





<b>Country</b>	<b>Sri Lanka</b>
<b>SIGI 2019 Category</b>	<b>High</b>
<b>SIGI Value 2019</b>	<b>43%</b>

<b>Discrimination in the family</b>		<b>68%</b>
	Legal framework on child marriage	50%
	Percentage of girls under 18 married	11%
	Legal framework on household responsibilities	50%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	-
	Female to male ratio of time spent on unpaid care work	-
	Legal framework on inheritance	100%
	Legal framework on divorce	75%

<b>Restricted physical integrity</b>		<b>24%</b>
	Legal framework on violence against women	50%
	Proportion of the female population justifying domestic violence	53%
	Prevalence of domestic violence against women (lifetime)	17%
	Sex ratio at birth (natural =105)	105
	Legal framework on reproductive rights	75%
	Female population with unmet needs for family planning	8%

<b>Restricted access to productive and financial resources</b>		<b>46%</b>
	Legal framework on working rights	100%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	30%
	Share of managers (male)	75%
	Legal framework on access to non-land assets	25%
	Share of house owners (male)	-
	Legal framework on access to land assets	75%
	Share of agricultural land holders (male)	84%
	Legal framework on access to financial services	0%
	Share of account holders (male)	48%

<b>Restricted civil liberties</b>		<b>29%</b>
	Legal framework on civil rights	0%
	Legal framework on freedom of movement	0%
	Percentage of women in the total number of persons not feeling safe walking alone at night	68%
	Legal framework on political participation	25%
	Share of the population that believes men are better political leaders than women	-
	Percentage of male MP's	94%
	Legal framework on access to justice	25%
	Share of women declaring lack of confidence in the justice system	60%

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

## Sri Lanka

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The Marriage Registration Ordinance of 1908, referred to as the 'general law', is complemented by three personal laws of equal standing. Firstly, the Muslim Marriage and Divorce Act, which applies to all Sri Lankan Muslims. Secondly, the Kandyan Marriage and Divorce Act, which applies to the Kandyan Sinhalese, regardless of their place of residence, provided that they can trace their lineage back to the former Kingdom of Kandy (mainly the Central province of Sri Lanka) and do not opt to be governed by the general law (GlobalLex, website). Thirdly, the Thesawalamai law, which applies to the Tamil inhabitants of Jaffna province in Northern Sri Lanka.

The general and personal laws provide for the registration of marriages. While non-registration renders a Kandyan marriage invalid, this is not the case for Muslim marriages or for those contracted under the Marriage Registration Ordinance. This means that religious and customary marriages other than Kandyan unions (e.g. Muslim, Hindu, Buddhist, Christian marriages) are valid although not registered (FAO, website).

Women are free to enter into marriage under the general and Kandyan matrimonial laws. However, Muslim women cannot marry during the *iddat* (period of mourning after a divorce or the death of the husband) (art. 87), and women of the *Shafi'i* school of Islam cannot marry unless their *wali* (guardian) is present to communicate their consent and his approval of the marriage, provided that the *Quazi* court authorises the union (art. 25).

In addition, whilst polygamy is criminalised (Penal Code art. 362 para. B-D) and prohibited under the general and Kandyan matrimonial laws, it is legally permissible for Muslim men without conditions or the consent of their wives (art. 24), provided that the Muslim marriage does not co-exist with a civil marriage (Abduroaf M. and Moosa N., 2016).

Forced marriages are criminalised under art. 357 of the Penal Code, which stipulates that bride kidnapers face up to ten years in jail.

The Cabinet is currently reviewing recommendations to amend the Muslim Marriage and Divorce Act in order to repeal discriminatory provisions towards women (Government of Sri Lanka, 2017). While noting this progress, the United Nations has asked the government to prepare a unified family code granting women and men equal rights in relation to marriage and other family matters. The United Nations has also asked the government to amend the General Marriage Registration Ordinance in order to ensure that Muslim women have the free choice to opt out from the Muslim Personal Law, so as to be registered under the general law (CEDAW, 2017).

