

# **Country Report on Violence Against Women in Sri Lanka**

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# **COUNTRY REPORT ON VIOLENCE AGAINST WOMEN**

## **Introduction**

Available statistics and information indicate that violence against women is an issue for concern in the country. According to the data compiled by the Police (Table 1) an increasing trend is seen in sexual molestation, rape, gang rape, incest and domestic violence. Other types of violence that women have to face are sexual harassment, ragging, sexual abuse. Gender discrimination in economic and social spheres can lead to violence against women or prevent them from moving out of abusive relationships or environments.

## **Types of Violence**

The 1992 Vienna Declaration provides a useful starting point for identifying what constitutes violence against women. Adopting a rights framework, the Declaration states that violence against women refers to any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life" (Article 1). Physical, sexual and psychological violence occurring within the general community, including rape... in educational institutions and elsewhere...and physical, sexual and psychological violence perpetrated or condoned by the state, where ever it occurs (Article 2) also comes within the ambit of gender based violence.

Within this definition several categories of gender-based violence can be identified. First, those acts of violence arising due to a woman's gender and

sexuality, which results in violence against her person manifesting in rape, assault, genital mutilation, sexual harassment. Second, the social and patriarchal attitude of regarding a woman as the property of a man and control over her subjecting her to physical and psychological acts of violence such as marital rape, rape, assault, abuse, and incest. Third, the situation of women during times of armed conflict and civil unrest, which make women in particular social classes more vulnerable to gender-based violence (Wijayatilake 1996).

This categorisation shows that gender-based violence has several dimensions, is complex and is multi-dimensional; that it has its roots in patriarchal norms; that it infringes on a woman's autonomy; and that women in particular situations are targets of violence. Thus gender-based violence can limit women's choices and enjoyment of other rights - right to a livelihood and economic empowerment, right to health care, right to resources, right to education, right to reproductive choice, and the right to participation in development, and in public and social life.

Although violence against women includes physical violence as well as psychological and mental harassment information on the latter aspect of the problem is scant. Violence that is perpetrated against women range from casual, individual, non-formal acts to more planned, organised and systematic ones. Violence is carried out by individuals and groups of individuals as well as by political and ethnic groups within civil society and in institutions, and institutionalised acts of violence dictated, carried out or approved by agents of the state.

Women can be direct victims of violence as in the case of political violence, which targets women or indirect victims of such violence. The latter though not within the definition of violence against women however become primary targets of gender-based violence as a consequence of political violence such as ethnic cleansing, terrorist attacks and civil riots.

Institutionalised acts of violence include abuse, torture, rape while in institutional care and custody including acts of violence committed by public officers or persons acting in an official capacity.

### **Domestic Violence**

Research documents that women irrespective of age, ethnicity, marital status, length of marriage, education, employment, family structure, income level, ethnicity and geographic location have been victims of domestic violence. However it is trivialised and regarded as a 'private matter' and even when complaints are made it is regarded as a 'minor offence.' (Table 1)

The abuse experienced by women is a single act of violence or multiple or regular occurrences, either planned or spontaneous. Studies show that the frequency of abuse is negatively related to the relationship of the perpetrator to the victim. The spouse or boy friend is most likely to be the perpetrator while father, son, male relatives as well as female relatives are also aggressors.

The violence and abuse inflicted on women can cause physical and psychological damage and could also lead to death. The forms of abuse are

identified in the studies as well as in the records maintained by hospitals, the police and the courts of law. A range of violent acts from rape to beatings, stabbing, shooting, assault, poisoning, and slapping, kicking have been reported from various sources.

The injuries caused by such acts of violence include bruising, scalp lacerations, other body lacerations, simple and compound fractures, scalding, contusions, bleeding, vascular damage, abortion, muscular trauma among others (Dias and Fernando 1996; Wijayatilake 1999).

The reasons for domestic violence are varied. The immediate causes for violence range from the trivial to machinations of in-laws, infidelity of both partners, jealousy, loss of self worth (of the aggressor), alcoholism, low or lack of education, unemployment, employment of women outside the home, financial difficulties, disputes, most commonly regarding land, and congested living conditions. Whether one cause is more widespread than another is difficult to ascertain, as even the much-cited cause of domestic violence being precipitated by alcoholism does not bear out in all the studies (Deraniyagala 1992).

The underlying causes for such widespread violence and abuse within the family are attributed to patriarchy and the unequal power relations that exist between women and men. The attendant subordinate status of women and the discriminations they face, the perception of men being superior to women and socialisation, which make men and women internalise such attitudes and the gender role expectations that follow are considered to be the root causes of the violence that women have to endure. Thus men control

women's sexuality and reproductive choices, their labour as also the rewards for their labour. Women are expected to uphold cultural and family values, and act in a manner that does not bring shame on the family, especially on the spouse, father or brother. For these reasons their mobility may be restricted thus limiting their access to life's choices.

