



Violence against Women in Sri Lanka

*Report prepared
for the Committee
on the Elimination
of Discrimination
against Women*

**The World Organisation Against Torture (OMCT)
operating the SOS-TORTURE NETWORK**

The World Organisation Against Torture (OMCT), based in Geneva, is today the largest international coalition of non-governmental organisations fighting against torture, summary executions, forced disappearances and all other forms of cruel, inhuman or degrading treatment or punishment.

OMCT coordinates a network – SOS-Torture – of more than 260 national, regional and international organisations in 85 countries. The urgent appeals issued by the network on behalf of victims or potential victims of violence reach more than 90,000 governmental institutions, non-governmental organisations, associations and interest groups.

OMCT has, since its inception, worked towards reinforcing and supporting the actions of organisations in the field, while avoiding substituting itself for them. The structure of the SOS-Torture network has enabled OMCT to reinforce local activity while favouring the access of national NGOs to international institutions.

OMCT provides support to victims or potential victims of torture through urgent campaigns (notably in favour of children, women and human rights defenders), through the provision of urgent legal, social and/or medical assistance to victims and by way of the submission of alternative country reports to the various United Nations treaty monitoring bodies.

Geneva, November 2002



**Committee
on the Elimination
of Discrimination
against Women**

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**Implementation of the Convention
on the Elimination of All Forms
of Discrimination against Women
by Sri Lanka**

*Researched and written by Joanna Bourke-Martignoni,
Programme Officer, World Organisation Against Torture*

Director of Publication: Eric Sottas

**For further information, please contact the Women's Desk at
OMCT. E-mail: jb@omct.org or cbb@omct.org**

The United Nations Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In 1981, the Convention entered into force and the Committee on the Elimination of Discrimination against Women was formally established. The major task of the Committee is to review the reports submitted by the States parties in order to oversee the implementation of the Convention.

The issue of gender-based violence is not specifically addressed in the Convention, but it is however essential to its most fundamental provisions. In the general recommendation No. 19 adopted at its eleventh session in 1992, the Committee on the Elimination of Discrimination against Women formally extended the general prohibition on gender-based discrimination to include gender-based violence. The Committee affirmed that violence against women constitutes a violation of their internationally recognised human rights, regardless of whether the perpetrator is a public official or a private person.

One becomes inevitably aware of the fact that the States present reports that show only a one-sided image of reality, which is frequently incomplete. The case being, the effectiveness of this supervision and control depends on the quality of information available to the members of the various committees. Recent information, verified by reliable sources, is consequently indispensable.

In submitting alternative reports to the Committee on the Elimination of Discrimination against Women (CEDAW), OMCT seeks to provide de facto information concerning violence against women, including torture, in a specific country as well as analyse national legislation that fosters violence against women.

OMCT's reports highlight the legal provisions, both penal and civil, of the States concerned, which discriminate against women or which, without being discriminatory as such, become so through their application. Unequal power relations between men and women have led to the domination of and discrimination against women, which in turn leads to violence against women.

Furthermore, the reports draw attention to the lack of ways for the victims of violence to obtain reparation and identify the mechanisms guaranteeing the impunity of torturers.

The reports include recommendations for reform of de facto practices and legislation aimed at reducing the incidence of violence against women in the country in question.

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I

Preliminary Observations

The submission of information on violence against women to the Committee on the Elimination of All Forms of Discrimination Against Women forms part of the World Organisation Against Torture's (OMCT) programme on violence against women. One of the aims of the violence against women programme is to provide information on torture and other forms of violence against women to the United Nations' human rights treaty monitoring bodies.

In line with this goal and in light of the fact that the government report (U.N. Doc. CEDAW/C/LKA/3-4), while being very comprehensive in certain respects, does not provide detailed information on the current *de facto* situation in relation to violence against women, OMCT's women's programme has chosen to focus in its alternative report to the Committee on the Elimination of Discrimination Against Women on violence against women in Sri Lanka. The report begins with a general overview of the human rights situation in Sri Lanka, continues with a discussion of certain issues affecting the status of women, and then goes on to examine violence against women in the family, in the community and at the hands of State officials. The report concludes with a series of recommendations for future action. An annex containing some of the urgent appeals concerning individual victims of violence against women in Sri Lanka distributed by the members of the OMCT-SOS Torture network between 1999 and 2001 has also been included.

I.1 Applicable international and national law

Sri Lanka acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 5 October 1981.

With regard to other international human rights instruments, Sri Lanka has acceded to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Convention on the Rights of the Child (CRC) was ratified by Sri Lanka in 1990 and it also ratified the

Optional Protocol to the Convention on the involvement of children in armed conflict in September 2000.

OMCT welcomes Sri Lanka's ratification of all of the international human rights instruments cited above and urges the government to ratify the Optional Protocol to the CEDAW, and to make a declaration under Article 14 of the CERD and under Articles 21 and 22 of the CAT as all of these mechanisms provide the treaty monitoring bodies with the competence to accept individual communications. OMCT would also encourage the government of Sri Lanka to remove the reservation that it has made to the temporal scope of Article 1 of the Optional Protocol to the ICCPR.

Article 12 (2) of the fundamental rights chapter of the 1978 Sri Lankan Constitution provides that "no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds." Chapter III of the Constitution guarantees the right to be free from torture and cruel, inhuman or degrading treatment or punishment and provides procedural safeguards for arrested or detained persons including the right to be brought before a judge, the right to a fair hearing, the right to be represented at trial by an attorney and the right to benefit from the presumption of innocence. Under Article 126 of the Constitution, individuals are entitled to apply to the Supreme Court in order to have a hearing concerning the "infringement or imminent infringement by executive or administrative action of any fundamental right."

Article 15 (7) of the Constitution provides that "the exercise and operation of all the fundamental rights declared and recognised by Articles 12, 13 (1), 13 (2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security ...". Importantly, Article 15 (8) specifies that the exercise and operation of the fundamental rights contained in Articles 12 (1), 13 and 14 may, in their application to the members of the armed forces and other forces charged with the maintenance of public order, be subject to certain restrictions.

OMCT, while being aware that draft changes to the Constitution have been in process of consultation since 1994, is deeply concerned at the scope of permissible restrictions under the Constitution currently in force and calls upon the government to ensure that fundamental rights, in particular the right to be free from torture and the right to equality, are respected at all times and in all circumstances, especially by members of the armed forces and other law enforcement personnel.

The August 2000 *Bill to Repeal and Replace the Sri Lankan Constitution* contains extensive provisions relating to the right to equality, freedom from arbitrary arrest and detention, freedom of movement, the right to association and children's rights. The provisions on permissible derogations proposed in the Bill are far less sweeping than those contained in the current Constitution and OMCT would encourage the Sri Lankan parliament to expedite its adoption.

I.2 Armed conflict

The armed conflict in Sri Lanka, which has been ongoing for the past 19 years, has resulted in the commission of serious violations of human rights and international humanitarian law by all parties to the conflict. OMCT is particularly concerned by the numerous reports that it has received of arbitrary arrests, extra judicial killings, disappearances, use of child soldiers, torture and ill treatment of persons in detention and calls upon all of the armed groups involved in the conflict to respect national and international law concerning the protection of human rights.

A state of emergency has been in force in Sri Lanka almost continuously since 1983 and during this time, different Sri Lankan Presidents have promulgated numerous emergency regulations, most of which have been enacted in order to restrict or modify arrest, detention, post mortem and inquest procedures.¹ These emergency regulations have been strongly criticised by United Nations human rights monitoring mechanisms and by non-governmental organisations due to the fact that the removal of procedural safeguards against arbitrary arrest and detention has been shown to create conditions that are conducive to disappearances, deaths in custody, torture and ill treatment of detainees.²

While it is understandable that the Sri Lankan government feels that it must take certain emergency measures in order to deal with the current security situation in the country, the existence of an armed conflict in no

1 – See for example Sri Lanka, Emergency (Miscellaneous Provisions and Powers) Regulations No. 1 of 2000 as promulgated in Gazette 1130/8 of 3 May 2000 and the Prevention of Terrorism Act No. 48 of 1979 (as amended).

2 – Human Rights Committee, Concluding observations on the third periodic report of Sri Lanka, UN Doc. CCPR/C/79/Add.76, July 1995; Working Group on Enforced or Involuntary Disappearances, UN Doc. E/CN.4/2000/64; Special Rapporteur on Torture, UN Doc. E/CN.4/2000/9, paras. 929-974. See also Amnesty International, *Sri Lanka- New Emergency Regulations – erosion of human rights protection*, ASA 37/019/2000, 1 July 2000.

way diminishes the primary responsibility of the State for the promotion and protection of the human rights of all persons under its jurisdiction. In particular, the Sri Lankan Army (SLA), police and other law enforcement personnel must not be permitted to engage in human rights abuses and, in the event that violations do occur, the government has a responsibility to ensure that all such incidents are thoroughly investigated, prosecuted and the perpetrators punished.

The armed conflict in Sri Lanka has also resulted in the displacement of large numbers of persons from areas in the North and East of the country and there is evidence to suggest that in addition to the restrictions imposed on civil and political rights under the emergency regulations described above, internally displaced persons in these regions do not enjoy the full range of economic, social and cultural rights. In its concluding observations on the initial report of Sri Lanka in 1998, the Committee on Economic, Social and Cultural Rights expressed its grave concern regarding the situation of an estimated 800,000 persons displaced as a result of the armed conflict. The Committee stated that many of these internally displaced persons, the majority of whom are women and children, live in temporary housing without access to basic sanitation, education, food, clothing and health care.³

As a result of the social upheaval caused by the armed conflict in the North and East of the country, many people, predominantly Tamils, have been forced to move South in order to find employment and greater security. According to information received, Tamil people, especially those originally from Batticaloa and Jaffna residing or travelling in the South, often face discrimination including lengthy questioning and long waiting periods at security check points, night time searches by police and security forces, repeated arrests, and torture and ill treatment in detention.⁴ These kinds of cordon, search and detention operations have created a climate of uncertainty, insecurity and fear amongst the Tamil population living in the South and, in particular, amongst Tamil women who are frequently victims of rape and other forms of sexual violence at the hands of police and members of the armed forces.⁵

3 – Committee on Economic, Social and Cultural Rights, Concluding observations of the Committee on Sri Lanka, 16 June 1998, UN Doc. E/C.12/1/Add.24, para. 7.

