

Sri Lanka's Vagrants Ordinance No. 4 of 1841: A Colonial Relic Long Overdue for Repeal

A Briefing Paper
December 2021



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1. Introduction

This briefing paper analyses the compatibility of [the 1841 Ordinance to Amend and Consolidate the Law relating to Vagrants \(Vagrants Ordinance\)](#)¹ with Sri Lanka's international legal obligations, with reference to contemporary international legal standards. It highlights how the Ordinance is non-compliant with these human rights protections and principles of the rule of law. The paper considers the law on its face and how it has been applied in practice.

While the law as a whole is oppressive towards persons from the marginalized and disadvantaged groups in society, the contemporary application of some of its overbroad and vague provisions are directly discriminatory towards women and LGBTI persons, especially trans women. The International Commission of Jurists (ICJ) therefore calls for the repeal of the Vagrants Ordinance and the review of all other legislation relating to vagrancy, specifically the Houses of Detention Ordinance, in line with international human rights law and standards. Even where certain elements of the Vagrants Ordinance may in certain circumstances be considered necessary and lawful for a legitimate purpose, the ICJ recommends that specific legislation on the subject should be adopted to replace the existing law.

2. Background & Overview of the law

English vagrancy laws, which date back to the 12th century, are an antiquated throwback to a time when persons without property or otherwise economically marginalized lacked legal rights and protection.² The legal language used in vagrancy laws in general demonstrates a disdain towards vagrants and a complete lack of concern for their plight.

Vagrancy laws created 'status crimes' where the offence is not based upon prohibited action or inaction, but rests upon the identity of the offender who has, or is perceived to have, a certain personal condition or is of a specified character. Essentially, these laws prohibited 'being something' as opposed to 'doing something with the intent of doing so'. The development of vagrancy laws generally did not consider the human rights of individuals, particularly freedom of movement, the rights to liberty, equality and non-discrimination, labour rights or the presumption of innocence.³ Such status-based distinctions are contrary to contemporary universal human rights law, which prohibits both the denial of rights and discriminatory treatment or denial of equal protection solely on status grounds.⁴

The general common law of Sri Lanka is heavily influenced by English law as a consequence of its colonial legacy. Several of the penal laws that were put in place by the British Administration in the late 19th and early 20th centuries remain in force, subject only to limited amendments in the 73 years of Sri Lanka's post-independence

¹Ordinance to Amend and Consolidate the Law relating to Vagrants No. 04 of 1841, available at:

http://hrlibrary.umn.edu/research/srilanka/statutes/Vagrants_Ordinance.pdf

² L Sebba, *The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies*, (1999) 3 *Crime, Histoire et Societies*, pp. 4

³South Africa Litigation Centre, *A short history of English Vagrancy Laws*, August 2017, p. 16, available at:

https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/04_SALC-NoJustice-Report_A-Short-History-of-English-Vagrancy-Laws.pdf.

⁴ See, for example, International Covenant on Civil and Political Rights article 2(1) and article 26; International Covenant on Economic, Social and Cultural Rights article 2(2); UN Committee on Economic, Social and Cultural Rights, General Comment 20, Non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20 (2 July 2009).

history. The Vagrants Ordinance of 1841 replicates the English Vagrancy Act of 1824. The Sri Lankan law on vagrants has since been subject to twelve amendments, with the last being made, prior to independence, in 1947.

The Vagrants Ordinance consists of twenty-five provisions. Sections 2 – 5, and 7 and 9 of the legislation penalize certain kinds of social behaviour. This includes, for example, behaving in a 'riotous and disorderly manner'; 'wandering', 'idling', 'gather[ing] or collect[ing] of arms under false pretense'; 'endeavoring by the exposure of wounds, deformities, leprosy or loathsome disease'; 'soliciting'; and 'acts of indecency'. The Ordinance labels persons engaged in such conduct as 'rogues,' 'vagabonds' or 'incorrigible rogues'. The punishments for some of these offences are aggravated depending on the number of times they are repeated.

Section 6 of the Vagrants Ordinance peculiarly stipulates that a person convicted as an 'incorrigible rogue' may, in addition to receiving the punishment imposed, be required to also give monetary security for future good behaviour for one year after discharge. Sections 8 and 10 determines how women and male 'youth' offenders shall be dealt with under this law. While the Magistrate has the discretion to direct female offenders to be sent to detention centers, males between the ages of 12-21 may either be sent to 'any institution established by law for the reclamation' or 'industrial training of juvenile offenders' in lieu of a prison sentence.

Sections 11 and 12 deals with certain offences involving a girl under the age of 16, including 'encouraging the seduction or prostitution or unlawful carnal knowledge,' and details the punishment for such offenders. Section 16 stipulates that these offences are non-cognizable and bailable. Sections 13 – 15 details the consequences for girl-children who have been victimized as a result of the aforesaid offences. These sections spell out the role of peace officers in relation to such children and the discretion afforded to the Magistrate and the relevant Cabinet Minister in this regard.

While section 19 stipulates that peace officers and protection officers cannot be held liable for any act or omission done in good faith, officers neglecting their duty may be held liable under Section 20. Moreover, persons obstructing officers from executing their duties under this ordinance are liable for prosecution under Section 21. The Vagrants Ordinance also sets a statutory time limit of one month within which one may be prosecuted under sections 2-6, 20 and 21 of the Ordinance.

The Vagrants Ordinance makes specific reference to the Houses of Detention Ordinance under Section 8. This statute deals with the establishment of houses of detention for vagrants arrested under the said law and the Vagrants Ordinance.

3. Legal Framework

3.1 International Obligations

Sri Lanka is a dualist country and requires the passing of domestic legislation for international treaties to which Sri Lanka is party so as to ensure domestic enforceability.⁵ However, irrespective of the adoption of such legislation, Article 27 (15) of Sri Lanka's Constitution provides that the State "shall endeavor to foster respect for international law and treaty obligations in dealings among nations."

⁵ *Nallaratnam Singarasa v. The Attorney General*, S.C. Spl (LA) No. 182/99 (2006).

Sri Lanka is a State party to most of the core human rights treaties and their protocols, including the International Convention on the Elimination of Racial Discrimination (ICERD); the International Covenant on Civil and Political Rights (ICCPR), the (first) Optional Protocol to the ICCPR; the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Optional Protocol to the CEDAW; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Optional Protocol to the CAT; the Convention on the Rights of the Child (CRC); the Optional Protocol to the CRC on the involvement of children in armed conflict; the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW); the Convention on the Rights of Persons with Disabilities (CRPD); and the International Convention for the Protection of all Persons from Enforced Disappearances (ICPED).⁶

Each of these treaties respectively provide that the rights guaranteed under them must be protected without discrimination. The principle of non-discrimination is protected more broadly in respect of all State conduct, beyond the rights protected under the treaties. Article 26 of the ICCPR provides that

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

While article 26 and the other treaties provide for a non-exhaustive list of grounds that are subject to protection, each contains a catch-all at the end of the list in the form of "other status". This connotes that discrimination is prohibited on any status grounds, and not just those explicitly enumerated. Contemporary human rights jurisprudence and standards have made clear a number of additional grounds that are included as prohibited status grounds, including disability, age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, and economic and social situation.⁷

UN human rights treaty bodies and special procedures, have repeatedly affirmed the obligation to protect human rights without discrimination against LGBTI persons in their respective treaties.⁸ For instance, the Human Rights Committee (HRC) has consistently reiterated that the generalized prohibition of non-discrimination, equality and equal protection of the law guaranteed in article 26 of the ICCPR prohibits discrimination based on sexual orientation. In its landmark *Toonen* decision, the

⁶ Sri Lanka is not yet party to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty; the Optional Protocol to the ICESCR; the (third) Optional Protocol to the CRC on a communications procedure; and the Optional Protocol to the CRPD.

⁷ Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, E/C.12/2000/4, 11 August 2000, para 18; Committee on Economic, Social and Cultural Rights, *General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2)* E/C.12/GC/20, 2 July 2009, para 32.

