

NGO Report – 2nd Universal Periodic Review of Sri Lanka (November 2012)

Joint Submission by the Women’s Action Network and Centre Human Rights and Development

THE SITUATION OF INTERNALLY DISPLACED, RESETTLED AND RELOCATED WOMEN IN THE NORTH AND EAST OF SRI LANKA

The North East Women’s Action Network (WAN) is a network of 11 women’s organizations based in the Northern and Eastern provinces of Sri Lanka. The network was started in 2002 as the lobby wing of three women’s organisations that have been operating in the North for many decades and spread to cover 08 districts where the country’s ethnic minority communities form a majority of the population in the two provinces and which has been the most affected areas by the war. The WAN has been working in building the capacity of women’s rights activists and addressing issues that women face at the ground level through local mechanisms and activism in the north and the east. A few of the WAN members were part of the preparation of the 2008 UPR civil society collective report.

The Centre for Human Rights and Development (CHRD) is a non-profit organization initiated in 1997 by a group of human rights lawyers and activists for the protection and promotion of human rights in Sri Lanka. The objective of CHRD primarily is to ensure protection of human rights of ethnic minorities mostly indigenous Tamils, Indian origin Tamils and Muslims. CHRD’s main two work areas are providing legal aid and building civil society coalitions at the district level.

INTRODUCTION

Since the last Universal Periodic Review of Sri Lanka in May 2008 the status of women in the North and East has seen significant deterioration. While it is acknowledged that the end of the armed war has brought about significant changes such as lack of large scale fighting and bombardment and increased freedom of movement, in the last three years women’s security has significantly reduced and the benefits of peace are yet to be enjoyed by these women. In this context the WAN wishes to submit before the committee various aspects and issues that displaced women have faced in the last four years. The report wishes to highlight issues faced by women who are either 1) still displaced, 2) returned home or 3) settled in new locations. The issues covered are right to return, relocation, land rights, access to services, safety and security, and cultural rights.

GENERAL STATEMENT

The Sri Lankan government has failed to protect and enhance women’s rights and adopt necessary measures to safeguard the rights of Internally Displaced Persons (IDPs) as it agreed it would during the last Universal Periodic Review. There has been heightening of militarization in the North and the East since the end of the armed war in May 2009. There is a lack of holistic resettlement measures and a continued culture of impunity which has placed IDPs, especially women IDPs, in vulnerable positions. Militarization of civil administration is at its peak especially in the north and the east.

In the North and the East women make up the majority who survived the brutal war. Their numbers include almost 90,000 war widows and many single young women. These IDP women have to care for their families not only socially but also economically. IDP women in the North however continue to find themselves excluded from decision making positions and livelihood options.

While the Sri Lankan state is a signatory to the CEDAW and submitted its report in 2011 there have been no significant measures taken to reduce violence against women in the domestic or public realm. The significant rise of violence against women and girl children in the North and the East and the Sri Lankan judiciaries' inaction in these cases mirror the States disregard for the rights of women and girls in Sri Lanka and especially of women in the North and the East.

CATEGORISING OF ISSUES FACED BY WOMEN IDPs

RIGHT OF RETURN

Many IDPs have been denied the right of return in the North and the East. A large number of locations have been deemed high security zones (HSZ), special economic zones (SEZ) or military bases and their former residents denied access to their lands. The Sri Lankan state has in numerous cases (like Sampoor, Mullikulam, Silavathurai, Iranamadu etc.) informed those displaced that they have no right of return and have to accept the relocation sites offered by the Sri Lankan government. These relocation sites are often isolated and lack access to areas – such as the sea and cultivable land – where people can pursue their traditional livelihood methods, and are lacking in basic infrastructure and devoid of any resources. In part because women are continuously excluded from the decision-making process, they have often found themselves in relocation sites that are unsafe. In many cases women have no livelihood opportunities in these areas. The relocation land is much smaller in size (some time 10 perches for family for their original 2 acre land) and uncultivable. In several areas the government has yet to 'clear' the land and has informed people that they should relocate rather than return to their original land.