4 – University Teachers for Human Rights (Jaffna), Sri Lanka Information Bulletin No. 25, *The Fatal Conjunction: Women, Continuing Violations and Accountability*, 11 July 2001.

5 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, pp. 32-33.


 III

General Observations on the Status of Women in Sri Lanka

Sri Lankan women generally enjoy a higher degree of gender equality than many women in other countries in the region.⁶ According to Dr. Deepika Udagama, Director of the Centre for the Study of Human Rights at Colombo University; “Many people in South Asia think that women in Sri Lanka are better off than their counterparts in other countries of South Asia. To some extent this is true. In terms of education levels, women holding management positions, women in professions and even in normal social norms, Sri Lankan women enjoy a better position than those in Pakistan, Bangladesh or India. But in the recent past there’s been a tremendous upsurge in acts of violence against women.”⁷

The creation of separate mechanisms for the promotion and protection of the human rights of women such as the Ministry of Women’s Affairs, the Women’s Bureau and the National Committee on Women attests to the increasingly high priority that is being given to the issue of discrimination against women. Nevertheless, there has been a widespread failure to adequately integrate gender concerns into “mainstream” human rights policy and legislation or into national and local development processes. Sri Lanka’s 1996 National Plan of Action for Women notes that despite the considerable progress that has been achieved in advancing the status of women “one cannot feel complacent about the real situation of women, the majority of whom live under economically deprived conditions and circumstances.”⁸

De jure discrimination against women in the application of customary laws relating to personal status continues to exist⁹ and, while much progress has been achieved in recent years, there is still an urgent need for measures to be taken in order to change patriarchal social attitudes and stereotypes concerning women and their role in society.

6 – Sri Lanka was given a Gender Empowerment Measure (GEM) ranking of 56 (out of 162 countries surveyed) by the United Nations Development Programme in its Human Development Report for the year 2001.

7 – Kalinga Seneviratne, “The plight of Sri Lankan women”, *Third World Resurgence* No. 65/66, www.twinside.org.sg.

8 – Sri Lanka, National Plan of Action for Women, 1996, p. 1.

9 – Sri Lanka, Third and Fourth Periodic Reports to the Committee on the Elimination of Discrimination against Women, U.N. Doc. CEDAW/C/LKA/3-4, 18 October 1999, para. 21.

II.1 Employment opportunities

In 1998, the Committee on Economic, Social and Cultural Rights expressed its deep concern at the lack of anti-discrimination mechanisms in the area of employment with regard to women. The Committee noted that while a system of recruitment quotas is in place in the public sector, little effort is being made to ensure that promotions in the public sector and employment in the private sector are free from discrimination on the basis of gender.¹⁰

Women in Sri Lanka tend to be concentrated in low-status, low-skilled and low-paying jobs and it has been noted that the rate of unemployment amongst women is 22 per cent, which is double that of men.¹¹ A 1999 study by the Asian Development Bank revealed that women and girls in Sri Lanka are increasingly being pushed out of stable employment in the formal sector and into marginal economic activities.¹² These ‘marginal economic activities’ include employment of women and girls as young as 12 in agricultural labour, family labour and in domestic service either at home or abroad.

Of particular concern is the status of women and girls working in the garment industry in Sri Lanka’s export processing zones (EPZs) where over 80 percent of the workers are women and regulations regarding working hours, remuneration and occupational health and safety are reportedly routinely disregarded.¹³ Women and girls working in the EPZs are also often subjected to sexual violence in the workplace and there have been reports that many of these women workers have subsequently been forced into prostitution either in brothels in Colombo or in the tourist centres on the coast.¹⁴

In recent years there has also been a lot of publicity concerning the fate of women migrant workers from Sri Lanka who represent around 86 per cent

10 – Committee on Economic, Social and Cultural Rights, Concluding observations of the Committee on Sri Lanka, 16 June 1998, UN Doc. E/C.12/1/Add.24, para. 11.

11 – Nelathi De Soysa, “The Truth Behind Sri Lanka’s Gender Development Statistics”, *Third World Network*, September 2000, www.twinside.org.sg.

12 – Asian Development Bank, *Country Briefing Paper: Women in Sri Lanka*, May 1999, p. 11.

13 – *Ibid.*, p. 5.

14 – Kalinga Seneviratne, “The plight of Sri Lankan women”, *Third World Resurgence* No. 65/66, www.twinside.org.sg.

of the unskilled migrant labour force working in the Middle East and in South-East Asia.¹⁵ These women are often subjected to violence, and to appalling working and living conditions. The Centre for Women's Research estimates that around 10 per cent of the approximately 500,000 female migrant workers from Sri Lanka have been victims of some form of physical, psychological or sexual abuse.¹⁶

The government has recently taken steps to increase the level of monitoring of agencies that recruit Sri Lankan women for overseas work and they have also introduced standardized employment contracts, insurance for workers and pre-departure training programmes.¹⁷ Given that the government earns substantial remittances from Sri Lankan women working overseas, it is certainly in its interest to provide greater protection for this category of worker.

The growing rate of female unemployment and the lack of sustainable income-earning opportunities for women in Sri Lanka when combined with the incentives being offered by the government to women who migrate are all working to push women to seek employment overseas. OMCT is concerned that the government's policy of actively encouraging female labour migration, despite the enhanced monitoring mechanisms that have been put in place, will continue to place women migrants in situations where they are at risk of violence and exploitation. For this reason, OMCT would call upon the government to take urgent steps to address female unemployment and to increase the number of sustainable income-earning activities available to women in Sri Lanka.

II.2 Political representation

Sri Lanka appointed the world's first female Prime Minister in 1960, and since that time several women have held high-ranking government positions. Despite the fact that a few women have managed to obtain posts in the upper echelons of government, only a small minority (5 per cent) of

15 – Nelathi De Soysa, “The Truth Behind Sri Lanka’s Gender Development Statistics”, *Third World Network*, September 2000, www.twinside.org.sg; Kalinga Seneviratne, “The plight of Sri Lankan women”, *Third World Resurgence* No. 65/66, www.twinside.org.sg.

16 – Centre for Women's Research, “Female Migrant Workers of Sri Lanka: Violence against Migrant Workers”, 2001, www.cenwor.lk.

17 – Sri Lanka, Third and Fourth Periodic Reports to the Committee on the Elimination of Discrimination against Women, U.N. Doc. CEDAW/C/LKA/3-4, 18 October 1999, paras. 115-123.

parliamentarians are women and the percentage of female representation in Provincial and District Councils is even lower.¹⁸

The lack of female representation within local and national decision-making structures and legislative bodies means that women's concerns frequently receive little attention and OMCT would encourage the government to take concrete steps in order to increase the level of women's participation and representation in political and public life.

II.3 Reproductive rights

Abortion is illegal in Sri Lanka except if it is done in 'good faith' for the purposes of 'saving the life of the mother.' Attempts to include exceptions to the stringent prohibition on abortion in cases of pregnancies arising out of rape and incest were rejected during debates prior to the 1995 amendments to the Penal Code.¹⁹ Persons conducting illegal abortions are liable to up to 7 years imprisonment and the law continues to prohibit abortion even in the case of a pregnancy arising from rape or incest.²⁰

According to information in the press, unplanned pregnancies, a lack of access to affordable family planning and the stringent prohibition on abortion have increased the number of illegal abortions in Sri Lanka to 700 a day. It is thought that 10 per cent of maternal deaths are currently due to complications arising from unsafe abortions.²¹

II.4 Effects of the armed conflict on women in Sri Lanka

Research on women in situations of armed conflict has shown that women are frequently and systematically targeted for sexual violence and that they are particularly vulnerable to this violence when passing through security check points, living in camps for internally displaced persons or refugees

18 – Asian Development Bank, *Country Briefing Paper: Women in Sri Lanka*, May 1999, p. 5.

19 – Sri Lanka, Third and Fourth Periodic Reports to the Committee on the Elimination of Discrimination against Women, U.N. Doc. CEDAW/C/LKA/3-4, 18 October 1999, para. 51.

20 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo, 1999, p. 25.

21 – Faraza Farook, "700 illegal abortions a day", *The Times* (Sri Lanka), 5 August 2001.

22 – C. Lindsey, Women and War, *International Review of the Red Cross*, No. 839, 30 September 2000, pp. 561-579.

and when being held in detention.²² The Beijing Platform for Action notes that women and girls are particularly affected by armed conflict due to their status in society and their sex. The Beijing Platform details some of the specific aspects of the impact of armed conflict on women as including; displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and family separation and disintegration, and exposure to violence such as murder, torture, involuntary disappearance, sexual slavery, rape, sexual abuse and forced pregnancy.²³

The impact of the armed conflict on women in Sri Lanka has been felt in different ways by women of different ethnicities and social classes and by women living in different areas of the country. While acknowledging the fact that ethnicity, class and location have an important influence on women's experiences of war, there are some common elements that can be identified and these include increased numbers of female-headed households following the death or disappearance of husbands, sons, brothers and fathers; women having to care for male relatives who have become incapacitated as a result of the conflict; displacement; increased exposure and vulnerability to violence, particularly sexual violence; increased levels of poverty and unemployment; and violations of economic, social and cultural rights.²⁴

A 1999 study by the Asian Development Bank noted that expenditure on social services, which had already been reduced in the mid-1980s in order to implement structural adjustment programs, was further cut back by the increasing financial cost of the war in the late 1980s and throughout the 1990s. The Bank concluded that the financial burden of the protracted conflict and the subsequent diversion of funds away from the social sector has resulted in a "perceptible deterioration in the quality of health and education services and therefore in the quality of life of women and their families."²⁵

The Statement of Understanding on the Peace Process in Sri Lanka, which was adopted by the participants at a seminar organized by the South Asia Forum for Human Rights in September 2000 highlights the negative impact that the ongoing armed conflict has had on women in Sri Lanka.