⁸ Committee on the Rights of the Child, *General Comments No. 4 (CRC/GC/2003/4)*, 2003, para. 6, and No. 9 (CRC/C/GC/9), 2007, para 8., Committee against Torture, *General Comments No. 2: Implementation of article 2 by States parties*, CAT/C/GC/2, 24 January 2008, para 21.n

Human Rights Committee interpreted the word "sex" in Articles 2, paragraph 1, and 26 of the ICCPR to include sexual orientation.⁹

The concept of "vagrancy" implicates a broad range of rights on its face. While vagrancy is not synonymous with "homelessness", the right to housing will typically be engaged in respect of those identified as or perceived to be "vagrants". The right to adequate housing is specifically protected under ICESCR article 11. The Committee on Economic, Social and Cultural Rights (CESCR), which is the supervisory body for the ICESCR¹⁰ and the UN Special Rapporteur on Housing¹¹ have made clear that the criminalization of homelessness in particular is incompatible with States' human rights obligations.

The Special Rapporteur on extreme poverty and human rights found that criminalization leaves homeless people with "no viable place to sleep, sit, eat or drink . . . [and] can thus have serious adverse physical and psychological effects on persons living in poverty, undermining their right to an adequate standard of physical and mental health and even amounting to cruel, inhuman or degrading treatment."¹²

The consequences of the criminalization of homelessness far outweigh the societal benefits they allegedly produce. These deprivations of homeless people's liberty are disproportionate, unfair, and irregular, in contravention of article 9 of the ICCPR which protects against arbitrary arrest and detention. The Human Rights Committee has recognized that article 9 provisions specifically protect against vagrancy laws targeting the poor (General Comment No. 8).

Article 12 (1) and (3) of the ICCPR furthermore specifies that everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose their residence and that this right shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others. Imposing fines and criminalizing people who are homeless is a disproportionate response to any threats to public order, health or morals that may be caused by people living in public places. Removing homeless people from public space by force without providing sufficient short and long term accommodation and subjecting them to fines or imprisonment may also constitute cruel, inhuman or degrading treatment in contravention of article 7 of the ICCPR and the CAT.

The CESCR has affirmed that ICESCR obligations require that "[i]ndividuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society. A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal

⁹Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992, 31 March 1994; para 8; Human Rights Committee, *Edward Young v. Australia*, Communication No 941/2000, CCPR/C/78/D/941/2000, 18 September 2003, para 10.4. See also: Human Rights Committee, *X v. Colombia*, Communication No 1361/2005, CCPR/C/89/D/1361/2005, 14 May 2007, para 7.2.

¹⁰ Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to adequate housing (art.11 (1))* (1991), para 4.

¹¹See the Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona (A/66/265) para. 36, available at <http://www.ohchr.org/Documents/Issues/EPoverty/A.66.265.pdf>

¹² *Ibid*

of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places.”¹³

Principle 12 of the [UN Guiding Principles on extreme poverty and human rights](#) similarly recognize that those living in poverty tend to experience several intersecting forms of discrimination and that “equality and non-discrimination are immediate and cross-cutting obligations that must underlie all measures taken by all relevant stakeholders in relation to persons living in poverty.”¹⁴

3.2 Constitutional Rights

The Fundamental Rights chapter of the [Sri Lankan Constitution](#) guarantees that “all persons are equal before the law and are entitled to the equal protection of the law,”¹⁵ effectively incorporating the State’s obligations under ICCPR article 26 into its domestic law. Article 12 (2) explicitly prohibits discrimination on “grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.” This enumeration has been interpreted by some scholars to be exhaustive,¹⁶ an interpretation which if accepted would clearly mean that the Constitution falls short of Sri Lanka’s obligation to afford the full protection against discrimination on any status grounds. However, it has been held that when discrimination is alleged on a ground other than those specified in Article 12 (2) the complaint still may be adjudicated by a court by means of the general Article 12 (1).¹⁷

It must also be noted that when Sri Lanka was taken up for review before the Human Rights Committee in 2014, the Government affirmed that Article 12 read as a whole ensures equality for sexual orientation and gender identity and that laws discriminating on the grounds of sexual orientation and gender identity are unconstitutional.¹⁸

A wide range of civil and political rights are protected, including under Article 11, which ensures the freedom from torture or cruel, inhuman or degrading treatment. Article 13 recognizes the freedom from arbitrary arrest, detention and punishment. It stipulates that “every person shall be presumed innocent until he is proved guilty.”¹⁹ Economic, social and cultural rights are generally not included in this fundamental rights chapter. However, the directive principles of State policy provided for under Chapter VI of the Constitution indicate that “[t]he State is pledged to establish in Sri Lanka a Democratic Socialist State, the objectives of which include (a) the full realization of the fundamental rights of all persons” and a specified number of economic, social and cultural rights. These include, among others, “the realization by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living

¹³ Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, (art.2) (2009), U.N. Doc. E/C.12/GC/20 (2009), para 35

¹⁴ UN Office of the High Commissioner for Human Rights (OHCHR), *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, 2006, HR/PUB/06/12, available at: <https://www.refworld.org/docid/46ceaf92.html>

¹⁵ Article 12 (1) of the Sri Lankan Constitution, available at: <http://www.parliament.lk/files/pdf/constitution.pdf>

¹⁶ Deepika Udagama, *Right to Equality: The New Frontier of Judicial Activism*, Human Rights Human Values and the Rule of Law: Essays in Honour of Deshamaya H. L. De Silva PC, Eds. A. R. B. Amarasinghe, S. S. Wijeyaratne, (2003), Legal Aid Foundation, Colombo, p. 300, Jayampathy Wickramaratne, *Fundamental Rights in Sri Lanka*, Stamford lake Publications, Pannipitiya, 3rd Edition (2006), pg. 283

¹⁷ Justice S. Sharvananda, *Equal protection of the law*, Fundamental Rights in Sri Lanka: a commentary, Sri Lanka (1993), p.93

¹⁸ Outright International, *Sri Lankan Government says LGBT rights are constitutionally Protected*, 20 October 2014, available at: <https://outrightinternational.org/content/sri-lanka-government-says-lgbt-rights-are-constitutionally-protected>

¹⁹ Article 13 (4) of the Sri Lankan Constitution

conditions and the full enjoyment of leisure and social and cultural opportunities.”²⁰ The article also provides that “the State shall eliminate economic and social privilege and disparity and the exploitation of man by man or by the State”²¹ and that the “State shall ensure social security and welfare”.²²

Nevertheless, it must be noted that the Sri Lankan Constitution under Article 16 permits the continued validity and operation of all written and unwritten law that existed at the time of the passing of the Constitution in 1978, notwithstanding any inconsistency with the fundamental rights chapter. This constitutional provision allows for the continued existence and operation of several laws, including the Vagrants Ordinance, that are incompatible with human rights.

4. Vagrants Ordinance: Areas of Concern

The principle of legality requires that laws which regulate the conduct of individuals must be expressed in clear unambiguous terms which are not overbroad, so that an individual is capable of conforming their behaviour to its dictates. The Vagrants Ordinance was passed 180 years ago and has not been revised to take into account the intervening changes in laws and legal and social norms, raising serious questions as to legality. This is further reinforced by the fact that they come into conflict with international human rights law and standards. Several provisions of the Vagrants Ordinance are non-compliant with Sri Lanka’s international human rights obligations, including in respect of the prohibition of discrimination, the right to housing, the right to liberty of movement and freedom to choose one’s residence. Some of the deeply problematic aspects of the Vagrants Ordinance will be discussed below.

4.1 Status Crimes

The Vagrants Ordinance effectively criminalizes the subsistence of the economically underprivileged. For instance, those who beg (“every person being able to maintain himself by work or other means but who shall... beg or gather alms or cause or procure or encourage any of his family to do so”),²³ including those who are physically challenged or unwell (“every person... by exposure of any wounds, deformities, leprosy or loathsome diseases to obtain or gather alms”),²⁴ are subject to criminal liability for their behaviour.²⁵

The Ordinance also allows the Magistrate to convict boys between the ages of twelve and twenty-one who are “found habitually wandering about the streets and accosting persons therein, or in the company of disorderly or immoral persons or of reputed criminals, and that such person has no regular occupation, or no other occupation than that of professing to render casual services to persons requiring them” if they are found to be “addicted to unnatural vice or is otherwise of corrupt or immoral habits”.²⁶

Similarly, section 3 (1) (c) penalizes “every person wandering abroad or lodging in...without the leave of the owner (of the lodging)”. Even though this act is akin to

²⁰ Article 27 (2) (c) of the Sri Lankan Constitution.

