



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

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**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms of
Discrimination against Women**

List of issues and questions in relation to the eighth periodic report of Sri Lanka

Legal status of the Convention

1. It is asserted in the eighth periodic report of the State party ([CEDAW/C/LKA/8](#)) that “there is adequate provision within the existing legal regime of Sri Lanka to accord statutory recognition to the right to equality and to recognize thereby the right of women not to be discriminated on the grounds of gender” (para. 12).¹ Please demonstrate to the Committee how the enforceability of all provisions of the Convention is ensured under the State party’s national legal order. Please give specific examples where the rights under the Convention have been invoked before national tribunals or courts and where reference to those rights has been made in the jurisprudence, including the frequency of occurrence.

Prohibition of discrimination against women

2. According to the State party, “any discrimination of persons, on the grounds of sex” is clearly prohibited under article 12 (a) of the Constitution (para. 13), which is thus in line with the principle of equality and the prohibition of discrimination as articulated in the Convention. Please provide the Committee with examples of how the provision within the Constitution has been invoked to ensure the protection of women from both direct and indirect discrimination, including multiple forms of discrimination, and from discriminatory acts committed by public authorities, the judiciary, organizations, enterprises and private individuals. Please describe the

Note: The present document is being circulated in English, French and Spanish only.

¹ Unless otherwise indicated, paragraph numbers refer to the eighth periodic report of the State party.



measures taken by the State to prevent, investigate and punish any violations of the Convention by either public or private actors.

Discriminatory laws

3. Please detail the actions taken in the light of the State party's declaration made during its universal periodic review in 2012-2013 that, "with regard to recommendations 128.16 ('Fully incorporate the Convention on the Elimination of Discrimination against Women into its domestic system') and 128.28 ('Enact urgent legislative amendments to the Penal Code to ensure that the rights of women from all religious and ethnic communities are safeguarded'), a review of legislation with a view to ensuring conformity with [the Convention] is envisaged under the NHRAP (National Plan of Action for the Promotion and Protection of Human Rights 2011-2016)" ([A/HRC/22/16/Add.1](#), para. 2.3).

4. It is noted in the report that discriminatory laws, for example the Citizenship Law and the Criminal Procedure Code, have been amended (para. 19). In accordance with the State party's obligations under articles 1 and 2 of the Convention and in line with Sustainable Development Goal 5.1, to end all forms of discrimination against all women and girls everywhere, please provide: (a) additional details on all discriminatory laws that have been amended; (b) information on the efforts of the State party to provide its support for customary law reform through sensitization of and dialogue with religious groups and community members and civil society organizations, including women's non-governmental organizations ([CEDAW/C/LKA/CO/7](#), para. 17 (c)); and (c) an update on the review process for the bill to amend the Land Development Ordinance so as to recognize equal rights to succession to land (para. 21) and the expected timeline for its adoption into law ([CEDAW/C/LKA/CO/7](#), para. 17 (b)).

5. Please provide the Committee with a description of the mechanisms in place for ensuring that women are enabled in practice (as affirmed in para. 22) to participate, fully and equally, in the law reform process ([CEDAW/C/LKA/CO/7](#), para. 17 (d)). Please illustrate the efficiency of those mechanisms by indicating the number of women who have participated in the law reform process and the manner in which they have contributed to the new constitutional reform process, including the impact of their contributions. Please provide the Committee with information on how the State party is enhancing the awareness and knowledge of women in general of their rights under the Convention and relevant national legislation, including through the provision of legal aid for the purpose of raising challenges to such customs, laws and practices as are alleged to violate the Convention, and the outcomes of any such challenges.

Impact of conflict on women

6. According to information before the Committee, Tamil women in the northern and eastern parts of the country, members of female-headed households, single women, internally displaced women, war widows and former female combatants continue to suffer discrimination, sexual and gender-based violence, harassment and abuse, as perpetrated from within their own community and by the authorities, as well as at the hands of the military. In the light of the foregoing, please provide an

update on the efforts of the State party, as referred to in its letter dated 16 October 2015 to the Committee, to (a) ensure that “action will be taken to issue instructions clearly to all branches of the security forces that torture, rape, sexual and gender-based violence and other human rights violations are prohibited and those responsible will be investigated and punished”, in line with the recommendations of the United Nations High Commissioner for Human Rights ([A/HRC/30/61](#), para. 91 (2) (f)); and (b) accord priority to making special arrangements for women-headed households, acknowledged by the State party to be a vulnerable social group.

