

**SRI LANKA:**

**Continuing Violations Against the Rights of Women, and Sri Lanka's Failures to Implement  
the Right to Remedy and Effective Transitional Justice Mechanisms**

**Joint Stakeholder Submission to the United Nations Universal Periodic Review of Sri Lanka**

**Third Cycle, 28<sup>th</sup> Session of the Human Rights Council, November 2017**

**Submitted on 30 March 2017 by the Women's Action Network (WAN)**

Contact Name: Shreen Saroor  
Phone +94773649496  
Email: qadrishreen@gmail.com

Women's Action Network (WAN) is a network of eight women's organizations based in the Northern and Eastern provinces of Sri Lanka. Members are listed below. The network was started in 2002 as the lobby wing of the Mannar Women's Development Federation that was operating in the North for two decades. It then spread to cover other districts of the North and East where the country's ethnic minority communities form a majority of the population in the two provinces and which have been the most affected areas by the war. WAN has been working to build the capacity of women's rights activists and addressing issues that women face, especially gender-based violence (GBV), at the ground level and emphasizes local mechanisms and activism in the North and the East. A few WAN members were part of the preparation of the 2008 and 2012 UPR civil society reports. For this 2017 report, WAN has conducted four community-based consultations among members to assess concerns about transitional justice, outlined the concerns of war-affected women regarding women's rights, and offered recommendations.

**Organizations that Endorse this Report:**

Mannar Women's Development Federation, Muslim Women Development Trust- Puttalam, Sangami - Mullaitheevu, Vallamai- Jaffna, Affected Women's Forum - Ampara, Third Eye - Batticaloa, Social Economical and Educational Developers (SEED)- Vavunia and Mahashakthi- Killinochchi

## I. EXECUTIVE SUMMARY

1. During Sri Lanka's Universal Periodic Review in 2012, the government supported three recommendations on transitional justice, six on the right to an effective remedy, zero recommendations on disappearances, four on discrimination, and two on violence against women. It only noted, and did not support, nine recommendations on transitional justice, six on the right to remedy, eight on enforced disappearances, and one on discrimination against women.<sup>1</sup>

2. Since the 2012 recommendations, there was a change in Sri Lanka's government in 2015. This has produced some positive developments such as the ratification of human rights treaties and the beginning framework for transitional justice mechanisms. However, many issues remain, and recommendations supported or noted in 2012 have not yet been implemented.

3. Sri Lanka's 30-year civil war ended in 2009, leaving 89,000 female-headed households in the war-affected North and East.<sup>2</sup> Continued militarization of these regions and entrenched impunity create the framework for sexual and gender-based violence (SGBV) and recurring human rights abuses against already vulnerable minority women. Female-headed households, single women, internally displaced women, war widows, and former female combatants face structural barriers to justice and redress before Sri Lankan law enforcement and courts. Cases drag on for years with multiple hearings, re-traumatizing victims while state perpetrators are rarely charged, convicted, or dismissed from their posts.

4. Today, Sri Lanka claims to be in the process of developing programs for transitional justice, resettlement, and constitutional reform. However, the government has not adequately considered particular vulnerabilities and needs of war-affected women in developing these programs.

5. WAN's key findings and recommendations must be understood within the context of the unique vulnerabilities faced by war-affected women in the North and East. These women have been threatened, harassed, raped, tortured, and marginalized throughout a 30-year conflict, while their perpetrators have escaped justice. Violence against women is perpetrated not only by State actors at all levels but also within Tamil and Muslim communities, with the State offering little protection.

6. The authors of this joint stakeholder report suggest that the Working Group urge the Sri Lankan government to call attention to the unique plight of war-affected women in the North and East and call on the Sri Lankan government to prioritize these women's concerns as part of its broader process to deal with Sri Lanka's difficult past and to look toward a new future.

## II. SRI LANKAN IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

### A. THEME B51: RIGHT TO EFFECTIVE REMEDY

#### **Status of implementation: Not implemented**

7. At the 2012 UPR review, Sri Lanka supported six resolutions to fight against impunity and investigate and prosecute allegations of violations<sup>3</sup> and noted six others.<sup>4</sup>

8. Since the 2012 Council review, serious shortcomings remain in access to remedy for human rights victims, including survivors of sexual and gender-based violence, such as the lack of investigation or prosecution of those involved in conflict-related violence and domestic violence.

9. As discussed more fully below, in 2015, the Sri Lankan government publicly committed to establishing a **special court and to cooperate with the international community** in the establishment and operation of this court. However, no such court has yet been created.

10. **Adverse Experiences within Courts.** Courts provide minimal levels of protections for victims and witnesses. After making a complaint, women are at a high risk of more violence. Women have no rights to speak to their lawyers within the courtroom. Judges ask questions that victim-blame or re-victimize and these questions cannot be contested.<sup>5</sup>

11. **Delays and lack of gender-sensitivity in the justice system, combined with inactivity and corruption in law enforcement, have further entrenched the culture of impunity.**<sup>6</sup> The brutal manner in which the armed conflict ended in 2009 and the continuous culture of impunity for sexual violence against women and girls has further exacerbated existing structural sexual violence. The safety and security of women, particularly Tamil women, has been threatened due to the virtual immunity enjoyed by men, particularly from the armed forces, who are celebrated as war heroes and victors. Perpetrators of sexual violence in the armed forces have been allowed to hold on to their powerful positions irrespective of being accused of committing grave forms of sexual violence or of ordering violations.<sup>7</sup>

12. **Women's domestic violence complaints are not taken seriously:**<sup>8</sup> Women will make a domestic violence complaint only to have the police call the husband who is then allowed to justify his actions. Police can be manipulated with money or favors and husbands are sometimes able to bribe their way out of trouble.<sup>9</sup> The emergency response number, 1-1-9, is unreliable and police may not answer and sometimes do not show up to the emergency. There are no Tamil speaking 1-1-9 operators so calls must be made in Sinhala. Police will not always immediately arrest abusers and instead they may place the onus on the wife to locate the husband and report that location to the police.<sup>10</sup> They may even require the wife to bring the husband to court herself.<sup>11</sup> Police will include short closing dates on the warrants and if the husband is not located within the time frame they will not be arrested.<sup>12</sup>

13. At the conclusion of its eighth periodic review of Sri Lanka, CEDAW focused on problems ranging from discriminatory laws, transitional justice mechanisms, high prevalence and underreporting of sexual and gender-based violence, and systemic problems with access to justice for victims of gender-based violence including domestic violence, SGBV and conflict-related violence.<sup>13</sup> These are detailed below and all of these factors deny the right to remedy.