The patriarchal attitudes of law enforcement agencies impact negatively on women. The authorities when confronted with even life threatening acts of violence against women in a domestic setting refuse to address them as anything other than a "private matter." Health personnel provide medical assistance but do not probe the causes of injury. Family courts and conciliation boards exhort women to be patient and behave properly placing the onus for family harmony on the woman.

Foremost among the reasons for the perpetuation of the 'hidden crime' where women continue to remain in abusive relationships, tolerating violence and concealing such violence could be seen as the women's acceptance of the violence. The victim usually justifies the violence on the grounds that a spouse is entitled to abuse a wife; that a spouse should be respected as the 'one who feeds.' Women also accept the blame for the violence that is directed against them sometimes attributing their lot to 'destiny.'

Children have been another reason given by respondents in surveys on domestic violence for continuing to tolerate domestic violence. Women consider that children should grow up with both parents and that leaving the aggressor would have serious psychological effects on children (WIN 1991). Custody of children too would create problems for women.

Although women recognise the violence, they are unable and reluctant to break away from the violent situation. And even when they do some return, often repeatedly to the same violent abode. Reasons are many and complex. Escape from abusive relationships is problematic and is not a simple function of one or another factor. Marriage and motherhood is still the norm for women and when a woman's social status is contingent on her being a wife social disapproval for separation or divorce is strong within the family and the community. The low divorce rate in Sri Lanka shows the enduring nature of the institution of marriage despite the fairly high incidence of domestic violence reported.

Women from low-income families who are dependent on spousal earnings are unable to move out if they are unable to financially support themselves. Studies (Jayaweera 2000) have shown that women in low-income families who lack skills are concentrated in the informal sector where wages are low and job insecurity is high. Opportunity for economic empowerment for women who are at the bottom of the occupational hierarchy is therefore limited. However, studies on female labour migration have shown that not an inconsiderable number of women have chosen the 'escape route' of overseas contractual employment to overcome abusive relationships (Dias and Weerakoon 1991; Wanasundera 2000).

The community too plays a significant role in the perpetuation of domestic violence by its passive attitudes of non-interference in 'private matters.' Expected norms of femininity and masculinity and gender roles circumscribe women's space vis a vis the community. Community assistance is rarely

available to the victims. The law enforcement officials are often reported to be unsympathetic to complaints of domestic violence and there aren't adequate shelters for battered women who want to leave home.

### ***Domestic violence against children***

Violence undermines the family, which is regarded as the site for the protection, nurturing and socialisation of children. Domestic violence affects children indirectly and directly. Witnessing acts of violence can lead to trauma while at the same time perpetuating inter generation gender discrimination (de Silva 1996 quoted in Hayworth). Violence against the mothers could lead to neglect of children with detrimental effects on their education, health, nutrition and personality development. Studies have also shown that in some households in which the women are battered children have also been targets of violence.

### ***Legal Provisions***

Women's activism, the human rights discourse and international conventions have begun to change perceptions regarding domestic violence. International conventions place the responsibility on the state for violations of human rights of women that occur in both the public and private spheres. In Sri Lanka State response to domestic violence has been slow although it has set up Women and Children's Police Desks throughout the country except the North and the East to provide women who are victims of domestic violence a redressal mechanism outside the home. There has been no special legislation or strengthening of existing legislation to deal with domestic violence as yet. Victims of domestic violence could prosecute under the

criminal law which deals with violence and also use the provisions of the Penal Code which deal with Hurt, Grievous Hurt, Assault, Criminal Force and Attempted Murder. An injunction could also be brought in under the civil law.

### **Incest**

Incest is a direct act of violence, which the Penal Code defines as 'sexual intercourse with a person who belongs to the prohibited categories of relationships enumerated in the law.' Victims of incest are most often girl children. As in other forms of violence against women statistics are inaccurate making it difficult to assess the incidence of incest in the country. However the Police records an increase in the number of cases of incest from 9 in 1995 to 26 in 1998 and 18 up to end June 1999 Table 1). The only retrospective research study conducted with higher secondary and tertiary level students in Sri Lanka showed that 12 per cent of the girls had been sexually abused when they were children (de Silva 1996 quoted in Hayworth).

Incest is a particularly difficult crime to detect as the family including mothers connives to keep such acts of violence hidden from the public. Social stigma, economic dependence and inability to make decisions and efforts at legitimacy of such acts by the perpetrator can be attributed to the secrecy that surrounds such crimes. The perpetrators are male family members - father, brother, grandfather, uncle. The victims are dependents and therefore are powerless and vulnerable. These acts of violence are rarely reported and the perpetrators remain unpunished.