7. The report sets out the number of cases of sexual offences reported during and after the conflict period in the Northern Province (para. 108). Please provide details on (a) the number of investigations, prosecutions and punishment ordered for acts of sexual and gender-based violence against women during this period throughout the country; (b) the number of accusations involving private actors, the armed forces, the police and militant groups; and (c) the number of victims, classified by the following categories: female-headed households, single women, internally displaced women, war widows and former female combatants. Please provide the Committee with information on the steps taken by the State party to ensure the application of gender-sensitive procedural safeguards so as to avert revictimization and to encourage reporting of cases of discrimination and gender-based violence against women, thereby ensuring the prosecution and punishment of perpetrators of such violations.

8. The Committee has been informed that the majority of widows, female-headed households, internally displaced women and returnees face impoverishment and barriers to the enjoyment of their economic and social rights. Please offer information on the comprehensive strategies that exist to combat poverty and prejudicial stereotyping of the members of these groups, and to provide these women with durable housing solutions and ensure the return of their land and their access to basic services such as water and sanitation, health facilities, schooling and transportation ([CEDAW/C/LKA/CO/7](#), para. 41 (d)).

9. Please provide information on the implementation of Security Council resolution 1325 (2000) and subsequent resolutions and on whether (a) the disarmament, demobilization and reintegration processes have been redesigned to take into account the complex roles played by women during the war; (b) the Government’s process of rehabilitation has been redesigned in consultation with female ex-combatants and with the participation of communities and women; (c) the Presidential Task Force for Resettlement includes female representation; and (d) steps have been taken to build the trust of the Tamil community so as to ensure that women, including female ex-combatants, do not experience fear of arrest. Please provide information on whether the intention exists to develop a national action plan on women and peace and security.

National machinery for the advancement of women

10. Please provide the Committee with an update on the status of the bill to establish the national commission on women (para. 23) and the expected timeline for its adoption into law, the status accorded to the commission and the allocation of adequate resources for its work ([CEDAW/C/LKA/CO/7](#), para. 19). Please provide the Committee with an update on measures and actions taken to establish the

independence of the commission and to implement the State party's voluntary pledge, made during its universal periodic review, to appoint a gender focal point to each line ministry of government ([A/HRC/22/16/Add.1](#), para. 4.12) and please clarify the role of those focal points in implementing strategies for the advancement of women.

Temporary special measures

11. According to the State party, "no temporary special measures have been introduced since the approach has been to integrate necessary interventions into the national policy, which is an evolving process" (para. 24). In accordance with the objectives of the Committee's previous recommendation ([CEDAW/C/LKA/CO/7](#), para. 21), please indicate whether the State party has undertaken any studies to determine in what areas women are underrepresented or disadvantaged. Please demonstrate how the outcomes of any such studies have resulted in the increased allocation of resources to programmes designed to accelerate the achievement of substantive equality between women and men in the specific sectors exhibiting such underrepresentation or disadvantage. Please provide information to the Committee on the impact exerted by this action.

Stereotypes and harmful practices

12. In the light of the recently articulated concerns (21 November 2014) of the Human Rights Committee ([CCPR/C/LKA/CO/5](#), paras. 7 and 9) regarding: (a) "the persistence of sociocultural values that condone domestic violence, resulting in such gender-based violence remaining widespread and subject to impunity"; and (b) "the low rates of participation by women in political and public life, perpetuated by the persistence of stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life", as well as those expressed previously in that regard by the Committee on the Elimination of Discrimination against Women ([CEDAW/C/LKA/CO/7](#), para. 22), please provide information on the indicators and research results used as the basis for the assessment and determination that "gender role stereotyping continues to decline and is not a serious concern or a subject which is widely discussed in Sri Lanka" (para. 25), in view of prevailing evidence of the stereotypical attitude according to which only men are recognized as heads of household.

Gender-based violence against women

13. Please provide the Committee with the details of the action plan to combat gender-based violence against women, as referred to by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in the preliminary observations and recommendations made on the occasion of his recent visit to Sri Lanka (29 April-7 May 2016). Please clarify whether it encompasses a comprehensive approach to preventing and addressing gender-based violence against women in all its forms and manifestations and please indicate the projected timeline for the attainment of its objectives. Please provide specific examples of the educational and awareness-raising programmes conducted by the State party

(paras. 28, 29 and 37) to raise the awareness of the population of the criminal nature of all forms of gender-based violence against women, including domestic violence, and demonstrate their numerical and geographical reach ([CEDAW/C/LKA/CO/7](#), para. 25 (b)).