## **B. THEME B54: TRANSITIONAL JUSTICE (TJ)**

### **Status of Implementation: Not Implemented**

14. **During the 2012 UPR, Sri Lanka supported three recommendations<sup>14</sup> and noted nine recommendations on transitional justice.**<sup>15</sup> While the January 2015 change in government brought forward many positive changes, many issues have yet to be addressed.

15. **Transitional justice mechanisms have yet to be established and problems persist with a lack of women's participation and transparency, and gaps in cooperation with domestic and hybrid structures.** In 2015, the Sri Lankan government promised to finally deal with the past in a credible manner and transform the conditions of conflict through TJ and constitutional reform. Marginalized women took a leap of faith in believing this message and risked everything to give recommendations on gender-sensitivity

and women's equality. Now, as the government attempts to walk back its commitments, there is growing disillusionment and despair that it has merely been stringing war-affected women along.

16. Today, Sri Lanka claims to be in the process of developing programs for transitional justice, resettlement, and constitutional reform. However, the government has not adequately considered particular vulnerabilities and needs of war-affected women in developing these programs. State perpetrators are rarely charged, convicted, or dismissed from their posts.

17. War-affected women waited in long lines to engage with the government-mandated Consultation Task Force (CTF) and provide feedback on proposed TJ mechanisms. The CTF report adopted their recommendations for gender-sensitive practices and priorities. However, some government officials have tried to discredit the CTF report altogether, undermining public confidence in TJ among women in the North and East. The Concluding Observations on the eighth periodic report of Sri Lanka to the Committee for the Elimination of Discrimination Against Women, recommended that Sri Lanka "implement the Consultation Task Force recommendations that all transitional justice mechanisms shall have over 50% women's representation and finalize a comprehensive national action plan of this resolution which provides a roadmap with a clear timeframe, benchmarks, dedicated budget and regular monitoring mechanism. . . ."<sup>16</sup>

18. Of the four TJ mechanisms Sri Lanka promised the U.N. Human Rights Council (UNHRC), the government has only passed the Act to Create an Office of Missing Persons (OMP), which the President has yet to sign into law.<sup>17</sup>

19. Government officials are seeking to *weaken* the OMP Act by eliminating paragraph 11(a), which grants the OMP power to enter into agreements with foreign organizations for "assistance in obtaining information; obtaining technical support and training (forensic or otherwise) and collaboration; establishing databases and personal data protection; and in respect of confidentiality of information." Eliminating this provision sidesteps Sri Lanka's UNHRC commitment to give each TJ mechanism "freedom to obtain financial, material and technical assistance from international partners" and ignores women's demands, highlighted in the CTF report, for international oversight to ensure legitimacy, trust, and confidence in the process.<sup>18</sup> CEDAW recommended that the Sri Lankan government "ensure international participation. . . in line with Human Rights Council resolution 30/1 (A/HRC/RES/30/1, para 6)."<sup>19</sup>

20. The President and Prime Minister have given mixed signals on the promise to create a special court, a central demand of war-affected women, and have publicly disavowed the commitment to staff the court with "Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators."<sup>20</sup>

21. In 2015, the government created a Female-Headed Household Centre in Kilinochchi. In March 2016, a Ministry of Women's Affairs official stated at a public meeting that the Centre lacked proper staffing. To date, the role of the Centre remains unclear, and there is no transparency or clear programming objectives.

22. The government promised to repeal and replace the Prevention of Terrorism Act (PTA), which enables arbitrary detention with minimal legal oversight and facilitates disappearance and torture. However, it seeks to replace the PTA with a far worse Counter Terrorism Act that threatens to police dissent, protest, and advocacy as terrorist acts while doing little to remedy the PTA's shortcomings in ensuring due process.

23. During the consultation process on constitutional reform, women in the North and East demanded economic, social, and cultural rights to social security, education, housing, land, and a clean environment. Yet, there is concern the government seeks to include only civil and political rights in the new constitution.

At a human level, for war-affected women, civil and political rights are inextricably linked with economic, social, and cultural rights, and one cannot meaningfully be addressed without the other.

24. CEDAW assessed the “ongoing militarization of large areas of private land in conflict-affected areas...the usurpation of civilian administration responsibilities by the military and the resulting large scale displacement of women and men...”<sup>21</sup> CEDAW recommended that Sri Lanka “urgently demilitarize land, particularly in the North, return this land to displaced women and men to enable them to regain their land and access livelihood opportunities, and ensure that the military is barred from assuming civil administration duties”<sup>22</sup> and “ensure that complaints about land grabbing, including by the military, are investigated and perpetrators are adequately punished.”<sup>23</sup>

25. Over the past few years the number of suicide attempts have been high with some hospitals seeing 30 to 60 cases of deliberate self-harm each month. In the North and East, there are inadequate medical facilities. The Government of Sri Lanka needs to increase psychosocial support, education, and empowerment programs, and staffing and establish Intensive Care Units and ambulance facilities in the many hospitals that lack them.<sup>24</sup>

### **C. THEME D32: ENFORCED DISAPPEARANCES**

#### **Status of Implementation: Not Implemented**

26. At the 2012 UPR review, the Sri Lankan government did not support any of the nine Recommendations on Enforced Disappearances, and only noted recommendations to eliminate and reduce abductions and disappearances,<sup>25</sup> produce information about the disappeared, and for transparency and accountability for those accountable for forced disappearances<sup>26</sup> and for the repeal of the Prevention of Terrorism Act (PTA).<sup>27</sup>

27. Sri Lanka has now ratified the UN Convention on Enforced Disappearances but locally has not enacted any legislation to fulfill its obligations. Existing legislation such as the Prevention of Terrorism Act, which led to many disappearances, must be repealed.