As in many other countries legal jurisprudence has considered the domestic sphere to be within the control and authority of the household head - the male. Consequently any disputes or violent acts against women and children were considered to be within the rightful conduct of the household head. The law did not interfere in such instances. The Penal Code amendment of 1995 changed this stance and has made incest a criminal offence. However, the influence of the family is still seen, as prosecutions for incest have to be approved by the Attorney General.

## **Rape**

Although rape is one of the most heinous of crimes and carries with it stigma, it is usually the victim and not the perpetrator who is ostracised. In addition the victim's family may consider itself soiled and reject the victim. The legal provisions, law enforcement and the judicial process including public hearings are heavily biased against women who attempt to seek legal redress. As a woman victim's past sexual history could be introduced as evidence she becomes further vulnerable and humiliated during judicial proceedings.

Rape, which is perceived by the Sri Lankan law as a criminal act can occur in several situations. These are statutory rape (that is rape whether with or without consent), marital rape, custodial rape and gang rapes when two or more persons commit the offence on a female. A rape victim could also be murdered.

The basic criminal law of Sri Lanka is contained in the Penal Code. Until its amendment in 1995, rape was narrowly defined in the Penal Code enacted in 1883 as sexual intercourse (that is vaginal penetration) without a woman's consent and against her will. The victim and the prosecution had to prove the woman's lack of consent subjecting the victim to further trauma. Statutory rape was recognised in relation to girls under 12 years of age. Rape in custody had no special mention and marital rape also did not fall within the purview of the law. The failure to amend the Penal Code for over a century meant that the legal framework was inadequate to deal with prevailing acts of sexual violence in the country.

The 1995 amendment of the Penal Code brought in several changes to the law in relation to rape. The definition of rape was broadened and under the amendment the concept of sexual intercourse 'against her will' has been replaced with 'absence of consent.' The current law also recognises that 'evidence of resistance such as physical injuries to the body is not essential to prove that sexual intercourse took place without consent.' Further, if sexual intercourse has taken place with a woman with her consent but if such consent had been given due to threats or while in unlawful detention, or if the woman has been of unsound mind such an act is also considered to be rape. Despite these amendments the procedure for prosecution has not been changed and the victim and the prosecution have to prove absence of consent. This applies even to custodial rape.

The amendment also introduced the concept of marital rape, but only in instances when the spouses were judicially separated. However, Goonesekera (1998) comments that this provision will not have an impact on

women in abusive relationships as judicial separation by a court order is not a type of matrimonial relief that is utilised by a majority of Sri Lankan women. They are either de facto separated from their husbands or divorced.

The definition of 'statutory rape' has been changed by raising the age from 12 to 16 years. The minimum age of marriage also has been increased from 12 to 18 years by amending the General Marriage Ordinance and the Kandyan Marriage and Divorce Act. However, the age of sexual consent in the Penal Code is 16 years. Therefore intercourse with a girl under 16 years of age will amount to rape irrespective of consent. This provision makes it possible to prosecute perpetrators in custodial situations.

The Penal Code amendment has incorporated a new concept of 'grave rape' not by prosecuting but through sentencing. Gang rape is 'grave rape' and is defined as rape 'committed by one or more persons in a groups of persons, each person in such group committing or abetting the committing of such offence.' Other acts of 'grave rape' are rape of a woman who is pregnant; rape of a physically disabled or mentally disturbed woman; and custodial rape. Custodial rape is considered to occur when rape is committed by 'public officers or persons in a position of authority when the woman is in custody, by 'persons on the management or staff of a remand house or custodial places established by law and women and children's institutions, and by persons on the management or staff of a hospital.'

### **Violence related to Marriage Customs and Practices**

Dowry and 'virginity tests' are two customary practices related to marriage that can result in gender-based violence. Although the dowry system is not at

pervasive in Sri Lanka as in other South Asian countries it is customary for the bride to be presented with a parental gift on marriage. When marriages are arranged a dowry consisting of cash and/or property is negotiated. If the promised dowry is not given the spouse and his family usually harass the woman. Dowry related deaths are rare in Sri Lanka. Gomez and Gomez (1999) report one case.

A woman is expected to be a virgin at the time of marriage and rituals connected with proving virginity are carried out on the first night of marriage. The proof of virginity required by the spouse and his family cause mental agony to young brides and the inability to do so exposes them to harassment and may ultimately result in marriage dissolution (Basnayake 1989).

