

**Women's Access to Justice in the North and East of Sri Lanka**  
CEDAW Shadow Report submitted by Women's Action Network (WAN)<sup>1</sup>  
August 2016

**Introduction and Context**

The 30-year civil war, which especially affected the Northern and Eastern provinces, took a heavy toll on women's lives. Many of them have lost their husbands, sons, daughters and other family members. A large number of men were killed in the battlefield or made to disappear in the last stage of the war in 2009 and its aftermath. Many of these men belong to the Tamil community and are from the North. With an estimated 89,000 widows<sup>2</sup> in Sri Lanka's North and East regions alone, women are among the worst affected. Apart from these widows, there have been a growing number of women voluntarily or involuntarily heading families.<sup>3</sup> They have been left to fend for themselves and their children and to assume multiple roles as breadwinners and caregivers. Militarization (particularly in the North) and the paralyzed law and order situation has not only impacted women's security in general but also placed obstacles on northern women's access to land, housing, and other resettlement assistances in the post-war context. They need to rely on assistance to resume their livelihoods in subsistence cultivation, animal husbandry, small businesses and cottage industries or the workforce (government, industrial or private). The feminization of poverty has forced many women to take on dangerous jobs that are not regulated properly, particularly in sex work and migrant labor.

Some of the major contributors to increasing violence against women are the failure to consider women's experiences in designing resettlement and development plans and the failure to ensure their participation and representation at decision-making levels. 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>4</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 in Sri Lanka have further exacerbated the existing structural sexual violence against women. 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 ordering such violations.

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<sup>1</sup> WAN consists of 8 community based organisations that are working mainly in the north and east of Sri Lanka. The members are Mannar Women's Development Federation, Sangami Pengal Ammaipu, Muslim Women's Development Trust, Vallamai Women's Collective, Affected Women's Forum, We Can (women with special needs), Third eye and Social, Economical & Environmental Developers.

<sup>2</sup> <http://www.dailymirror.lk/6838/89000-war-widows>

<sup>3</sup> Women headed household means women who don't have male members in their family and are compelled to engage with post-war structures to truth, justice and reparation. They are also the primary income earners and care givers of their families.

<sup>4</sup> Ref. Women's Action Network 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)

## **Articles 2, 3, and 5: Elimination of discrimination and protection of human rights**

### **Rape and Murder**

Women in Sri Lanka protested throughout the country after the rape and murder of an 18-year old school girl in Jaffna in 2015. In March of this year, women declared International Women's Day, the 8th of March, and the full Month of March, to be 'Dark Days'. They flew black flags in their homes, shops, and offices for the full month of March. On the 8th of March they wore black clothes and armbands. Women are still awaiting justice for crimes committed many years prior. In Batticaloa in 2009, a 24-year old woman was raped and murdered. Her mother is still going to court and asking for justice. In the first two months of 2016 alone, there were press reports about a least thirteen new incidents of violence:

1. 26 year old woman faced attempted rape in Puttalam (January 2016)
2. 4 year old girl raped in Batticaloa (15th January 2016)
3. 6 year old boy sexually assaulted and murdered in Sampoor, Trincomalee (reported on 26th January 2016)
4. 13 year old girl raped, tortured and murdered in Kurunegala (29th January 2016)
5. 16 year old girl abducted and raped in Ampara (reported on 31st January 2016)
6. 18 year old girl raped in Gampaha (February 2016)
7. Mother of 7 month old baby, raped by 10 men in Gampala (February 2016),
8. Two girls aged 6 sexually abused in Nuwaraeliya (13th February 2016)
9. 10 year old girl sexually abused in Jaffna (15th February 2016)
10. 14 year old girl raped and killed in Vavuniya (16th February 2016)
11. 23 year old woman sexually abused for 17 years by her father, brothers, and cousins in Kalutara (reported on 17th February 2016)
12. Woman's body was found murdered in Batticaloa (23rd February 2016)
13. 13 year old girl sexually abused in Vavuniya (27th February 2016)

In Batticaloa District, there were 163 domestic violence cases reported in 2014 and 164 in 2015<sup>5</sup>. In Ampara District, there were 363 domestic violence cases in 2014 and 334 in 2015. 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>6</sup>.

### ***Significant delay in procedures***

There are a number of problems with criminal cases. Investigations grind to a halt as a result of a severe backlog of DNA reports. In rape cases, there are months-long delays in getting DNA test results. NGOs, rather than the government, usually cover the cost. Test results should be ready within two months or less but may be pending for a year or year-and-a-half.<sup>7</sup> In the meantime, the accused is granted bail and goes around threatening witnesses and victims, and the

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<sup>5</sup> Data obtained from Suriya Women Batticaloa

<sup>6</sup> Data obtained from Suriya Women and Affected Women's Forum (AWF) Ampara

<sup>7</sup> Interview with three women activists in Vavuniya, 28/06/2016.

case gets dropped. Evidence is lost in this process, especially given the significant delays in procedures and victim and witness protection proceedings are delayed. There are many cases where police have instructed victims to physically touch and identify suspected rape perpetrators. This is in direct violation of Section 124 of the Criminal Procedure Code, which requires that identification parades involving children and women be conducted from behind a screen (concealed location).

Examples of criminal investigations that have faced long delays include:

1. Rape of 6-year old girl in Vavuniya (29th June 2011) – The suspect is a school principal. After complaint was filed with the police, the principal was transferred to a different school, where there were three further police complaints made by children aged 11, 12, and 13 years. Suspect was allowed out on bail. The suspect needs to be removed from public office until cases are complete.
2. Murder of 14-year old girl in Vavuniya (4th December 2012) – This case is still under police investigation, but no complaint has been filed. The Post Mortem Report dated 5th December 2012 indicates signs of sexual assault but lists drowning as the cause of death.
3. Rape and murder of 18 year old girl in Jaffna (13th May 2015) – The court is waiting on the submission of DNA reports on the suspects, which have been delayed. The local police say they have asked Police Headquarters to release the funds required to obtain the DNA tests and reports, but are still waiting to receive them.