²¹ Article 27 (7) of the Sri Lankan Constitution

²² Article 27 (9) of the Sri Lankan constitution

²³ Section 3 (1) (a) of the Vagrants Ordinance

²⁴ Section 4 (d) of the Vagrants Ordinance

²⁵ Sections 3 (a) (1), 4 (d) of the Vagrants Ordinance

²⁶ Section 10 (1) (b) of the Vagrants Ordinance

criminal trespass under the penal code,²⁷ it includes as a constituent element of the crime, the absence of “any visible means of subsistence” on the part of the offender making it an offence that only penalizes the indigent.

In all of the above instances the economic status and means of subsistence of the accused is paramount to determine culpability. Criminal liability based on status grounds, including economic status, are discriminatory and inconsistent with international human rights law and standards. States have an obligation to respect, protect and fulfill the rights to food, housing, and health, and not to penalizing behaviour resulting from the failure to do so. As was affirmed by the UN working Group on Arbitrary Detention subsequent to its visit to Sri Lanka, “acts of vagrancy are strongly associated with poverty, which is a social problem best addressed through the provision of support services that allow the impoverished to live with dignity and self-sufficiency.”²⁸

The [UN Guiding Principles on extreme poverty and human rights](#) calls for the repeal or reform of any laws that criminalize ‘life sustaining activities in public places such as sleeping, begging, eating or performing personal hygiene activities.’ The Principles also indicate that States should “review sanctions procedures that require the payment of disproportionate fines by persons living in poverty, especially those related to begging, use of public space and welfare fraud, and consider abolishing prison sentences for non-payment of fines for those unable to pay.”²⁹

From a comparative perspective, a number of domestic courts have determined that certain status crimes do not comply with the prohibition against cruel, inhuman or degrading treatment or punishment because the defendant is punished for unfortunate circumstances beyond his or her control. For instance, India’s New Delhi High Court, which ruled on a similar law (Bombay Prevention of Begging Act of 1959), held that “criminalising begging violates the most fundamental rights of some of the most vulnerable people in our society. People in this stratum do not have access to basic necessities such as food, shelter and health, and in addition criminalizing them denies them the basic fundamental right to communicate and seek to deal with their plight” (2018).³⁰

4.2 Vague and overbroad laws

Several provisions of the Vagrants Ordinance, especially those proscribing social behaviour, are, on their face, vague and overbroad and enforcement of the Ordinance based on these provisions is necessarily arbitrary. For instance, section 2 of the Ordinance criminalizes ‘riotous and disorderly behaviour’ and section 7 (1) (b) penalizes ‘any person found committing any act of gross indecency or found behaving with gross indecency in or about any public place.’ In both these instances, the statute fails to define terms such as “disorderly and riotous” and “gross indecency” and provides no explanation as to what such behaviour entails. This permits the police to undertake arbitrary and discriminatory arrests as any behaviour the police purports to consider unacceptable within these terms can be brought within the purview of such vaguely worded sections. This is non-compliant with the ICCPR, as the Human Rights

²⁷ Sections 427, 428, 429, 430 of the Penal Code of Sri Lanka.

²⁸ Working group on arbitrary detention, *Preliminary findings from its visit to Sri Lanka* (4 to 15 December 2017), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22541>.

²⁹ UN Office of the High Commissioner for Human Rights (OHCHR), Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, 2006, HR/PUB/06/12, available at: <https://www.refworld.org/docid/46ceaf92.html>

³⁰ *Harsh Mander & Anr. v. Uoi & Ors. And Karnika Sawhney v. Uoi & Ors.* W.P.(C)Nos.10498/2009 & 1630/2015 available at https://www.hlrn.org.in/documents/HC_Delhi_Decriminalisation_of_Begging.pdf.

Committee has affirmed in its General Comment on the right to liberty under article 9(1) that: “any substantive grounds for arrest or detention must be prescribed by law and should be defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.”³¹

This is further exacerbated when police personnel are given unfettered discretion to undertake arrests without a warrant based on some of these vaguely worded provisions. For instance, section 3 (2) of the Ordinance allows for arrest without warrant every person deemed to be an ‘idle or disorderly’ person. The Human Rights Committee expressed concern at similarly “vaguely worded” provisions in the Philippine’s anti-vagrancy laws, which also allow for warrant-less arrests and stated that such laws and practices with regard to arrest should be brought in full conformity with Article 9 of the ICCPR.³²

A key precondition to a fair trial under articles 14 and 15 of the ICCPR, and recognized globally, is that criminal offences must be prescribed by law and conform to the principle of legality. This means that they must be formulated clearly and precisely to ensure individuals can regulate their conduct accordingly. Vague laws undermine the rule of law because they leave the door open to selective prosecution and interpretation, including based on discriminatory policies of government officials and personal predilections of judges. The vague wording of the law also has an adverse impact on framing of the charge against the accused. A criminal charge is the official notification of an allegation of a criminal offence provided to an individual. Under international law, including article 14 of the ICCPR, the accused must be given sufficiently detailed information about the charge(s) against them so that they can prepare a defense.

4.3 Rights of a Child

The Vagrants Ordinance has several sections which deal with children that are incompatible with Sri Lanka’s legal obligations in respect of protection of the rights of a child. For instance, section 10 on “detention of youthful bad characters” deals with boys between the ages of twelve and twenty-one. Section 11, which concerns several acts of sexual exploitation, limits itself to girls under 16 and fails to address the sexual exploitation of boys entirely and girls between the ages of 16-18.

The categorization of those between the ages of 12-21 as ‘youth’ and the definition of a girl child being limited to those under 16 are incompatible with the Convention on the Rights of a Child (CRC) which recognizes anyone under the age of 18 as a minor. The Children’s Charter of Sri Lanka which was drafted subsequent to Sri Lanka’s ratification of the CRC also recognizes those under 18 as children.

Section 10 (b) penalizes any male between the ages of 12-21 who is “found habitually wandering about the streets and accosting persons therein or in the company of disorderly or immoral persons or of reputed criminals and that such person has no regular occupation or no other occupation than that of professing to render casual services to render casual services to persons requiring them.” This provision is deeply problematic as it discriminates against male children primarily on the basis of their

³¹UN Human Rights Committee, *General Comment No. 35 (Liberty and Security of the Person)*, UN Doc. CCPR/C/GC/35, (16 December 2014), para 22, available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC35-Article9LibertyandSecurityofperson.aspx>

³²UN Human Rights Committee, Concluding Observations on the Country Report submitted by the Philippines at the 79th Session, December 2003, CCPR/CO/79/PHL, available at: <https://www.ici.org/wp-content/uploads/2006/09/Concluding-Observations-CCPR-Philippines-2003-eng.pdf>.

economic status. It is also in direct contravention to international standards, as affirmed by the Committee on the Rights of the Child in its General Comment No. 21. The Committee there stresses that to bring themselves into compliance with the CRC State parties should “with immediate effect: remove provisions that directly or indirectly discriminate on the grounds of the street situation of children or their parents or family; abolish any provisions allowing or supporting the round-up or arbitrary removal of children and their families from the streets or public spaces; abolish where appropriate offences that criminalize and disproportionately affect children in street situations, such as begging, breach of curfews, loitering, vagrancy and running away from home...[.]”³³

4.4 Female Offenders to be committed to a House of Detention

Section 8 of the Ordinance states that where the offender found guilty of offences listed in sections 2-7 is female, the court may, in its discretion both in respect of any imprisonment or imprisonment in default of a payment of fine, commit such female instead to any house of detention established under [the Houses of Detention Ordinance](#).³⁴

A House of Detention is set up for the purpose of receiving any person declared as a vagrant by a Magistrate. Even though such houses were notionally meant to act as vocational training centers or shelter homes, in reality they serve effectively to deprive persons who are brought there of their liberty. Section 4 (2) of the Houses of Detention ordinance provides that “every person detained in a house of detention shall be detained until he avails himself of suitable employment found for him, or until he is removed or discharged.” Moreover, section 12 of the Ordinance states that any vagrant who escapes the house of detention without permission of the superintendent shall be liable to imprisonment of any term not exceeding three months. Therefore, such houses of detention essentially function as prisons for those who the State deems a ‘vagrant’. Such unwarranted and arbitrary deprivation of liberty stands in direct contravention of Articles 9 and 10 of the ICCPR. These provisions tend to blur the line between a prison and a house of detention and defeats the purpose of having such a separate state structure *in lieu* of a prison sentence.