#### b) Child marriage

The general matrimonial law (Marriage Registration Ordinance) and Kandyan Marriage and Divorce Act both set the legal age of marriage at 18 years for women and men. By contrast, the Muslim

Marriage and Divorce Act does not specify any minimum age and allows girls to marry before reaching 12 years of age, with the authorisation of the *Quazi* court (art. 23).

Minors can also marry under Kandyan law, because underage unions (involving girls under 16 years of age or boys under 18 years of age) are considered legal if both parties cohabit for one year after turning 18, or if a child is born as a result of the union (art. 4).

The validity of underage marriages is ambiguous outside of Muslim and Kandyan marriages though, as the general Marriage Registration Ordinance contains contradictory provisions. On the one hand, the general law allows fathers, mothers, guardians and courts to consent to underage unions (art. 22). On the other hand, the law proclaims the invalidity of marriages involving persons under 18 years of age (art. 15).

The government is currently reviewing the discriminatory provisions of the personal laws, including the need to set a legal age for Muslim marriages (Government of Sri Lanka, 2017). The United Nations has insisted on the need to increase the minimum age of marriage for all women to 18 years (CEDAW, 2017).

All three laws pertaining to marriage contain penalties for those who solemnise or abet the solemnisation of child marriages: a fine or up to 6 months' imprisonment in the case of Muslim marriages (art. 82 of the Muslim Marriage and Divorce Act), a fine or up to two years' imprisonment in the case of Kandyan marriages (art. 60 and 64 of the Kandyan Marriage and Divorce Act), and up to 7 years' imprisonment for marriages covered by the general law (art. 362D of the Penal Code).

Child marriages are reportedly rising in less developed districts in the dry and arid zones of the country, as well as in war affected areas, where parents see child marriage as a means of securing a better future for their children. In addition, there are reports of arranged customary marriages of children under the age of 18, particularly in the North of the country among educated Tamil Hindus, to ensure daughters do not marry someone from a lower caste or socio-economic group (Fokus Women, 2015).

### **c) Household responsibilities**

The civil war has left many women as widows and heads of households. Currently, one in four households are female-headed (Sri Lanka Brief, 2017). Yet the lack of a legal definition of 'head of household' creates legal ambiguities that may exclude female-headed households from welfare services, resettlement and other government policies and programs (Sri Lanka Brief, 2017), for instance, by excluding women whose partner is missing or in detention. Female heads of households may also face excessive burdens in accessing and controlling property, due to the difficulty in providing collateral to obtain credit. In Tamil culture for instance, married women require the written consent of their husband to deal with or dispose of any immovable property (Women of the World, factsheet). Moreover, Sharia law considers that a husband is in charge of his wife's affairs, and Kandyan law considers that a wife belongs to her husband's patriarchal family (COHRE, 2008).

Regarding spousal rights and responsibilities, the 1999 Maintenance Act imposes an equal duty on both spouses to maintain one another. The Act also establishes a joint duty on both parents to provide

for the maintenance of all minor children. All citizens have the constitutional right to choose their place of residence (Constitution art. 14 para 1h).

A National Centre for the Empowerment of Widows and Women Headed Families was established in Killinochchi District in 2015. The government then adopted a National policy on women headed households in 2016, followed by a 2017-2019 national action plan focusing on six priority areas (livelihood development, support services, protection, social security, and policy formulation and awareness building). The aim is to provide tailored assistance to female-headed households (e.g. legal aid and mediation support to single or widowed female heads of households in the North and the East) (Government of Sri Lanka, 2017).

However, the personal and customary laws restrict women's family rights in many ways. For instance, Muslim wives owe obedience to their husband, in exchange for maintenance (*nafaqa*), and the father is the natural guardian of the children under Islamic and Thesawalamai law (COHRE, 2008). Muslim mothers are only liable to support their children if the father is indigent and unable to fulfil his duty of support (COHRE, 2008). Fathers also have greater parental control over underage unions under the general matrimonial law and Kandyan matrimonial law. Both laws grant fathers a preferential right to consent to the union. In addition, Kandyan marriages are presumed to be in *diga*, whereby the bride moves to the husband's home or that of his parents, if the registration does not specify the form of the marriage (*diga* or *binna*).