#### Recommendations:

- Ensure timely justice for sexual violence against women and children. Investigate, prosecute, and punish those who are accused of rape and sexual abuse, especially those in positions of power, and end impunity in regards to violence against women. All cases must be promptly investigated and prosecuted.
- Declare violence against women and girls, particularly sexual violence, a national crisis.
- Immediately appoint a special team to handle cases that are pending in the Attorney General's Department to come for trial.
- Provide short term and long term medical, psycho-social, recovery, and rehabilitative support for victims and survivors of violence.
- Ensure that all transitional justice mechanisms are 50 percent women, gender-sensitive, and responsive to women's wartime experiences of sexual and gender-based violence, torture, and enforced disappearance.

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

Domestic violence, especially intimate partner violence, remains a widespread problem in the North and East, and many women's organizations report that it is increasing.<sup>8</sup> In Kilinochchi, women said they have never seen domestic violence before like they see now and that new cases

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<sup>8</sup> Interview with counselor in Mannar, 20/06/2016; interview with parish priest in Mannar, 23/06/2016; interview with two counselors in Jaffna, 24/06/2016; interview with four members of women's organizations in Kilinochchi, 25/06/2016; interview with director of women's organization in Batticaloa, 11/07/2016.

surface on a daily basis.<sup>9</sup> A counselor in Mannar District reported that there have been nearly 1,600 domestic violence cases from 2003 to the present. She estimated that there have been about 600 over the last three to four years and 160 in the past year.<sup>10</sup> A women's organization in Jaffna reported more than 500 cases in the past year. Domestic violence cases mostly involve husbands abusing wives. Only one in ten cases is it family members, fathers, neighbors, or boyfriends.<sup>11</sup> Activists in Vavuniya reported that almost 65 percent of women in the district have been abused in one way or another.<sup>12</sup> The head of a women's organization in Batticaloa said that long delays in the justice process contributed to the increasing violence: it takes a minimum of six years, usually around ten years, for a criminal case involving adults to come to trial; a case involving children takes less time, approximately six to seven years.<sup>13</sup> In Vavuniya activists said that one woman had been trying to get justice for 16 years.<sup>14</sup>

### *Language constraints*

In many districts, there are not enough Tamil-speaking police officers and few, if any, Tamil-speaking female police officers.<sup>15</sup> In locations where there are no Tamil-speaking female officers, Tamil women who report domestic violence have to tell their stories to male officers or translators.<sup>16</sup> Translations themselves most often imbued with patriarchal attitudes and are biased in favor of the perpetrators.<sup>17</sup> If there are no Tamil-speaking officers present, Sinhala officers will write the woman a note telling her to report back at a later date and time.<sup>18</sup> If there are only men in the women's police desk, or if men are present, women feel uncomfortable making complaints or even going to the police station.<sup>19</sup> There are often no private rooms for women when they report their cases, which also deter women from coming forward.<sup>20</sup>

### *Biased attitudes*

Police officers often do not take women's complaints seriously.<sup>21</sup> In one case, a woman made a domestic violence complaint to the police, and the police called her husband, who told the police she had danced at her sister's engagement party. The police then told the woman that dancing and her *henna* on her hands were "against the culture" and that she shouldn't be doing these

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<sup>9</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>10</sup> Interview with counselor in Mannar, 20/06/2016.

<sup>11</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>12</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>13</sup> Interview with director of women's organization in Batticaloa, 11/07/2016.

<sup>14</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>15</sup> Interview with service provider in Mannar, 16/06/2016; interview with counselor in Mannar, 20/06/2016; 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; interview with three women activists in Vavuniya, 28/06/2016.

<sup>16</sup> Interview with two counselors in Jaffna, 24/06/2016; interview with four women activists in Kilinochchi, 25/06/2016; interview with group from women's organization in Mullaitivu, 27/06/2016; interview with three women activists in Vavuniya, 28/06/2016.

<sup>17</sup> Interview with counselor in Mannar, 20/06/2016.

<sup>18</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>19</sup> Interview with two counselors in Jaffna, 24/06/2016; interview with four women activists in Kilinochchi, 25/06/2016; interview with group from women's organization in Mullaitivu, 27/06/2016; interview with three women activists in Vavuniya, 28/06/2016.

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

<sup>21</sup> Interview with service provider in Mannar, 16/06/2016; interview with group of women activists in Jaffna, 24/06/2016.

things.<sup>22</sup> In Vavuniya, women activists reported that one police officer had made a comment that if a girl is raped, she should just marry her rapist.<sup>23</sup> In Mannar, police officers are trained in gender-sensitivity but then moved to other districts, which means the same problems repeat themselves when their replacements arrive.<sup>24</sup>

### *Bribery*

Sometimes police ask for bribes from the husband.<sup>25</sup> Otherwise, the police may pressure the woman to withdraw the case as a result of pressure from a third party, such as a politician or someone in power who knows the perpetrator.<sup>26</sup> In Mullaitivu, women's organizations reported that police could be manipulated with money or other favors. They might allow the husband to slip away after receiving money or bail but would neglect to inform the woman who had filed the case.<sup>27</sup> In Kilinochchi, women's organizations reported that favoritism is everywhere. If someone has influence or a connection to the police, the process will go smoothly. If not, a woman will have to wait in line to file her case.<sup>28</sup>

### *Arbitrary response*

In Mannar, the emergency number, 1-1-9, was reported to be unreliable: "Sometimes the police will come. Sometimes they will not come. Sometimes they will be late." There are no Tamil officers on the emergency response team at the police station, so calls to 1-1-9 can only be made in Sinhala.<sup>29</sup> In Kilinochchi, four women from different service organizations reported that they had never once had success with 1-1-9, either with receiving an answer or getting any assistance.<sup>30</sup> In Mullaitivu, a women's organization reported that they rarely received answers after calling 1-1-9, and when they did, the officer would always speak Sinhala, and they would have to hold for a Tamil speaker. They had not heard of one case of a successful 1-1-9 call. They estimated that there is may be a one in five chance of someone actually coming.<sup>31</sup> In Vavuniya, women activists similarly said they could not offer one positive example of 1-1-9 working. They said it could take 45 minutes for a call to go through, at which point the officers might say they don't have a vehicle available or are working on another case. Once, two male police officers showed up two hours after the woman called, and both were drunk.<sup>32</sup>

### *Cultural stigma*

There are also cultural impediments to justice. Many women refrain from talking about domestic violence because of the cultural stigmas around it and the value placed on marriage.<sup>33</sup> Many women tolerate violence and only go to the police when the situation worsens.<sup>34</sup> After a woman makes a complaint, she may return home to a sea of family and relatives, urging her to withdraw

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<sup>22</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>23</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>24</sup> Interview with service provider in Mannar, 16/06/2016.