Moreover, section 8 of the Vagrants Ordinance provides that sections 5 and 6 of the Houses of Detention Ordinance applies to every such person sentenced for detention under the Vagrants Ordinance. Section 6 of the Houses of Detention Ordinance grants the Minister-in-charge the power to stipulate regulations for management of the houses of detention. This includes the power to order “the destruction of the clothing and effects of inmates.” The minister can also prescribe punishment for disobedience of such regulations which may include “one week’s confinement” and/or “one week’s reduced diet”. These provisions, especially the altering of an inmate’s diet, amount to cruel, inhuman or degrading punishment of women committed to such houses of detention and are in violation of the ICCPR (article 7 and 10), the UN Convention Against Torture, and the rights to food health an guaranteed in the ICESCR (articles 11 and 12). They are also not in keeping with the UN Standard Minimum Rules for the Treatment of Prisoners which, under Rule 43 clearly stipulates that “in no circumstances may restrictions or disciplinary sanctions amount to torture or other

³³ UN Committee on the Rights of the Child, *General Comment No. 21 on Children in street situations*, June 2017, CRC/C/GC/21, available at: <https://digitallibrary.un.org/record/1304490?ln=en>

³⁴ The House of Detention Ordinance No. 05 of 1907, available at: http://hrlibrary.umn.edu/research/srilanka/statutes/Houses_of_Detention_Ordinance.pdf

cruel, inhuman or degrading treatment or punishment” and expressly prohibits “the reduction of a prisoner’s diet or drinking water.”³⁵

4.5 Trafficking

Even though the Vagrants Ordinance does not use the term ‘trafficking’, it addresses issues relating to sexual exploitation and what may amount to trafficking of girls under the age of 16. The provisions relating to trafficking are outdated and redundant subsequent to the passing of the Penal Code Amendments in 2006³⁶ and [the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act 2005](#), both of which were introduced specifically to address the issue of trafficking.³⁷

Moreover, several of these sections are deeply problematic and incompatible with domestic and international standards on the issue. For instance, sections 11 (3) and 12 (4) of the legislation exempts from liability any parent or guardian who has “given his consent to a girl living with any man as his wife”. This exemption is in contravention to the minimum age of marriage requirement under [Section 15 General Marriage Ordinance of 1907](#) which requires both parties to a marriage to be above eighteen. This position was upheld in *Gunaratnam v. Registrar-General*³⁸ the Court of Appeal stated that:

“Since the prohibited age of marriages has been raised to 18 years of age, the absolute bar to marriage must necessarily override the parental authority to give consent to the marriage of a party. It was not relevant whether parents agreed or did not agree to the marriage of their children, only persons who had completed 18 years of age could enter into a valid marriage.”

Such an exemption of liability under sections 11 (3) and 12 (4) is also not in line with Sri Lanka’s international legal obligations under Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women and Article 16 (2) of the Convention on the Rights of the Child, which prohibit States parties from permitting or giving validity to a marriage between persons who have not reached majority.

The CEDAW and the CRC Committees have called on States to ensure that “a minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years. When a marriage at an earlier age is allowed in exceptional circumstances, the absolute minimum age must not be below 16 years, the grounds for obtaining permission must be legitimate and strictly defined by law and the

³⁵ UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) : resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, available at: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

³⁶ Under Section 360 (C) (1) (c) of the Penal Code, it is illegal to recruit, transport, transfer, harbour or receive a child, regardless of the child’s consent, for purposes of prostitution or other forms of sexual exploitation. A “child” is defined as a person under 18 years of age (Section 360 (C) (3)). Violators may be punished with at least three years’ and up to twenty years’ imprisonment, and may be fined (Section 360 (C) (2))

³⁷ The Act defines trafficking as ‘moving, selling or buying of women and children for prostitution within and outside the country for monetary or other considerations with or without the consent of the person being subjected to trafficking.

³⁸ *Gunaratnam v. Registrar General of Marriage* (2002) 2 Sri LR 302, available at: <https://www.lawnet.gov.lk/wp-content/uploads/2016/11/041-SLLR-SLLR-2002-V-2-GUNARATNAM-v.-REGISTRAR-GENERAL.pdf>.

marriage must be permitted only by a court of law upon the full, free and informed consent of the child or both children, who must appear in person before the court.”³⁹

Sections 13-15 of the Vagrants Ordinance address the treatment and legal disposition of girls , against whom the above offences are committed. Such girls are subject to detention for up to seven days by a peace officer⁴⁰ and appearance before a magistrate.⁴¹ A magistrate is empowered to issue a number of orders relation to such an offence including further detention;⁴² and there are numerous options as to how the case is subsequently to be ‘disposed’ by court⁴³ as well in respect of the control and maintenance of a girl delivered into the custody of a person or society by way of a court order.⁴⁴ These processes too are antiquated, grossly insufficient and neither in keeping with the realities and challenges confronting child trafficking nor in line with national⁴⁵ or international standards⁴⁶ pertaining to such issues.

For instance, section 14, which deals with the girl against whom an offence is committed by a parent/guardian, gives excessive discretion to the magistrate regarding what is to be done of such a girl who is rescued by a peace officer. Not only is the magistrate allowed to deliver such a girl into “the custody of a relative of the girl or some other fit person or society, approved and named by the Magistrate, until she attains the age of sixteen years,” but the magistrate is empowered to make such an order in the absence of the girl.⁴⁷ This goes against the best interest principle, which is a legal obligation under Article 3 (1) of the Convention on the Rights of the Child: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

It is also in contravention of the [Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children](#) , which provides that victims should be assisted “to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders.”⁴⁸

4.6 Sex work (‘Prostitution’)

Section 11 (1) makes it a criminal offence for any “person, having the custody, charge, or care of a girl” to cause or encourage “the seduction or prostitution or unlawful

³⁹ UN Committee on the Elimination of All Forms of Discrimination Against Women and the Committee on the Rights of a Child, *Joint General Recommendation No. 31 on the Elimination of Discrimination against Women*, UN Committee on the Rights of a Child, *General comment No. 18 on harmful practices*, 2014, para. 55(f), November 2014, CEDAW/C/GC/31-CRC/C/GC/18 available at:

https://reliefweb.int/sites/reliefweb.int/files/resources/CEDAW_C_GC_31_CRC_C_GC_18_7557_E.pdf

⁴⁰ Section 13 (1) of the Vagrants Ordinance

⁴¹ Section 13(2) of the Vagrants Ordinance

⁴² Section 13 (3) of the Vagrants Ordinance

⁴³ Section 14 of the Vagrants Ordinance

⁴⁴ Section 15 of the Vagrants Ordinance

⁴⁵ The Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015, available at:

https://srilankalaw.lk/YearWisePdf/2015/ASSISTANCE_TO_AND_PROTECTION_OF_VICTIMS_OF_CRIME_AND_WITNESSES_ACT,_No._4_OF_2015.pdf

⁴⁶ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, available at:

<https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

⁴⁷ Section 14 (5) of the Vagrants Ordinance

⁴⁸ Article 6 (2) (b), UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, available at: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

carnal knowledge of the said girl".⁴⁹ The offence is punishable with up to six months' imprisonment and/or a fine of up to 100 Rupees.

The use of vague and undefined terms such as 'unlawful carnal knowledge' and 'seduction' to define an act that constitutes a criminal offence is not compliant with the principle of legality as applied to criminal law because they are imprecise and overbroad and thus open to arbitrary interpretation. There is no explanation as to what constitutes these acts and no definition as to the mental and physical aspects of the offence. The act of 'seduction', at least without further specification, is far too vague and overbroad to be criminalized, and could include forms of expression or conduct that are protected under human rights law. While all children under the age of 18 must be protected from sexual exploitation and any such conduct must be proscribed accordingly, there should be no criminalization of vaguely defined conduct of this kind. Section 11 (1) should therefore be comprehensively revised with a view to proscribing solely conduct on the part of any "person, who has custody, charge, or care of a minor (under the age of 18) and that causes or otherwise induces the rape or other forms of sexual assault or sexual exploitation of that minor."