23 – Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), para. 136.

24 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo, 1999; Sri Lanka, Third and Fourth reports to the Committee on the Elimination of Discrimination against Women, U.N. Doc. CEDAW/C/LKA/3-4, 18 October 1999, para. 6.

25 – Asian Development Bank, *Country Briefing Paper: Women in Sri Lanka*, May 1999, p. 3.

The Statement notes that “women throughout Sri Lanka should be singled out as being adversely affected by war both directly and indirectly ... the war experience has affected both their self-perception and the dynamics of gender relationships within communities.” The participants also observed the connection between the war and a revival of hitherto discarded traditional social practices which may limit women’s autonomy.²⁶

The armed conflict in Sri Lanka has also had an important impact on grassroots women’s organisations as it has “forced women to think and act in terms of their ethnicity and this polarization has made it difficult for civil society women’s activists to work together let alone bringing together the women of the various communities.”²⁷

II.5 Prevalence of violence against women

According to Women’s Rights Watch (Sri Lanka), in the period January-December 1998, a total of 1,106 incidents of violence against women were reported in the press.²⁸ The alarmingly high level of violence against women in Sri Lanka is of great concern to OMCT. At present, there is no systematic mechanism for the gathering of data in relation to the amplitude, causes and consequences of violence against women and there appears to be no disaggregated statistical information available concerning the rates of violence against women from different ethnic groups.

Based on information contained in press reports and police records, the incidence of sexual violence, rape of girl children, rape of adult women, domestic violence and murder appear to have increased in recent years.²⁹ It is unclear whether this increase is due to higher levels of reporting of violent crime against women and to the impact of the 1995 reforms to the Sri Lankan Penal Code or if there has, in fact, been a real rise in the number of violent crimes being committed against women.

26 – Bangkok Statement of Understanding on the Peace Process in Sri Lanka, 2 September 2000, text reproduced on the web site of the Asian Human Rights Commission, <http://www.ahrchk.net/sl-new/update/05092000.htm>.

27 – *Ibid.*

28 – Women and Media Collective, *Women’s Rights Watch*, Quarterly issues 1-4, 1998.

29 – Department of Police, *Changing Role of Women in Sri Lanka*, Department of Census and Statistics, Ministry of Finance and Planning, 1997. In 1995, the police recorded 51, 435 ‘minor’ offenses against women including; abuse, insult, intimidation, voluntarily causing harm and the use of criminal force. 877 serious crimes were also committed against women and these comprised murder, attempted murder, voluntarily causing grievous bodily harm, abduction, kidnapping and sexual violence.

Sri Lankan governments have accorded increased attention to the issue of violence against women in recent years. In March 1993, the government of Sri Lanka adopted a Women's Charter which incorporates many of the provisions of the CEDAW and also contains specific provisions on the right to protection from gender-based violence including rape, incest, sexual harassment, physical and mental abuse, torture and cruel, inhuman or degrading treatment.³⁰ The 1995 amendments to the Sri Lankan Penal Code, which redefined the offence of rape and criminalized incest, trafficking in women and children and sexual harassment, will be discussed in more detail below. In 1996, following the Fourth World Conference on Women, the government formulated a National Plan of Action containing several long and short term strategies for the promotion and protection of the human rights of women.

The majority of the problems relating to the prevention and punishment of violence against women in Sri Lanka are not tied to a lack of legislation, although OMCT believes that there is a need for the adoption of specific legislation on domestic violence, but rather to the way in which law and policy are currently implemented and enforced. As Radhika Coomaraswamy has observed "international standards with regard to violence against women are gradually being introduced into the Sri Lankan regulatory framework but the mechanisms of implementation are still very weak."³¹

The Women and Media Collective has noted that while the creation of women's desks staffed by female police officers at a number of different police stations throughout the island is a positive development, these desks are not kept open at night time which is when women fleeing violence are most in need of their services. In areas where there is no women's desk, women are frequently faced with the prospect of lodging their complaints with male police officers who are often ill-equipped to handle cases of violence against women in a gender-sensitive manner.³² Moreover, there are very few shelters or services available for women who need to escape from family-based or other forms of violence.³³

30 – Women's Charter, Section 16, cited in Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 5.

31 – Radhika Coomaraswamy, "Violence Against Women in Sri Lanka", in *Solidarity*, SAARC Women's Journal (fifth issue) on Violence Against Women, Colombo, 1998.

32 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 33.

33 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 9.

Violence Against Women in the Family



According to information available in the Women's Rights Watch (Sri Lanka) report from 1998, incidents of domestic violence accounted for approximately 26 per cent of violent crime against women reported in the press. In 1998, this amounted to a total of 291 incidents including assault and battery, murder, rape and incest as well as attempted assault, rape and murder. The report notes that 129 cases of murder were committed in the home during the year 1998 and that husbands or male partners were allegedly responsible for 83 or 65 per cent of these murders. Of the 85 recorded incidents of assault committed in the 'private sphere', 46 or 54 per cent were reportedly committed by husbands. The report further states that there were 57 recorded incidents of rape committed by family members on women and girl children during 1998 and there were 3 reports of rape and murder. Significantly, while 291 cases of domestic violence were reported in the press, only 11 of these reports detailed the sentences given to the perpetrators of this violence.³⁴

In February 1997, police in Colombo introduced a 24-hour helpline for reporting incidences of domestic violence. According to reports, this helpline met with an "unexpected and overwhelming response" although given the lack of specific legislation on domestic violence it is unclear what kinds of action the police are able to take in cases where domestic violence is reported.³⁵

Despite the introduction of mechanisms such as the Colombo domestic violence helpline, it is clear that, for a variety of social and legal reasons, the incidence of domestic violence in Sri Lanka is vastly under-reported. The failure of law enforcement officials to respond to complaints of domestic violence in a gender-sensitive and effective manner has led to a lack of confidence in the police and judiciary and, in turn, to impunity for the perpetrators of this form of violence.

The fact that there is no specific legislation on domestic violence in Sri Lanka constitutes an additional barrier to the prevention and eradication

34 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 14.

35 – Asian Development Bank, *Country Briefing Paper: Women in Sri Lanka*, May 1999, p. 4.

of violence in the family. At present, women who are victims of family-based violence and wish to bring complaints must use the general provisions of the 1995 amendments to the Penal Code relating to murder, grievous hurt, and incest.³⁶ These provisions do not cover psychological violence and do not take account of the special power relationship that exists between the perpetrator and the victim in cases of domestic violence.

Importantly, rape within marriage is specifically excluded from the ambit of Section 363 of the Code which criminalizes rape. The 1995 amendment to the Penal Code only recognises marital rape as an offence when it occurs in situations where the spouses are judicially separated. Marital rape is not, therefore, considered illegal in situations where a man has forced sex with his wife – provided that she is not under 16 years of age, or that she is a wife who was under 16 but over 12 before 1995 when the minimum age for marriage was raised from 12 to 18 years for all non-Muslim women.³⁷

OMCT recommends that the government take steps to enact specific legislation to deal with family-based violence and that it consider amending the Penal Code in order to criminalize rape within marriage.

36 – Section 311 of the 1995 Sri Lankan Penal Code (Amendment) Act, No. 22 of 1995, criminalizes “grievous hurt” but does not cover psychological harm; Section 363 criminalizes rape but rape in marriage is not prohibited; Section 364A criminalizes incest.

37 – Marriage Registration (amendment) Act, No. 18 of 1995 and Kandyan Marriage and Divorce (amendment) Act, No. 19 of 1995.

Violence Against Women in the Community

IV

IV.1 Rape and sexual violence

The large number of rapes and other acts of sexual violence committed against women and girls in Sri Lanka is a subject of serious concern for OMCT. While detailed statistics concerning the prevalence of rape and other forms of sexual violence against women are not available, reports in the media and from non-governmental organisations suggest that an unacceptably high proportion of women and girls in Sri Lanka are faced with violence on a daily basis. Particularly worrying is the fact that a large number of reported rapes appear to have been committed by police and armed forces personnel as well as by deserters from the armed forces.³⁸ The issue of violence against women perpetrated by the State is discussed in more detail in the next section of this report.

Section 363 of the 1995 amendments to the Sri Lankan Penal Code criminalizes rape and Section 364 provides that persons found guilty of rape will be punished with “rigorous imprisonment for a term not less than seven years and not exceeding twenty years ... and shall in addition be ordered to pay compensation of an amount determined by court, to the person in respect of whom the offence was committed.” Section 364 (2) stipulates that public officials who commit rape on women in their official custody or wrongfully restrain and rape a woman may be punished with terms of imprisonment ranging from ten to twenty years. Section 364 also provides that persons found guilty of gang rape or those who commit rape on girls aged under 18 will be sentenced to terms of imprisonment ranging from ten to twenty years.

The Women’s Rights Watch survey documented 229 incidents of rape committed against girls below the age of 17 in the period January – December 1998.³⁹ Importantly, the vast majority (184) of the rapes reported against girls were committed by non relatives, thereby attesting to a high level of violence in the community. Of the 229 cases of rape against girls reported in the press during 1998, by the end of the calendar year only 12

38 – Women and Media Collective, *Women’s Rights Watch 1998*, Colombo 1999, p. 22.