<sup>25</sup> Interview with counselor in Mannar, 20/06/2016; interview with three women activists in Vavuniya, 28/06/2016.

<sup>26</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>27</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>28</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>29</sup> Interview with parish priest in Mannar, 23/06/2016.

<sup>30</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>31</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>32</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>33</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>34</sup> Interview with parish priest in Mannar, 23/06/2016.

the complaint and stay with her husband.<sup>35</sup> In the first court hearing, women may say they forgive their husbands because of pressure from family and relatives.<sup>36</sup> It is very hard for women to leave abusive relationships; most women return to their abusers.<sup>37</sup>

### *Challenges with the PDVA*

There are problems with delays at every stage of the process of accessing justice. For example, under the Prevention of Domestic Violence Act (PDVA), a woman can seek a protection order against her husband in instances of threat of harassment and abuse. In one recent case, an abuser returned to his wife after she had received a protection order. The police asked for the order, but no one had yet received it from the court—not the affected woman, the police, or the GS office even though over a year had passed. Police also often do not arrest abusers immediately irrespective of an arrest warrant being issued. Sometimes the court will issue an arrest warrant, and the police will give it to the woman and ask her to find her husband and inform them of his location so that they can arrest him.<sup>38</sup> In at least one case in Mullaitivu, the police instructed the woman to find her abuser and bring him to court herself.<sup>39</sup> Sometimes, after the woman makes a complaint, the police tell her to pay for the cost of transport - a car or *tuk-tuk (three-wheeler)* - so they can find her husband because they don't have enough vehicles. Many women cannot afford to do so.<sup>40</sup> After a woman files a complaint, the police may ask her to accompany them when they bring the abuser to court, rather than bring her to a safe place.<sup>41</sup> In both Kilinochchi and Mullaitivu, women's organizations reported that police include closing dates in arrest warrants, which means they could not arrest the husband after a certain amount of time had passed.<sup>42</sup> In one case in Kilinochchi, a court issued an arrest warrant that said the police had to locate the abuser within thirteen days. The abuser fled to a different district, and the police were unable to locate him in time.<sup>43</sup> In Mullaitivu, a woman brought her husband to the police station after the closing date of the arrest warrant had passed, so the police said they could not arrest him, and he fled.<sup>44</sup>

### *Challenges with arbitration bodies*

Before a domestic violence case can go to court, it has to go through the Mediation Board. In Jaffna, the Mediation Board is comprised of religious leaders and societal elders who in most cases promote the notion that this is a private matter and tell the woman that she will be alone if she gets a divorce, and society will not respect her. This normally scares the woman, and she feels pressure to return to her abuser.<sup>45</sup> Women's organizations in Kilinochchi reported that the Mediation Board usually sides with men.<sup>46</sup> Muslim women are asked to go to the Quazi court

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<sup>35</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>36</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>37</sup> Interview with director of women's organization in Batticaloa, 11/07/2016.

<sup>38</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>39</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>40</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>41</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>42</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>43</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>44</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>45</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>46</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

(courts with Muslim judges under the Muslim Marriage and Divorce Act) by the police when they complained of domestic violence. The Quazi court has no mandate to deal with domestic violence but only to mediate between husband and wife when there is a dispute or application for divorce. The Quazi court is mandated to facilitate the divorce and maintenance process.

Whenever a case is filed, whether a divorce or domestic violence case, women must attend compulsory counseling with their husbands. Often they are referred to the court's counselor and face pressure to work on the relationship and get back together.<sup>47</sup>

There are legal aid commissions, but they have some limitations. First, they require certain documentation, such as a letter from the Grama Niladari (GN)/local level government officer to confirm that the woman belongs to a certain area or is married to her husband. If a woman leaves home to stay at a safe house or elsewhere, she has no easy way of obtaining those documents.<sup>48</sup> Sometimes a case fails because the victim cannot afford a good lawyer, whereas her husband can. Women's groups in Jaffna estimate that there are 100-150 maintenance cases a day, so a given legal aid lawyer may have 40-50 cases a day, which means the lawyer cannot give any case special attention.<sup>49</sup> The legal aid commission in Mullaitivu only has two lawyers, neither of whom have much professional experience.<sup>50</sup> In Vavuniya women activists reported that the legal aid commission only had inexperienced or junior lawyers, and they are not gender-sensitive and lack the contextual background or knowledge to fully help the victims.<sup>51</sup>

There are only up to three government counselors in Mullaitivu District providing psycho-social support for women, one in the general hospital and one or two in the DS office, and none of them are gender-sensitive.<sup>52</sup> This district is where the last phase of the war happened. There have been high levels of suicide and domestic violence reported in the last few years, on top of the mass scale of death and disappearance during the war.

#### *Adverse experiences within courts*

Courts provide women with minimal levels of protection. Only extreme or very private cases are discussed in the judge's chambers rather than a public hearing. From the period that the woman makes the complaint to the first time she goes to court, the woman is at high risk of more violence. Sometimes the court orders a woman to stay at a safe house.<sup>53</sup> To go to a safe house, however, a woman has to go to the GS and get paperwork signed.<sup>54</sup> During court proceedings, women have no rights to speak to their lawyers within the courtroom. They have to leave the courtroom to address their lawyers unless they are formally testifying. If a woman says something in the middle of the proceedings, she is viewed as disrespecting the judge. If the lawyer forgets to mention something important, the woman cannot say anything in court. Judges

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<sup>47</sup> Interview with director of women's organization in Batticaloa, 11/07/2016.

<sup>48</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>49</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>50</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>51</sup> Interview with three women activists in Vavuniya, 28/06/2016.