#### d) Divorce

Muslim law discriminates against women by allowing men to divorce at their will, without justification, through the '*talak*' procedure (Muslim Marriage and Divorce Act Schedule II). Accordingly, the husband must notify the *Quazi* court of his intention to divorce, and the court has 30 days to attempt to reconcile the spouses with the help of relatives and Muslim elders. If reconciliation fails, the husband can divorce his wife by pronouncing *talak* in the presence of the *quazi* and two witnesses. By contrast, Muslim women can only divorce through court by invoking a fault committed by their husband, to be assessed by male *assessors* (Muslim Marriage and Divorce Act art. 28 and Schedule III). The notion of 'fault' is interpreted broadly by the *Quazi* courts. For instance, a woman can file for divorce on the grounds that her husband suffers from an incurable disease, or that he has been cruel to her, even in the absence of physical ill treatment (Abduraf M. and Moosa N., 2016).

Kandyan law also discriminates against women by allowing men to file for divorce on the grounds of adultery, whereas women must prove that the adultery is coupled with incest or gross cruelty (Kandyan Marriage and Divorce Act art. 32).

The general matrimonial law grants women and men equal rights to file for divorce on the grounds of adultery, malicious desertion, or incurable impotence at the time of marriage (Marriage Registration Ordinance art. 19 para. 2).

Most personal laws also discriminate against women after divorce. For instance, Kandyan law grants fathers preferential guardianship and custody rights over mothers; Muslim law excludes mothers from the guardianship of property; and Thesawalamai law only allows widowers to assert their right to child

custody after remarriage. By contrast, the customary laws of the Tamil and Sinhalese grant mothers preferential right to child custody (COHRE, 2008).

The United Nations has asked the government to amend all personal laws to remove such discriminatory provisions regarding divorce and child custody (CEDAW, 2017).

### e) Inheritance

Women can make a will at 18 years of age, three years before men. Lawfully married persons can make a will at any earlier age though, as can those who have received a presidential authorisation (1844 Wills Ordinance, art. 3)

Two laws govern the general regime of inheritance: the 1877 Matrimonial Rights and Inheritance Ordinance (for moveable property), and the 1931 Land Development Ordinance (for land). While the former grants female heirs (e.g. surviving spouses, children) the same inheritance rights as male heirs of corresponding degree, the latter gives preference to male heirs in determining the third line of successors (art. 73 and Third Schedule). Moreover, disinheritance of surviving spouses is not protected under the Land Development Ordinance, as a surviving spouse loses his/her right to succeed to alienated land upon remarriage (art. 48). At the time of writing, a draft amendment to the Land Development Ordinance was being developed to repeal these discriminatory provisions (Government of Sri Lanka, 2017).

Three specific laws govern inheritance rights of Muslims, Kandyans and Jaffna inhabitants: the 1931 Muslim Intestate Succession Ordinance, the 1911 Jaffna Matrimonial Rights and Inheritance Ordinance and the 1938 Kandyan Law Declaration and Amendment. The Muslim law states that the succession shall be governed by the law of the deceased's sect (art. 2), yet many sects grant female heirs lesser shares than male heirs of the same degree (FAO, website). Widows and mothers of deceased Muslims namely receive half the share that widowers and fathers are entitled to (FAO, website). By contrast, the Jaffna law provides for equal inheritance rights among female and male heirs of corresponding degree (art. 22-30) and protects surviving spouses from disinheritance (art 20 and 31). Finally, while the Kandyan law grants women and men equal inheritance rights to moveable property, women are not entitled to equal land inheritance rights, as daughters who marry and move to live with their husband or his family must transfer any land inherited by their father to their brothers or *binna*-married sisters, if these people so request (art. 12). The United Nations has asked the government to remove these discriminatory provisions (CEDAW, 2017).

