

Statement by Sri Lanka

Half Day General Discussion on Access to Justice - 18 February 2013

Committee on the Elimination of Discrimination against Women (CEDAW - Committee)

The equality of men and women is enshrined in the Constitution of Sri Lanka. Article 12 of the Constitution guarantees the right to equality of all persons before the law and notes 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." This constitutional guarantee is further reinforced by the provision in the same Article that "nothing in the Article shall prevent special provision being made by law, subordinate legislation or executive action for the advancement of women, children or disabled persons".

Sri Lanka has taken significant action to combat violence against women. The Domestic Violence Act No 34 of 2005, enables, inter alia, conformity with the obligations of Sri Lanka under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), including the Observations made by the CEDAW Committee of Sri Lanka's 3rd and 4th Periodic Reports.

Several practical measures have been taken to improve its implementation since the Act was first introduced. For instance, the Women's and Children's Bureau of the Sri Lanka Police operates specialized desks countrywide to protect the interests of women and children who have been victims of acts of violence. The Act, which was drafted in consultation with women's groups and gender advocates provides for protection orders to be urgently obtained to safeguard women and children suffering or at risk of suffering from domestic violence.

In terms of relief, an aggrieved person can reply to the Magistrate's Court where an act of domestic violence has been committed or is likely to be committed, requesting either an Interim Protection Order or a Protection Order directing the person who has caused the grievance to refrain from committing any further act of domestic violence and may prohibit that person from either entering the aggrieved person's residence, place of employment, school or a temporary shelter, from occupying the shared residence, stalking, having access to shared resources, having any contact with a child or from performing any transaction related to the matrimonial home. The Act provides a civil remedy; therefore any charge has to be proved only on a balance of probability, which places a lesser onus on the aggrieved. Further, the granting of a civil remedy will have no bearing on the normal criminal justice process of investigation, prosecution and punishment will follow.

This Act has brought a subject earlier thought to be a "private" matter outside the interference of the State, into the public domain, and is an example of the Government's

abiding commitment to the enforcement of rights guaranteed under international instruments to which Sri Lanka is a party.

The Sri Lanka Judges' Institute has conducted several programmes to sensitize judges with regard to issues relating to violence against women. The Ministry also intends to design and implement a comprehensive sensitization plan for the Judiciary, increase surveillance by law enforcement officials in high risk areas and monitor the rates of Prosecutions and convictions.

In an effort to monitor and evaluate gender sensitive policies in Government, Gender Focal Points (GFP) have been set up in Government institutions.

In addition to the above legal and policy reforms, the Penal Code Amendment of 1995 has provisions to deal with sexual and other forms of harassment of women and children.

The Women's Charter, which was approved by the Cabinet of Ministers in 1993 acts as a guide for all persons, institutions, organizations and enterprises in all matters relating to women and their rights. The Charter recognize the following rights: Political and Civil Rights, Rights within the Family, Rights to Education and Training, Rights to Economic Activity and Training, Rights to Health Care and Nutrition, Rights to Protection from Social Discrimination. The Charter also established a National Committee on Women for the purpose of examining programmes on the realization of the obligations undertaken by the Charter.

Both private and public sectors and specific groups, such as men and boys, have been engaged to participate in prevention strategies or initiatives. The Ministry of Child Development and Women's Affairs has also conducted countrywide campaigns on violence against women, with the participation of both women and men.

The Citizenship (Amendment) Act No. 16 of 2003 removed the discriminatory provision that citizenship could be passed on to offspring only by males. Women now enjoy equal rights with men with regard to the nationality of their children. Significantly, the Act confers this right retrospectively, offering an opportunity to offspring who had previously been denied citizenship due to the discriminatory clause, to apply for citizenship.

With regard to the provision of granting residence visas to foreign-born spouses of Sri Lankan citizens, which was earlier discriminatory against women, the Supreme Court issued a directive in May 1999 to change the discriminatory guidelines. New guidelines which conform to the constitutional guarantee of the right equality have now been formulated.

Steps have already been taken to amend the Land Development Ordinance which is discriminatory towards women. The Third schedule of the Ordinance gives preference to male relatives over female relatives. The amendment sought to remove the discrimination by making reference to children, grand children, parents, siblings. Discussions are underway with provinces on the proposed amendments.

Sri Lanka has ratified both the ILO Equal Remuneration Convention (No. 100), and Discrimination Convention (Employment and Occupation) (No. 111), and the Ministry of Labour and Labour Relations has taken all efforts to implement the provisions of the said Conventions in order to provide equal opportunities for women and to eliminate gender discrimination in the work place.