<sup>52</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>53</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>54</sup> Interview with group of women activists in Jaffna, 24/06/2016.

also ask questions that are victim-blaming or re-victimizing, and even lawyers cannot contest what the judge says.<sup>55</sup>

If a woman leaves her husband and has to care for children, there is no direct support from the government. The government pays a small amount of money for widowed women (PMA) but nothing specifically to women who are divorced or separated. Families living below poverty level receive *samurdhi* (relief program), but most families are registered under the husband's name. If a woman wants to change the account to her name, there is a very long procedure involving a lot of signatures, including that of a judge. In the meantime the husband can just go to the GS and tell them not to give his wife the money.<sup>56</sup> Divorce hearings face repeated delays.<sup>57</sup> Divorce cases can take three or four years on average and even up to ten to twelve, and in the meantime, the husband has the family card. If a woman wants to change the card to her name or get a new one, the authorities ask for a divorce card, which means that the card change, too, can take three or four years<sup>58</sup>. A court will only grant the divorce if both parties consent. If a husband refuses to consent, the divorce cannot go through.<sup>59</sup> Women also face practical obstacles to divorce: they have safety concerns about living alone and economic concerns about finding their own livelihoods<sup>60</sup>.

Women can file two kinds of civil cases against abusive husbands: protection order cases and maintenance cases. In Jaffna, women reported that there is no organized system to get maintenance after a court orders a husband to pay. A woman has to go to the court or police station at an appointed time every month to get the money, and the authorities do not notify her in advance if there is no money there to collect. If the abuser pays less than the required amount or says they can't pay because of unemployment, the police will not ask him any questions. Women also have to pay their lawyers an agreed-upon amount following maintenance collection and still have to pay them even if their husbands have been delinquent on maintenance. In Jaffna, one woman had to take leave from her job as a hospital cleaner to deal with her maintenance case and risked losing her job. Her husband neglected to pay the maintenance at the end of the case, but she still had to pay legal fees.<sup>61</sup> If a woman cannot pick up her maintenance money on the appointed date, she has to go to court and re-apply for maintenance, which means the payment will be delayed by more days or weeks.<sup>62</sup>

### Recommendations:

- Increase women's desks in police stations and ensure that Tamil-speaking women and women translators are available at all police stations in Tamil-speaking areas.
- Ensure that women officers are always present when women are being questioned or photographed or house visits are made by the police. Ensure that women have a private room to make complaints at police stations.

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<sup>55</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>56</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>57</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>58</sup> Interview with two counselors in Jaffna, 24/06/2016.

<sup>59</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

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<sup>61</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>62</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.



- Provide gender-sensitivity training for police officers, counselors, legal aid attorneys, court staff, and judges.
- Ensure that the 1-1-9 emergency response is prompt and consistent throughout the country and that both Sinhala and Tamil speakers are available on the phone and in person.
- Mandate that police only use open warrants in domestic violence cases. End the practice of using closed warrants (with end dates) and of asking women to locate their abusers for the police.
- End the practice of sending women to compulsory counseling with their husbands in cases of domestic violence and divorce.
- Ensure respect for women's dignity and privacy in the courtroom.
- Provide women with a mechanism to receive *samurdhi* while divorce cases are pending if the account is not in her name. Speed up the process for divorce.
- Facilitate the prompt transfer of written protection orders and maintenance payments to the woman who has requested them.
- Improve legal services, legal aid, and provision of information to the public in all local languages.
- Inform female complainants of their rights, including the right to seek and receive prompt information about their complaint, actions being taken in response, and reasons for any delay.

#### **Interview with Domestic Violence Survivor in Jaffna, 24th June 2016**

"Life is a struggle." She lives with her mother, aunt, and young daughter. Her brother was disappeared during the war. She was once a midwife and worked very hard, but she lost the ability to work when her husband poured petrol on her right hand and arm in 2013. She had just found out that he was simultaneously married to two other women and confronted him about it. Now her right hand and arm are disfigured, and she cannot afford the surgery. She filed a domestic violence case against her husband and provided evidence of the three marriages. The court kept her husband in remand for fourteen days and ordered him to pay 150,000 rupees for the false marriage. In 2014, her husband left her with his debts and stole the money she had saved for her surgery. Today she receives maintenance payments and *samurdhi* but has had to use that money to pay off her husband's debts rather than provide for her daughter or save for her surgery. She says her husband should have been imprisoned for what he did, that simply paying a fine was not enough to prevent him from doing the same thing again. "I don't believe in justice anymore."

#### **Interview with Domestic Violence Survivor in Mullaitivu, 27th June 2016**

She got married nine years ago and has two children. Her husband was an alcoholic and beat and verbally abused her "all the time." One evening in 2015, he invited his male friends over and asked her to cook for them. He poured curry on her face, beat her with a pot, and stripped her and beat her in front of his friends. She ran from her house to the police station in her undergarments to file a complaint. She finally went to the police because she "thought he was going to kill her." She filed cases against him for maintenance and for a protection order. Once she started getting maintenance, he began to call her and verbally abuse her, so she told the court she didn't want maintenance anymore. After she received the protection order, the authorities posted a notice on her house saying that her husband would be arrested if he tried to enter or threaten them. One day, he entered the house with a knife, so she left with her children and moved in with her mother. She is afraid to go back to her house, despite the fact that the land is in her name. She filed a complaint against her husband on 22nd June 2016 because he came to her mother's house and threatened her. Several days later, the police told her to withdraw the case because

they couldn't find him, and they said they couldn't keep the case open for more than three days. She refused to withdraw it.

#### **Interview with Female Head of Household in Mullaitivu, 27th June 2016**

"I don't believe in the justice system or the government." Her husband left her three years ago. He sold her land and took her jewelry and money. She filed a maintenance case but was unable to get any money because the authorities could not find her husband, and he didn't attend any of the hearings. She filed complaints at police stations in three different districts, but no one ever found him and arrested him. She lives on her mother's land and with her mother and three children. She has two cows and sells their milk. She doesn't think the government can do anything for her, but if they could, she would want them to return everything her husband stole and give her livelihood support.

### **Sexual Harassment, Exploitation, and Bribery**

Sexual exploitation (SE) in the North commonly takes the form of sexual bribery, whereby government officials claim sexual favors from women in return for various government services—e.g., in exchange for providing certification of residence and character or documents that prove eligibility to various rehabilitation and resettlement assistance. Exploitation of women takes place at every level of government service, from the Grama Niladhari (government officer) to the District level. Local politicians also abuse their positions to obtain sexual favours from women, as highlighted in recent newspaper reports. The police station and educational institutions are spaces where women face harassment and SE. The education sector has in recent times received public attention due to the media highlighting several cases of SE when women attempt to deal with school principals and teachers. Similarly, when women attempt to access the courts and the criminal justice system, there have been reports of SE of these women by medical professionals, court personnel and lawyers.