39 – Women and Media Collective, *Women’s Rights Watch 1998*, Colombo 1999, p. 18.

reports of sentences had been recorded, 6 indictments were pending before the High Courts, 6 were before the District Courts, and the Magistrate's Courts were inquiring into a further 152 complaints.⁴⁰ The sentences applied in the cases that reached that stage appeared to have been decided in conformity with the amended Penal Code of 1995, however, the statistics demonstrate that there are still important structural problems and delays in prosecuting cases of rape against girls.

In 1998, there were 145 recorded incidents of rape committed against adult women and this figure represented 13 per cent of the total number of violent crimes reportedly committed against women over the course of the year.⁴¹ According to information received, during the year 1998, 10 perpetrators were sentenced for rape, Magistrate's Courts were inquiring into 71 cases, 1 indictment was before the High Court, 3 indictments were before the District Court and the police were investigating an additional 54 complaints.

IV.2 Trafficking in women and girls

The 1995 amendments to the Sri Lankan Penal Code made trafficking in persons illegal, however, there are reports that trafficking in both women and girls continues to occur. According to police records, approximately 200 of the women currently working as prostitutes in Colombo were trafficked to Sri Lanka from the former Soviet Union, Thailand and China.⁴² There have also been some reports of women being forced into prostitution in the conflict areas in the North and East of the country⁴³

Importantly, the 1995 amendments to the Penal Code are largely focused on prostitution rather than on trafficking and there have been many reports of police raiding brothels and taking sex workers into custody on the basis of the new provisions. Information received by OMCT suggests that women considered to be prostitutes by police are often arrested without a warrant under the Vagrants Ordinance and sentenced to up to 14 days imprisonment and while male clients and pimps may also be arrested under the Ordinance, they tend to be released upon payment of a small fine.⁴⁴

40 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 18.

41 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 18.

42 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 19.

43 – U.S. Department of State, *Human Rights Reports 2000: Sri Lanka*, February 2001.

44 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 26.

Violence Against Women Perpetrated by the State



As mentioned previously, there is evidence to suggest that all of the parties to the lengthy conflict in Sri Lanka have been responsible for serious violations of human rights. While each of the different parties have duties under international law to protect the human rights of all persons within their jurisdiction, OMCT is particularly concerned by reports that police, para-military units and members of the government's armed forces, have been involved in the commission of acts of torture, including rape and sexual violence, against women. Even more worrying is the fact that the perpetrators of this violence continue to enjoy a wide measure of impunity.

An analysis of cases of rape by armed forces personnel reported in the Sri Lankan press for the year 1998 has revealed that 37 such cases were recorded. As of 1999, 8 of these cases were still under police investigation, 22 were being inquired into by Magistrate's Courts, 2 cases were before the District Court and an additional 2 cases were pending before the High Court. During the year 1998, 3 of the rape cases that were heard before the Sri Lankan courts resulted in prison sentences for the armed services personnel involved. 18 of the cases heard before the Courts related to crimes of sexual violence committed in the operational areas of the North-East while the remaining 19 cases were reported in other areas of the country.⁴⁵

In its Sri Lanka Monitor, the British Refugee Council notes that in the period February 1996-July 1999, more than 45 cases of rape by soldiers in the North-East were reported.⁴⁶ In her 2001 report to the Commission on Human Rights, the UN Special Rapporteur on Violence Against Women highlighted a number of cases of rape and sexual abuse perpetrated by the Sri Lankan police, security forces and armed groups allied to the government.⁴⁷

Most of the cases annexed to this report refer to rape and other forms of violence committed by police and members of the armed forces against

45 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 22.

46 – British Refugee Council, Sri Lanka Monitor, No. 138, July 1999.

47 – UN, Report of the Special Rapporteur on Violence Against Women, Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000), UN Doc. E/CN.4/2001/73, 23 January 2001, p. 30.



women in Sri Lanka. Information from other sources has shown that the extent of rape and sexual violence against women by members of the armed forces and police is vastly under-reported.⁴⁸

Unfortunately, very little information is available concerning the ethnicity of the victims of rape and other forms of sexual violence committed by the armed forces and police in Sri Lanka. The connection between racial discrimination and violence against women is discussed in greater detail below.

V.1 State violence against women and racial discrimination

The Declaration and Plan of Action adopted at the Asian Preparatory Meeting for the World Conference Against Racism which was held in Tehran in February 2001 recognised that: “racism, racial discrimination, xenophobia and related intolerance manifest themselves in an aggravated and differentiated manner for women, causing their living standards to deteriorate, generating multiple forms of violence, and limiting or denying them the benefit and the exercise of their human rights.”⁴⁹

The Beijing Platform for Action states that women belonging to minority groups and women in situations of armed conflict are especially vulnerable to violence and highlights the fact that women from racial or ethnic minorities often face multiple forms of discrimination.⁵⁰

At its 56th Session in March 2000, the Committee on the Elimination of Racial Discrimination adopted General Recommendation 25 concerning the gender-related dimensions of racial discrimination.⁵¹ The General Recommendation draws attention to the fact that women and men are not always affected equally or in the same way by racial discrimination and notes that “certain forms of racial discrimination may be directed towards women specifically because of their gender.”

48 – Women and Media Collective, *Women’s Rights Watch 1998*, Colombo 1999, p. 22. At pages 22 and 23 of this report the details of a number of additional cases of rape perpetrated by armed forces personnel between 1996 and 1998 are recorded.

49 – Asian Preparatory Meeting for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Tehran, 19-21 February 2001, Declaration and Plan of Action, para. 36.

50 – Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), para. 48.

51 – Committee on the Elimination of Racial Discrimination, General Recommendation No. 25, 20 March 2000, UN Doc. CERD/C/56/Misc.21/Rev. 3.

In the case of Sri Lanka, violence and other forms of discrimination against women are widespread. When this generalized violence is further analysed through the lens of racial discrimination, it appears that women from ethnic minorities are doubly disadvantaged as a consequence of both their ethnicity and of their gender. Information received by OMCT reveals that Tamil women are frequently discriminated against by police and members of the armed forces and that this discrimination most often takes the form of rape and other forms of sexual violence.

Information received by OMCT suggests that ethnic minority women in Sri Lanka are targeted by members of the Sri Lankan police and security forces for acts of violence and that this violence overwhelmingly takes the form of rape, sexual assault and harassment.⁵²

In November 2000, the United Nations Division for the Advancement of Women, the Office of the High Commissioner for Human Rights and the United Nations Development Fund for Women jointly organized an Expert Group Meeting on Gender and Racial Discrimination. In their Report, participants at the meeting cited Sri Lanka as an example of a conflict “motivated by ethnically based acts of aggression in which women have been targeted and become victims of ethnically-motivated, gender-specific forms of violence.”⁵³

The number of female suicide bombers taking part in attacks by the LTTE has meant that Tamil women are often the targets of stringent security checks, arbitrary arrests and detention by police and armed forces personnel.⁵⁴ The conduct of random night time checks by security forces of boarding houses and other establishments where Tamil women live has created a climate of insecurity and fear and women passing through security check points are particularly vulnerable to rape and other acts of sexual violence.⁵⁵

52 – See for example: University Teachers for Human Rights (Jaffna), Sri Lanka Information Bulletin No. 25, *The Fatal Conjunction: Women, Continuing Violations and Accountability*, 11 July 2001.

53 – United Nations Division for the Advancement of Women, Office of the High Commissioner for Human Rights and United Nations Development Fund for Women, Report of the Expert Group Meeting on Gender and Racial Discrimination, Zagreb, 21-24 November 2000, <http://www.un.org/womenwatch/daw/csw/genrac/report.htm>.

54 – C. Lindsey, Women and War, *International Review of the Red Cross*, No. 839, 30 September 2000, pp. 561-579.

55 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 33. See the case of 'Rani' (LKA 2809601.VAW) in the case annex.

Tamil women who are arrested and detained by police and security forces have reportedly been subjected to rape and other forms of torture. The individual cases reproduced in the Annex of this report, as well as information received from other sources, suggests that Sri Lankan security forces often use rape and sexual violence against women in detention as a means of forcing them to sign confessions stating that they are members of the LTTE.⁵⁶ The form of torture used by police and security forces in Sri Lanka against ethnic minority women in detention clearly constitutes a gender-specific form of racial discrimination.

In addition, conditions in detention for Tamil women are reportedly poor and many detained women have stated that they are discriminated against in the allocation of water, food, tea and soap rations.⁵⁷

Many instances of sexual assault and rape by police and members of the armed forces continue to occur outside of the context of police custody or detention. According to Women's Rights Watch (Sri Lanka), 37 women and girls were reportedly raped by members of the armed forces in the period from January to December 1998.⁵⁸ In its Sri Lanka Monitor, the British Refugee Council notes that in the period February 1996-July 1999, more than 45 cases of rape by soldiers in the North-East were reported.⁵⁹ In her 2001 report to the Commission on Human Rights, the UN Special Rapporteur on Violence Against Women highlighted a number of cases of rape and sexual abuse perpetrated by the Sri Lankan police, security forces and armed groups allied to the government.⁶⁰

While OMCT has been unable to obtain detailed statistics concerning the number of women from ethnic minorities who are victims of rape and other forms of violence, it has been estimated that a Tamil woman is raped by members of the armed forces or police every two weeks and that every two months a Tamil woman is gang-raped and murdered by the Sri Lankan security forces.⁶¹

56 – See the case of Wijikala Nanthan and Sivamani Sinnathamby Weerakon (LKA 090401.VAW) in the case annex. See also TamilNet, “Girl describes bizarre police torture in Supreme Court petition,” 31 March 2001, www.tamilnet.com.

57 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 40.

58 – Women and Media Collective, *Women's Rights Watch*, Quarterly issues 1-4, 1998.

59 – British Refugee Council, Sri Lanka Monitor, No. 138, July 1999.

60 – UN, Report of the Special Rapporteur on Violence Against Women, Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000), UN Doc. E/CN.4/2001/73, 23 January 2001, p. 30.