28. Families of disappeared continue their struggle for information on what happened to their loved ones and their demand for justice for those who caused the disappearances. As mentioned above in paragraphs 18 and 19, the President has not yet signed the law creating the Office of Missing Persons and government officials are seeking to undermine this law.

### **D. THEME F12: DISCRIMINATION AGAINST WOMEN**

#### **Status of Implementation: Not Implemented**

29. During the 2012 UPR, Sri Lanka supported one recommendation highlighting gender violence and three general recommendations on the need to address discrimination against women<sup>28</sup> and noted one recommendation specifically focused on the need for amendment of the penal code to safeguard the rights of religious and ethnic communities.<sup>29</sup>

30. **Discriminatory Laws:** CEDAW noted the need to repeal article 16(1) of the Constitution,<sup>30</sup> the continuing need to repeal discriminatory provisions of the Land Development Ordinance with regard to “succession, inheritance and joint ownership” and to “amend all personal laws, including the Muslim,

Kandyan and Tesawalamai personal laws to remove discriminatory provisions regulating ownership, inheritance, transfer and disposal of land and property as well as provisions regulating legal capacity, marriage, divorce, and child custody.”<sup>31</sup>

31. **Muslim women and girls:** WAN has highlighted how Muslim women and girls become second-class rights holders under Sri Lanka’s *Quazis* court system and Muslim Marriage and Divorce Act (MMDA). Article 16(1) of the 1978 Constitution exempts the MMDA from guaranteed fundamental rights such as non-discrimination. Politicians consider problems faced by Muslim women and girls intra-community issues, not fundamental human rights concerns. There is no minimum age of marriage for Muslims, and the MMDA allows a male guardian to give the bride in marriage, resulting in forced marriage of girls as young as fourteen. The MMDA provides different divorce procedures for men and women, and women seeking a *fasah* (fault) divorce often struggle to testify about emotional, physical, and sexual abuse before an all-male panel that lacks legal training (e.g., in the Prevention of Domestic Violence Act) or gender-sensitivity. The MMDA allows an unrestricted ‘right’ of polygamy, placing women and children in vulnerable situations. Many *Quazis* act insensitively toward women seeking divorce or maintenance orders, revealing biased attitudes regarding the proper roles of women/wives, divorce, and polygamy. Muslim women are prohibited from becoming *Quazis*, a state-salaried and tax-funded position.<sup>32</sup>

32. CEDAW recommended that the state prepare a unified family code to incorporate equal rights of women and men in family relations, “including [that] marriage, divorce, inheritance, property and land are addressed.” CEDAW also recommended the amendment of the general marriage registration ordinance to ensure Muslim women can opt out of the Muslim Personal Law if they choose, ensure property rights are governed by general civil contractual and property rather than religious law, increase the minimum age of marriage to eighteen, eliminate restrictions on women’s eligibility to be appointed as *Quazis*, members of the Board of *Quazis*, marriage registrars and adjudicators, and amend the penal code on statutory rape.<sup>33</sup>

33. **Accommodating persons with disabilities:** Many women in the North and East struggle with war-related physical challenges that impede their access to public spaces, transportation, employment, and services.<sup>34</sup> Licensing offices and medical facilities in the North and East are not equipped to deal with the needs of differently abled women in the same manner as Colombo.<sup>35</sup> There is a continuing need to ensure accessibility in all public spaces and modes of transport and to set up a public fund to help victims of war and domestic violence afford necessary surgeries.<sup>36</sup>

34. **Integrating former combatants:** At the 2012 UPR, Sri Lanka supported Recommendation 127.48 to resettle and secure infrastructure for combatants.<sup>37</sup> However, female ex-cadres (including those forcibly conscripted by the LTTE) face challenges finding employment and are often relegated to traditional roles unconnected to their skills of driving, building, engineering, etc. Intelligence officers closely monitor ex-cadres, impeding their reintegration and inviting social stigma. CEDAW noted “with concern the absence of compressive measures to facilitate re-entry by former women combatants, taking into account their specific skills.”<sup>38</sup> CEDAW recommended that the government “provide assistance to former female combatants to access appropriate employment and vocational training opportunities free from stereotypes.”<sup>39</sup>

35. Women’s organizations in Mannar and Mullaitivu report that criminal investigation and terrorism investigation intelligence officers of the CID and TID are still monitoring ex-cadres on a regular basis and question former combatants in their homes.<sup>40</sup>

36. **Access to legal documents and services:** Many women in the North and East lost important documents like birth certificates, land records, national ID cards, etc. during the war. Many got married during the war without legal documents (e.g., as teenagers to escape LTTE recruitment). Post-war, an increase in contract labor for development projects in war-affected areas has led to unplanned pregnancies; when the men return to other districts, women struggle to get birth certificates for the children or get fathers to sign birth certificates. Without necessary legal documents, women struggle to obtain housing grants, land, and available services.<sup>41</sup>

37. CEDAW expressed its concern about the particular vulnerabilities for women in the North and East, including the ability to access legal documents and obtain livelihood assistance, housing, and land in their own names.<sup>42</sup> CEDAW recommended that the government should amend the Land Development Ordinance, which restricts women's rights to inheritance. CEDAW recommended that the government should also include economic and social rights in Sri Lanka's new constitution and create a social security system for war-affected women.