Female heads of households (FHHs) in the North are an especially vulnerable group of women, whose numbers have increased after the war. These women face more sexual harassment and are more susceptible to SE due to the lack of a male in the household. Their lack of physical security and vulnerability leaves them exposed to different forms of exploitation. They have no recourse to any form of psychosocial support, either due to the lack of such services or lack of awareness on available services or social stigma.

Four recent cases include:

1. In Jaffna University, the head of Music, in the department of Fine Arts was accused of asking students for sexual bribes in exchange for better grades in 2013. To date, the university higher administration has not taken action to fire him or to release the investigation report.
2. The Principal of a special needs children's school in Jaffna was taken to court for abusing his power and sexually exploiting physically challenged students and teachers. Court hearing is still ongoing.
3. A video of a local politician from North having intimate sexual acts with about 30 different women was put on a Tamil news website, following which one woman who was believed to be in the video, committed suicide on 25th February 2015. Women's groups

in the North worked to hold this politician accountable by lobbying his political party. However legal action against this politician did not materialize because it was difficult to proceed with hearings without revealing the identities of affected women.

4. In Killinochchi there were allegations that the Indian housing beneficiary women were asked for sex bribes by a Technical Officer of the Sri Lanka Red Cross (SLRC). One woman made a written complaint to SLRC head office. The committee appointed by SLRC reported to the media that they have not found any evidence.

Additionally, a service provider in Mannar reported 5 cases of harassment by teachers in the past month.<sup>63</sup> Only one case in Mannar has gone to court (Case No. B 258/16, filed under Section 354 of the Penal Code). In this case too the Mannar District Secretary (DS) tried to prevent the victim accessing the court. Later the DS was given a warning by the magistrate for blocking justice. From 2014-2015, there were about 40 reported cases of sexual harassment in Batticaloa and about 100 in Ampara. Women working in gardening or housecleaning for rich landowners face sexual abuse but are afraid to report it because they want to keep their jobs. There is also sexual harassment and exploitation in military firms, and women who are employed there are afraid to report it.<sup>64</sup> The garment factory women workers too have complained to women's groups in the north of SE.

War widows, women whose husbands were disappeared, and other female heads of household are particularly vulnerable in this context. Women sometimes get harassing phone calls from strange men<sup>65</sup>. When they go to government offices to seek help, they are asked for sexual bribes<sup>66</sup>. When they go to detention camps or prisons to look for their husbands, they often get harassing phone calls from authorities there telling them to "come alone next time"<sup>67</sup>. One GS in Vavuniya was reported to have kept a mattress in his office and asked for sexual bribery from many women. He was suspended for few months after women made complaints and then reappointed to a different office, where he continues the same behavior. After a victim complained to a women's organization, the man was then placed in a DS office for a short period of time where he would not have to deal with people directly, but after some time he was reposted to a different village again.<sup>68</sup>

### **Case Studies:** **Sexual Bribery (SB) of Female Heads of Households in the North of Sri Lanka<sup>69</sup>**

| Vavuniya            |                 |            |            |                       |                 |                         |               |           |                 |
|---------------------|-----------------|------------|------------|-----------------------|-----------------|-------------------------|---------------|-----------|-----------------|
| Name of interviewee | Situation of SB | Age at the | Year of SB | Perpetrator / Accused | Age of marriage | Reason for being Single | Made official | Talked to | No. of Children |

<sup>63</sup> Interview with service provider in Mannar, 16/06/2016.

<sup>64</sup> Interview with parish priest in Mannar, 23/06/2016.

<sup>65</sup> Interview with female ex-cadre in Mannar, 20/06/2016; interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>66</sup> Interview with three women activists in Vavuniya, 28/06/2016; interview with two members of women's organization in Vavuniya, 28/06/2016.

<sup>67</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

<sup>68</sup> Interview with two members of women's organization in Vavuniya, 28/06/2016.

<sup>69</sup> Extracted from a confidential study done by Ms. Shreen Abdul Saroor sponsored by FOKUS Women in 2016

|                            |                                                                                                    |                              |                   |                              |                        |                                                    |                                        |                          |                        |
|----------------------------|----------------------------------------------------------------------------------------------------|------------------------------|-------------------|------------------------------|------------------------|----------------------------------------------------|----------------------------------------|--------------------------|------------------------|
|                            |                                                                                                    | <b>time of SB</b>            |                   |                              |                        |                                                    | <b>complaint ref. SB</b>               | <b>someone</b>           |                        |
| 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                      |
| <b>Killinochchi</b>        |                                                                                                    |                              |                   |                              |                        |                                                    |                                        |                          |                        |
| <b>Name of interviewee</b> | <b>Situation of SB</b>                                                                             | <b>Age at the time of SB</b> | <b>Year of SB</b> | <b>Perpetrator / Accused</b> | <b>Age of marriage</b> | <b>Reason for being Single</b>                     | <b>Made official complaint ref. SB</b> | <b>Talked to someone</b> | <b>No. of Children</b> |
| 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                                                            | 30                           | 2010              | Military                     | 22                     | Death of husband due to illness                    | No                                     | Yes                      | 2                      |

|                            | framed as LTTE associate                                                                                                                     |                              |                   |                                                  |                        |                                               |                                        |                          |                        |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------|--------------------------------------------------|------------------------|-----------------------------------------------|----------------------------------------|--------------------------|------------------------|
| 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>            |                                                                                                                                              |                              |                   |                                                  |                        |                                               |                                        |                          |                        |
| <b>Name of interviewee</b> | <b>Situation of SB</b>                                                                                                                       | <b>Age at the time of SB</b> | <b>Year of SB</b> | <b>Perpetrator / Accused</b>                     | <b>Age of marriage</b> | <b>Reason for being Single</b>                | <b>Made official complaint ref. SB</b> | <b>Talked to someone</b> | <b>No. of Children</b> |
| 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 Qauzi 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                      |
| <b>Mullaithivu</b>         |                                                                                                                                              |                              |                   |                                                  |                        |                                               |                                        |                          |                        |
| <b>Name of</b>             | <b>Situation of</b>                                                                                                                          | <b>Age</b>                   | <b>Year of</b>    | <b>Perpetrator</b>                               | <b>Age of</b>          | <b>Reason for</b>                             | <b>Made</b>                            | <b>Talked</b>            | <b>No. of</b>          |