### **Sexual Harassment**

The Penal Code amendment of 1995 defines sexual harassment as 'the assault or use of criminal force to sexually harass another person which causes annoyance to the victim.' It is unwelcome sexual advances by words or actions. Sexual harassment occurs in situations of general power relationships; and in special situations of power as in the case of an employer-employee when the former demands sexual favours in exchange for special benefits or for not withholding legitimate benefits. Sexual harassment can occur in public places, in private, in workplaces, and in educational institutions. Forms of sexual harassment vary. Comments, innuendoes, derogatory remarks, unwelcome sexual advances, physical contact without the awareness or consent of women all exploiting the

sexuality of women constitute sexual harassment. Kottegoda (1997) states that the 'important issue to note here is that given the patriarchal lenses through which society looks at women, (this type of behaviour) is not seen as harassment by the males who perpetrate these crimes. ...it is ... a part of social interaction.'

Case studies of victims of violence against women (Wijayatilake 1997) show that in the workplace women are intimidated by men in positions of power as employers who coerce women to give in to their sexual demands. Women who do not submit to these demands invariably have to work in a hostile environment. Women who work in the informal sector are also in similar positions. In addition to low wages and irregular and arduous work women complain of sexual advances made by the employer and co-workers (Zackeriya 1998; Wanasundera 2000). Lack of alternative employment opportunities and financial necessity compel women to continue to work despite the harassment.

Case studies, newspaper reports and anecdotal evidence show the harassment that women have to undergo when using public transport especially in overcrowded buses and trains during rush hours. While the majority of those women who are harassed endure in silence there are also strong women who confront the perpetrator.

Since the 1970s violence has crept into the universities and become a serious problem to the authorities. Ragging too has been going on for several decades and it has now turned from the 'innocent' to the more dangerous. Both males and females undergo ragging in one form or another and

consequently the university authorities do not perceive ragging as a gender specific problem. However female students are severely traumatised by the ragging experience, as many are unable to cope with the vulgarity, humiliation, sadism, obscene language, mental torture, and cruelty perpetrated on them. While psychological trauma affect these students, some have attempted suicide, some others have terminated their university studies, while others have had to seek medical and psychological treatment (Wijeratne 1997). A study conducted by Silva et al concluded that even though ragging is perceived as a social equalizer in class terms, to the extent it enables senior male students to enforce their will on female freshers, it tends to reproduce unequal gender relations characteristic of mainstream society within the counterculture among university students as well.

Sexual harassment is an offence under the Penal Code amendment of 1995 repealing the earlier offence of 'outraging the modesty' of a woman. After the introduction of the offence of sexual harassment women victims have instituted court proceedings for sexual harassment (Women and Media Collective). Legislation has also been introduced in 1998 to curb ragging in educational institutions such as schools, universities, technical and vocational training institutes, and religious educational institutes.

### **Special Categories of Women who are Vulnerable to Violence**

It would be necessary to take into account categories of women who have been and are vulnerable to violence in specific circumstances. These include women who undergo violence at the workplace, women who are victims of armed conflict and victims of political violence.

## **Violence against Women and Work**

CEDAW, the UN Declaration on the Elimination of Violence against Women express concern at the consequences of discrimination against women in employment in terms of wages, hours of work, benefits and treatment and notes that sexual harassment and intimidation at the work place are forms of violence against women. Added to this discrimination is the vulnerability of women who are unable to retain control of their earnings.

There are several categories of workers who are particularly vulnerable to violence. They are migrant domestic workers, local domestic workers, workers in the Free Trade Zones, plantation workers, and commercial sex-workers.

It is estimated that there are over 500,000 registered women migrant domestic workers in West Asian countries, Singapore, Hong Kong, Cyprus, Greece, Italy and a few other countries. According to estimates at least 10 per cent of the migrant domestic labour force or a staggering 50,000 are victims of violence.

The majority migrates on contractual work to West Asia. Research studies have shown that the working conditions of the majority are harsh with little or no free time, that the accommodation they receive is inadequate, and that their mobility is restricted. There are cases of employers withholding food and denying health care. Most work for a wage of US\$ 150 per month, sometimes for US\$100. Complaints received by the Sri Lanka Bureau of Foreign Employment (Table 2) range from non-payment of wages, assault,

rape, sexual harassment, physical and verbal abuse, to physical and mental torture. Deaths, physical disability due to assault, psychological and mental trauma have been some of the consequences of the violence perpetrated against migrant workers by household members of the employers. Some of those abused runaway to the Sri Lankan embassy or to the agencies. A few have committed suicide. Others are reported to be destitute, some with infants, eking out a living on the streets. It is also reported that there are unclaimed bodies of women who died either in accidents or committed suicide or were murdered. It is difficult to verify the extent of such abuses due to the lack of co-operation of the authorities in host countries. In host countries where sexual harassment and violence is at a minimum, women migrant domestic workers are victims of racial discrimination.