14. Please provide the Committee with an update on the status of the review of the Assistance to and Protection of Victims of Crime and Witnesses Act, as referred to in the letter dated 16 October 2015 from the State party to the Committee, and as recommended by the United Nations High Commissioner for Human Rights ([A/HRC/30/61](#), para. 91 (3) (k)). Please also provide the Committee with data, disaggregated by geographical region, on the number of women and girls who have availed themselves of the support services referred to in paragraphs 30-33 and 38-39 of the report. Please further provide the Committee with an update on the plans to establish more shelters in the northern and eastern regions of the country (para. 38; and [CEDAW/C/LKA/CO/7](#), para. 25 (c)).

15. According to the State party, “the act of sexual intercourse without the consent of the wife is by itself not a crime under the existing law” (para. 35). Please inform the Committee whether there is an intention to reverse this position so that that act would be criminalized, regardless of the degree of violence that it entails, in line with the obligations of the State party under article 5 of the Convention and in line with the Committee’s general recommendation No. 19 (1992) on violence against women. Furthermore, please clarify whether judicial acknowledgement of separation is still required for prosecution of marital rape under the Penal Code and if so, please indicate the progress made in eliminating that requirement, in line with the Committee’s previous recommendation ([CEDAW/C/LKA/CO/7](#), para. 25 (d)).

16. Please clarify the statement that “the provisions of the Penal Code (sections 365 and 365A) which criminalize sexual activity between two consenting adults of the same sex does not detract from the Constitutional guarantee under Article 12 of the Constitution on protection from discrimination on the grounds of sexual orientation or sexual identity” (para. 36). Please provide a detailed account of the measures in place to guarantee the protection of lesbian, bisexual and transgender women who are subject to gender-based violence against women and intersecting forms of discrimination on the basis of their sexual orientation and gender identity ([CEDAW/C/LKA/CO/7](#), para. 25 (g)).

Trafficking and exploitation of prostitution

17. The Committee welcomes the establishment of a shelter for female victims of trafficking (paras. 44 and 53). Please provide additional examples of how the State party is ensuring the protection and recovery of female victims of trafficking and indicate the number of victims who have benefited from the services provided ([CEDAW/C/LKA/CO/7](#), para. 27 (b)). It is reported (para. 59) that police continue to arrest women in prostitution under section 7 of the Vagrants Ordinance, counter to the previous recommendation of the Committee ([CEDAW/C/LKA/CO/7](#), para. 29). Please provide the Committee with information on the measures taken by the State party to ensure that this reprehensible practice ceases.

Participation in public and political life and in decision-making

18. Please provide the Committee with an update on the implementation of the commitment made by the State party, during its universal periodic review, to take “further measures to encourage increased participation of women in representative bodies ... in line with MDG 3 and relevant national policies” ([A/HRC/22/16/Add.1](#), para. 2.19). In this regard, please elaborate on whether the measures taken include: (a) the enactment of legislation to abolish indirect discrimination in public and political life, including by providing incentives to parties to achieve greater gender balance in their own leadership positions, as well as imposing penalties to render political parties accountable; (b) the establishment of numerical goals, benchmarks, timetables and quotas for nomination, selection and promotion, across all sectors of political and public life; (c) the protection of women against reprisals when they exercise their political rights; (d) support for the equal sharing of family responsibilities through the adoption of measures designed to enhance the work-life balance for both women and men in the public sector; and (e) the existence of a mechanism for monitoring the effectiveness of the measures taken and reporting on progress and failures.

Employment

19. Please indicate whether the National Human Resources and Employment Policy for Sri Lanka, 2012 (para. 159), uses temporary special measures to delegitimize the concentration of women in low-skilled and low-paid jobs and has reduced the high unemployment rate of women ([CEDAW/C/LKA/CO/7](#), para. 35 (a)). Please indicate whether a plan of action has been elaborated for the protection of women working in the informal sector which includes women’s access to social security and other benefits, for example paid maternity leave, pensions and unemployment insurance and the establishment of a specific category for female-headed households within the context of welfare programmes; and whether ratification is envisaged of the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization ([CEDAW/C/LKA/CO/7](#), para. 35 (b)). Please provide the Committee with a description of the scope of the application of the policies and code of conduct and guidelines on the prevention of and response to sexual harassment in the workplace, as developed by the State party (para. 78). Please also provide a detailed account of how a complaint may be initiated and a detailed description of the resolution process, levels of severity of punishment of perpetrator and the forms of compensation of victims ([CEDAW/C/LKA/CO/7](#), para. 35 (c)).