| interviewee | SB                                                                                                                                                                                                                               | at the time of SB | SB                     | / Accused             | marriage | being Single                                                                                                    | official complaint ref. SB | to someone | 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 | 19                    | 2012 to 2013 | Lecturer at the University | N/A             | Father died during the war | Yes                             | Yes               | N/A             |

|                            |                                                                                                      |                              |                   |                               |                                                                                                            |                                |                                        |                          |                        |
|----------------------------|------------------------------------------------------------------------------------------------------|------------------------------|-------------------|-------------------------------|------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------|--------------------------|------------------------|
|                            | classes and 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>              |                                                                                                      |                              |                   |                               |                                                                                                            |                                |                                        |                          |                        |
| <b>Name of interviewee</b> | <b>Situation of SB</b>                                                                               | <b>Age at the time of SB</b> | <b>Year of SB</b> | <b>Perpetrator / Accused</b>  | <b>Age of marriage</b>                                                                                     | <b>Reason for being Single</b> | <b>Made official complaint ref. SB</b> | <b>Talked to someone</b> | <b>No. of Children</b> |
| 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                      |

#### Recommendations:

- Investigate, prosecute, and punish all cases of sexual bribery or abuse by government employees. Remove from office anyone accused of sexual harassment while cases are pending. End the process of transferring abusive government employees or teachers from one office or school to another rather than punishing them.
- The government of Sri Lanka (GoSL) should amend the Bribery Act and make sexual bribery a specific violation, with aggravated penalties.

- Guidelines to address sexual harassment in state sector institutions developed by the Human Rights Commission of Sri Lanka should be elevated to deal with SB complaints, and the HRC should create a special complaint procedure.
- Ensure 50% or more female representation (at all levels, top to bottom) in all post-war service delivery structures and proposed transitional justice mechanisms.
- Add sexual bribery inquiry mandate into existing commissions, such as the Police Commission, Election Commission, Bribery Commission, and Public Service Commission. Each of these Commissions should have a gender sensitive and trusted mechanism to investigate and handle sexual bribery cases.
- GoSL should issue a circular to all heads of public administrative/service departments to adopt a zero tolerance policy with regard to sexual bribery and sexual harassment and any such breach should lead to immediate removal from their job.
- State Service and educational institutions should put in place internal mechanisms and guidelines to prevent sexual bribery and to deal with complaints of such cases. Such efforts should be combined with adequate awareness-raising and a supportive environment so as to encourage women to file complaints and obtain redress.
- Circular No. 919 issued by the University Grants Commission should be amended immediately to include guidelines to curb not only ragging but also sexual bribery and sexual exploitation.
- Make it mandatory for all the government departments and institutions to maintain records and databases of the instances of sexual bribery.
- Display the rules and punishments against sexual bribery in Police stations, in universities, in prominent locations, public spaces, in public transport and throughout government institutions in English, Sinhala and Tamil.
- GoSL should initiate a public awareness campaign to inform people at the ground level of existing complaint mechanisms in place to report cases of sexual bribery and subsequently to alert people when any new act or mechanism is introduced in this regard.

### **Challenges faced by differently-abled women**

Women who are physically challenged as a result of war-related injuries face many struggles. Employers often cannot accommodate them because of their injuries. Many public and government buildings are not accessible—for example, lacking in ramps or elevators—and also do not have proper toilet facilities.<sup>70</sup> There are not enough sign language speakers or braille documents available.<sup>71</sup> Public bus drivers often neglect to wait for differently abled people, who cannot run to catch the bus. There are special seats for differently-abled people on the bus, but people don't always give up their seats.<sup>72</sup> Many women need medical operations but cannot afford them. In the case of serious diseases, they can apply for the president's fund, but the process is often delayed, and the amount is not sufficient.<sup>73</sup>

A differently abled woman in Mullaitivu said that she used to ride motorbikes but has been a refused a license now because she has an artificial leg. To get a license, she has to go to

<sup>70</sup> Interview with counselor in Mannar, 20/06/2016; interview with project officer at women's organization in Mannar, 21/06/2016.

<sup>71</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>72</sup> Interview with group from women's organization in Mullaitivu, 27/06/2016.

<sup>73</sup> Interview with counselor in Mannar, 20/06/2016.



Colombo to get a medical report because there is no facility that can issue one in the North. She said there needs to be a system in the North and East to manage the issues of differently abled people regarding vehicles, licenses, and medical facilities.<sup>74</sup>

Recommendations:

- Ensure that all public spaces and transportation are accessible to physically challenged individuals.
- Set up a fund for surgeries for women with injuries related to the war or domestic violence.
- Ensure that public services are friendly and accommodating of requirements of differently-abled persons and that there is a system for different-abled persons to obtain necessary documentation with regard to vehicles and licenses etc.

**Interview with Physically Challenged Woman in Jaffna, 24th June 2016**

“Our government does not prioritize single women.” She lives alone. When she was displaced from Jaffna in 1995, her mother died, and she was injured. She lost touch with all her other relatives. She was taken by LTTE and they treated her injuries, however she has a permanent injury on her upper right arm. After the war ended in 2009, she found her relatives and her siblings, and now with their financial support she lives alone. She has tried to get jobs but doesn’t have educational qualifications because she didn’t finish ordinary level. She wants medical treatment because the injury still hurts her, especially during changes in weather. She is struggling with her daily expenses and thinks of surgery as a luxury and something she can’t afford.

**Female Ex-Cadres and combatants**

Female ex-cadres have a hard time returning to their communities and establishing work or families. They are labeled as “rehabilitated” and cornered.<sup>75</sup> Once former cadres have been reintegrated, they are often dependent on their families for support.<sup>76</sup> Most jobs available to female ex-cadres are traditional ones that underutilize their physical strength and shut them off from the nontraditional roles they played during the war (as drivers, mechanics, builders etc.).<sup>77</sup> Women’s organizations in Mannar and Mullaitivu report that intelligent officers (criminal investigation and terrorism investigation officers - CID and TID) are still monitoring ex-cadres on regular basis and are coming to their houses and asking questions.<sup>78</sup> CID officers change often and every time there is a new officer, they will go to every ex-combatant house and start their inquiry from the beginning. If there were a system to pass on the data to new officers, this could be avoided.<sup>79</sup>

Recommendations:

- Eliminate all surveillance of rehabilitated ex-cadres and help them access preferred and sustainable livelihoods.
- Reintegration of female ex-cadre and continuous support to them should be provided through the government civil structures like the women development officers.