It is believed that perpetrators of such violence against migrant workers include the employer, members of the employer's household, labour recruiting agents, fellow migrant workers, migrant workers of other countries, as well as officials of Sri Lankan embassies. However, countries that responded to the UN Secretary General's request made in August 1999 for information on the issue of violence against migrant workers had indicated that no evidence of violence against migrant workers had come to the attention of the authorities (Syria, Maldives), the incidence of violence against women migrant workers was very low (Singapore) and that there might be isolated, but rare, cases in which such women were mistreated, but that there were no official statistics on such cases (Kuwait and Syria). (United Nations 1999).

Measures for the prevention and amelioration of violence against women have been taken at the international and national levels. At the international level the Convention on the Protection of the rights of All Migrant Workers has been drawn up. However it has not come into force and there is no receiving country among the 12 countries that have ratified it.

At the national level Sri Lanka has introduced protective legislation, undertaken awareness raising and training and certification of prospective migrants, introduced employment contracts, and appointed labour attaches to selected overseas embassies. The Sri Lanka Bureau of Foreign Employment repatriates abused workers. It has arranged credit facilities with commercial banks at concessionary rates of interest. However, Sri Lanka needs to enter into bilateral agreements with the receiving countries to protect migrant women workers from sexual abuse and violence as also to lobby for the ratification of the Convention.

While economic liberalisation and the opening of up free trade zones to attract foreign investment provided employment opportunities for 'young, educated, trainable, docile' females it has been found that they are subjected to both economic and sexual exploitation in these export processing zones. Inadequate wages and unsatisfactory working conditions have in recent times resulted in a large number of unfilled vacancies in the zones. Unionisation was not permitted within the zones until recently. Research studies have also found that women were subjected to sexual harassment both within and outside the workplace. Unsatisfactory housing in which several women are cramped in one room, and non-availability of transport

especially in the night make these young women, who are mostly from rural areas especially vulnerable to sexual exploitation and harassment.

There is a difference opinion among activists, governments and the international community on the position of sex workers. The international trend is to refrain from criminalising consensual sex and to focus on prostitution, which is forced on women. Sri Lanka is a signatory to the International Convention on Trafficking but it was only in 1995 that Sri Lanka introduced the offence of trafficking, which makes 'buying, selling or bartering' of any one for financial gain an offence. While the main concern of this provision had been to prevent trafficking in children, trafficking in women has not received attention. Procuring for prostitution, and detention of any one in a brothel for sexual intercourse is an offence. Prostitution comes under the purview of the Vagrants Ordinance and the Brothels Ordinance. Under the provisions of these ordinances women who pick up clients can be the clients and the procurer can be arrested, but the women get heavier sentences. Women take to prostitution due to poverty, destitution, sexual abuse and to meet the demand of tourists, security personnel and other males. They are subjected to many discriminations and are also exposed to health risks such as STDs and HIV/AIDS.

### **Political Violence**

Increasing acts of violence against women during election campaigns has become a feature of the Sri Lankan political scene during the past ten years or so. Instances where violence against women was used as a political tool were seen during political campaigns especially since 1998. The Centre for

Monitoring Election Violence in its report on recorded violence during the election campaign of the 1999 Presidential Election noted that of the 1483 incidents of election related violence reported 98 were reported by women. In 8 instances the complainants were women. For example allegations were made by a UNP Provincial Council member of an attempt by a group of People's Alliance supporters to strip a young woman in the Gampaha district. It is noteworthy that though the majority of women who came under attack were not actively involved in politics, a few women who were engaged in campaigning did come under attack. Attacks with sexual connotations have also taken place during the campaign, where an attempt had been made to tear the clothes of a woman. Though not especially targeted at women they have been victims of LTTE terrorist suicide bomb attacks carried out during election time. Women politicians have also been assassinated by the LTTE or there have been attempts to assassinate them.

### **Women in Situations of Armed Conflict**

Sri Lanka has been in the midst of violence and terror brought about by an insurrection in the South, secessionist conflict in the North and East, and counter state action. The intensity of the violence and its impact on the civilian population varied depending on geographical location. Yet, the impact has permeated almost all aspects of the lives of Sri Lankans. Women have been direct as well as indirect victims of armed conflict. They along with their families have been displaced, have become widowed and taken on household responsibility. They have been subjected to violence against their persons, detained, tortured, and raped in custody. While the armed conflict in the North and the East has high visibility the short but intense insurrection

in the South, which was of catastrophic proportions is almost forgotten. In the South as well as in the North women who are without males, internally displaced women who live in welfare camps and are the indirect victims of the violence still face discrimination in all spheres of life and live a life of insecurity surrounded by violence.