Three other sections of the Vagrants Ordinance make reference to activities relating to 'prostitution'.⁵⁰ Section 9 (1) (a) of the Ordinance incriminates "any person who knowingly lives wholly or in part of the earnings of prostitution." However, the Sri Lankan Supreme Court, which ruled on this matter in *Saibo v. Chellam*,⁵¹ held that,

"Prostitution is not an offence per se under our law...what the subsection penalizes is "the making of a living out of the corruption and degradation of others." ... This would apply when another person is charged with the living on the earnings of a prostitute but in the case of the prostitute herself it would be meaningless. Both according to the intention of the Ordinance and the words of the sub-section itself the latter has no application to prostitutes who live on their own earnings as prostitution."

The court ruled that sex work ('leading the life of a prostitute') is not an offence and acquitted the two women who were arrested under section 9 (1) (a).

Section 3 (1) (b) penalizes "every common prostitute wandering in public... and behaving in a riotous and indecent manner," Section 7 (1) (a) criminalizes soliciting 'illicit sexual intercourse' in public places. In February 2020, a magistrate, citing the aforementioned judgement, ruled that a sex worker may only be arrested under Section 3 of the ordinance only if she behaves in a "riotous or disorderly manner in any public street or highway" and not merely for engaging in commercial sex.⁵²

Despite court judgments pronouncing that sex work *per se* cannot be penalized, the Vagrants Ordinance is routinely used by the police to incriminate sex workers in Sri Lanka. Street sex workers who are most vulnerable to violence and exploitation are particularly targeted.⁵³ [The CEDAW Committee in its concluding observations](#) on Sri

⁴⁹Section 11 of the Vagrants Ordinance

⁵⁰ Sections 3 (1) (b), 7 (1) (a) and 9 (1) (a) of the Vagrants Ordinance

⁵¹ *Saibo v. Chellam*, (1923) 25 NLR 251, available at: <https://www.lawnet.gov.lk/saibo-v-chellam-et-al/>

⁵² Shehan Chammika Silva, 'Not an offence to earn a living by prostitution' – Magistrate, Daily Mirror, 19 February 2020, available at: http://www.dailymirror.lk/print/front_page/Not-an-offence-to-earn-a-living-by-prostitution-Magistrate/238-183356.

⁵³ Abhimani Women's Collective, The Stand Up Movement Lanka, Praja Diri Padanama (PDP, Puttalam), Community Strength Development, Foundation (CSDF), Women's Resource Centre (Kurunegala), *Shadow Report on the Status of*

Lanka (2017) raised concern about the use of the Vagrants Ordinance “by the police to arbitrarily arrest women in prostitution, using their possession of condoms as evidence of engaging in prostitution, and to subject these women to harassment, sexual bribery and extortion.”⁵⁴

Faced with the constant threat of criminal action, sex workers in Sri Lanka are unable to benefit from Sri Lanka’s labour framework, such as demanding safe and dignified working conditions or obtain social security benefits.⁵⁵ Misuse of the Vagrants Ordinance in such a manner legitimizes violence by the police and health care providers and makes sex workers reluctant to report abuses and also results in authorities being reluctant to offer protection or support to sex workers.

4.7 Security for future good behaviour

Section 6 of the Vagrants Ordinance states that every person convicted as an ‘incurable rogue’ shall, as an addition to any punishment imposed shall, be “required also to give security for his good behaviour for one year after his discharge and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months.” According to Section 82 of the [Criminal Procedure Code](#), ‘security’ entails the execution of a bond with sureties. Moreover, the Criminal Procedure Code provides that the burden is on the ‘vagrant’ to show why they should not be ordered to execute such a bond. This peculiar section of law seeks to penalize a convict who has already served their sentence, in anticipation of the recurrence of the offence for which they were already punished. Unlike providing security when obtaining bail, which acts as a surety for a convicted offence, this section seeks to incriminate an individual for an offence that is yet to be committed.

This provision of law is in contravention with the principle of double jeopardy (*ne bis in idem*) as it essentially seeks to re-incriminate someone based on their past behaviour. Article 14 (7) of the ICCPR mandates that “no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law.” Moreover, casting the burden on the accused to demonstrate why they should not be made to execute a bond, effectively reverses the presumption of innocence, as it presumes guilt. This is in contravention of Article 14 (2) of the ICCPR which stipulates that “everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.” This basic fair trial safeguard is also provided for under Article 13 (5) of the Sri Lankan constitution.

5. Implications in practice

While several aspects of the Vagrants Ordinance are deeply problematic, the repercussions of most of these provisions are typically not experienced in practical terms, as much of the statute is not implemented in its entirety in present times. However, even though the use of the legislation has gradually reduced over the years,⁵⁶ its continued existence on the statute books allows for the sustained, albeit *ad hoc* use of it by the enforcement authorities. Today, women, especially trans

Women Sex Workers in Sri Lanka Submitted to the CEDAW Committee, January, 2017, available at:

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LKA/INT_CEDAW_NGO_LKA_26289_E.pdf.

⁵⁴ UN Committee on the Elimination of All Forms of Discrimination Against Women: Concluding Observations on the eighth periodic report of Sri Lanka, CEDAW/C/LKA/CO/8, 9 March 2017, p. 9/17, pp. 26 available at:

<https://digitalibrary.un.org/record/1286137?ln=en#record-files-collapse-header>

⁵⁵ *ibid.*

⁵⁶ *Supra* 47, p. 37.

women, are the worst affected by the selective application of this law. The limited ways in which this legislation is applied in practice will be discussed below.

5.1 Arbitrary application of the law

As discussed above, several provisions of the Vagrants Ordinance are vague and overbroad making them susceptible to misuse and abuse by the police. For instance, the Sri Lankan police make use of Section 7 (1) (b) on 'committing acts of gross indecency' to routinely arrest couples for being intimate in public.⁵⁷ Even though, public display of affection is not outlawed, the vague terminology of this section allows the police to carry out arrests for such conduct.

Similarly, even though the Sri Lankan Judiciary has consistently held that sex work is not an offence under this law, broad provisions relating to 'prostitution' is made use of to harass and arrest sex workers. It is reported that sex workers are sometimes arrested when they are engaged in day-to-day activities, such as shopping or taking their children to school, merely because they are identified as a sex worker by the police.⁵⁸

5.2 The arbitrary arrests, ill-treatment and harassment of LGBTI persons

While sections 365 and 365A of the Penal Code relating to 'unnatural offences' and 'acts of gross indecency' are primarily used against LGBTI persons in Sri Lanka, the Vagrants Ordinance is routinely used to arrest LGBTI persons, especially lesbians perceived by the police to have masculine characteristics and trans women. In most instances charges are not filed against them and they are seldom taken to court. Instead, they are harassed and ridiculed and often made to pay bribes to secure their release.⁵⁹

Trans women and other sexual and gender minorities regardless of whether they are engaged in sex work are often caught up in raids that are conducted by the police to arrest those presumed to be engaged in commercial sex work.⁶⁰ This is indeed ironic as sex work in itself is not criminalized under the Vagrants Ordinance.

Trans women who are engaged in sex work are subjected to further harassment owing to their gender identity. Often, those who are arrested are detained overnight in police cells designated for men and forced to dress like men while in custody.⁶¹ They are also often detained in cells together with men which poses a risk of violence and sexual assault.

There is well documented allegation of Sri Lankan police conducting forced physical examinations, including forced anal and/or vaginal examination, in an attempt to provide proof of homosexual conduct.⁶² Such examinations amount to a form of sexual

⁵⁷Avanti Arasakularate, 'Indecent' and 'underage': the harassed lovers of Sri Lanka, Roar Media, 6 October 2020, available at: <https://roar.media/english/life/rights/indecent-and-underage-the-harassed-young-lovers-of-srilanka>

⁵⁸ibid

⁵⁹Priya Thangarajah, *Strengthening of Legal Protection for LGBT in Sri Lanka: Situational Analysis*, Equal Ground, available at: <https://www.equal-ground.org/wp-content/uploads/Situation-Analysis.pdf>.

⁶⁰Human Rights Watch, *All five fingers are not the same: Discrimination on the Grounds of Sexual Orientation and Gender Identity in Sri Lanka*, 2016, available at: https://www.hrw.org/sites/default/files/report_pdf/srilanka0816web.pdf p. 17.