Even though the government had proudly announced its success at resettling hundreds of thousands of people in less than three years, the manner and the speed in which it has been done has harmed many women. For instance, Muslim women returning from Puttalam district makeshift to Jaffna (their original homes) after a prolonged displacement face a long and complicated process; they are forced to spend about Rs.1500 (more than half a month's salary for many) to register themselves at the Jaffna district secretariat due to local travel and obtaining various documents. They also need to cover their travel and food costs between Jaffna, often having to forgo the cost of food rations, as they are forced to shuttle between Puttalam and Jaffna. Most have no shelter or intermediate arrangement in Jaffna when they first return after over 20 years of being forcibly evicted by the LTTE from their homes.

IDPs displaced by a government special economic zone in Sampoor have been demanding the right to return to their land for the last 06 years. Rations have been stopped since December 2011 in an effort to force them to relocate to government allotted land that is barren and much smaller in size compared with the fertile ancestral plots of land taken away from them. The relocation sites are removed from traditional livelihood methods. In most cases the Sri Lankan government has been in negotiation and consultation only with the men in Sampoor who are seen as the 'head of

household'. In the case of the Oluvil harbor construction – due to which several families were displaced yet again the displaced were resettled in areas that did not allow them to continue their fishing. Women from Oluvil who used to work cleaning nets and drying fish now find themselves unemployed and unable to support their family financially.

LAND

Access to land and women's ownership of land continues to be an area in which the Sri Lankan State has not taken any proactive steps. This poses particular problems in the current context of frequent and ongoing government appropriation of land for various developmental projects, HSZs, SEZs and for alleged environmental protection.

Due to the prolonged and multiple displacements of the Tamils and Muslims in the North and East thousands of IDPs have lost their title deeds and other land documents. The Sri Lankan government, however, has been slow in providing the IDPs their relevant documents or in providing mechanisms for those whose records cannot be found. Instead the Sri Lankan State has proposed measures like the recent government circular requiring people in the north to register their land within a stipulated period. This circular may intensify land problems as it does not recognize the land distributed by the LTTE and open up space for the military to directly get involved in land disputes in the north. This would be particularly unjust in the aftermath of 30 years of war, where many people in the north do not have the documents to prove their ownership and much of the land in these areas have become jungle. Luckily a court injunction has temporarily prevented the government from imposing this rule in the north.

During the 30 year war, land that was under the LTTE control was divided as per the LTTE's decision to various people. While these decisions are legally null and void the State has not looked into the complexities of the situation and has in some areas started returning the land to the original owners.¹ The current users are left with no recourse, no alternate land, which makes the poor people pay the price of the war between the state and the LTTE.²

In most cases women are the ones who are left behind to negotiate with the State to reclaim their land. Women in the North and East have complained about government officers treating them badly. In many cases, the fact that government officers speak only Sinhala, not the Tamil of local residents, makes it difficult to negotiate.

Developmental agencies and the government continue to register new land and houses under the name of the 'head of household' and even though in many cases the head has been a woman the government officers and developmental agencies have specifically asked for the name of a male member of the house and registered land under their names. In the culture of the east, and due to the dowry system in the Tamil and Muslim communities, houses and land have traditionally been in women's names. The above practice of recognizing only men as the head of the house hold by the government and aid agencies and the government's inability to recognize women having co-ownership of the state land allocated for resettlement have been badly harming women's right to property and other post-war assistance.

¹ Those who owned the land in the 1980's

² In Velloor for example people have been evicted from the land in which they lived for the last 20 years.

Ad-hoc government policies imposed on communities without proper consultation have had serious impact on land usage and ownership. For example in Vedha-Theevu an elephant fence was put up in the last year to prevent elephants from attacking; however the fence was built in such a manner to prevent Tamil farmer's access to their agricultural land and ended up fencing off the Tamil villages from the Sinhala villages. The local government officials were not informed of this decision. The same pattern of constructing through cultivable and inhabited land instead of the borders of the jungles has been commonly practiced by the forest department in the Eastern province. Yet another recent such case is the Ashraf Nagar village in Ampara district where 69 families have been first fenced under the pretext of protection from elephant and later a military base was built within the newly fenced village. Out of the 69 families only 04 families now live in this village which has turned into a Sri Lankan army base. Both these instances women who have inherited land which was given by their forefathers through the dowry system not only lost their homes but also their livelihoods of home gardening and agricultural related jobs. Women's organizations in the east have been informed of several such elephant fencing incidents that have fenced villages in and deprived women of their land, houses, livelihood activities and access to other communities and villages. In a few such cases initially there have been some consultation with the community but subsequently the decision as to where the fence should be constructed was decided by the government hierarchy.