Apart from the military confrontations civilians in the 'border villages' are vulnerable to LTTE massacres. Civilians especially in main cities are at risk of bomb attacks and suicide bomb attacks by LTTE cadres. They are also caught in the crossfire of the protagonists. Innocent civilian women, children and men are the victims of such crimes perpetrated by the attackers. It is noteworthy that most of the suicide bombers were and are women who while inflicting destruction on large numbers of civilians destroy themselves. The male hierarchy of the LTTE undertakes the conditioning and training of female LTTE cadres to destroy themselves.

### **Changing Perceptions on Violence against Women**

Most acts of gender based violence and more specifically domestic violence, incest, sexual harassment were considered by the community, society and the state as a private concern that women, bounded as they are by social, cultural and traditional practices, had to deal with as best as they could. Feminist activism however brought about a change in these perceptions and attitudes. In 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) stated that 'discrimination against women is incompatible with human dignity...' and sought to safeguard the rights of women within the family as well as without, while

the 1985 Nairobi Forward Looking Strategies recognised the existence of gender based violence and identified it as a special area of concern. The CEDAW Committee in its Recommendation 19 identified violence against women as an aspect of discrimination. In 1993, the global campaign by women activists led the UN to adopt the Declaration on the Elimination of Violence against Women (The Vienna Declaration) and to accept women's rights as human rights. In March 1994 the Human rights Commission appointed a Special Rapporteur on Violence Against Women. The Fourth World Conference on Women in 1995 reinforced the concept of women's right to a violence free life and placed such acts of violence firmly within the public sphere. These conventions that were specific to women were reinforced by the International Covenant on Civil and Political Rights, (1966), and the optional protocol; the Convention on the Rights of the Child (CRC) (1989) and the Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Within this discourse the state had a clear responsibility to ensure the human rights of women.

These developing perceptions establishing international standards relating to violence against women have had an impact in Sri Lanka. The UN Decade for Women provided the major impetus for highlighting through research the discriminations faced by women and their subordinate position in various spheres of economic, social, political and community life. But writings on violence against women in Sri Lanka have a comparatively shorter history spanning less than a decade.

Gender based violence was a non-issue as reflected in the literature even at the end of the UN Decade for Women in 1985 as is seen in a bibliography

on women published in that year (Wanasundera 1985). It was not until the early to mid 1990s that gender based violence came to the fore, albeit very gradually and documented evidence on the incidence of violence against women and the responses and resistance to such violence started to appear. In 1999 the issue merited a special bibliography on violence against women with 233 citations (Hussein and Loganathan 1999) as well as a directory of organisations engaged in activism, activities and projects concerning violence against women (ICES 1999).

### **Policy Responses to Violence Against Women**

Sri Lanka has ratified four major international instruments, which have relevance to rape and other forms of gender based violence. These are the International Covenant on Civil and Political Rights, 1966, and the optional protocol; Convention on the Elimination of All forms of Discrimination against Women (CEDAW) (1979), The Convention on the Rights of the Child (CRC) (1989) and the Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984). The series of UN sponsored conferences including the Fourth World Conference on Women of 1995, culminated with the states parties committing themselves to the elimination of gender discrimination by adopting the Beijing Platform for Action. The influence of these Conventions and the BPFA is seen in Sri Lankan policy statements such as the 1993 Women's Charter, the Children's Charter of 1992 and the National Plan of Action, and in legislation such as the Torture Act of 1994 and the Penal Code amendment of 1995.

The Women's Charter attempts to introduce international standards into policy making in relation to women. Section 16 of the Charter states that 'the State shall take measures to prevent the phenomenon of violence against women, children and young persons in society, in the workplace, in the family as well as in custody, in particular such manifestations of it as rape, incest, sexual harassment and physical and mental abuse, torture, cruel and inhuman or degrading treatment.' It proposes legislative reform, reform of the criminal justice system and to support non-governmental organisations that work on issues related to gender based violence. The Charter however has no legal validity.

The National Plan of Action in seeking to operationalise the BPFAs identifies violence against women as a critical area of concern. While reiterating that violence against women is a violation of the basic human rights of women in accordance with the Vienna Declaration, it identified short term, medium term and long term strategies to combat violence against women. Short term activities identified were, among others, the introduction of legislation to combat domestic violence, review and reform of the Penal Code provisions relating to abortion, and the collection of information in relation to women affected by internal armed conflict. In the medium term it envisaged the establishment of a monitoring unit for women's rights, especially violence against women, setting up procedures for easier legal access - engage in public action litigation, amending the Criminal Procedure Code to allow speedy legal process in areas such as domestic violence, incest, rape and sexual harassment, reviewing and reforming existing personal laws and the general law with a view to eliminating discrimination and meeting CEDAW standards, and establishing crisis centres for women victims of violence.