#### E. **THEME F13: VIOLENCE AGAINST WOMEN**

##### **Status of Implementation: Not Implemented**

38. Sri Lanka supported two recommendations at the 2012 UPR, to “criminalize all forms of violence against women and hold perpetrators accountable”<sup>43</sup> and to implement the “Prevention of Domestic Violence Act.”<sup>44</sup>

39. In 2016, the President instructed the security forces and police on the prohibition of SGBV, torture, rape, and other human rights violations. But, there is no monitoring mechanism to ensure the instruction is followed, and new violations have been reported since that time without any apparent change in systemic impunity for violence against women.

40. The government drafted a SGBV policy and National Action Plan, but these plans do not address access to justice for vulnerable women; case backlogs; long-term medical, psychosocial, compensatory, and rehabilitative support; or special measures to protect particularly vulnerable groups like female heads of households and female ex-cadres.

41. **Rape and murder:** WAN has documented disturbing patterns of continuing sexual violence. From 2014-2015, there were 20 reported rapes in Batticaloa, 54 reported rapes in Ampara, 44 cases of child abuse in Batticaloa, and 95 child abuse cases in Ampara.<sup>45</sup> Reports of rape, including of children and teenagers, have continued into 2017; cases in just the first months of 2017 in selected districts are included in Appendix 2.<sup>46</sup> Impunity and delays foreclose justice for war-affected women. DNA testing drags out for over a year, with the accused granted bail and threatening victims and potential witnesses. Evidence is lost, and cases are often dropped. Militarization and high levels of female-headed households place women at particular risk. Timely and impartial investigation and prosecution of sexual violence against women and children continue to be lacking, including through TJ mechanisms responsive to wartime SGBV. The government should appoint a special team to expedite the backlog of SGBV cases that is gender-sensitive. Victims and witnesses should be protected and receive adequate medical, psychosocial, compensatory, and reparatory support.

42. CEDAW made extensive concluding observations on the “continuing climate of insecurity. . .” and noted “serious allegations that the military and police perpetrated harassment, violence, including rape,

abduction, torture, sexual bribery, sexual slavery and unjustified surveillance, including home invasions, especially of women in the Northern and Eastern provinces and specifically targeting Tamil women, women heads of households and former combatants, war widows and women family members of the disappeared who search for truth, justice and accountability, as well as women human rights defenders.<sup>47</sup> CEDAW recommended a “zero tolerance policy for sexual violence perpetrated by the army and the police” and accelerated prosecutions. . . .<sup>48</sup>

43. **Domestic Violence (DV):** Women’s groups report increasing DV in the North and East. From 2014-2015, between the Batticaloa and Ampara Districts, there were 1,024 domestic violence reports. Impunity and delays foreclose justice for war-affected women. Women face monumental hurdles in trying to report DV or bring perpetrators to justice, including: justice system delays (6-10 years to reach trial); unreliable 1-1-9 emergency response; significant police failures (failure to take women’s complaints seriously, pressuring women to withdraw complaints, inadequate women staff, lack of private space to report complaints, inadequate gender-sensitivity/training, bribery/corruption, failure to follow protection order procedures under the Prevention of Domestic Violence Act); inadequate legal aid, psychosocial support, and victim protection; hostile judges and court procedures that prevent victims from telling their stories; mediation requirements that allow elders and religious leaders (particularly *Quazis*) to side with men or pressure women to reconcile; and poor enforcement of protection orders and maintenance orders, and a shortage of Tamil speaking police officers, bribery, discrimination, and corruption.<sup>49</sup>

44. CEDAW noted the need for amendment of the Domestic Violence Act, including removing discriminatory provisions,<sup>50</sup> and concluded “in cases of domestic violence, victims are required to participate in mediation as a requisite for pursuing a case in court, which results in women withdrawing their complaints due to intimidation.”<sup>51</sup> The Committee recommended that the State Party amend the Prevention of Domestic Violence Act to ensure Protection Orders, upon Court issuance, are immediately made available to the parties and effectively enforced, and remove any requirement to participate in mediation prior to pursuing a case in court, and establish a special unit in the Attorney General’s Department to expedite the handling of cases of sexual violence and to introduce legislation to prohibit suspended sentences and stipulate mandatory minimum sentence for acts of violence against women.<sup>52</sup>

45. **Sexual exploitation (SE) and harassment:** Sexual exploitation through bribery is widespread in every level of the Sri Lankan government and institutions and instances are only increasing. Officials abuse their position and will extract sexual favors from women before providing services such as certification of residence and other various forms of government assistance. WAN has documented several instances of government officials demanding sexual favors in exchange for government services (e.g., documents to prove eligibility for resettlement or rehabilitation assistance). Women face SE at the police station, courts, and government schools at both local and district levels. Female-headed households in war-affected regions are particularly vulnerable due to increased militarization/surveillance and lack of a male in the household; women face SE when they go to government offices for help or visit detention camps or prisons searching for their disappeared loved ones. Victims are harassed to drop their complaints. Very few cases have been reported to the authorities, and perpetrators are often reinstated after a short period suspension or merely transferred.<sup>53</sup> After such investigation, it is the victim who complained who gets continuously harassed and ultimately made to carry the social scar of giving sexual bribery or allowing the man to ask for such favor.