In Trincomalee there are several cases of people being forced to sell their land for developmental activities. In Velloor for example the police threatened owners and coerced them to sell their land for tourist hotels. The owners who were women complained that to date they have not been given alternate land and the compensation was meager.

In Kiran, Mullikulam, Silavathurai, Echchalampathu, Ashraf Nagar and in several other areas in the north and east, land has been taken over by the military for bases and headquarters in the post-war context when Sri Lanka is meant to be returning to a period of normalization and demilitarization.

SHELTER

While several government projects and foreign housing schemes are in place, selection for housing has been ad hoc. The government's insistence that even those not affected by war be provided housing, so that the ethnic balance is maintained, harms Tamil and Muslim IDPs who have been displaced multiple times over the last 30 years. In many cases the criteria for selection is problematic and marred with political interference. For example IDPs returning from India have been excluded from Indian and other Government housing schemes. While it is understood that given the limited resources the State must prioritize those it provides housing for, there needs to be transparency and accountability in the process.

Under the current housing schemes, older people are not provided housing or any other form of shelter. In many cases there are single widowed women who have then been refused housing. There has also been no comprehensive method in building houses, and the housing programs are not made to suit the ground realities – most notably the vulnerability of women forced to search for resources in the context of heavily militarized and unsafe environment. Women headed households have often been burdened with building the house with the material given with their labour contribution which makes them vulnerable to exploitation and even sexual abuse since they have

to approach the men who have building and construction skill to give free labour. Aid agencies and the Sri Lankan government have failed to take into account women's issues such as having to go to work to provide for the family, the lack of family support in such instances, women having to spend more time to care for children and for the physically challenged in the aftermath of a brutal war.

Requirements for being awarded houses – such as owning at least 10 perches of land and possessing land documents – leave many without housing as they have lost their land titles and many even can't identify their land boundaries correctly after being in displacement over two decades. The government has also put a stop to providing legal documents or land allocation for landless in the north. People with only 5-7 perches of land get no housing and no measures have been taken to address the same.³

RIGHT TO LIVELIHOOD AND EMPLOYMENT

Before displacement women in the North and the East were engaged in various livelihood activities such as livestock breeding, home gardening, fish drying and running small shops. However, many women who have returned have found that they are unable to engage in livelihood activities due to several reasons:

The military has opened several food and grocery shops, thus curtailing women's livelihood options in the north. Earlier several women used to earn their livelihood by running small shops. The military has also been engaging in the sale of vegetables. Women therefore are unable to sell vegetables from their home gardens due to their inability to compete with the military and their fear of doing so. In several places the military has taken over public land and private land alike to create military camps and training centers and they are even engaging in paddy cultivation using the land that has been forcibly taken from poor farmers.

Even though aid for livelihood activities have been provided the Sri Lankan government and humanitarian and development agencies alike have been only encouraging poultry breeding, animal husbandry and sewing. There has been a "one size fit all program" for women's livelihood opportunities and Rs. 35,000 has been given as loan. These livelihood activities consider women as secondary income earners and encourage them to take up livelihood activities that are home based and do not generate much profit. Since there is no skill improvement or advancement and everyone is engaged in more or less same activities there is also limited marketability. In several instances women have complained that aid agencies have not even given cages for the chickens even though funds have been allotted for the same and high yield cows demand more food so the beneficiaries have to sell them off since they are unable to meet the cost of feeding them.

The continued view of what livelihood activities women can engage in seems to reflect a conservative mindset. In the current context where women are the primary breadwinners it is imperative that a holistic and progressive understanding and implementation of livelihood activities is undertaken by the Sri Lankan state and Aid agencies.