⁶¹Supra 47

⁶²Human Rights Watch, *Sri Lanka: Forced anal exams on homosexuality prosecutions*, 20 October 2020, available at: <https://www.hrw.org/news/2020/10/20/sri-lanka-forced-anal-exams-homosexuality-prosecutions>.

violence that violate the prohibition against torture and cruel, inhuman, or degrading treatment, protected under the CAT and the ICCPR (article 7).

5.3 'Methsevana' House of Detention

The Methsevana House of Detention in Gangodawila is the only State-run detention center established under the Houses of Detention Ordinance. Women and girls arrested under various offences under the Vagrants Ordinance, on the discretion of the magistrate, are sent to the House of Detention in lieu of a prison sentence.⁶³ However, it is difficult to decipher in what ways this house of detention is different from a term of imprisonment.

For more than a decade, serious concerns have been raised regarding the practices and facilities of the Detention Centre. The most problematic aspect is that most women who are held here are "no-date detainees," as the magistrate does not stipulate a specific release date. As a result, they are effectively detained indefinitely without due process and satisfactory judicial review. This is in clear contravention of Sri Lanka's obligations under article 9 (1) of the ICCPR. The Human Rights Committee has made clear that there can be no such indefinite detention since unauthorized confinement of prisoners beyond the length of their sentences is arbitrary as well as unlawful.⁶⁴

As was noted by the UN Working Group on Arbitrary Detention (WGAD) subsequent to its country visit to Sri Lanka in 2017, given that the women have no liberty to leave the detention center, the facility ultimately functions like a prison rather than a suitable environment for vocational training.⁶⁵ "Women are often brought to Methsevana in a prison van, uniformed police officers guard the facility, residential areas are secured by locks and bars, and a seclusion cell is used to temporarily house women who have been involved in violent behaviour." The WGAD further commented on the problematic nature of the release of such women:

"Some women have been deprived of their liberty at Methsevana for years, including one woman who has been held in the facility since 1975. The Working Group was informed that either the Minister or a court can order release, but that there are limited prospects for doing so, particularly for women who have no family or guardian willing or able to care for them. In fact, it appears that one of the few ways that a woman will be released is if a husband is found for her through the placement of an advertisement in the newspapers."⁶⁶

This practice clearly contravenes the [United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders](#) which stipulates that "temporary measures involving custody to protect a woman shall only be applied when necessary and expressly requested by the woman concerned and shall in all cases be supervised by judicial or other competent authorities. Such protective measures shall not be continued against the will of the woman concerned."⁶⁷

⁶³ Section 8 of the Vagrants Ordinance

⁶⁴ UN Human Rights Committee (HRC), General comment no. 35, Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/553e0f984.html>

⁶⁵ Supra 23

⁶⁶ *Ibid*

⁶⁷ UN General Assembly, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) : note / by the Secretariat, 6 October 2010, A/C.3/65/L.5, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/BangkokRules.aspx>

The WGAD also noted the lack of resources including medical facilities at this Center to attend to the psychosocial needs of the detainees. According to the Houses of Detention Ordinance, the relevant subject minister is tasked with drafting regulations in this regard. However, it is clear that no appropriate regulations have not been made. Evidently, these practices contravene the United Nations Rules for the Treatment of Women. Rule 12 requires that "individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings."

6. Conclusion & Recommendations

Vagrancy laws have no place in a society that seeks to recognize and uphold the human rights of all its inhabitants. This comes from the recognition that-punitive measures do not and cannot effectively deal with poverty and issues related to it.

The ICJ echoes the call of CEDAW and many others that the 180-year old Vagrants Ordinance of Sri Lanka needs to be repealed. The aspects of the law which need to be retained in revised form must be reviewed and replaced under specific legislation on the matter, in keeping with Sri Lanka's international human rights law obligations. While the ICJ calls for the repeal of the Vagrants Ordinance in its entirety, the following recommendations are being made to the relevant Sri Lankan authorities, until such time as full repeal is achieved.

To the Parliament of Sri Lanka:

- Repeal all laws which serve effectively to criminalize the economically marginalized on the basis of their economic or social status, including the House Detention Ordinance.
- Conduct proscribed as offences under the Vagrants Ordinance which is not sufficiently covered by parallel or similar offences under the penal code, but requires proscription of some kind, should be removed from the ambit of the Ordinance placed in the Penal code or other legislation and expressed in a manner consistent with international human rights law and standards.
- All matters relating to the trafficking of minors should be brought under the Penal Code in keeping with the applicable international standards under the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.
- Enact legislation on sex work focusing on the protection of sex workers from exploitation and abuse in keeping with the commentary on the International Guidelines on HIV/AIDS and Human Rights (2006) by the UN Office of the High Commissioner for Human Rights (OHCHR) and UNAIDS, which called for "legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during sex work."
- Section 6 of the Ordinance must be repealed forthwith. No laws should require security in the form of sureties for future good behaviour.
- Section 11 must be completely overhauled with a view to proscribing solely conduct on the part of any "person, who has custody, charge, or care of a minor (under the age of 18) and that causes or otherwise induces the rape or other forms of sexual assault or sexual exploitation of that minor."

To the Minister-in-charge

- The Methsevana Detention Centre must be converted to an open centre providing care and formal education and/or vocational training to women who have no family support structure with a sufficient budget allocated to fulfill these requirements. Moreover, such centers should be set up in sub-regions of the country in order to avoid overcrowding.
- In keeping with Section 5 of the House Detention Ordinance, the Minister-in-charge should regularly review and revised regulations relating to the management of the House of Detention. It is essential that these regulations are in keeping with human rights law and standards.

To Magistrates:

- When magistrates issue an order under the Vagrants Ordinance, they should provide clear reasoning for their decision in order to avoid arbitrary decision-making and to establish grounds for appeal.
- When women are sent to a detention center under the House Detention Ordinance, the Magistrate must specify their release dates and any extension of periods of detention must be by voluntary request of the detainees.

To the police and relevant enforcement authorities:

- There must be a moratorium on all arrests undertaken under the Vagrants Ordinance. The arbitrary use of the Ordinance to harass and arrest couples, LGBT or any category of persons should end immediately, and officers who engage in such conduct should be held criminally accountable.
- The police must not misuse the Vagrants Ordinance to harass and threaten criminal action against sex workers.
- As recommended by the CEDAW Committee, the State authorities should “impose penalties on police officers who misuse the Act to harass women in prostitution and sexual minority women and ensure that victims are provided with gender- sensitive protection and support, including exit programmes for women wishing to leave prostitution.”
- The police should suspend the use of Vagrants Ordinance in relation to trafficking and sexual exploitation of minors, but instead resort to newer and updated laws on the subject under the Penal Code and the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act (2005).

CHAPTER 32

VAGRANTS

Ordinances
 Nos. 4 of 1841,
 7 of 1873,
 7 of 1889,
 17 of 1889,
 19 of 1889,
 12 of 1891,
 3 of 1894,
 3 of 1904,
 21 of 1919,
 3 of 1930,
 51 of 1941,
 20 of 1947.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
 RELATING TO VAGRANTS.

[1st January, 1842.]

Short title.

1. This Ordinance may be cited as the Vagrants Ordinance.

Punishment of persons behaving riotously or disorderly in the public streets.

2. Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding five rupees :

Provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following section respecting idle and disorderly persons.

Persons who are deemed idle and disorderly persons.

3. (1) (a) Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the paragraph (d) of the next succeeding section ;

(b) every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner;

- (c) every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself ;
- (d) every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon ;
- (e) every person who in or upon any wharf, jetty, street, road, walk, passage, verandah, or other place situated within any proclaimed area and used by or accessible to the public, persistently and without lawful excuse follows, accosts, or addresses by words or signs any person against his will and to his annoyance,

[§ 2, 51 of 1941.]

shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.

(2) A police officer may arrest without a warrant every person deemed to be an idle and disorderly person.

(3) In this section, " proclaimed area " means any area declared by the Minister by Order published in the Gazette, to be a proclaimed area for the purposes of this section.

[§ 2, 51 of 1941.]