61 – Women Against Rape, oral intervention by Ms. Deirdre McConnell during the 57th session of the UN Commission on Human Rights, 10 April 2001.

The actual incidence of rape and sexual violence committed by police and security forces is certainly far higher than that which is reported. Women in Sri Lanka are frequently prevented through fear and shame from reporting acts of sexual violence. Fear of social ostracism and retaliation, when combined with the widespread lack of gender-sensitivity amongst police, judicial and medical personnel act as powerful deterrents to women reporting violence and pursuing legal action against the perpetrators.⁶² The prevailing climate of impunity for acts of sexual violence against women from ethnic minorities and the fact that women who are victims of violence frequently have no safe place to stay during investigations or trials are further elements that dissuade women from reporting crimes of violence committed against them.⁶³

62 – British Refugee Council, Sri Lanka Monitor, No. 138, July 1999. “Local agencies say many rape victims do not report their ordeal for fear of retaliation or ostracization from the community. Most rape cases remain uninvestigated.”

63 – Women and Media Collective, *Women’s Rights Watch 1998*, Colombo 1999, p. 8.


 VI

Impunity for Violence against Women

There is evidence that the perpetrators of acts of violence against women often escape punishment. Victims of violence at the hands of police and security forces are, as mentioned previously, often threatened and intimidated into discontinuing proceedings. Moreover, the feelings of shame often associated with rape and other forms of sexual violence make women particularly unwilling to complain and it is often for this very reason that perpetrators use this form of violence as they are aware that they are unlikely to be held accountable for their actions.

The Secretary General of the Tamil United Liberation Front (TULF), R. Sampanthan, wrote in an April 2001 letter addressed to Sri Lankan President Chandrika Bandaranaike Kumaratunga that “it cannot be denied that ever since 1994, the Krishanty Kumaraswamy case is the only instance related to a Tamil female victim where service personnel who were such offenders have been convicted.”⁶⁴

OMCT believes that the widespread impunity enjoyed by perpetrators of rape and other forms of violence committed against women in Sri Lanka provides strong evidence of a systematic practice of discrimination. The consequences of this impunity are devastating for individual victims who are effectively denied access to criminal and civil remedies including reparations. At the community level, impunity leads to a diminution in confidence in law enforcement personnel and in the judiciary and potential perpetrators are not deterred from the commission of similar crimes. The failure of the government to send a strong signal that all forms of violence and other types of discrimination against women are unacceptable has important ramifications for women’s social status as the promotion and protection of women’s human rights are thereby perceived as being of little value.

64 – Frederica Jansz, “Govt. taken to task on human rights”, *The Sunday Leader*, 8 April 2001, p. 10; J.S. Tissainayagam, “Rape case will justice be done?”, *The Sunday Leader*, 22 April 2001.

VI.1 Transfers

Members of the armed forces or police who are suspects in criminal cases are frequently transferred away from the area in which the crime allegedly took place. The Sarathambal Saravanbavananthakurukul case extracted in the Annex to this report provides one example of the practice of transferring members of the armed forces and police suspected of having committed crimes of violence against women away from the scene of the crime in order to avoid or delay the initiation of an investigation.⁶⁵

There are some signs, however, that the judiciary are becoming less amenable to petitions by defendants from the armed forces wishing to transfer cases away from courts in the North-East. In the recent case of Sivamani Weerakoon and Wijayakala Nanthakumar (see Annex) who were allegedly raped by members of the Special Investigation Unit (SIU) of the Mannar police and by navy personnel, the court hearing the matter refused the petition by the officer in charge of the SIU to have the case moved to Colombo or Anuradhapura for hearing.⁶⁶

VI.2 Evidentiary issues

Where investigations into torture and other forms of violence are initiated, they are often hampered by evidentiary problems, including a lack of medical evidence, and victims and officials are frequently intimidated into withholding important evidence.

According to media reports, during a seminar in Batticaloa in February 2001, State Counsel Suganthi Kandasamy described the problems linked to obtaining medical evidence in rape cases. Kandasamy, a government official, reportedly stated that one of the major hurdles to the prosecution of torture, including rape, in the Batticaloa district is the fact that medical examinations are not systematically carried out on all victims and that vital evidence is therefore often not available to magistrates. Even in cases where District Medical Officers are willing to examine alleged victims of rape and other forms of torture, these officers and the victims themselves may be subjected to pressure or threats by police in order to keep the evidence from reaching the magistrature.⁶⁷

65 – Frederica Jansz, “Govt. taken to task on human rights”, *The Sunday Leader*, 8 April 2001, p. 10.

66 – J.S. Tissainayagam, “Rape case will justice be done?”, *The Sunday Leader*, 22 April 2001.

67 – J.S. Tissainayagam, “Is rape just part of a game?”, *The Sunday Leader*, 8 April, 2001, p.11.

In the Vijayakala Nanthakumar and Sivamani Weerakoon case concerning events that took place in Uppukulam in March 2001 (see annex), the two women were allegedly raped by members of the Mannar police's Counter-Subversive Unit (CSU). According to the information received, the District Medical Officer initially reported to the magistrate that he had examined the women and that there was no evidence of rape.⁶⁸ Following widespread public outcry and an intervention by the Bishop of Mannar, the women stated that they not been medically examined and that they had been warned by the police not to consent to an examination or provide any evidence to the magistrate concerning the torture. When the women were finally examined by the District Medical Officer 8 days later, he found strong evidence to suggest that the women had been subjected to torture including rape and sexual assault.⁶⁹

The fact that the Sri Lankan Evidence Ordinance was not amended in concert with the 1995 amendments to the Penal Code may create additional evidentiary hurdles for women wishing to bring charges of rape against security forces personnel. As mentioned previously, Section 364 (2) of the Penal Code provides for punishments ranging from ten to twenty years imprisonment for public officers or persons in a position of authority who commit rape on women in official custody or who wrongfully restrain and commit rape upon women. Under the Evidence Ordinance, however, women may be required to prove an absence of consent even in cases of custodial rape and prior sexual history may be introduced into evidence.⁷⁰ In recent years, Sri Lankan courts have reportedly been more willing to admit uncorroborated testimony from rape victims and it is to be hoped that judicial practice may be becoming more flexible in relation to the evidentiary requirements in cases involving rape and other forms of sexual violence, especially where these acts have occurred in the context of police custody or in detention.⁷¹

68 – University Teachers for Human Rights (Jaffna), Sri Lanka Information Bulletin No. 25, *The Fatal Conjunction: Women, Continuing Violations and Accountability*, 11 July 2001.

69 – Frederica Jansz, “Govt. taken to task on human rights”, *Sunday Leader*, Colombo, 8 April 2001, p. 10.

70 – Women and Media Collective, *Women's Rights Watch 1998*, Colombo 1999, p. 20.

71 – Dhara Wijetilleke, “Abuse of Women and Children: Recent Amendments to the Law in Sri Lanka to meet the situation”, *The Bar Association Law Journal*, vol. VI, Part II, 1996.

VI.3 Failure to prosecute and delays

In its concluding observations on the report of Sri Lanka in 1998, the Committee against Torture noted that there were “few, if any, prosecutions or disciplinary proceedings” being initiated against police and other officials alleged to have committed acts of torture and called upon the government to promptly, independently and effectively investigate allegations of torture and to ensure that justice is not delayed.⁷²

OMCT is concerned that the situation in Sri Lanka as regards discrimination against women in the administration of justice has not improved over the last five years. None of the perpetrators in the cases cited in the Annex has thus far been sentenced for rape or murder and while investigations have been initiated in some of the cases and some arrests have been made, it is uncertain whether any criminal or disciplinary sanctions will eventually be applied against the armed forces or police personnel involved.⁷³

72 – Committee against Torture, Concluding observations on Sri Lanka, UN Doc. A/53/44, paras. 243-257, 19 May 1998, para.250.

73 – J.S. Tissainayagam, “Rape case: will justice be done ?”, Sunday Leader (Colombo), 22 April, 2001.

VII

Conclusions and Recommendations

OMCT welcomes Sri Lanka's ratification of all of the major international treaties for the promotion and protection of human rights and urges the government to consider ratifying the Optional Protocol to the CEDAW, and to make declarations under Article 14 of the CERD and under Articles 21 and 22 of the CAT as all of these mechanisms provide the treaty monitoring bodies with the competence to accept individual communications. OMCT would also encourage the government of Sri Lanka to remove the reservation that it has made to the temporal scope of Article 1 of the Optional Protocol to the ICCPR.

OMCT is deeply concerned at the scope of permissible restrictions on fundamental rights under the provisions of the Sri Lankan Constitution currently in force and calls upon the government to ensure that fundamental rights, in particular the right to be free from torture and the right to equality, are respected at all times and in all circumstances, especially by members of the armed forces and other law enforcement personnel. The proposed Constitutional amendments currently being considered by the Sri Lankan parliament should be rapidly adopted and implemented.

Emergency regulations must not be enforced in such a way as to violate internationally accepted standards in relation to arrest and detention. OMCT calls upon the government to repeal the emergency regulations currently in force or, at a minimum, to review them in order to ensure that their implementation does not erode the safeguards that are essential for the protection of all arrested and detained persons from torture, ill treatment and disappearance. The government should ensure that all detainees are promptly informed of the reasons for their arrest or detention; detainees should have the right to judicial review of their detention; relatives of the detained person should be promptly notified of the whereabouts of the detainee; detainees should be granted prompt and regular access to lawyers, family members and medical care; centralised and regional registers of all detainees should be kept and these registers should be made public.

OMCT welcomes the establishment of national human rights institutions including the Human Rights Commission (HRC) of Sri Lanka and calls

upon the government to enhance and support the monitoring, investigative and advisory powers of the Commission. The HRC should be encouraged to visit all places of detention, to interview detainees without witnesses and to report in an independent and impartial manner on conditions in detention. OMCT would also recommend that the HRC make greater use of its power to urgently bring any suspected cases of torture or ill treatment in detention to the attention of the Supreme Court.