## 2. Restricted Physical integrity

### a) Violence against women

The 2016-2020 National Plan of Action To Address Sexual And Gender-based Violence in Sri Lanka (hereafter referred to as the "national action plan on sexual and gender-based violence") aims to address these issues through an intergovernmental and multi-actor approach focusing on nine sectors: child affairs, disaster management, economic development and employment, education, empowerment and prevention, foreign employment, health, justice and mass media. The action plan is based on the country's existing policy and legal framework on gender-based violence, namely the

1993 Women's Charter and 2005 law on domestic violence prevention, which create a State obligation to prevent violence against women, and on other laws and policies, such as the 1998 "Prohibition of Ragging and other forms of Violence in Educational Institutions Act" (hereafter referred to as the Ragging Act), the anti-trafficking policy, and the 2015 "Assistance to and protection of victims of crimes and witnesses Act" (hereafter referred to as the Victims and witnesses protection Act).

The action plan complements existing efforts to prevent violence against women and support victims, such as the establishment of a Ministry-run helpline in 2014, the creation of the National Centre for Gender-Based Complaints (under the auspices of the Ministry of Women and Child Affairs), the network of over 600 health institutions and 800 public health staff providing field-based health care and institutional support to victims, as well as the housing of specific psycho-social, medical and referral services for victims within hospitals (Government of Sri Lanka, 2017).

The United Nations reports that violence against women is widespread and underreported in Sri Lanka, due to lack of adequate legislation, women's limited access to justice, extreme delays in the investigation and adjudication of cases, arbitrary outcomes, and very low conviction rates. Women in the Northern and Eastern provinces, especially Tamil women, female heads of households, war widows, former combatants, human rights defenders and women seeking truth and accountability after the civil war, are especially vulnerable to acts of violence (e.g. rape, abductions, torture, sexual bribery, sexual slavery) and home invasions perpetrated by the military and the police (CEDAW, 2017).

## **b) Domestic violence**

The 2005 law defines domestic violence as emotional abuse or any crime listed under chapter XVI, art. 372 and art. 483 of the Penal Code, when committed in the context of a personal relationship (e.g. the victim is the spouse, former spouse, cohabitating partner, or a family member of the perpetrator). These articles of the Penal Code encompass multiple forms of physical, sexual and economic violence: homicide, murder, forced miscarriage, 'hurt', assault, sexual harassment, kidnapping, rape, sexual abuse, extortion and criminal intimidation.

Criminal penalties vary depending on the severity of the act (e.g. a fine or up to one year in jail for causing voluntary grievous hurt; the death penalty in the case of murder). Monetary compensation of the victim can also be imposed on the perpetrator, as well as multiple restrictions aimed both at preventing any further violence and protecting the survivor (e.g. prohibition from entering the residence, place of employment or school of the survivor; prohibition from having any contact with the survivor or from using or having access to shared resources; prohibition from selling, transferring, alienating or encumbering the matrimonial home).

Survivors can receive support by calling the free hotline established in 2014, and by contacting the National Complaints Centre of the Ministry of Women and Child Affairs. They can also benefit from temporary accommodation in six shelters operating in Batticaloa, Mullativu, Jaffna, Rathnapura, Colombo and Meerigama. Women and Children's Police Bureaus are often the first point of contact for survivors, providing important referral support (Government of Sri Lanka, 2017). However, survivors are currently required to participate in mediation in order to pursue a case in court, resulting

in many dropped complaints. The United Nations has asked the government to amend the law to remove this requisite, and to ensure that protection orders are immediately available (CEDAW, 2017).

The 2016-2020 National action plan on sexual and gender-based violence aims to build the capacity of law enforcement officials to implement the 2005 law on domestic violence, and has allocated 5 million Rs towards its implementation and monitoring between 2016 and 2020.

According to a survey carried out between 2000 and 2013, almost all partner violence in Sri Lanka occurs within marriage, mainly through physical abuse (UNDP, UNFPA, UN Women, UNV, 2013). The survey also showed that drugs and alcohol play a role in fostering violence against women.

### c) Rape

Rape is criminalised under art. 363-364 of the Penal Code and requires proof of penetration and lack of free consent. However, lack of consent is not required to characterise the rape of a girl under 16 years of age, provided that she is not married to the accused. Statutory rape therefore does not apply to girls under 16 years of age married under Muslim law, and marital rape is not criminalised, although all wives and other victims can file complaints to the government-run National Centre on Gender-Based Violence. Rape carries a penalty of 10 to 25 years' imprisonment and a fine, or an extended penalty of life imprisonment or the death penalty in the event of aggravating circumstances (gang rape or custodial rape).