Health

20. Please indicate whether the Family Health Programme and services (paras. 84 and 168), including reproductive health education, are accessible to all women, including internally displaced women, women in less-developed and conflict-affected areas, and to adolescents, without any requirement of adult consent ([CEDAW/C/LKA/CO/7](#), para. 37 (a) and (c)). Please provide the Committee with an update on the status of the “draft bill recommending the liberalization of the current strict approach (towards abortion] contained in the Penal Code” (para. 85) and

indicate whether that bill: (a) includes, as exceptions to the ban on abortion, cases of termination of a pregnancy for therapeutic reasons and cases where a pregnancy results from rape or incest; (b) eliminates the punitive provisions to which women who undergo an abortion are subject; and (c) guarantees that women seeking to terminate their pregnancy will be provided with access to high-quality services, including the management of complications arising from unsafe abortions, as previously recommended by the Committee ([CEDAW/C/LKA/CO/7](#), para. 37 (d)).

Rural women

21. Please demonstrate how a gender perspective has been included in the National Development Agenda through which targeted support is provided to rural women in sectors such as health, education, employment and economic development and in the area of participation in decision-making ([CEDAW/C/LKA/CO/7](#), para. 39 (a)). Recalling the State party's obligations under the Convention and its commitment to achieving Sustainable Development Goal 5.1, please provide an update on the status of the proposed amendment to the Land Development Ordinance (paras. 94-95) and confirm that the proposed amendment ensures that joint or co-ownership is granted to both spouses when the State allocates land to married couples ([CEDAW/C/LKA/CO/7](#), para. 39 (d) and (e)). Please clarify whether the main rural development programmes, Divi Neguma, Gama Neguma and Maga Neguma (para. 89), fulfil the Committee's recommendation that policies and programmes, including income-generation schemes, be developed to improve the situation of women heads of household and older women ([CEDAW/C/LKA/CO/7](#), para. 39 (c)).

Migrant women

22. Concerning the memorandums of understanding into which the State party has entered with several countries so as to protect migrant workers (para. 122), please provide a detailed description of the form of protection provided to women migrant workers, the mechanisms in place to guarantee that protection and the type of assistance offered to migrant women who seek redress for exploitation, gender-based violence and abuse perpetrated by their employers ([CEDAW/C/LKA/CO/7](#), para. 43). Please provide an update, within the context of eliminating discriminatory measures directed at women only, on the timeline for the adoption into law, of the draft employment migration authority act, which provides, under article 74, a gender-neutral requirement that Sri Lankans who migrate for work inform the Divisional Secretary of any child under 6 years of age whom they will be leaving behind in Sri Lanka, and to register a guardian for such a child ([A/HRC/29/36/Add.1](#), para. 67). Please provide the Committee with information on any action taken by the State party to withdraw the Ministry of Foreign Employment Promotion and Welfare circular issued in January 2014, as recommended by the Special Rapporteur on the human rights of migrants ([A/HRC/29/36/Add.1](#), para. 78 (3.A.cc)), so as to respect women's freedom of movement.

Equality in marriage and family relations

23. The State party asserts that “there is adequate provision within the existing legal regime of Sri Lanka to accord statutory recognition to the right to equality and to recognize thereby the right of women not be discriminated on the grounds of gender” (para. 12). In the light of this assertion, and recalling the State party’s obligations under the Convention and its commitment to achieving Sustainable Development Goal 5.1, please demonstrate how those provisions are applied so as to ensure that women do not suffer adverse consequences from the application of: (a) the Muslim personal law regarding polygamy and early, child and forced marriage; (b) the Thesawalamai law, under which a husband’s consent is required for women to appear in court or undertake any transaction; and (c) the existing legal framework on inheritance and property and landownership ([CEDAW/C/LKA/CO/7](#), para. 45 (a) and (b)). Please provide the Committee with an update on the progress made in finalizing the draft bill (para. 129) that recognizes the concept of marital breakdown as a grounds for divorce and please indicate whether it recognizes no-fault divorce and enhances women’s economic rights upon divorce, as previously recommended by the Committee ([CEDAW/C/LKA/CO/7](#), para. 45 (d)), and in line with the Committee’s general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution and joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014).