In relation to the creation of mechanisms specifically designed to promote and protect the human rights of women, OMCT welcomes the establishment of a separate Ministry for Women's Affairs within the Sri Lankan Government as well as the development of the National Committee on Women which was created in 1993 in order to implement the provisions of the Women's Charter. OMCT would call upon the Government to ensure that these mechanisms are provided with sufficient resources in order to enable their effective functioning. In addition, OMCT would like to emphasise the need for greater efforts to be made to integrate a gender perspective into policy-making and legislation in all areas of government activity.

The manner in which personal laws are interpreted and applied should be reviewed and, in cases where these laws discriminate against women, they should be modified, if necessary through the adoption of new legislation drafted for this purpose. OMCT believes that greater efforts need to be made in the area of public education and awareness-raising in relation to violence and other forms of discrimination against women and calls upon the government to develop and implement broad-based educational campaigns designed to challenge traditional social stereotypes concerning the status of women in Sri Lanka.

The growing rate of female unemployment and the lack of sustainable income-earning opportunities for women in Sri Lanka when combined with the incentives being offered by the government to women who migrate are all working to push women to seek employment overseas. OMCT is concerned that the government's policy of actively encouraging female labour migration, despite the enhanced monitoring mechanisms that have been put in place, will continue to place women migrants in situations where they are at risk of violence and exploitation. For this reason, OMCT would call upon the government to take urgent steps to address female unemployment and to increase the number of sustainable income-earning activities available to women in Sri Lanka.

Legislation in relation to violence against women should be amended to include a prohibition on marital rape and the government should consider adopting specific legislation on domestic violence. Any proposed domestic violence legislation should make provision for civil as well as criminal remedies and should include mechanisms such as protection and restraining orders.

More resources should be allocated to women's legal centres and to other services offering protection and assistance to women fleeing violence. OMCT would recommend that an increased number of shelters for women who have been victims of violence be established and that women are provided with adequate levels of protection throughout criminal investigations and trials in which they are involved either as victims or as witnesses.

OMCT would recommend that the Sri Lankan government initiate a comprehensive training programme for all police personnel on the procedure for the investigation and prosecution of complaints relating to violence against women and that at least one female police officer be made available at every station in order to deal with the specific problems faced by women wishing to bring complaints. In addition, greater effort should be made to ensure that the staff in local police stations more accurately reflect the linguistic, social and ethnic balance in the area in which they are based.

Discriminatory evidentiary requirements under the Evidence Ordinance currently in force such as the need to prove a lack of consent even in cases of custodial rape and the admission into evidence of the past sexual history of the victim should be repealed. OMCT would also recommend that the Code of Criminal Procedure be amended in order to provide greater protection and assistance to victims and witnesses in criminal cases. OMCT reiterates the fact that law enforcement officials and the judiciary are required under national and international law to ensure that all alleged cases of rape and sexual violence are thoroughly investigated, prosecuted and the perpetrators punished.

Given the alarming number of cases of rape and other forms of torture being committed against persons in detention or in police custody, OMCT calls on the government to ensure that police, the military and prison officers are all provided with adequate and effective human rights training. This training should include information concerning racial and sex discrimination and on the intersection between different forms of discrimination. OMCT also recommends that detained women only be

searched and interrogated by female law enforcement officers. Disciplinary procedures for members of the armed forces and police who commit acts of violence including rape and other forms of torture should be clearly explained and enforced.

OMCT calls upon the government of Sri Lanka to actively tackle impunity and to ensure that police and armed forces personnel who commit acts of torture, including rape and other forms of sexual violence are held accountable for their actions. The government must make a firm commitment to the enforcement of the law in relation to crimes of sexual violence perpetrated against women. To this end, measures should be taken to combat public sector corruption and to instil a greater sense of respect for human rights amongst law enforcement officers and the judiciary. Persons accused of rape and other forms of sexual violence should be tried in the area in which the crime took place unless this would have demonstrably detrimental effects upon the rights of the accused.

OMCT would also recommend that changes be made to the Code of Criminal Procedure in order to ensure the rapid and systematic collection of medical evidence in all cases of rape and sexual violence. Steps should be taken to improve the current system of victim and witness protection in order to prevent these persons from being harassed or intimidated. Members of the judiciary should be provided with gender-sensitive human rights training and they should be made aware of the procedural and other obstacles faced by victims of rape and sexual violence. Urgent action should also be taken to improve the system of case management in Sri Lankan courts in order to decrease delays and inefficiency in the hearing of cases. Finally, an effective system for the granting of reparations, including compensation, for victims of human rights violations and their families should be established.

Women from ethnic minorities in Sri Lanka face multiple forms of discrimination related to both their gender and their ethnicity. In order to prevent and punish violence and other forms of discrimination against minority women, OMCT would encourage the government to take urgent legislative and policy measures aimed at decreasing the general level of violence against women and racial discrimination in Sri Lankan society while ensuring that special attention is paid to the specificities of women from ethnic minority groups.

OMCT would like to request that in its next periodic report to the Committee on the Elimination of all Forms of Discrimination Against

Women, the government provide further information on the measures that it is taking to prevent, eradicate and punish violence against women. Information on levels of violent crime, including statistics, should be disaggregated by both ethnicity and by gender in order to provide a clearer picture of the real situation of women in Sri Lanka and to enable the development of effective policies to combat violence and other forms of gender-related discrimination.

Annex of cases of violence against women and girls

VIII

The cases of violence against women and girls extracted below all come from urgent appeals sent out by OMCT through the SOS-Torture network during the period 1999-2001.

CHILD CONCERN VIOLENCE AGAINST WOMEN

LKA 100901.CC.VAW

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Sri Lanka.

Brief description of the situation:

The International Secretariat of OMCT has been informed by a reliable source of the rape of a 16 year-old girl by two men in the town of Talawakelle in Sri Lanka's Central Province.

According to the information received, at about 2pm on 12 August, **Sita**, a student at Tamil Maha Vidyalaya Talawakelle, was allegedly forcefully abducted by two men – *Rameez and Piyal Nakala* – whilst she was walking home after Sunday mass and confirmation classes at her local church. She was allegedly repeatedly raped inside a vehicle by both men before being dropped off near the Hindu Kovil in Talawakelle at about 6pm.

Sita was able to report the incident to the police and to identify the suspected perpetrators who were later arrested. She was subsequently taken to Kotagala Hospital and then to Nuwara Eliya Hospital for medical examinations and she was discharged from hospital on 16 August. The suspects were held in remand until 28 August.

A public protest was held in the town of Hatton on 26 August in order to demand justice for Sita.

The case came before the local court on 28 August and the two accused were granted bail. According to the information received, the police did not undertake a vigorous investigation of the case and they failed to bring important information concerning the victim's circumstances to the attention of the judge during the initial trial proceedings.

VIOLENCE AGAINST WOMEN

Abduction, rape and murder

LKA 240901.VAW

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Sri Lanka.

Brief description of the situation:

The International Secretariat of OMCT has been informed by a reliable source of the abduction, rape and murder of a 23 year old Tamil woman at Kopiwatte near Nawalapitiya. According to the information, Ms. **S. Umadevi** was abducted on 12 September 2001 as she was walking home after attending a class in Nawalapitiya town and her body was discovered on the evening of 13 September in shrubland near the Malkanda bridge.

On the morning of 13 September, Ms. Umadevi's parents went to the Nawalapitiya police station in order to report their daughter missing. The victim's father reported that the police officer who recorded the complaint was uncooperative and refused to display a photograph of Ms. Umadevi, stating that "this girl must have gone off with some young man. What are we to do with this photo?"

The same evening, the father of the victim heard that the body of a young woman had been found near the Malkanda bridge. He went to the place and identified the body as being that of his daughter. The father then reported the murder to the police at Nawalapitiya and provided them with the name of a possible suspect. To date, the police have not arrested any suspects in the case and they have not visited the home of the victim in order to conduct any investigations into the crime.

■■■

VIOLENCE AGAINST WOMEN LKA 280601.VAW

Brief description of the situation:

The International Secretariat of OMCT has been informed by a member of OMCT's SOS-Torture network of the rape by two policemen of “**Rani**” (pseudonym used in order to protect the victim's confidentiality) a widowed mother of two.

According to the information received, on Saturday 23 June 2001 while on her way home from work in the company of a colleague, Rani was stopped by police at a check point on the Maradana Borella Road in Colombo and asked to produce her identity card. At approximately 3 am on Sunday 24 June, two unarmed policemen and an armed member of the military all of whom are attached to the check point, came to the boarding house (Chamarry) where the victim was staying in order to perform a routine check.

After interrogating all of the persons staying in the Chamarry, the three officials came to Rani's room and told her that she was not allowed to stay there as she is a Tamil. The policemen then said that they were going to take Rani and her colleague, who accompanied her for security reasons, to the Maradana Police Station.

While en route to the police station, the officials stopped at the Maradana Borella checkpoint and sent Rani's colleague to purchase some tea for them. After he had gone, the two policemen took Rani into the bunker, forced her to lie down on the concrete floor and raped her. The incident was over before her colleague returned.

VIOLENCE AGAINST WOMEN LKA 090401.VAW

Brief description of the situation:

The International Secretariat of OMCT has been informed of the alleged arbitrary detention, rape and torture of **Mrs. Wijikala Nanthan**, who is pregnant, and **Mrs. Sivamani Sinnathamby Weerakon**, by the Mannar Police's Counter Subversive Unit (CSU) on March 13, 2001.