The Penal Code also criminalises two other forms of sexual abuse: 'grave sexual abuse' (art. 365B), defined as non-consensual acts committed for sexual gratification that do not amount to rape under art. 363, and 'unnatural offences', defined as 'voluntary carnal intercourse against the order of nature with any man, woman, or animal' (art. 365).

While mandatory minimum sentences for rape and sexual abuse were introduced in 1995, art. 346 of the Penal Code allows for mitigating sentences for sexual assault and rape, including 'grave and sudden provocation'.

Prevalence of rape remains a concern. A survey carried out between 2000-2013 show that 59% of ever-partnered men had raped their partner, 18% had committed gang rape, and 24% had raped a female who was not their partner (UNDP, UNFPA, UN Women, UNV, 2013). Female heads of household in war-affected areas are vulnerable to sexual abuse perpetrated by public servants, law enforcement officials, health care workers and employers when seeking the assistance of the police and military to investigate into their husband's disappearance after the war, or when looking for employment or seeking government support to obtain access to land, documentation and housing (Fokus, 2016). In response, the government endorsed the United Nations Declaration of Commitment to End Sexual Violence in Conflict, in January 2016.

### d) Sexual harassment

Sexual harassment is criminalised since 1998 under art. 345 of the Penal Code, which refers to harassment of a sexual nature using assault, criminal force, or words or actions which cause annoyance to the person being harassed. The law specifies that sexual harassment includes

unwelcome sexual advances by a person in authority or in the workplace. The penalty for sexual harassment is a fine or up to five years' imprisonment, or both. Under the Ragging Act, a person who causes sexual harassment, while bullying a student or a member of the staff of an educational institution, faces up to ten years' imprisonment.

Sexual gratification at work is punishable under the Bribery Act, and the 2013 'Code and guidelines to prevent and address sexual harassment in the workplace' provides guidance to employers and employees on the issue, namely by listing examples of physical, verbal, gestural and visual sexual harassment, by providing guidance on how to create a zero tolerance policy in the workplace, and by outlining informal and formal redress mechanisms.

The 2016-2020 national action plan against sexual and gender-based violence further commits the government to tackling sexual harassment in multiple ways, for instance by establishing policies and protocols in the plantation and trade sectors, and in vocational institutes, and by developing mechanisms to address sexual harassment in public transport.

#### **e) Female genital mutilation**

Female genital mutilation (FGM) has been detected among Muslim communities in the Western Province and in the Borah Muslim Community. There is anecdotal evidence suggesting that this harmful practice targets babies in the West province, and teenage girls of the Borah community, and that it is considered to be a private family matter with no religious legitimacy (UNESCAP, 2012). No law or action plan addresses these harmful practices.

#### **f) Abortion**

Abortion is criminalised in Sri Lanka, unless it is carried out to save a woman's life (Penal Code art. 303-306). Penalties extend to 20 year's imprisonment and a fine, if the procedure was carried out without the consent of the woman.

The United Nations has asked the government to legalise abortion in all cases of rape, incest and severe fetal impairment, and to decriminalise abortion in all other cases. It has also asked the government to remove barriers hampering women's access to safe abortion services, such as the requirement of a judicial inquiry as to whether there should be a medical termination of the pregnancy and the need for a medical certificate authorising an abortion (CEDAW, 2017).

At the time of writing, the Cabinet had proposed to legalise abortion in the case of rape, incest and serious foetal impairment, and to regulate abortion on these grounds (Daily Mirror, January 2017).

### **3. More**

Human trafficking is criminalised under art. 360C of the Penal Code and carries a jail sentence of 2-20 years, although courts reportedly rely more often on art. 360A of the Penal Code, which deals with procurement and provides a lesser penalty of 2-10 years' imprisonment (CEDAW, 2017). The United Nations also notes with concern that police officers misuse the Vagrants Ordinance Act to arbitrarily arrest women in prostitution and women belonging to minority groups, who are then subject to



harassment, sexual exploitation and extortion. The government has adopted a 2015-2019 National Strategic Plan to Monitor and Combat Human Trafficking.