³ Athiyammankeni

CULTURAL RIGHTS

Cultural rights of minority communities in Sri Lanka have come under severe threat through covert and overt measures of the Sri Lankan government in the last three years. As stated above language rights are yet to be given to minority communities. However in the last three years there has also been a capturing of public places and spaces and culturally colonizing the same, which has deprived minority communities of their right to preserve their culture. In scores of locations, Buddhist temples and statues have been built on roads in predominantly Hindu and Muslim areas. Families have been forced to leave their homes and cultivable lands due to newly announced Buddhists archeological sites belonging to majority community being established. Sinhala settlers have then been subsequently brought into maintain the newly discovered Sinhala heritage sites. In Illangai Muhathuwaram, in Trincomalee district, the Ganesh Temple which existed for many years was taken away and a Buddhist temple has been built in its place. The area has now been renamed Lanka Patuna. Women from this area do not have a temple to worship in and feel this destruction of their Hindu temple a violation. In several areas the Sri Lankan government is seen to actively build Buddhist temples and statues while Hindu temples, churches and mosques remain destroyed or inaccessible.

PUBLIC SERVICES- Health Care, Education, Grama Seveka's (government officials in charge at the village level) and Police

Women in the North and East continue to suffer due to lack of access to basic amenities and services. Even though the Sri Lankan government has made commendable progress in terms of physical rebuilding, this has primarily been in regards to roads. Hospitals are far and few in between several areas in the North while in many of the few school buildings that are in place (especially in Vanni), there is no proper infrastructure or teachers to provide children basic education. In most cases teachers in Math, Science and English were never available. While Sri Lanka is proud to be a country with 97% literacy rate, this lack of facilities in schools will induce a drastic drop if changes are not made immediately. As schools with grades 10-12 are mostly built in towns, parents of girl children are reluctant to send their children to school, due to lack of proper transport facilities and concerns for their safety. As a result there is a high drop out of girl children in the North and the East.

Women in the North and East complain that while medical care was available, many of the doctors do not speak Tamil. In several cases in Killinochchi, Mannar and Mullaiteevu women had been given wrong medicine as the doctor and the patient were unable to communicate, which has led to misunderstanding and wrong diagnoses. The lack of proper and systematic counseling for the communities that have lived through the brutal war has also led to a rise in mental illness, and women have been finding it difficult to deal with the trauma they have faced. Women's groups and non-governmental organizations are not permitted to deal with this issue since the Presidential Tasks Force restricts their work to 'hardware' activities such as construction, as opposed to 'software' relating to protection and empowerment activities.

Police stations in the North and East are almost entirely manned by Sinhala-speaking men. Women are especially affected by this as they are unable to register complaints and have the same read back to them in a language they don't understand. In most cases even if there is a women's desk in charge of Violence Against women cases either there are no women present or the female police officer speaks only Sinhala.

Language continues to hinder women when accessing other government officers and services as well. In Trincomalee even though 80% of the residents are Tamil-speaking, majority of government officers and most police stations function in Sinhala.

With the rise of violence against women statistically in the north and the east there seems to be a general misunderstanding among authorities and administrative bodies that the violence is connected to the Tamil and Muslim cultural practice. However this is detrimental not only in peace and reconciliation but also harmful for women. The rise in violence can be attributed to three reasons: One- failure of strict law enforcement and collapse of law and order situation, Two- women's lack of access to police stations and lack of trust in law enforcement authorities, including the perception that the police is insensitive to the needs of civilians, particularly women and Three - the breakdown of social structures such as family and community. Most women are without male support or any family structure which is opening them to violence and abuse. The lack of economic support has also meant that women are forced to consent to abusive relationships and economic relationships such as prostitution so as to take care of the family. It is important that the police and other government officers understand these nuances rather than consider that the Tamil or Muslim society per se is violent and abusive.

GOVERNMENT ASSISTANCE

The power of decision making in the resettlement areas has remained in the hands of men, mostly politicians. Community women are not allowed to be part of a decision making body. Returning women do not have the power or authority to make decisions that concern their community. There is no adequate support structure for women and a sense of belonging to a community has been lost due to suspicion and operation of para-military groups as government spies. The already existing socially and culturally constructed power hierarchies further strengthened by the current context of no access to adequate assistance and fulfilment of basic needs. Most men in returned areas, IDP camps and otherwise too become addicted to alcohol and drugs. Their excuse is their frustrated life without proper assistance and life being shattered from every aspect. This in return increases the vulnerability of women's lives.