4. (a) Every person convicted a second time of being idle and disorderly ;
- (b) every idle and disorderly person resisting any constable or police officer apprehending him ;
- (c) every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere, to the annoyance and disgust of others ;
- (d) every person wandering abroad, or placing himself in any public place, street, highway, court,

Who are deemed to be rogues and vagabonds.

or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases to obtain or gather alms :

- (e) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences,

shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding twenty rupees.

Who are deemed to be incorrigible rogues.

- 5. (a) Every person convicted a third time or more often of being idle and disorderly ; or
- (b) a second time or more often of being a rogue and vagabond ; and
- (c) every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-four lashes.

Incorrigible rogue may be required to give security for future good behaviour.

6. Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding section be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months.

Soliciting and acts of indecency in public places.

- 7. (1) The following persons, that is to say—
- (a) any person in or about any public place soliciting any person for the purpose of the commission of any act of illicit sexual intercourse or indecency, whether with the person soliciting or with any other person, whether specified or not;

- (b) any person found committing any act of gross indecency, or found behaving with gross indecency, in or about any public place ;
- (c) any person found—
 - (i) in any public enclosure contrary to any local by-laws or regulations prescribing the use of such enclosures ; or
 - (ii) in any enclosure belonging to the State , without the permission of the person in charge thereof; or
 - (iii) within any private enclosure attached to any dwelling house, except upon the invitation of any inmate of the premises, under such circumstances that it is reasonable to infer that he is there present for immoral purposes, unless he is able to explain his presence to the satisfaction of the court by which he is tried,

shall be guilty of an offence, and shall be liable on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both.

(2) In any case in which any person who has been convicted of an offence under paragraph (a) of the last preceding subsection shall subsequently be convicted of another such offence, he shall, if a male, in addition to any other punishment to which he may be sentenced by the court, be liable, at the discretion of the court to be whipped.

8. In any case in which the offender against any of the provisions, whether of the last preceding section or any other preceding section of this Ordinance, is a female, the court may in its discretion direct, both in respect of any imprisonment to which she may be sentenced in the first instance and in respect of any imprisonment to which she may be sentenced in default of payment of a fine, that, instead of being imprisoned in one of the regular prisons of Sri Lanka, she shall be committed to any house of detention established under the Houses of Detention Ordinance, and there detained

Female offender may be committed to house of detention.

until the expiration of her sentence, and sections 5 and 6 of the said Ordinance shall apply to every such person so detained.

Punishment of certain classes of incorrigible rogues.

9. (1) Any person who—
- (a) knowingly lives wholly or in part on the earnings of prostitution;
 - (b) systematically procures persons for the purpose of illicit or unnatural intercourse,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable—

- (i) on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both ; or
- (ii) on conviction on indictment to imprisonment of either description for a period not exceeding two years, and if a male, in addition to any such imprisonment, if the court in its discretion directs, to be whipped.

(2) Every male person who is proved to live with, or to be habitually in the company of, a prostitute, and every person, whether male or female, who is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding, abetting, or compelling the prostitution of such person with any other person or generally, shall, unless the court is satisfied by evidence to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Detention of youthful bad characters.

10. (1) In the following cases, that is to say:—
- (a) where any person being a male between the ages of twelve and twenty-one has been convicted by a Magistrate of any offence under sections 3 (1) (e), 7, or 9;
 - (b) where a Magistrate is satisfied that any person within the local limits of his jurisdiction, being a male between the ages aforesaid, is found habitually wandering about the streets and

accompanying persons therein, or in the company of disorderly or immoral persons or of reputed criminals, and that such person has no regular occupation, or no other occupation than that of professing to render casual services to persons requiring them,

it shall be lawful to the Magistrate, after due inquiry into the antecedents, connections, and habits of such person, if he is satisfied that the offender is addicted to unnatural vice, or is otherwise of corrupt or immoral habits, either—

- (i) to require such person to execute a bond, with or without sureties, to the satisfaction of the Magistrate, to be of good behaviour for a period not exceeding twelve months, and subject to such conditions as the Magistrate may determine, and in default thereof, to commit such person to prison for a period not exceeding six months, there to be detained and employed at such productive labour as may be prescribed by prison rules ; or
- (ii) if after due inquiry into all the circumstances of the case, the Magistrate is satisfied that the offender is a person who ought not to be allowed the option of giving security for good behaviour, or that he can be more appropriately and beneficially dealt with in manner hereinafter provided, to commit such person, if he is under sixteen years of age, to an approved school within the meaning of the Children and Young Persons Ordinance, or if he is over that age, to any institution established by law for the reclamation and industrial training of juvenile offenders, there to be detained for a period of not less than three years.

(2) If any such person is not already in custody, the Magistrate may enforce his attendance either by summons or warrant, as he may think fit.

(3) The Magistrate may direct the detention of any person so brought before him for the purpose of necessary inquiries, and may, if he shall so think fit direct a medical examination of such person.

(4) The Magistrate may at any time direct any person committed to prison under this section in default of finding satisfactory sureties to be released from prison on such sureties being forthcoming.

(5) The Minister may at any time direct that any person committed to an approved or certified school shall be transferred to any institution established by law for the reclamation and industrial training of juvenile offenders, or direct the release of any person detained either in such school or institution.

(6) When a Magistrate makes an order under subsection (1) (ii) of this section, the proceedings shall be submitted to the Court of Appeal, and the order shall not be executed unless it is confirmed by a Judge of the Court of Appeal.

(7) If, when such proceedings are submitted, the Court of Appeal thinks that a further inquiry should be made, or additional evidence taken upon any point, he may make such inquiry or take such evidence himself, or direct it to be taken by the Magistrate. Unless the Court of Appeal otherwise directs, the presence of the convicted persons may be dispensed with when such inquiry is made, or such evidence is taken.

(8) When the inquiry and the evidence, if any, are not made and taken by the Court of Appeal, the result of such inquiry and the evidence shall be certified to such Court of Appeal.

(9) In any case so submitted to the Court of Appeal, the Court-

- (a) may confirm the sentence, or pass any other sentence justified by law; or
- (b) may allow the conviction and convict the accused of any offence of which the Magistrate might have convicted him, or order a new trial on any other charge or on an amended charge; or
- (c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

(10) This section shall apply only within such defined areas as shall be specially appointed by the Minister by Order published in the Gazette.

11. (1) Every person, having the custody, charge, or care of a girl, who causes or encourages the seduction or prostitution or unlawful carnal knowledge of the said girl, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Causing, &c., the seduction or prostitution or unlawful carnal knowledge of a girl.

(2) Without prejudice to the generality of subsection (1), a person shall, for the purposes of this section, be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or become a prostitute or been unlawfully carnally known, if he has knowingly allowed the girl to associate with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) No person shall be liable to conviction under this section who as parent or guardian has given his consent to a girl living with any man as his wife.

12. (1) Where it is shown to the satisfaction of a Magistrate on the complaint of any peace officer at the instance of any probation officer that any girl is with the knowledge of her parent or guardian exposed to the risk of seduction or prostitution, or of being unlawfully carnally known, or is living a life of prostitution, the Magistrate may require the parent or guardian of such girl to show cause why he should not be ordered to execute a bond with or without sureties for the exercise of due care and supervision in respect of the girl.

Security by parent or guardian of girl.

(2) For the purposes of this section, a Magistrate shall have all the powers which are conferred on a Magistrate by sections 84 to 92, both inclusive, 93, and 94 of the Code of Criminal Procedure Act, No. 15 of 1979, in relation to

securities for keeping the peace and for good behaviour and those sections shall apply, *mutatis mutandis*, to bonds executed or ordered to be executed under this section.

(3) Imprisonment for failure to execute a bond on the order of a Magistrate under this section shall be simple.

(4) No person shall be liable to execute a bond under the provisions of this section who as parent or guardian has given his consent to a girl living with any man as his wife.

(5) Where any girl, in respect of whom any person has been ordered to execute a bond under this section is removed for any period from the custody, care, or charge of such person under sections 13, 14, or 17, no action shall be taken to enforce the bond during the period of such removal, and if at any time thereafter the girl shall be restored to the custody, care, or charge of such person, the said bond shall remain of full force and effect.

Detention of girl in place of safety.

13. (1) Any peace officer may, on the complaint of a probation officer, remove to a place of safety to be selected by such probation officer any girl in respect of whom an offence under section 11 has been, or is reasonably believed by him to have been, committed.