### 3. Restricted Access to productive and financial resources

#### a) Secure access to land and assets

The 1935 Land Development Ordinance and 1998 Registration Title Act regulate the allocation and titling of State land grants for agricultural purposes. The Land Development Ordinance grants male heirs preferential inheritance rights where the original landowner dies intestate without naming any heir(s). Thus, male relatives may reclaim land being cultivated by women at the death of the original male owner.

In practice, there are reports that State land is also preferentially allocated to men (Women of the World, factsheet), and war widows are required to stay single to retain land plots (The Women and Media Collective Colombo, 2010). In 2017, the government was reviewing the Land Development Ordinance to remove the above discriminatory provision (Government of Sri Lanka, 2017), and the government had been urged by the United Nations to ensure a 'well-coordinated and systematic system' for issuing property titles to ensure women's equal access to land, housing and livelihood assistance in their own name (CEDAW, 2017).

Militarisation of private land in conflict-affected areas of the country has resulted in large-scale displacements of populations, especially Tamil communities in the North and the East, thus affecting their livelihoods and right to housing. The United Nations has called on the government to urgently demilitarise this land and return it without delay, and to prevent the military from assuming civil administration duties (CEDAW, 2017).

Property rights other than land are governed by a general law (1923 Married Women's Property Ordinance) and specific laws (1951 Muslim Marriage and Divorce Act, 1952 Kandyan Law Declaration and Amendment Ordinance, 1911 Jaffna Matrimonial Rights and Inheritance Ordinance). All provide married women with the right to own, use, dispose of and mortgage any separate movable property in the same terms as married men, as if they were unmarried.

However, married Tamil women require the written consent of their husband to deal with or dispose of any immovable property. Tamil women are further discriminated against in relation to marital property (*'thediatheddam'*), as the husband can sell or mortgage his wife's half-share of *thediatheddam* (Women of the World, factsheet). Under Kandyan law, a woman's paternal inheritance of immovable property can be restricted by her brothers or *binna*-sisters, if she married in '*diga*' (meaning that the wife moved to her husband's home or to his parents' home, and thus became part of her husband's patriarchal family). The United Nations has asked the government to repeal these discriminatory provisions and ensure that religious law does not regulate property rights (CEDAW, 2017).

Women's property and land rights are maintained after divorce, and Muslim women are entitled to petition the court to recover outstanding property: either dowry (*'mahr'*) or property/money paid or promised to be paid to their ex-husband (for the women's use) (*'kailkul'*).

### **b) Secure access to formal financial resources**

The Opening of Accounts in Banks Act and Secured Transactions Act allow women to open bank accounts and to access credit in the same way as men. Female entrepreneurship is promoted by the Ministry for Women and Child Affairs, through the coordination of micro-credit programs, which have granted 263 million rupees to over 52 000 female beneficiaries between 1999-2016 (Government of Sri Lanka, 2017). In addition, the 2016-2020 national action plan on sexual and gender-based violence aims to facilitate the issuing of microcredits and loans to women, prioritising survivors of gender-based violence and working in close collaborate with the Women Chamber of Commerce.

The World Bank reports that 83% of women and 82% of men have an account at a formal institution, and that 17% of women and 18% of men borrowed at a formal financial institution (World Bank, 2014). At present, women generally receive smaller loans and face more challenges in accessing capital than men, due in part to their lower levels of literacy, lack of market knowledge, and lack of awareness about microfinance facilities. Moreover, access to microfinance depends on factors such as household income, education levels, and availability of collateral, thus making it more difficult for single female-headed households to obtain credit (Rathirane Y. and Semasinghe D.)

The United Nations has asked the government to ensure equal eligibility criteria for women and men for obtaining bank loans, mortgages and other forms of financial credit from public and private institutions, including by introducing low interest or interest free credit schemes for female heads of households (CEDAW, 2017).