46. CEDAW recommended the amendment of the Bribery Act to expressly include sexual bribery as a violation with enhanced penalties.<sup>54</sup> CEDAW noted with concern the continuing climate of insecurity: allegations of violence by military and police, particularly against women in Northern and Eastern provinces and specifically targeting Tamil women, women-headed households, former combatants, war widows and



family members of the disappeared, and women’s human rights defenders who search for truth, justice and accountability.<sup>55</sup> The Committee recommended a zero-tolerance policy for sexual violence perpetrated by the army and the police, ensuring accelerated investigation, prosecution and punishment into all allegations of violence perpetrated against women and girls, including arbitrary arrest, torture, and sexual violence as well as surveillance and harassment.”<sup>56</sup>

### **III. CONCLUSION**

#### **Recommendations: The Sri Lankan government still needs to take the following measures on:**

##### **RIGHT TO REMEDY**

- Take measures to ensure that public officials who committed violations are being lustrated from public office or held accountable for their acts. Explain in detail what kind of specific actions have been undertaken to establish review mechanisms, perform security sector vetting for those involved in the military and law enforcement during the civil war, investigate allegations, and, if officials are found to have committed a violation, to remove them from power.

##### **TRANSITIONAL JUSTICE**

- Implement the recommendations of the Consultation Task Force (CTF) on proposed TJ mechanisms and counter statements of government officials who have tried to discredit the CTF report and have undermined public confidence in TJ among women in the North and East.
- Implement the four TJ mechanisms Sri Lanka promised the U.N. Human Rights Council, including a hybrid special court which brings in international judges, lawyers, and investigators and an Office of Missing Persons that allows for international assistance and oversight.
- Implement recommendations of the women in the consultation process of TJ who have stressed complete withdrawal of the military from civil administration, cultivation and deploying youth for running farms, and that all land that belongs to people have to be returned.
- Ensure that all TJ mechanisms have over 50% women’s representation as demanded by the very affected women during the CTF consultation.
- Repeal and replace the Prevention of Terrorism Act (PTA).
- Incorporate economic, cultural, and social rights into the new constitution.

##### **DISAPPEARANCES**

- The President should sign into law the Act to Create an Office of Missing Persons (OMP), which the President has yet to sign into law.<sup>57</sup>
- Immediate establishment of OMP.
- Implement the OMP Act, including paragraph 11(a), which grants the OMP power to enter into agreements with foreign organizations for “assistance in obtaining information; obtaining technical support and training (forensic or otherwise) and collaboration; establishing databases and personal data protection; and in respect of confidentiality of information.”

## **DISCRIMINATION AGAINST WOMEN**

### Issues faced by Muslim Women and Girls

- Address the concerns over the MMDA as a human rights issue, not a cultural issue, and work with Muslim women to reform the MMDA and repeal article 16(1) from the Constitution.
- Give Muslim women the choice to marry under the General Marriage Ordinance (GMO). Therefore, remove the condition in the GMO which says two Muslims can not get married under the GMO.
- Create a minimum age requirement for marriage and remove the requirement for women to seek permission from a male guardian.
- Create a monitoring mechanism for the MMDA and *Quazi* court system to report and address grievances.

### Access to Legal Documents, Sustainable Livelihoods and Post-War Aid

- Create a system to enable easier access to obtain necessary legal documents and obtain livelihood assistance, housing, and land in their own names.
- Amend the “Land Development Ordinance” to give women equal access to cultivate and transfer land.
- Incorporate economic and social rights in Sri Lanka’s new constitution and create a social security system for all women.
- Demilitarize the North and East and release military-held lands.

### Challenges Face by Differently-Abled Women

- Ensure public spaces are accessible.
- Establish a trust under reparation established to treat the war-injured.
- Set up a public fund to assist women victims of war and domestic violence with medical expenses.

### Female Ex-Cadres

- Eliminate discrimination and assist female ex-cadres in accessing employment.
- Eliminate surveillance programs of female ex-cadres to allow them to reintegrate into their communities.
- Establish a care centre run by physically-challenged women themselves.

## **VIOLENCE AGAINST WOMEN**

### Conflict Related Violence

- Ensure timely and impartial justice for the prosecution of sexual violence and compensation for victims, including appointing a special prosecution team to expedite the backlog of SGBV cases.
- Provide medical, psychosocial, and rehabilitative treatment for victims.
- Ensure that transitional justice mechanisms are at least 50% women (all levels), gender-sensitive, and responsive to wartime SGBV, torture, and enforced disappearance. It is vital that half of commissioners and decision-makers of all TJ mechanisms are women and especially that there should be decision-making positions allotted for women who are victims.

### Domestic Violence, Police, and the Justice System

- Decrease structural barriers to justice by instituting gender sensitivity training at all levels such as the police and the judiciary, including *Quazi* courts, and equipping police stations with women's desks, private rooms, and sufficient female translators and officers, and improve access to legal aid.
- Expedite domestic violence and divorce cases and end compulsory counseling.
- Facilitate enforcement of court orders under the Prevention of Domestic Violence Act.
- Ensure the 1-1-9 emergency response phone number is working and reduce response time.
- Ensure the 1-1-9 emergency response number is staffed by Tamil speaking operators.

### Sexual Harassment, Exploitation, and Bribery

- Actually investigate, prosecute, and punish cases of sexual bribery/exploitation.
- Amend the "Bribery Act" to include sexual bribery.
- Adopt a zero tolerance policy in the administrative and service departments.
- Create a public awareness program and complaint procedures at the Human Rights Commission.
- Demilitarize the North and East and disband all surveillances structures.
- Victim and witness protection authority should have civil society actors at the top level, especially women rights activists overseeing its functions.