There are several instances where aid that has been allotted to people has not been received by the beneficiaries. In Aalim Nagar for example beneficiaries were made to sign for goods worth one hundred thousand rupees for their houses but did not receive any of the material.

Beneficiaries of the NEHRP housing scheme in Trincomalee complained that they had to pay a bribe of 50 000 if they wanted their name on the beneficiaries list.

Many female rehabilitated cadres said they were asked to sign voucher indicating Rs. 75,000 for livelihood assistance but they did not received the inputs worth Rs. 75, 000 for their livelihood activities. It seems there is corruption and sexual abuse within the aid structures, mainly within the community and government level.

SAFETY AND SECURITY

Individual women's safety and security have deteriorated sharply in the last three years. Women returning to their original places have found their villages and areas highly militarized. Many

women have also lost their relatives, which has an impact on their mobility and the sense of community given the protection and support that comes through such structures. There has been a high reportage of child sexual abuse, rape and murder or suicide and other grave violence against women - in the North in the last few months⁴. According to the Judicial Medical Officer of the Jaffna Hospital, within the months of February and March 2012 there have been 56 cases of rape and severe violence against women and girl children reported to his hospital. In 2010 the number of incidents of violence against women according to him was 102 and in 2011 it was 182⁵.

Reports of cases of domestic violence against women have seen a drastic rise. While it can be contended that women are now able to access the legal system and organisations, it is also to be noted that in many instances the inaction of the police has also led the sense of impunity within the community in regards to violence against women.

Another critical issue faced by a number of families in the north and the east, particularly women, is that of the missing – of husbands, sons, daughters and other family members. Over the last three decades the State and para-military actors have been involved in abductions. The number of those missing goes in to the thousands. In the last phases of the war disappearances⁶, detention and arrests of Tamil people were rampant. Those disappeared in Sri Lanka have primarily been male however the affect has been on those who have been left behind- women. The Government has failed to provide these families any system of recourse to help them trace their family members. While currently much of the focus is about what happened in the last months of the war, the victims from the last two decades are waiting for some help to know what has happened to their loved ones.

August 2011 witnessed what is known as the “grease-yaka (devil)” attacks, where numerous women reported being physically assaulted by men who had concealed their identities⁷. These incidents were dismissed by the Government as a figment of people’s imaginations or the work of anti-government and terrorist agencies. Meanwhile, fear and suspicion grew within the communities where these attacks have occurred. These attacks highlighted the vulnerability of these communities and women especially in the North⁸. Sri Lanka Human Rights Commission issued a statement after much pressure asserted by the women’s groups⁹.

Women in Mullaiteevu and Killinochchi complained that even when harassed by the military they were unable to raise the issue because safety of the complainant is not assured. The Military and the Government continue various registration forms and methods and women have complained of being photographed by the military for registration. Even though initially it was a family photograph, recently there has been a trend of women being asked pose for pictures alone. Women also complained that they were not even allowed to change from their night dresses. Women in these areas also complained that visits by the military increased if the military was aware that the women were alone, single or widowed. This problem is also seen in the Eastern Province. In Sinna

⁴ <http://www.thesundayleader.lk/2012/04/01/rape-in-jaffna-women-want-justice/>

⁵ http://www.bbc.co.uk/sinhala/news/story/2012/03/120309_jaffna_child_abuse.shtml

⁶ <http://www.un.org/apps/news/story.asp?NewsID=26976>

⁷ <http://www.thesundayleader.lk/2011/09/18/grease-yakka-still-a-concern/>

⁸ <http://groundviews.org/2011/09/01/the-grease-devil-phenomena-in-sri-lanka-a-brief-collation-of-reports/>

⁹ <http://hrcls.lk/english/?p=1776>

Muhathuvaram, in Trincomalee, the army camp is located right next to a girl's school. Parents therefore are reluctant to send their children to school fearing the safety of their girl child.