### **c) Workplace rights**

Sri Lanka is not a party to ILO Conventions 156, 183 and 189 on workers with family responsibilities, maternity protection and domestic workers, nor does the country have any legislation on non-discrimination in employment, including any provisions on equal remuneration for work of equal value. In addition, women are prohibited from working in mines under most circumstances (Mines Prohibition of Female Labour Underground Ordinance), and there are limitations to their working hours at night (Employment of Women, Young Persons and Children Act). Moreover, labour legislation does not apply to the informal sector.

Female employees are entitled to twelve weeks maternity leave for their first and second child, and six weeks for the third and subsequent child (Maternity Benefits Ordinance art. 3). Shop and office employees are paid 100% of their salary during this period, compared to 86% for other female employees (Shop and Office Employees Act art. 18C, regulation of the Maternity Benefits Ordinance art. 1). No employer can terminate the contract of a female employee during her maternity leave (Maternity Benefits Ordinance art. 2, Shop and Office Employees Act art. 18E), and women are entitled to breastfeeding breaks upon their return (Maternity Benefits Ordinance art. 12B). The government

has issued a directive to set up child care centres at work places, and has launched a project to create 600 day care centres for women in the plantation sector (Government of Sri Lanka, 2017).

The United Nations has raised concerns about the historically low participation of women in the labour market and the high unemployment rate of women (CEDAW, 2017). At present, only 36% of women aged 20 and over are employed, compared with 75% of men (Government of Sri Lanka, 2016 Fourth Quarter quarterly report). The United Nations has also highlighted the wide gender wage gap, the denial of maternity leave in rural industries, and the lack of measures to facilitate re-employment of former female combatants (CEDAW, 2017).

Sri Lanka's current National Human Resources and Employment Policy (NHREP) sets out to address some of these challenges faced by women, namely by training women to access higher skilled occupations (e.g. information technology, nursing and hospitality sectors), by ensuring safe and efficient public transport, by providing job searching assistance to female graduates, and by placing more women in management training programs (Government of Sri Lanka).

## 4. Restricted Civil liberties

### a) Citizenship rights

The 2003 amendment of the 1948 Citizenship Act allows Sri Lankan women to confer their nationality to their children in the same way as men, regardless of their marital status, including if their children were born outside the country (art. 5). Unregistered children born to a Sri Lankan parent can also apply for Sri Lankan nationality upon turning 18, as can children whose parents (either or both) formerly held Sri Lankan nationality prior to their birth (art. 11). Either spouse can confer Sri Lankan nationality to the other, including after death (art. 12). The Constitution protects the right for each citizen to retain Sri Lankan nationality (art. 16 para. 4), unless the right to renunciation is exercised (Citizenship Act art. 19, 21-22).

Mothers have the same obligation as fathers to register the birth of their child, and must do so within three months of the birth (Births and Deaths Registration Act art. 15 and 19). Registration is free-of-charge (art. 19), unless it is late (art. 24). Parents can send a written registration application by the post, if they are unable to go to a registry office (art. 16 para. 1).

The law does not discriminate against women in the issuing of identity cards and passports, both for themselves and for their children, regardless of their marital status. Every citizen must apply for a National Identify Card upon turning 15, by paying a fee and providing biometrics and photographs (Registration of Persons Act art. 2 and 9). There is no age specification for the issuing of passports, and exit permits can be granted to allow citizens to leave the country if they do not hold a passport (Passport Regulation and Exit Permit Act, art. 3 and 10).

Over 200 000 Tamils reportedly lost their citizenship documents in the ethnic riots of July 1983, and several thousand do not have national identity cards, thus affecting their ability to own property, open bank accounts, vote, find employment, benefit from social security etc. Most indigenous Sri Lankans ('*Wanniyalatto*') also lack birth certificates (IMADR, 2016).

## b) Voting

Women and men enjoy equal voting rights as all citizens aged 18 and above can vote in any election (to elect the President and members of Parliament) or in any referendum, provided that they are registered on the electoral roll and are not serving time in detention (or have not served more than six months in the last seven years) (Constitution art. 4e and 88-89).

Many women and men in Tamil communities are unable to vote however, due to the lack of identification documents (IMADR, 2016).