According to the information received, Wijikala and Sivamani were arrested at around 11 pm by the CSU under the Prevention of Terrorism Act and the Emergency Regulations, with the CSU falsely accusing them of being trained members of the Liberation Tigers of Tamil Eelam (LTTE) rebel group. Wijikala and her husband, and Sivamani and her six-year-old son were transported to the CSU's offices in Mannar. Here the women were raped and subjected to other forms of torture until dawn by CSU officials. Both women were reportedly tortured until they agreed to confess that they were trained military members of the LTTE who had brought bombs to Mannar. The women were forced to sign typed confessions in Sinhalese to this effect, while still under arbitrary detention by the CSU on March 17, 2001.

According to the reports, the CSU has also threatened the women not to give evidence against them in the case of a judicial investigation. The women were reportedly sentenced to a total of 14 days in judicial custody by Mannar district judge M.H.M Ajmeer, during which time they were allegedly repeatedly raped. Reports indicate that the CSU has previously arrested, raped and tortured women under the pretext of the Prevention of Terrorism Act and the Emergency Regulations.

Case LKA 090401.1.VAW

New Information

The International Secretariat of OMCT has been informed by a reliable source of the arrest of the alleged rapists of two women in Sri Lanka.

According to the information received by the International Secretariat, a Sri Lankan judge has ordered the arrest of four members of the Sri Lankan security forces, including three policemen and one naval officer, following the alleged arbitrary detention and torture (including rape) of the two women, one of whom is pregnant. The identity of the men in question remains unknown.

According to the information received, the two women, Mrs. Wijikala Nanthan - who is pregnant - and Mrs. Sivamani Sinnathamby Weerakon, as well as the main witness to the case concerning the alleged human rights violations, are currently being housed at the Bishop of Mannar's residence.

Sri Lanka: gang-rape and killing of 29
year old mother by soldiers

LKA 050100.VAW

Brief description of the situation:

The International Secretariat of OMCT has been informed by reliable sources of the alleged rape and killing of Sarathambal Saravanbavananthakurukul on the evening of Tuesday, 28 December 1999.

According to the information received, **Sarathambal Saravanbavananthakurukul**, of a Hindu Brahmin family, was forcibly dragged from her home, in Pungudutivu, near the Jaffna Peninsula, by Sri Lankan Navy officers. They then gang-raped and murdered her. The body of the 29 year-old mother was found the following morning, under leaves, not far from her home near the Kannaki Amman Temple.

It is further reported that on 30th December 1999, Sri Lankan President Chandrika Kumaratunga ordered an immediate investigation into the events. However, according to the neighbours of Sarathambal, the suspects have been transferred from the area perhaps as a preventive measure to avoid action being taken against them.

VIOLENCE AGAINST WOMEN

LKA 100899.VAW

Brief description of the situation:

The International Secretariat has been informed by reliable sources of the alleged rape and murder of **Ms. Fahreen Ida Carmelitta Laila** or **Ida Carmelitta**, a 21 year old woman, by 5 soldiers during the night of 12 July 1999 in Pallimunai village on Mannar Island.

According to the information received, five heavily-armed masked men entered the house of Ida Carmelitta, while her family was sleeping, took her outside and violently raped and killed her. The post mortem report submitted by Dr Emmanuel Pieries, the district medical officer of Mannar observed that Ida Carmelitta had been repeatedly raped. Her lips and breasts were bitten off and she had been shot through the vagina.

During an identification parade, two people, including Ida Carmelitta's brother, identified two of the alleged offenders. They were subsequently arrested and have been taken to Anuradhapura jail.

According to the information, the eldest brother of Ida Carmelitta is in army custody for having joined the Liberation Tigers of Tamil Eelam (LTTE). Ida Carmelitta herself was a refugee in India from 1990 to 1994. She returned to Pallimunai village to continue her studies in 1994. Two months after her arrival, two of her brothers were killed by militants of Tamil Eelam Liberation Organisation (TELO), an anti LTTE group.

In order to keep her daughter safe, Ida Carmelitta's mother took her to Pandivirchan village near Madhu where she was recruited to join the LTTE. Last year, Ida Carmelitta expressed her wish to leave the LTTE and to rejoin her family. In May 1999, she was staying in Adampan near Madhu in a Convent. On 15 June, she went to her family in Pallimunai, which is under the army control, and surrendered. After an exhaustive enquiry, the intelligence department released her and issued her with a temporary stay pass.

VIOLENCE AGAINST WOMEN

Case LKA 100899.1 VAW Follow-up Case LKA 100899.VAW Geneva, 26 October 1999

New information:

The International Secretariat of OMCT has received new information from the High Commission of Sri Lanka in Australia, that the rape and murder of Ida Carmelitta has been brought to the notice of the Secretary of Defence by the Inspector General of Police and that he has instructed the Criminal Investigation Department to proceed immediately to the scene of the crime in order to conduct investigations.

According to the information received, out of the eleven soldiers attached to the Army Camp in Pallemunai, *Dayantha Upul Gunasinghe* and *Raja Somaratne* were identified as suspects. The case, case n°13/195/99, is still pending before the Mannar Magistrate's Court.



26th session
14 January - 1 February 2002

**Concluding Observations of the
Committee on the Elimination of
Discrimination Against Women:
Sri Lanka**

(Advance Unedited Version)

I. Introduction by the State party

1. The Committee considered the third and fourth periodic reports of Sri Lanka (CEDAW/C/LKA/3-4) at its 545th and 546th meetings on 28 January 2002 (see CEDAW/C/SR.545 and 546).

2. In her introduction, the representative of Sri Lanka informed the Committee that Sri Lanka was sincerely committed to honour its obligation under the Convention and that efforts to improve the status of women had been made not only in accordance to the country's obligations as a State party to the Convention, but also pursuant to the principle of equality enshrined in the country's Constitution.

3. Sri Lanka was a developing country, currently experiencing severe economic constraints resulting primarily from the long civil unrest in the country, which, besides draining the country's human and capital resources, also militated against its human development efforts. The representative indicated that approximately one third of the total population of Sri Lanka lived below the poverty line, with Government welfare support, and that, despite this, Sri Lanka had sustained positive social indicators, particularly with regard to education and health. According to the 2001 Human Development Report, the Human Development Index for Sri Lanka had risen to 81, while the country's Gender Development Index was 70.

4. The representative informed the Committee that targeted state interventions had impacted favourably on women. The literacy rate of women had improved, thereby narrowing the literacy gap between women and men, as had women's educational achievements. Progress was also seen in relation to the increase of women's participation in the labour force. Women had penetrated into a variety of new fields hitherto dominated by men. Women's contributions to the country's foreign exchange earnings through employment overseas — in the Export Processing Zones and the plantation sector — had received recognition, and rural women had been mobilized into economic activity through special savings, credit and skills development programmes.

5. With regard to health issues, the representative informed the Committee that the improvement of delivery systems had resulted in the reduction of maternal and infant mortality rates. She also indicated that the life expectancy of women had surpassed that of men and that women's visibility in the field of sports had increased.

6. The representative indicated that Sri Lankans' willingness to recognize gender equality at the highest level was demonstrated in 1994, when a woman was elected executive President of the country. Sri Lanka continued to focus on: improving the law and order situation to address violence against women; eliminating gender stereotyping; introducing special care programmes for ageing women; introducing programmes for the improvement of the nutritional status of mothers; implementing educational programmes to prevent the spread of HIV/AIDS among women; encouraging women to take up non-traditional vocations; and empowering women migrant workers and those employed in the Export Promotion Zones. In addition, Sri Lanka continued to focus on providing humanitarian assistance to the families affected by the conflict, creating an enabling environment to motivate women to assume political leadership, engendering legislation and stepping up efforts in gender mainstreaming.

7. The Government had taken several measures to establish administrative mechanisms with proactive mandates in order to prevent abuse and harassment of persons affected by armed conflict, particularly women and children. The representative indicated that the Government was adopting a multi-pronged approach when dealing with those internally displaced as a result of the conflict. Plans had been formulated and programmes implemented with respect to humanitarian assistance and compensation, for building temporary shelters and for dealing with resettlement and relocation. The representative informed the Committee that infrastructure facilities for displaced children had been provided and that a scholarship scheme had been introduced. Efforts were now being made by the Government to improve the health conditions of the internally displaced.

8. The representative informed the Committee that upholding human rights during the civil strife was a challenge, but that the Sri Lankan Government had introduced measures to this end. Violence against women and human rights violations committed by the security or police personnel were not condoned. Sri Lanka submitted regular reports to the human rights machinery of the United Nations and was preparing to sign the Optional Protocol to the Convention.

9. The representative also stated that, over the past years, the country's national machinery had been vested with various powers and functions. The new Government, established in December 2001, had directed that every programme should contain a gender component and that the gender impact of every programme should be assessed. It was expected that this

commitment would provide the leverage for new initiatives for gender mainstreaming across the entirety of the government machinery and this would facilitate the implementation of the components of the National Plan of Action for Women. The 2002 National Plan of Action for Women highlighted all priority areas of intervention, including the need to address the inadequate participation of women in power-sharing and decision-making processes. The representative stated that the political climate of the recent past was perceived as having created an environment that was detrimental to women's political participation and that, with a change in the political culture, it was hoped that women would be empowered to become partners in implementing values of good governance. The representative also stated that the Government expected the national legislation giving statutory recognition to the National Commission on Women to be enacted shortly.

10. The representative informed the Committee that the Law Commission of Sri Lanka had been requested to address inequities in national legislation. Reforms to personal laws in the multi-ethnic, multi-religious and multicultural society had to be attempted with due regard and sensitivity to deeply rooted pluralistic and ethnic beliefs.

11. In concluding her presentation, the representative noted that, in order to implement the Convention fully, the Government was working in cooperation with non-governmental organizations and with the support of the donor community. However, in its efforts to honour its obligations under the Convention, the Government was faced with difficulties stemming from both the internal conflict and the external pressures arising from global uncertainties. Sri Lanka hoped the current initiatives towards securing a resolution to its internal conflict would be successful in order that the ensuing peace would bring benefits to Sri Lankan women.