(2) Any girl so removed to a place of safety may be there detained for a period not exceeding seven days, unless before the expiry of that time it has been decided that no charge will be made in respect of the said offence, in which case the girl shall be released on such decision being reached, but otherwise she shall be brought before a Magistrate before the expiry of the said seven days and may be detained in the said place of safety until the Magistrate has made an order in relation to the girl under the next subsection.

(3) (a) Where it appears to a Magistrate that an offence has been committed under section 11 in respect of any girl who is brought before him and that it is expedient in the interests of the girl that an order should be made for her care and detention, he may, without prejudice to any other power, make such order

as the circumstances may require for the care and detention of the girl until a charge has been made against some person in respect of the offence ;

(b) If any such charge is made against any person, the order may be extended until the charge has been determined by the conviction or discharge of the person charged, and

(i) in the case of his conviction, it may be further extended for a period not exceeding twenty-one days as the convicting Magistrate may direct; and

(ii) in the case of his discharge, it shall be forthwith void except with regard to anything lawfully done thereunder.

(c) Any such order as is mentioned in subsections (2), (3) (a), or (3) (b) may be carried out notwithstanding that any person claims the custody of the girl.

14. (1) When any person having the custody, charge, or care of any girl has been—

Disposal of girl by order of court.

(a) convicted of an offence under section 11 in respect of the girl ; or

(b) ordered to execute a bond in respect of the girl under section 12,

by a Magistrate, the Magistrate may, in his discretion, order that the girl be taken out of the custody, care, or charge of the person so convicted or bound over, and be delivered into the custody of a relative of the girl or some other fit person or society, approved and named by the Magistrate, until she attains the age of sixteen years or for any shorter period.

(2) Before any such order is made, the consent and ability of such relative or other person or society to undertake such custody shall be proved to the satisfaction of the Magistrate.

(3) Any such order may be from time to time renewed, varied, or revoked by the Magistrate who

made the same, or by any other Magistrate within whose jurisdiction the girl resides, either of his own motion or on the application of any person.

(4) If the girl has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian—

- (a) has been convicted of the offence ; or
- (b) is proved to the satisfaction of the Magistrate making the order to have been party or privy to the offence ; or
- (c) has been ordered to execute a bond in respect of the girl under section 12; or
- (d) cannot be found.

(5) Every order under this section shall be in writing, and may be made in the absence of the girl.

(6) The Minister may at any time discharge any girl from the custody of any person or society into whose custody she has been delivered under this section either absolutely or on such conditions as he may approve.

(7) It shall be lawful for the Minister to make rules in relation to girls delivered into the custody of any person or society under this section, and to the maintenance of such girls, and to the duties of such persons or societies with respect to such girls.

(8) All rules made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are disapproved by Parliament such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder ; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

15. (1) Any person or society into whose custody a girl is delivered by order under section 14 shall, whilst the order is in force, have the like control over the girl as if such person or society were the parent of the girl, and shall be responsible for the maintenance of the girl, who shall continue to be in custody of such person or society notwithstanding that she is claimed by her parent or any other person-

Control and maintenance of girl delivered into custody of any person or society by order of court.

(2) Every person who—

- (a) knowingly assists or induces, directly or indirectly, any girl to escape from the person or society into whose custody she has been so delivered ; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or society, any girl who has so escaped, or knowingly assists any such harbouring, concealment, or prevention,

shall on summary conviction thereof be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding three months.

(3) On the complaint or application of the person or society into whose custody any girl has been delivered by order under section 14, the Magistrate making the order of delivery may make a further order on the parent or other person liable to maintain the girl to contribute any specified sum not exceeding fifteen rupees a month for that purpose, and to pay the same in such manner as the Magistrate may direct to the person or society into whose custody the girl is delivered,

(4) Every such order of maintenance shall be in writing and shall be enforceable in like manner as if the girl had been ordered to be sent to an approved or certified school under the Children and Young Persons Ordinance, and also by a further order for the attachment and payment to the person named by the Magistrate of any pension or income due to the parent or other person liable to maintain the girl, including any pension or income due to him from the State. Such further order shall be a full authority to the person

by whom such pension or other income is payable to make the payment ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first-mentioned person.

Offences to be non-cognizable and bailable.

16. Offences under sections 11 and 15 of this Ordinance shall be deemed non-cognizable and bailable within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

Search warrant.

17. (1) If it appears to a Magistrate on information on oath laid by any probation officer that there is reasonable cause to suspect that an offence has been or is being committed in respect of any girl, he may issue a warrant authorizing all or any peace officers to search for such girl, and if it is found that an offence has been or is being committed in respect of her, to take her to and detain her for a period not exceeding seven days in a place of safety selected by the said probation officer and named in the warrant until she can be brought before a Magistrate.

(2) Any peace officer authorized by warrant under this section to search for any girl may enter (if need be by force) any house, building, or other place specified in the warrant and may remove the girl therefrom.

(3) It shall not be necessary in any information or warrant under this section to specify the name of the girl.

Sanction of Attorney-General for prosecution, &c.

18. No prosecution shall be instituted for an offence against section 11, and no complaint shall be made under section 12, without the sanction of the Attorney-General in writing,

Protection of peace officers and probation officers.

19. No proceedings civil or criminal shall be instituted against any peace officer or probation officer for any act bona fide done or omitted to be done in pursuance of any of the powers or duties conferred or imposed upon him by this Ordinance.

Officers neglecting their duty.

20. In case any principal or other grama niladhari, constable, or other peace officer aforesaid shall neglect his duty in anything required of him by this Ordinance, he shall be liable for every such offence to a fine not exceeding

fifty rupees, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

21. In case any person shall hinder, disturb, or molest any principal or other grama niladari, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not exceeding thirty rupees, or to imprisonment with or without hard labour for any period not exceeding four months ; and

Persons obstructing officers.

every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding fifty rupees or to imprisonment for any period not exceeding six months with or without hard labour.

22. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every ten rupees of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months ; and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Fines to be levied by distress.

Informer's share.

23. No prosecution shall be instituted against any person for offences under sections 2, 3, 4, 5, 6, 20, and 21 of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

No prosecution to be instituted after one month.

- Sworn statement by person leaving Sri Lanka. [§ 3,51 of 1941.]
- 24.** (1) A sworn statement made by a person about to leave Sri Lanka before—
- (a) a Justice of the Peace ; or
 - (b) any police officer not below the rank of a sub-inspector ; or
 - (c) the customs officer for the time being in charge of the Colombo passenger jetty, not being below the rank of a charges officer,

taken in the presence of the person accused under such circumstances that he has a full opportunity of asking questions of the person making the statement, and signed by such person, may, if the person making the statement has left Sri Lanka, be given in evidence against the person accused on any charge under section 3 (1) (e).

(2) It shall be the duty of the Justice of the Peace or other person before whom any such statement is made, before tendering it for the signature of the person making it, to read it over to such person in the presence of the accused, and to explain the statement to the accused, and upon it being signed by the person making it, to certify that the requirements of this section have been complied with.

(3) A statement produced in court and purporting to be certified under this section shall be prima facie evidence of the facts therein stated ; but the court may require the attendance of any person present when such statement was taken, for the purpose of examination with respect thereto.

- Interpretation.
- 25.** In this Ordinance, unless the context otherwise requires—
- (a) " girl " means a girl under the age of sixteen years;
 - (b) " guardian ", in relation to a girl, includes any person who, in the opinion of the court having cognizance of any case or matter relating to the girl, has for the time being charge of or control over the girl ;

- (c) "legal guardian", in relation to a girl, means a person appointed according to law to be her guardian by deed or will or by order of a court of competent jurisdiction;
- (d) "peace officer" includes police officers and grama niladharies appointed by a *Divisional Secretary of the Divisional Secretary's Division in writing to perform police duties;
- (e) "place of safety" means any hospital, institute, house, home, or other suitable place, the occupier of which is in the opinion of the probation officer after due inquiry a person of respectable character, and is willing to receive a girl temporarily;
- (f) "probation officer" means any person appointed to be a probation officer under the provisions of the Probation of Offenders Ordinance. [§ 2,20 of 1947.]

* See section 4 of the Transfer of Powers (Divisional Secretaries) Act. No. 58 of 1992.

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