## c) Political voice

The Constitution grants women the same right as men to stand for presidency (art. 92), to be appointed as Prime Minister or members of Cabinet (art. 42-43), to become parliamentarians (art. 90), and to join the judiciary (art. 107). In addition, the 1993 Women's Charter creates a State obligation to ensure that women have the same right as men to be nominated in national, provincial and local government elections, to participate in the formulation of state policy and to hold public office (art. 2). Since 2015, a 25% female quota is set for local authorities (municipal and urban councils, and third tier municipalities) (Local Authorities Election Ordinance art. 28 para 2D). A 30% quota for female representation in provincial councils has been approved by the Cabinet (Government of Sri Lanka, 2017), but has not yet been enacted. The United Nations has asked the government to set a timeframe for this enactment, to introduce a similar quota for female representation at the national level, and to set a quota for minority groups.

Women account for only 5,8% of national parliamentarians and remain underrepresented in the Cabinet and in provincial governments, accounting for only two out of 67 ministerial positions and only one out of nine provincial governor positions (IMADR, 2016). Women's low participation in politics is linked to the prevalence of masculine norms and prejudices in the political sphere, including reported sexist remarks and violence towards female parliamentarians and women in general (IMADR, 2016).

There is little information available on the political participation of women representing different minorities, such as the Tamil and Muslim communities (CEDAW, 2017). The United Nations has therefore asked the government to raise the awareness of the public and of political parties on the importance of female participation in decision-making, and to establish a disaggregated data collection system to track the participation of women representing different minorities in decision-making positions (CEDAW, 2017).

The government reports that female participation in the public service has risen from 17% in 1993 to 47% in 2015, and that the Constitutional Council is legally bound to strive to achieve a gender balance in the nomination of high posts (e.g. judiciary), as a result of the 19th amendment of the Constitution in 2015. Furthermore, Sri Lanka is a signatory to the Open Government Partnership since 2016, under which all parties must commit to increasing women's participation in politics. The Ministry of Women and Child Affairs has also introduced a university diploma programme to encourage the political participation of women (Government of Sri Lanka, 2017).

#### d) Access to justice

The Civil and Criminal Procedure Codes contain gender-neutral provisions on the right to sue or be sued, and on the weight of testimonies given by women and men. Moreover, the law includes elements to support women in filing lawsuits, particularly through the provision of legal aid under the 1978 Legal Aid Act, translation and interpretation support in civil and criminal cases, as well as the possibility of fee reductions in civil cases. Mobile legal documentation clinics have also been established with the support of the United Nations Development Programme to provide legal guidance and the issuing of required documentation (e.g. birth certificates, national identity cards, marriage certificates, land titles), particularly in the Northern and Eastern provinces. 300 000 people benefited from these mobile clinics between 2008-2014 (UNDP, website). In addition, the 2015 Victim and Witness Protection Act outlines statutory rights of all victims and witnesses of crimes (e.g. protection from any threats or reprisals; respect of one's dignity and privacy; prompt redress; treatment for mental or physical harm, injury, impairment or disability caused by the crime).

The National Committee of Women is the government authority responsible for monitoring the implementation of the 1993 Women's Charter. This organ of the Ministry of Women and Child Affairs thus receives and refers complaints of gender-based discrimination, monitors the action of organisations providing redress, legal aid and mediation, evaluates the impact of legislative and development policies on the rights and responsibilities of women, and promotes relevant research to realise the objectives of the Women's Charter.

Despite the above legal provisions, women face persisting struggles in accessing justice, due in part to the limited knowledge of legal practitioners and law enforcement officials about gender equality, the language barriers faced by women wishing to claim their rights, and the cultural stigma deterring women from reporting sexual and gender-based violence (CEDAW, 2017). In addition, women are barred from serving as judges for the Muslim *Quazi* Courts (Sri Lanka Brief, 2017).

To address these challenges 279 female police officers have been deployed to Children and Women's Desks in the North and East of the country, 200 female Tamil-speaking police officers are being recruited, and a training centre has been established to provide Tamil language courses to Sinhala-speaking police officers (Government of Sri Lanka, 2017).

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