Long term strategies included raising public awareness of violence against women, bringing about attitudinal changes through education, sensitising judges and police personnel and developing a database on violence against women.

The 1978 constitution of Sri Lanka has three rights that can impact on gender equality. These are equality before the law, prohibition of sex based discrimination, and protection from torture, cruel, inhuman or degrading punishment and treatment.

Major legislative reforms were introduced when the 100 year old Penal Code was amended in 1995. As indicated in earlier paragraphs it brought in substantial changes with regard to the offence of rape, made incest a criminal offence, criminalised certain forms of sexual harassment, recognised custodial rape and gang rape for purposes of punishment but not for prosecution and marital rape when spouses were judicially separated. Complementary law reforms were also effected in relation to age of marriage, and criminal procedure.

However though the Penal Code amendment abolished many antiquated provisions the reforms, which were cautious in nature have not resulted in any major changes in the legal framework with regard to gender violence (Hussein 2000). Therefore progressive steps need to be taken to ensure that the Sri Lankan legal system is sensitive to the plight and needs of women and adhere to international human rights norms and standards.

Since the Penal Code amendment no other law reforms have been initiated and issues such as abortion especially in cases where a pregnancy is caused by rape or incestuous acts, and on grounds of fetal defects, marital rape, domestic violence, and age of consent have not been addressed due to weak political will and resistance from minority groups.

### **Law Enforcement**

The attitude of law enforcement authorities has to be understood in the context of the country in which national security takes precedence over all others. Many victims of violence believe that the law enforcement personnel are insensitive to their needs and the victims are perceived as those who committed the crime. Domestic violence is still regarded as a 'family matter,' a rape victim is ostracised in the community and humiliated in courts, health personnel do not probe the causes of injuries and the UN Special Rapporteur on Violence Against Women says that 'a change in the attitude of the judiciary is essential if there is to be effective prosecution of perpetrators of violence against women.' The legal process is also costly and the process is lengthy often taking years - even up to 10 years or more for the final verdict to be given.

Further, Goonesekera discussing the implementation of the Penal Code says that there are problems in implementation as court procedures had not been amended and that this is 'typical of a situation where there is ad hoc rather than holistic law reform.'

Several developments had taken place in law enforcement. The government has established special women and children's police desks in 32 police stations throughout the country except in the North and the East although these Desks are specially required in these areas in view of the vulnerability of women in conflict areas. However, an evaluation of these special desks carried out by CENWOR shows that the units lack sufficient financial resources, trained personnel, infrastructure support and authority to be effective (Wijayatilake 2000).

### **Other State Activities**

The National Committee on Women has established a Gender Complaints Unit to assist women victims of violence who are seeking legal redress. It had also conducted a literature survey on women affected by armed conflict and placed the findings before policy makers, programme implementers and NGOs.

Awareness raising and conscientisation programmes have been conducted by the Ministry of Women's Affairs for members of the judiciary, law enforcement personnel, specific groups of persons and the general public.

A National Child Protection Authority was established with a mandate, which covered among other things the prevention of child abuse. Special Presidential Task Forces were set up to look into problems of migrant workers and make recommendations for remedial action. However these responses have been on the whole ad hoc and it appears that no real impact is seen on violence against women.

## **Non-State Activities**

In Sri Lanka non-governmental organisations have been in the forefront of combating violence against women. Their activism has included research, data collection and monitoring of the media, and dissemination of information through the print and electronic media. They have engaged in awareness raising, lobbying and advocacy for legal reform, led protests against political violence and incidents of custodial rape and murder, conducted campaigns to conscientise the public, and trained law enforcement personnel. They have also targeted selected groups as for instance private sector employers, and bus owners on the issue of sexual harassment.

NGOs have also set up crisis centres and shelters and made available hot lines for victims of violence and for migrant women domestic workers. Counselling services have also been established. Citizen's legal action committees have been set up in one district by an NGO. International and bilateral agencies too have joined in campaigns to combat child labour and child abuse and violence against women. These facilities however are inadequate to meet the needs of women victims of violence.

The activism of these NGOs and other agencies has enabled at least some women victims to speak out against gender-violence and reorder their lives (CENWOR 1997). Activism and greater awareness has also resulted in crimes that were kept hidden being exposed. Legal literacy programmes have enabled women to seek redress. Yet despite the efforts of NGOs and

committed persons it does not appear that gender-based violence has abated. There is a need for more concerted action if a real change is to be achieved.

