.
* The Ministry of Women will undertake an assessment of services provided in the existing shelters for the survivors of violence. The range of services currently being provided, the quality of those services, the service gaps in relation to the essential services package and gaps in the quality and the areas for improvement in empowering the survivors to lead economically, socially and psychologically independent lives after reintegration with the society will be the key questions explored in detail through the assessment. Based on the findings, a two-year capacity building plan for these shelters will be developed and initiated.
* With regard to the Ministerial Communication transmitted on 6 December 2016 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[[3]](#footnote-3), WHO Sri Lanka supported the development of Guidelines for a Code on Sexual Harassment at Ministry of Health (2016)
* The Ministry of Health conducted a training of RMNCH middle level managers composed of Consultant Community Physicians and MO MCH on programme planning and review, family planning and reproductive health, among others and a special session on gender based violence (2019).
* With regard to domestic violence, in June 2018, the Court of Appeal dismissed an appeal and upheld the judgement of the District Court and echoed that the law in Sri Lanka does not yet recognize the irretrievable breakdown of marriage as a constituting ground for divorce. Thus, for a victim of domestic violence, the grounds for divorce has to be hinged on allegations of impotency, adultery or malicious desertion. There is a need for the grounds for divorce to be expanded to protect women who wish to leave their marriage due to emotional or physical violence.
* With regard to women with disabilities, they represent a particularly vulnerable group, and face challenges in accessing their gender rights which do not have a specific focus on disability. Similarly their rights as a disabled person does not have a focus on their gender. Women with disability are underrepresented in government, universities and even in organizations that work towards the rights of persons with disability. Women with disability have a significantly lower level of education compared to that of men with disability. Reports indicate that women who have accessed the assistive devices provided by the Ministry of Social Empowerment and Welfare are of poor quality and made with a one size fits all approach.
* Rape: Marital rape is yet to be criminalized and, despite previous recommendations from the CEDAW committee, the State has also not pursued a comprehensive understanding of consent in accordance with international norms. There is no mechanism for redress and judicial remedy for marital rape.
* Sexual harassment:After the Easter bombings, the ban on face-covering in public places was proclaimed by the Government under the emergency regulations. This has led to a rise in intolerance towards those who observe religious dress codes, especially among the Muslim women in public institutions such as hospital, schools and public transport. Some people stop Muslim women and girls with hijab or abaya which do not include facial covering from entering hospitals or exam halls, or make verbal insults at work places. Many Muslim women reported being harassed on the street and refused service at government agencies and private businesses when wearing a headscarf*,* even with their faces visible. The Ministry of Public Administration issued a circular entitled “Ensuring Security in the Office Premises of the Government” establishing a restrictive dress code for public sector employees and for visitors to government offices. The code requires women to wear one of two types of *sari,* in effect banning forms of dress typically worn by Muslim and Tamil women. The Human Rights Commission of Sri Lanka ruled the circular violated a range of fundamental rights, having established no rational relation between the banned forms of dress and security issues, and requested it be withdrawn. Many Muslim women whose religious beliefs, or families, require them to wear a veil in public found themselves forced to stay home. Even though the ban is no longer in effect, many choose not to wear the veil while some continue to be harassed based on their religious dress codes.

**PARA.25 (c) Carry out a comprehensive mapping of all pending criminal investigations, habeas corpus, and fundamental rights petitions related to sexual violence cases as well as the findings of all Commissions of Inquiries in particular cases involving the armed forces and the police.**

* In 2015, the National Guidelines on Examination, Reporting and Management of Sexually Abused Survivors for Medicolegal purposes was developed by Sri Lanka College of Forensic Pathologists using the WHO Guidelines on Management of Rape Survivors. WHO Sri Lanka has encouraged survivor-centered medico legal response. We supported 4 out of 9 non-specialist medical officer trainings on the guidelines.
* Impunity for sexual violence:The Committee commended the development of programmes for transitional justice, however many of the concerns that were articulated in the concluding observations remain. Most alarmingly media reports have referred to a lack of commitment in taking forward many initiatives of the previous government on transitional justice. Of them most disheartening is the appointment of military leaders who currently have allegations of grave human rights violations against them, to key positions, signalling the rhetoric of the government’s commitment to protect those who fought with the military during the war. The media has also reported that the Office on Missing Persons Act could be amended[[4]](#footnote-4), prompting a response from the Chairperson of the OMP highlighting the independence and permanent nature of the State Institution. The Committee also called for better safeguards for the independence and effectiveness of the judiciary and witness protection programmes in line with international standards. In a case involving an employee of the Swiss Embassy, despite safeguards taken by the Swiss, the media played an active role in disclosing photographs and personal details of the alleged victim, (who was later arrested) highlighting the inadequacy of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015. The mainstream media came under severe criticism for unethical behaviour, publishing photographs without the consent of the subject. This case alleges sexual assault and the flouting of media ethics code was not addressed by the government. This prompted the FDFA to call for better protection of its employee’s personal rights in further proceedings and in compliance with national law and international standards.
* Women and trans people operating on the street, massage parlours, spas, as sex workers are targeted and arrested under the Vagrant’s Ordinance and Brothels Ordinance. The law provides for the arrest of the women and trans people who are sex workers and not their male clients is discriminatory. Sex workers continue to be arrested if they are in the possession of condoms. Transsgender people are particularly vulnerable to police violence, exploitation and abuse under the Vagrant’s Ordinance. A recommendation for the repeal of the Vagrant’s Ordinance is timely.

1. Inputs have been provided by UNFPA, OHCHR, WHO [↑](#footnote-ref-1)
2. CEDAW/C/LKA/CO/8 [↑](#footnote-ref-2)
3. CEDAW/C/LKA/CO/8/Add.1, para. 33 [↑](#footnote-ref-3)
4. <http://www.dailymirror.lk/breaking_news/OMP-Act-to-be-reviewed/108-180821> [↑](#footnote-ref-4)