Some women have faced severe violence in the hands of the military. Cases include: 1) the Mannar rape by police in March 2001, where two women were raped by the Counter Subversive Unit and the women were threaten when they took up a case against their violators and then made to leave the country; 2) the two women who were raped at the Rettaivaikkal detention in May 2009 and had to leave the country due to constant monitoring by their abuser in uniform; and 3) the Vishvamadhu rape case of June 2010 by the military and the judgment in this case has been dragged by the Attorney General's Department. These are but a few examples of the violence women continue to face at the hands of men in uniform. The lack of protection to the victims and witnesses, delayed investigations, and granting early bail without considering the seriousness of offense committed by the accused in these cases and many other sexual abuse cases have led to a culture of impunity and created a trend of increasing sexual violence against women. Rural Women's Development Societies have reported that there is an increase in forced prostitution in resettlement areas. Recently there have been several complaints in the North and East of Judicial Medical Officers (JMO's) refusing to provide medical reports in cases of sexual violence, especially when perpetrated by the military.

Cases of detention and rape from the Tamil-speaking Northern province are often transferred to the Anuradhapura courts where the language of the court is Sinhala. This virtually ensures that the victim faces a more hostile court environment. It also places the victims and family members of those detained in a new environment where they are less secure. Victims are also forced to travel for hearings and women are frequently unable to bear the cost involved in traveling for the hearings. Thus most often they give up their struggle to get justice mid way.

There is a huge backlog in terms of the legal procedure files regarding rape, sexual abuse and child sexual abuse since these cases need to be sent to the Attorney General's department for direction. This has led to a delay in investigation and legal action. Rape, sexual abuse and child abuse are heinous crimes. The victims are vulnerable and face social stigma. It is important that when such cases are brought to the notice of the legal system, strict and immediate action is taken.

Female ex-combatants continue to face harassment by the military and the Criminal Investigation Division of the police, even though they have been released after rehabilitation. They are still required to report to the local military/ police station once a month and have been pressured into marrying or becoming informants if they want the harassment to be stopped. In one case an ex-combatant living in the eastern province was raped by a police officer when she went to register in his station.

In the aftermath of UN resolution against Sri Lanka some of the women's groups have had visits by intelligent officers asking for details about their work, donors, board and staff members' contact details. Often these intelligent officers have gone in civil cloths. In the north and the east currently it is the women's groups that deal with sensitive women's issues and provide safe custody for abused women since safe-houses are very rare and high in demand given the increase incidents of sexual abuse against women and girl children. In this backdrop these visits are going

to force women group to stop much needed protection work they have been doing for abused women.

RECOMMENDATIONS

The government of Sri Lanka should

1. Ensure land and property is given either in the woman's name or under joint ownership.
2. Ensure the removal of military personal undertaking civil administration and stop the economic activities of the military which harm the women in the North and the East, reducing their chances of livelihood and employment and also curtails their access to public spaces.
3. Include women in all decision making bodies at all levels in regards to development, resettlement and relocation and ensure that 50% of the laborers employed in the development and resettlement work are local women.
4. Increase women's desks in the police station and ensure Tamil speaking women are available at the desks in all police stations in the north and east and other Tamil-speaking areas.
5. Issue a policy document regarding housing schemes ensuring that while participation by beneficiaries is encouraged that single women are provided with additional support and also in ensuring that those who are most affected are provided with houses without undergoing much hassle.
6. Ensure returning communities are able to practice their religion and enjoy their cultural rights by protecting their cultural identity and language.
7. Ensure that aid received is given to the beneficiaries as promised, that there is transparency with regards to choice of beneficiaries and reasons and that there is accountability of those in charge.
8. Streamline registration processes, ensure women officers are always present when women are being questioned, photographed or visits are made to the house by the police or military.
9. Ensure women's organizations that provide psychosocial counseling are granted PTF permission and ensure proper counseling and psychosocial help is provided through government hospitals.
10. Prosecute, charge and punish those who are credibly accused rape and sexual abuse, especially those in positions of power and end impunity in regards to violence against women.
11. Enact witness and victim protection act and right to information act. These two acts are much needed to overcome the culture of impunity and reestablish law and order.
12. Implement the recommendations made at the last Universal Periodic Review and by the CEDAW committee.
13. Release a complete list of all those detained in its various camps and prisons around Sri Lanka (not only the ones detained during the last bit of war) and immediately release political prisoners who have been languishing in prison (arrested under the Prevention of Terrorism Act) without any charges.
14. Invite the special rapporteurs on Violence Against Women and for IDPs to visit the North and East.