## **Conclusion**

It has been recognised that violence against women is a violation of the basic human rights of women. It impinges on the realisation of other rights. Violence against women and girls is perpetrated due to their subordinate and devalued status. It should be recognised that violence against women also has economic and social costs. While direct costs could be considerable opportunity cost of violence against women could also be high. Direct costs include medical and legal costs along with services that have to be set up to treat victims of violence as well as for services that have to be set up to prevent gender based violence. For the woman who is abused and her family it may mean a loss of income and perpetuation of poverty. Social costs include the neglect of children and the negative impact on the health, nutrition, education and on their growth. It also perpetuates inter generation violence.

Studies have shown that the structural adjustment policies that have been adopted by Sri Lanka have had a negative impact on the poor leading to a lowering of their standard of living. Stresses and strains of poverty are often borne by women and are a cause of violence. Women have sought alternative survival strategies in contractual overseas employment but only to be confronted with violence as workers confined to the domestic sphere away from public scrutiny while their children are subjected to neglect and abuse. Globalisation and economic liberalisation which facilitated the influx

of foreign capital to the country used women as cheap labour exposing them to exploitative labour practices and bringing in its wake increased violence against women workers. In addition to ingrained socio-cultural norms, which perpetuate violence against women the current models of development also contribute to gender-based violence. Research in to these aspects of gender based violence is almost non-existent. It is imperative that in addition to other efforts to eliminate gender-based violence a national database on violence against women is developed and research undertaken to show that without the elimination of violence against women it is not possible to achieve equality, development and peace.

## Table I

### Offences Against Children and Women - For the Years 1995, 1997, 1998 and 1999 (up to June)

See	Year	1995			1997			1998			1999 (up to June)			Total		
		Below	Above	Total	Below	Above	Total	Below	Above	Total	Below	Above	Total	Below	Above	Total
	AV	18	18		18	18		18	18		18	18		18	18	
345	Sexual Harassment				193	110	303	259	165	424	132	89	221	594	364	948
	Child Labour	152	-	152	21	0	21	32	0	32	8	0	8	213	0	213
311	V.C. Hurt	458	7514	7972	6	93	99	4	31	35	5	0	5	473	7638	8111
340	Criminal Force	247	883	1130	57	38	95	81	48	129	52	27	79	437	996	1433
363 364	Rape	155	162	317	308	108	416	385	156	541	210	94	304	1058	520	2518
	Child Abuse				82	0	82	126	0	126	75	0	75	283	0	283
294	Murder	22	90	112	5	3	8	6	9	15	4	6	10	37	108	145
355	Kidnapping	77	39	116	32	9	41	59	16	75	31	5	36	199	69	268
308 (A)	Cruelty	2		2	19	12	31	20	19	39	14	9	23	55	40	95
364 (A)	Incest	9	2	11	9	0	9	23	3	26	17	1	18	58	6	64
303	Abortion				0	3	3	0	2	2	0	0	0	0	5	5
365 (A)	Sexual Abuse				8	2	10	15	6	21	4	2	6	27	10	37
362	Gang Rape				7	12	19	9	8	17	2	8	10	18	28	46
365	Unnatural Offences	38	11	49	7	0	7	18	0	18	16	0	16	79	11	90
286 (A)	Porno - graphy	2		2	0	1	1	1	2	3	1	2	3	4	5	9
300	Attempted Murder	4	11	15	0	0	0	0	1	1	0	0	0	4	12	16

\* V.C.Hurt = voluntarily causing hurt (includes "no injuries, with weapons, torture, (others)

Source: Based on data from- the Women and Children's Division of the Police Department.

Note: Statistics for 1996 were not available.

**Table 2 : Analysis of Complaints**

Nature of Complaints	1991		1992		1993		1994		1995		1996		1997	
	D	ND	D	ND	D	ND	D	ND	D	ND	D	ND	D	ND
Harassment	295	3	446	5	538	11	481	9	1039	22	1565	31	1526	28
Non payment of wages	551	74	666	114	516	70	602	180	1025	307	1641	363	1196	318
Beach of contract	3	132	68	153	326	324	397	456	407	382	375	396	396	527
Lack of communication	1110	117	744	42	860	49	1237	101	1751	57	2095	72	1778	52
Deaths	13	18	5	5	13	12	26	11	40	28	45	9	73	29
Stranded	369	26	7	4	54	13	228	35	382	41	311	4	80	2
Others	739	201	504	154	209	51	298	89	593	128	928	252	1166	260
Total	3080	571	2440	477	2516	530	3269	1881	5237	965	6960	1127	6215	1216
<b>Grand Total</b>	<b>3651</b>		<b>2917</b>		<b>3046</b>		<b>4150</b>		<b>6202</b>		<b>8087</b>		<b>7431</b>	

Source : Sri Lanka Bureau of Foreign Employment

Note : D - Domestic

ND - Non Domestic

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