[Appendix 1]

**Case Studies:  
Sexual Bribery (SB) of Female Heads of Households in the North of Sri Lanka<sup>58</sup>**

Vavuniya									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
S	Filing case for enforced disappearance of husband	31	2009	Police, GS and SLRC staff	22	Enforced disappearance of husband	No	Yes	3
R	Beneficiary selection by GS for the Indian housing	25	2014	GS	20	Illness of husband	Yes	Yes	2
M	When she approached the police officer to obtain permission for a procession	45	2013	Police	26	Husband in exile	No	Yes	1
P	When she reported to the military camp as her husband who is a former LTTE carder escaped to India	25 onwards	2006 onwards	Military	19	Husband in exile	No	Yes	2
Killinochchi									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
V	When she visited the camp to see her detained husband	34	2014	CID	16	Husband is detained as he was a former LTTE carder	No	No	3
X	When she visited the Psychiatric Social Worker to hand over her CV seeking for a job	21	2014	Psychiatric Social Worker	N/A	Lost all family during the war except mother	Yes	yes	N/A
V	Beneficiary selection by GS for the Indian housing	34	2011	GS	21	Death of husband during war	No	No	2

N	Investigation by military after she was framed as LTTE associate	30	2010	Military	22	Death of husband due to illness	No	Yes	2
S	When she approached a military man for government job	34	2012	Army intelligent man	19	Husband was made to disappear	No	Yes	1
<b>Puttalam</b>									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
V	When she visited the police station for VAW cases and to obtain approval for protests and public campaigns	27	2014	Police HQI	N/A	N/A	No	Yes	N/A
FN	When she approached the person in charge of files at the district court to obtain documents of a maintenance case filed against her husband.	31	2011	Person in charge of case files at district court	25	Husband abandoned her over another affair	No	Yes	1
N	When she went to AGA office to search for her case file that was transferred from Quazi court	40	2010	AGA office document clerk	17	Husband abandoned & eloped with another woman	No	No	2
R	When she approached the Quazi to complain about her husband	19	2010	Quazi	17	Husband abandoned her & married another	No	Yes	0

Mullaithivu									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
Y	When she approached the GS seeking for housing assistance	45	2010	GS	18	Abandoned by husband	No	Yes	2
P	When she was asked to come to the army commanders office to get her land back from Military occupancy	34	Mid 2010 to early 2011	Army commander	21	Husband in exile	No	Yes	3
K	<ul style="list-style-type: none"> <li>When the police officer came to her home to collect details for the maintenance case against her 2<sup>nd</sup> husband.</li> <li>When she approached the GS to obtain housing</li> </ul>	47	2012& 2014	Police officer and GS	19	Husband killed during inter movement clashes (PLOTE AND LTTE) Remarried & 2 <sup>nd</sup> husband abandoned her	Yes	Yes	3
P	When she went to meet the Police officer to get her wooden planks that were seized to be released	29	2015	Police OIC	20	Husband abandoned her	Yes	Yes	1
Jaffna									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
K	Falsely accused by the lecturer of not following classes and	19	2012 to 2013	Lecturer at the University	N/A	Father died during the war	Yes	Yes	N/A

	asking student to come to office to check details.								
B	While she was at the JPs office (as he had offered her to sell the cloths she stiches at his office)	29	2012	Justice of Peace	N/A	Father died due to illness	No	Yes	N/A
Govt. Officer	When vulnerable women approached him for livelihoods assistance.	Multiple persons	2014/2015	Samurdhi officer	8 women have complaint and 5 of them are FHH. All of them approached him for Samurdhi related assistances.				
L	When she went to obtain a certificate to establish a poultry farm from the PHI	29	2012	(Public Health Inspector) PHI	16	husband died of cancer	No	Yes	1
<b>Mannar</b>									
Name of interviewee	Situation of SB	Age at the time of SB	Year of SB	Perpetrator / Accused	Age of marriage	Reason for being Single	Made official complaint ref. SB	Talked to someone	No. of Children
Jay	While trying to negotiate for increase in Samurdhi allowance	31	2014	Samurdhi Officer	24	Husband Killed in a bomb blast	No	Yes	No
V	Clearance to build a toilet	35	2014	PHI	22	Divorced	Not yet	Yes	1
K	Approval to set up a shop	34	2015	PHI	20	Husband disappeared	Not yet	Yes	1
F	Trying to get reconnection of Electricity	37	2014	Officer at Electricity board	16	Died of a natural death	No	Yes	7

[Appendix 2]

**Case Studies:  
Violence Against Women (VAW) in Sri Lanka (Jan – Feb 2017)**

District	Month	Kind of Violence	Details	Perpetrator	Actions Taken
Jaffna	January 2017	Rape	The girl's father has been raping her since 2015 after the mother left him. The case became visible after the girl was sent to a hostel for her education where she shared the details the rape.	Father	Father is arrested
Jaffna	January 2017	Rape	The 12 year old girl was raped by her father for a long time and it became known to others after the girl complained to her Aunt about it.	Father	Perpetrator has been arrested
Jaffna	February 2017	Violence and murder	The victim who was 7 months pregnant with a baby was attacked and beaten to death by unknown men who were supposedly selling metal in the area.	Unidentified	Suspects have been arrested and an identification parade has been conducted by the court
Jaffna	February 2017	Rape	A teenage girl is kidnapped on her way to tuition and raped in an abandoned house	A young man (the relationship with the victim not identified)	Suspect is on remand
Batticalo	January 2017	Rape	The victim is an 18 year old with special needs. She was raped and now pregnant.	Unidentified	A case has been filed by the probation officers



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<sup>1</sup> See Human Rights Council, Report of the Working Group on the Universal Periodic Review: Sri Lanka, U.N. Doc. A/HRC/22/16, 18 Dec. 2012 [hereinafter “2012 UPR Report”], and attached Thematic list of recommendations.

<sup>2</sup> See 89,000 War Widows, Daily Mirror (29 Sept. 2010) <http://www.dailymirror.lk/6838/89000-war-widows>.