<sup>74</sup> Interview with group from women’s organization in Mullaitivu, 27/06/2016.

<sup>75</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>76</sup> Interview with parish priest in Mannar, 23/06/2016.

<sup>77</sup> Interview with group of women activists in Jaffna, 24/06/2016.

<sup>78</sup> Interview with counselor in Mannar, 20/06/2016; interview with group from women’s organization in Mullaitivu, 27/06/2016.

<sup>79</sup> Interview with group from women’s organization in Mullaitivu, 27/06/2016.

#### **Interview with Female Ex-Cadre in Mannar, 20th June 2016**

The CID is monitoring all of her activities. If they see her on the road, they stop her. Sometimes they call her. Sometimes they visit her home. The government has a list of all the ex-cadres who went to the rehabilitation center, and they monitor their day-to-day activities. Being monitored irritates her. She doesn't know what information they are noting. In May 2016, many ex-cadres were arrested by military. She is afraid she could be arrested, so she speaks to the intelligent officer in a friendly manner.

#### **Interview with Female Ex-Cadre in Jaffna, 24th June 2016**

She lives with her mother and son. Her father died during the war. She and her husband were not legally married. He took her to house, which culturally meant they were married. When she was 6 months pregnant, he left and never came back. She is financially dependent on her mother, who is a day laborer. Her son doesn't have a birth certificate yet because she wasn't legally married. She is a former LTTE cadre, forcefully recruited in 2006. In 2007, she was injured. She has a leg injury and still has a piece of shell in her hand. She is unable to go to the hospital to get it removed because she can't leave her son, since her mother works during the day. She was in the detention camp for 1 year and 4 months from 2009-2011. For 1.5 years after her release, she received monthly inquiries from TID and had to report to the army checkpoint every month. She says she wants to be treated with the same respect and dignity as everyone else. When she has gotten jobs in the past, her employers asked her go after two or three days upon learning that she is an ex-cadre or former detainee.

#### **Suicide and psychological concerns**

From 2014-2015, there were 50 reported suicide attempts by women in Batticaloa and 200 in Ampara<sup>80</sup>. In Kilinochchi, a physician estimated that his hospital sees 30-60 cases of deliberate self-harm a month, one-third of which are young women. Most suicide attempts occur after family disputes, when women have poor coping strategies. There is no intensive care unit (ICU) in Kilinochchi Hospital, so they have to send the women to another hospital. They have a lot of problems finding empty ICU beds in nearby districts. The closest ICU hospitals in Jaffna, Vavuniya, and Mannar are usually full, so they have to send the women to Batticaloa or Polonnaruwa, which is a five or six hour drive. Upon release, the hospital provides post-counseling services, but they only see the women once and can't reach everyone because they only have one medical officer and one doctor. There are also no safe houses for adolescent girls in Kilinochchi. The physician said that more needs to be done to prevent female self-harm. Women need to be empowered to have better problem-solving skills and reactions to stress.<sup>81</sup>

#### Recommendations:

- Increase psycho-social support, education, and empowerment programs for young women at risk of suicide.
- Establish ICUs in hospitals that lack them and increase ambulance facilities. Have a specific system whereby persons at risk of suicide are put on 'suicide watch' and given special medical and psychological support.
- Train more women as councilors and establish government-sponsored community counseling service centers as part of Sri Lankan government's reparation policy.
- Ensure war-affected districts health services are adequately funded to deal with the post-war mental and physical scares.

<sup>80</sup> From Suriya and AWF records

<sup>81</sup> Interview with physician in Kilinochchi, 25/06/2016.

## **Article 13: Equal rights to economic and social benefits**

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

Unplanned pregnancies are common in war-affected areas, contributed by temporary relationships women have with contract laborers coming from other districts who stay for a short period of time and then leave.<sup>82</sup> Women often have trouble getting birth certificates for their children or getting the fathers to sign the birth certificates.<sup>83</sup> Other women have trouble getting national ID cards and cannot access government housing without these documents. Many have also lost access to important documents such as birth certificates, national identity cards, land documents etc, during the war.<sup>84</sup> There is no system in place to recognize wartime marriages. Many people got married during the war without legal documents. Many of them were teenage marriages to escape recruitment and are not registered. When people go to government offices now asking for such documents, they are verbally abused because their marriages are not viewed as proper.<sup>85</sup>

Since men are recognized as the primary income earners, women's access to land and livelihood subsidies are minimal. The government estimates there are about 89,000 female heads of the house-holds in the war affected northern and eastern province alone. Many single women's access to housing grant is also restricted because of their access to proper title deeds and a score system that does not recognize single women as the most needy and vulnerable for the ongoing Indian housing grants.

### **Recommendations:**

- Enable women easier access to obtain and access all legal documents necessary for their daily existence.
- In the event of children not having father's name, the government system should be flexible enough to register such children under their mother's name. This is not only to register their birth but also for their school entrance and to obtain other assistance.
- Land Development Ordinance needs to be amended to give women equal access to cultivable land and to transfer such land to their female children.
- The current land distribution and housing assistance programs should recognize women as the primary beneficiary. Single women should be granted such access to land and aid without any discrimination.
- Speedy release of military occupied lands and redistribution of title deeds to the original owners and landless women.
- Transfer the ownership of community farms currently run by the military in the north to women self-help groups.
- Sri Lankan new constitution must recognize economic and social rights and bring in a social security system for all war affected women.

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<sup>82</sup> Interview with program assistant at women's organization in Mannar, 20/06/2016; interview with two counselors in Jaffna, 24/06/2016.

<sup>83</sup> Interview with project officer at women's organization in Mannar, 21/06/2016; interview with two counselors in Jaffna, 24/06/2016.

<sup>84</sup> Interview with project officer at women's organization in Mannar, 21/06/2016.