II. Concluding comments of the Committee

12. The Committee expresses its appreciation to the Government of Sri Lanka for submitting its third and fourth periodic reports, which were in accordance with the Committee's guidelines for the preparation of periodic reports. It commends the Government for the written replies to the issues raised by the pre-session working group and for its oral presentation, which provided additional information on the current situation of the implementation of the Convention in Sri Lanka.

13. The Committee commends the Government of Sri Lanka for its delegation, headed by the Secretary of the Ministry of Women's Affairs, and including officials from various branches of Government, which enabled a frank and constructive dialogue with the members of the Committee. The Committee notes that governmental action, in particular the National Plan of Action for Women, is placed within the context of the implementation of the Beijing Platform for Action.

Positive aspects

14. The Committee commends the efforts to implement the Convention despite the difficult socio-political situation. It welcomes efforts to strengthen the national machinery on women, the introduction of gender mainstreaming and the adoption of a range of policies and programmes to eliminate discrimination against women, including the Women's Charter, the establishment of the Ministry of Women's Affairs, although short-lived as a separate Ministry, the National Committee on Women and the formulation of a National Plan of Action for Women.

15. The Committee commends the introduction of legal reforms that have been adopted since 1995, in particular the amendments to the Penal Code, which introduced new offences and more severe punishments with regard to violence against women, as well as the revision of the marriage laws, which increased the age of marriage, except in the case of Muslims, to 18 for both women and men.

16. The Committee commends the educational achievements and improved literacy rate of women, as well as the curriculum reforms and teacher training programmes to eliminate gender role stereotypes. The Committee also commends the easy access to family planning for women and men and the well-developed maternal and child health care system, which has contributed to a decline in maternal mortality.

17. The Committee welcomes the very active and lively participation of women's organizations in monitoring and implementing the Convention and Beijing Platform for Action.

Factors and difficulties affecting the implementation of the Convention

18. The Committee recognizes that economic globalization puts constraints on the situation of women, while the ethnic conflict in the north and east of the country poses serious challenges to the full implementation of the Convention.

19. The Committee notes that the persistence of a strong patriarchal culture that emphasizes the traditional roles of women and men constitutes an impediment to the full implementation of the Convention.

Principal areas of concern and recommendations

20. The Committee expresses its concern about the contradiction between the constitutional guarantees of fundamental rights and the existence of laws that discriminate against women. In particular, the Committee is concerned that the Muslim personal law, which, inter alia, does not provide a minimum age of marriage, is discriminatory against women. The Committee is further concerned that the nationality law prevents a Sri Lankan woman from passing on her nationality to her children if her husband is not Sri Lankan, while a Sri Lankan man married to a non-Sri Lankan may do so.

21. The Committee urges the State party to review all existing laws and amend discriminatory provisions so that they are compatible with the Convention, taking into account, where appropriate, suggestions by the Muslim community. The Committee encourages the Government to obtain information on comparative jurisprudence, including that which interprets Islamic law in line with the Convention.

22. The Committee is concerned that the constitutional provisions on fundamental rights do not create accountability for the activities of non-State actors or the private sector.

23. The Committee urges the State party to guarantee that the constitutional rights apply to non-State actors and the private sector.

24. While welcoming the efforts of the Government to strengthen the national machinery for women and to introduce gender mainstreaming, the Committee notes with concern that the legal, institutional and financial framework is still insufficient to implement the Convention.

25. The Committee urges the State party to give legal force to the Women's Charter, expedite the establishment of the National Commission on Women, strengthen the gender focal points in government ministries and ensure sufficient human and financial resources for the implementation of the National Plan of Action.

26. While recognizing that women have occupied the position of head of Government of Sri Lanka, the Committee is concerned about the very low level of women's representation in politics and public life.

27. The Committee urges the Government to take all necessary measures to increase the representation of women in politics and public life at local, provincial and national levels, including through the implementation of temporary special measures, in accordance with article 4, paragraph 1, of the Convention.

28. Despite the progress in education for women and girls, the Committee is concerned about the underrepresentation of women in engineering and technology related courses in tertiary education.

29. The Committee urges the Government to take all necessary measures to increase the representation of women in engineering and technology related courses in tertiary education.

30. The Committee is concerned that abortion is allowed only when the mother's life is in danger and is strictly prohibited otherwise, even in extreme circumstances, which results in women resorting to illegal abortions.

31. The Committee recommends that abortion be permitted in cases of rape, incest and congenital abnormalities.

32. The Committee expresses its concern about the high incidence of violence against women, including domestic violence. The Committee is concerned that no specific legislation has been enacted to combat domestic violence and that there is a lack of systematic data collection on violence against women, in particular domestic violence. The Committee, while appreciating the many amendments to the Penal Code, notes with concern that marital rape is recognized only in the case of judicial separation. The Committee is also concerned that the police fail to respond to complaints of violence against women in a gender sensitive and effective manner.

33. The Committee urges the Government to ensure the full implementation of all legal and other measures relating to violence against women, to monitor the impact of those measures, and to provide women victims of violence with accessible and effective means of redress and protection. In the light of its general recommendation 19, the Committee requests the Government to enact legislation on domestic violence as soon as possible. The Committee recommends that the Government devise a structure for systematic data collection on violence against women, including domestic violence, disaggregated by sex and ethnic group. The Committee urges the Government to consider recognizing marital rape in all circumstances as a crime. The Committee recommends that the Government provide comprehensive training to the judiciary, police, medical personnel and other relevant groups on all forms of violence against women.

34. The Committee is alarmed by the high and severe incidences of rape and other forms of violence targeted against women of ethnic minorities, in particular Tamil women, by the police and security forces in the conflict areas. While recognizing the establishment of the inter-ministerial working group to counter these acts of violence, the Committee is concerned that victims in remote areas might be unaware of their rights and of how to seek redress.

35. The Committee urges the Government to strictly monitor the behaviour of the police and the security forces, ensure all perpetrators be brought to justice, and take all necessary measures to prevent acts of violence against women, especially ethnic minority women and girls.

36. The Committee, while noting with appreciation the efforts of the Government to eliminate gender role stereotyping in formal education, expresses its concern that the general public and the media perpetuate traditional stereotyped gender roles.

37. The Committee calls upon the Government to strengthen measures to eliminate stereotypical attitudes about the roles and responsibilities of women and men, including awareness-raising and educational campaigns directed at both women and men of the general public and at the media. It also calls upon the Government to undertake an assessment of the impact of its measures in order to identify shortcomings and to adjust and improve these measures accordingly.

38. The Committee is concerned about the low level of women's economic participation, the high unemployment rate of women, the complete lack of

protection for women working in the informal sector and the lack of enforcement of laws to protect women workers in the Export Processing Zones. The Committee is also concerned that no data is available on the wage gap between women and men.

39. The Committee urges the Government to take all the necessary measures to increase the economic participation of women and ensure that women have equal access to the labour market and equal opportunities to and at work. The Committee calls on the Government to revise the labour laws so that they apply to all workers, including those in the informal sector, and to ensure enforcement of those laws in all areas, including the Export Processing Zones. The Committee recommends that sex-disaggregated data on income distribution and wages be collected and included in the next report and that the Government take measures to ensure that a gender perspective is incorporated into all labour policies.

40. The Committee is concerned about the increasing number of women migrant workers in vulnerable situations, who, despite the progressive and protective measures taken by the Government, including mandatory registration and insurance coverage, are often subjected to abuse and sometimes death.

41. The Committee urges the Government to ensure the full and effective enforcement of the measures taken to protect women migrant workers, including preventing the activities of illegal employment agencies and ensuring that insurance covers the disabled and jobless after they return to Sri Lanka.

42. Noting that the majority of women live in rural areas, the Committee is concerned about discrimination against women under the Land Development Ordinance. The Committee is also concerned that economic policies do not incorporate a gender perspective and do not take into account rural women's role as producers.

43. The Committee urges the Government to amend the Land Development Ordinance so that it is compatible with the Convention. The Committee also urges the Government to recognize rural women's contributions to the economy by collecting sex-disaggregated data on rural production and to ensure the incorporation of a gender perspective in all development programmes, with special attention to minority rural women.

44. The Committee is concerned about the high percentage of households headed by women, many of whom are illiterate and have meagre means of living and half of whom are elderly women.

45. The Committee urges the Government to develop policies and programmes to improve the situation of women-headed households and elderly women, including recognizing women-headed households as equal recipients and beneficiaries of development programmes.

46. The Committee expresses its concern about the continued situation of armed conflict in the north and east of Sri Lanka and the increase of internally displaced persons, the majority of whom are women and children.

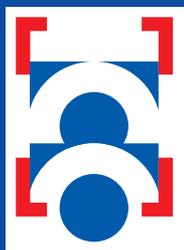
47. The Committee urges the Government to allocate more resources to meet the needs of internally displaced women and children and to ensure their privacy, access to health facilities, security and protection from violence. The Committee calls on the Government to ensure full and equal participation of women in the process of conflict resolution and peace-building.

48. The Committee urges the Government to sign and ratify the Optional Protocol to the Convention and to deposit, as soon as possible, its instrument of acceptance of the amendment of article 20, paragraph 1, of the Convention on the meeting time of the Committee.

49. The Committee requests the Government to respond to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention. The Committee, in particular, requests the Government to provide information on the assessment and impact of all laws, policies, plans, programmes and other measures taken to implement the Convention.

50. The Committee requests the wide dissemination in Sri Lanka of the current concluding comments in order to make the people in Sri Lanka, in particular government administrators and politicians, aware of the steps that have been taken to ensure the *de jure* and *de facto* equality of women as well as of further steps that are required in this regard. It also requests the Government to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

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P.O. BOX 21 - 8, rue du Vieux-Billard - CH 1211 Geneva 8 CIC
Tel. +4122-809 49 39 - Fax +4122-809 49 29
<http://www.omct.org> - E.mail: omct@omct.org

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