<sup>3</sup> Sri Lanka supported Recommendations on the Right to an Effective Remedy in the 2012 UPR Report: ¶ 127.77 “Pursue its efforts to fight against impunity for serious human rights violations committed during the internal armed conflict” (Argentina); ¶ 127.75 “Strengthen efforts to investigate allegations of serious violations of international humanitarian law and the international human rights during the conflict and to hold those responsible to account” (Ukraine); “); ¶ 127.76 Fully and transparently investigate alleged grave breaches of international humanitarian law during the conflict (United Kingdom of Great Britain and Northern Ireland); ¶ 127.78 “Take the necessary measures to bring into justice and prosecute perpetrators of violations of the international human rights law and humanitarian law” (Chile); ¶ 127.85, “Carry out an independent and credible investigation on the allegations of violations of human rights and international humanitarian law” (Switzerland); ¶ 127.103 “Further improve the living standard of the people by reducing poverty and economic disparity” (Myanmar).

<sup>4</sup> Sri Lanka merely Noted Recommendations ¶ 128.75 “Implement the recommendations of the UN Panel of Experts on accountability, bringing all those allegedly responsible for violations of international human rights law and international humanitarian law to justice in compliance with international standards” (Slovakia); ¶ 128.72 “Hold accountable all persons who are liable for the violation of human rights and humanitarian law” (Estonia); ¶ 128.29 “Fully implement the recommendations of the LLRC, in particular steps to ensure independent and effective investigations into all allegations of serious human rights violations, in the context of Sri Lanka’s civil war and its aftermath” (Austria); ¶ 128.57 “Create a reliable investigation commission consisting of professional and independent investigators to identify, arrest and prosecute the perpetrators of the Muttur murders” (France); ¶ 128.74 “Make every effort to ensure that those responsible for crimes against children, and in particularly concerning the recruitment of child soldiers, are brought to justice as soon as possible” (Sweden); ¶ 128.80 “Conduct impartial investigations and prosecutions against members of the security forces, regardless of rank, implicated in violations of human rights and international humanitarian law, including sexual violence” (Denmark).

<sup>5</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>6</sup> Women’s Action Network (WAN) report submitted for the Universal Periodic Review 2012, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/LK/JS8\\_UPR\\_LKA\\_S14\\_2012\\_JointSubmission8\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/LK/JS8_UPR_LKA_S14_2012_JointSubmission8_E.pdf)

<sup>7</sup> Women’s Action Network (WAN) report submitted for the CEDAW -Committee on the Elimination of All Forms of Discrimination against Women 66 Session, Aug. 2016, pp. 10-15, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fLKA%2f25964&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fLKA%2f25964&Lang=en). (hereinafter “WAN Report to CEDAW”).

<sup>8</sup> Interview with service provider in Mannar, 16/06/2016; interview with three women activists in Vavuniya, 24/06/2016.

<sup>9</sup> Interview with counselor in Mannar, 20/06/2016; interview with three women activists in Vavuniya, 28/06/2016.

<sup>10</sup> Interview with group of women activists in Jaffna, 24/06/2016; interview with group from women’s organization in Mullaitivu, 27/06/2016.

<sup>11</sup> Interview with group from women’s organizations in Mullaitivu, 27/06/2016.

<sup>12</sup> Interview with four members of women’s organizations in Kilinochchi, 25/06/2016; interview with group from women’s organization in Mullaitivu, 27/06/2016.

<sup>13</sup> Concluding observations on the eighth periodic report of Sri Lanka, CEDAW/C/LKA/CO/8 (Mar. 3, 2017) (hereinafter, “CEDAW Concluding Observations”).

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<sup>14</sup> 2012 UPR Report Transitional Justice Recommendations supported were ¶ 127.48, assisting former combatants through livelihood schemes (Cuba); ¶ 127.59, consolidate peace-building measures (Lebanon); ¶ 127.52, maintain national dialogue (Nicaragua).

<sup>15</sup> 2012 UPR Report, Transitional Justice Recommendations noted ¶ 128.37 “Seek assistance of the international community, including relevant experiences, for the implementation of the Lessons Learnt and Reconciliation Commission recommendations” (Botswana); ¶ 128.38 “Take advantage fully and effectively from the technical assistance provided by the international community in the field of training and capacity-building of national institutions on human rights” (Qatar); ¶ 128.36 “Closely cooperate with the international community in implementing the recommendations by the LLRC and the National Action Plan for the Promotion and Protection of Human Rights in the context of promoting reconciliation and accountability” (Republic of Korea); ¶ 128.40 “Expedite implementation of reconciliation measures in the North. This would include removing oversight of humanitarian and NGO activities from the purview of Ministry of Defense to a civilian body, reducing the intrusiveness of military presence on civilian life in the North and setting a specific date for free and fair Northern Provincial Council elections” (Canada); ¶ 128.30 “Rapidly implement the recommendations of the Lessons Learnt and Reconciliation Commission” (France); ¶ 128.31 “Continue implementing the recommendations of the LLRC report and the report of the Panel of Experts in accordance with the Human Rights Council Resolution 19/2” (Germany); ¶ 128.33 “Implement the constructive recommendations of the LLRC, including the removal of the military from civilian functions, creation of mechanisms to address cases of the missing and detained, issuance of death certificates, land reform, devolution of power; and disarming paramilitaries” (United States of America); ¶ 128.34 “Ensure the concrete implementation of the report of the Lessons Learnt and Reconciliation Commission and the National Strategy as envisaged by the Plan of Action” (Belgium); ¶ 128.54 “Take further steps to ensure more participation of Sri Lankan Muslims in the reconciliation process and national efforts of economic, social, and cultural integration” (Egypt).

<sup>16</sup> CEDAW Concluding Observations ¶ 17 (a).