<sup>85</sup> Interview with four members of women's organizations in Kilinochchi, 25/06/2016.

## **Article 16: Marriage and Family Life**

### **Issues faced by Muslim women and girls**

Muslims in Sri Lanka are governed by the Muslim Marriage and Divorce Act (MMDA). The MMDA, which was enacted in 1951 established a Quazi (Muslim judge) court system through which the law is administered. There are 65 Quazi courts in Sri Lanka with one Quazi each, serving a population of approximately two million Muslims.

Around the country, including the North and East there are innumerable cases of harrowing experiences of women due to the law itself, the manner in which the law is implemented and the culture that the MMDA has allowed to flourish in respective local communities. Some examples are as follows:

Firstly there is no minimum age of marriage for Muslims of Sri Lanka. Marriages arranged by guardians are occurring between 14 and 17 years of age, in districts like Puttalam and Batticaloa. Records on Muslim marriage registration in Kattankudy, Batticaloa indicate that in 2015 - 22% of all registered marriages were with a bride below 18 years of age. This is a considerable increase from 2014 when the figure was 14%. MMDA does not mandate bridal consent as a prerequisite for a marriage to be contracted and as per the Act, the wali (closest male guardian) of the bride has the right to give the bride in marriage. Therefore adult Muslim women are considered minors, as they are unable to enter a marriage of their own free will and require the permission of a male guardian.

This has resulted in forced marriage of girls by walis who abuse their legal authority and compel women and girls into marriages even at a young age. One such case is that of a young divorcee in Mullaitivu who had been forcibly given in marriage at the age of 14 by her wali. She had been informed that it was the wedding of her aunt's daughter and had no indication of her marriage until the first night when she was locked into a room with her (former) husband.

Another examples is that the MMDA differentiates between the types, conditionality and procedures for divorce for men and women. The MMDA requires that the husband who seeks 'talaq' divorce gives notice to the Quazi of the area in which his wife resides. But because the pronouncement of talaq does not require the presence of the wife, women's groups have reported many instances when the wife is unaware of her husband's intention to divorce until the Quazi informs her of it. Quazis do not always pursue mandatory mediation and there are many cases where Quazis have been strong-armed or bribed into finalizing divorce as quickly as possible, sometimes within a day.

Fasah is a type of divorce that is initiated by a Sunni Muslim wife, without the consent of the husband, on the basis of a matrimonial fault on the part of the husband. It is reported by many Quazis as well as women volunteers to be the most frequently occurring form of divorce. MMDA, if mediation fails the Quazi is required to hold hearings with both parties for adjudication by himself and three Muslim male jurors. Witnesses (at least two) from the wife's side are required to corroborate the evidence and claims of the wife, unless the husband admits to being guilty of the fault.

According to women activists, there are cases where husbands force/compel their wives to get a fasah divorce, instead of proclaiming a talaq. Women who are in abusive marriages face additional barriers and challenges in obtaining divorce in terms of presenting evidence, witnesses and giving testimony before adjudicators. Women who have faced severe emotional abuse or psychological trauma and who may not have ready witnesses to support their case face significant problems in obtaining a divorce. Furthermore, women and girls presenting their cases in hearings, which could range from non-maintenance to serious physical and sexual abuse, are put through the additional traumatic task of articulating to an all-male panel, the members of which are not professionally trained to evaluate and give judgment in such cases.

The MMDA also allows for a Muslim man to marry up to four wives legally. The provisions under the MMDA leaves the sole decision making power of taking multiple wives at the discretion of the husband without in any way considering the psychological, social and financial impacts of such a marriage on the previous wives and children. The unrestricted 'right' of polygamy means that Muslim men who are unable to maintain plural marriages are still able to enter them, thereby placing multiple women and children in vulnerable situations. Many Muslim women who find themselves in polygamous marriages were unaware that they were part of plural marriages and were unable to exercise any agency and autonomy on the matter.

For women, attempts at speaking out about the husband's decision to take another wife is likely to result in ill-treatment, domestic violence and mental trauma. In some instances women are threatened and forced to live in plural marriages. Furthermore, family and Quazis often blame women when their husbands take another wife. Thus there are also serious financial consequences for wives and children in polygamous marriages. Anecdotal evidence suggests that husbands have divorced previous or subsequent wives on the basis of being financially incapable of sustaining plural marriages.

The most problematic issue with regard to the Quazi court system is the behavior and attitude of many Quazis towards women who access the courts. According to the Judicial Service Commission (JSC) representative interviewed, the highest number of complaints received is with regard to inappropriate and insensitive behavior of Quazis towards women and girls. Women's organizations note numerous cases where treatment has been biased against women seeking divorce or maintenance orders. Certain Quazis are entrenched in preconceived notions of the specific roles of women/wives, are against divorce and/or in favor of practices like polygamy. This bias and the lack of professional training contribute towards prejudiced judgments against women. For instance, women and girls who have faced domestic violence and cruel treatment at the hands of husbands are often dismissed by the Quazis and asked to tolerate this treatment from their husbands.

In Sri Lanka, there are no restrictions for Muslim women to pursue legal careers as judicial officers and judges within the state court system, but they are unable to become Quazis, Board of Quazi members, adjudicators or marriage registrars as per the MMDA as the positions are only available for 'male Muslims'. These are state-salaried and tax funded positions that directly prohibit qualifying women from applying on the basis of sex.

### Recommendations:

- Obligating State responsibility: The Sri Lankan government has to consider issues affecting Muslim women and girls under the MMDA and Quazi court system as human rights concerns and not 'intra-community/culture' related concerns. Specifically on the matter of minimum age of marriage – the Sri Lankan government has to remove such a provision from the jurisdiction of family laws and made one age for all citizens;
- Repeal of Article 16(1): The government must thus ensuring that Constitutional reforms process guarantee equality and non-discrimination of Muslim women and girls, by repealing Article 16(1) which provides impunity for laws such as MMDA to violate fundamental rights;
- Progressive MMDA reforms has to be facilitated and expedited and this process has to actively engage and involve Muslim women and consider the contemporary impacts of the provisions of MMDA and experiences of Quazi courts;
- Mandating a monitoring mechanism for MMDA cases and Quazi procedures: There has to be a stronger monitoring mechanism of the Quazi court system, including specific guidelines for reporting and addressing grievances.