<sup>17</sup> The other mechanisms are an Office of Reparations; Truth, Justice, Reconciliation, and Non-Recurrence Commissions; and a Judicial Mechanism consisting of a special court and special counsel’s office. See U.N. Doc A/HRC/30/L.29 (Sept. 2015), ¶¶ 4, 6.

<sup>18</sup> See CTF Interim Report on the OMP Bill, pp. 48-49. Available at <http://www.scrm.gov.lk/documents-reports>.

<sup>19</sup> CEDAW Concluding Observations ¶ 17 (b).

<sup>20</sup> U.N. Doc A/HRC/30/L.29 (Sept. 2015) ¶ 6.

<sup>21</sup> CEDAW Concluding Observations ¶ 42.

<sup>22</sup> CEDAW Concluding Observations ¶ 43 (a).

<sup>23</sup> CEDAW Concluding Observations ¶ 43 (d).

<sup>24</sup> From Suriya and AWF records; interview with physician in Kilinochchi, 25/06/2016.

<sup>25</sup> 2012 UPR Report ¶128.65 (Australia).

<sup>26</sup> 2012 UPR Report Recommendations ¶128.73 (for prosecution of disappearances) (Belgium). ¶ 128.69 (combat impunity for disappearances) (Thailand). ¶ 128.67 (includes recommendation for a national mechanism for the disappeared) (Switzerland) ¶ 128.66 (recommends the publishing of names of those missing or in custody) (Germany); ¶ 128.68 (public and accessible list of all detainees) (Mexico) and ¶ 128.69 (determine whereabouts of missing children) (Uruguay)

<sup>27</sup> 2012 UPR Report Recommendation ¶128.94 (Canada).

<sup>28</sup> 2012 UPR Report Recommendations ¶ 127.66. Necessary measures to ensure that gender equality is a legal and practical reality, combating particularly gender violence (Spain) ¶ 127.61 (training and capacity building (Venezuela); ¶ 127.64 (“appropriate and concrete measures to prevent disadvantageous and unequal status”) (Rwanda); ¶ 127.62 (“intensive policies and protections (Algeria);

<sup>29</sup> ¶ 128.28 (legislative amendments to penal code to safeguard rights of religious and ethnic communities (New Zealand).

<sup>30</sup> CEDAW Concluding Observations ¶ 11(d).

<sup>31</sup> CEDAW Concluding Observations ¶ 13.

<sup>32</sup> WAN Report to CEDAW pp 20-22.

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- <sup>33</sup> CEDAW Concluding Observations ¶ 45.
- <sup>34</sup> Interview with counselor in Mannar, 20/06/2016 and interview with project officer at women's organization in Mannar, 21/06/2016 (describing inaccessibility of government buildings including lack of ramps, elevators or accessible bathrooms); Interview with group of women activists in Jaffna, 24/06/2016 (insufficient sign language interpreters and Braille documents); interview with group from women's organization in Mullaitivu, 27/06/2016 (inadequate public transportation).
- <sup>35</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016,
- <sup>36</sup> Interview with counselor in Mannar, 20/06/2016.
- <sup>37</sup> 2012 UPR Report .Recommendation 127.48 (Cuba).
- <sup>38</sup> CEDAW Concluding Observations ¶ 32.
- <sup>39</sup> CEDAW Concluding Observations ¶ 33(c).
- <sup>40</sup> Women's Action Network Interview with Counselor in Mannar, 20/06/2016; interview with group from women's organization in Mullaitivu, 27/06/2016.
- <sup>41</sup> Interview with program assistant at women's organization in Mannar, 20/06/2016; interview with two counselors in Jaffna, 24/06/2016; Interview with project officer at women's organization in Mannar, 21/06/2016; interview with two counselors in Jaffna, 24/06/2016; Interview with project officer at women's organization in Mannar, 21/06/2016; Interview with four members of women's organizations in Kilinochchi, 25/06/2016.
- <sup>42</sup> CEDAW Concluding Observations ¶ 17 (c).
- <sup>43</sup> 2012 UPR report ¶ 127.68 (South Africa).
- <sup>44</sup> 2012 UPR Report ¶ 127.69 (Iran).
- <sup>45</sup> Data obtained by WAN from Suriya Women and Affected Women's Forum, Ampara.
- <sup>46</sup> WAN documented 2 cases of girls raped by their fathers in Jaffna in January 2017; an 18-year-old with special needs raped and impregnated in January in Batticalo; In February in Jaffna, a pregnant woman was attacked and beaten to death and a teenage girl was kidnapped and raped on her way to school. More details are available in Appendix 2.
- <sup>47</sup> CEDAW Concluding Observations ¶ 24.
- <sup>48</sup> CEDAW Concluding Observations ¶ 25 (a).
- <sup>49</sup> WAN Report to CEDAW pp. 2-10.
- <sup>50</sup> CEDAW Concluding Observations ¶¶ 22 and 23 (b).
- <sup>51</sup> CEDAW Concluding Observations ¶ 22(b).
- <sup>52</sup> CEDAW Concluding Observations ¶ 36.
- <sup>53</sup> WAN Report to CEDAW pp. 10-16; Appendix 1.
- <sup>54</sup> CEDAW Concluding Observations ¶ 37(b).
- <sup>55</sup> CEDAW Concluding Observations ¶ 24.
- <sup>56</sup> CEDAW Concluding Observations ¶ 25 (a).
- <sup>57</sup> The other mechanisms are an Office of Reparations; Truth, Justice, Reconciliation, and Non-Recurrence Commissions; and a Judicial Mechanism consisting of a special court and special counsel's office. See U.N. Doc A/HRC/30/L.29 (Sept. 2015), ¶¶ 4, 6.
- <sup>58</sup> Extracted from a confidential study done by Ms. Shreen Abdul Saroor sponsored by FOKUS Women in 2016.