

CHAPTER 5

GENDER EQUALITY

A. Women in Sri Lanka

Women in Sri Lanka enjoy gender equality more than their counterparts in other South Asian countries. In 1931, Sri Lanka became one of the first countries to recognize women's right to vote, instituting universal suffrage. In 1960, Sirimavo Bandaranaike received acclaim by becoming the first female Prime Minister in a modern nation. In 1994, Chandrika Kumaratunga became the country's first female president. She was re-elected in 1999.¹⁰⁷

However, there are a number of areas where improvements in gender equality would be desirable. The conflict in the Northeast, for instance, left a number of women widowed and children orphaned. Eighty percent of Sri Lankan refugees are women and children. Nineteen thousand women are registered widows. The violence led to an increase in the number of female-headed households in that part of the country. From nineteen percent in 1990, this increased to twenty percent by 2000.¹⁰⁸ Most of these households are poor, and headed by women with little economic opportunities and relatively low educational levels.¹⁰⁹ Continued fighting between government troops and Tamil separatists led to worsening of the situation, which is why cessation of hostilities is an important step to improving the lives of women in the Northeastern part of the country.

In a survey on gender norms, 93 percent of Sri Lankans preferred to be born male than female. The reasons for these results were revolved around the restraints on female mobility and their confinement to domestic duties and the home. The restrictions on female mobility and autonomy are even stronger among Muslims and Indian Tamils. One Muslim woman who defied the conventions of purdah and traveled alone was shunned by her village.¹¹⁰ Indian Tamil women, on the other hand, have little power over decision making in the household with men having outside dealings even with tasks as simple as taking a child to the hospital. This occurs despite the fact that women, as tea plantation workers, are the main income earners.¹¹¹

Table 33. Percentage of Female-Headed Households, 1981-2000

Year	Female Household Heads (%)
1981	17.4
1994	18.6
2000	20.4

Source: Department of Census and Statistics.
Retrieved from www.statistics.gov.lk/social/social%20conditions.pdf

In general, girls have fewer recreational activities than boys. They usually spend time acquiring domestic skills. Despite the growing number of women joining the labor force, the society primarily sees them as mothers and wives, and men as husbands and breadwinners. Despite the males being considered as providers for the family, women are seen as the financial managers of the household and are expected to budget the family's finances and control household expenditures.¹¹²

Son preference is relatively low in Sri Lanka. In fact, a desire for a balanced number of males and females is expressed. More specifically, having a small family, preferably with children of both sexes, outweigh preferences for a specific sex of offspring.¹¹³

B. Laws on Gender Equality

Gender equality is enshrined in the country's constitution. In particular, Article 12 Section 2 of the 1978 Constitution states that no citizen shall be discriminated on the grounds of sex. Article 12 Section 4 adds that nothing shall prevent special provision being made by law, subordinate legislation or executive action for the advancement of women.¹¹⁴

In 1980, the government signed the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW). It was ratified a year later and in 1993, a Women's Charter based on the CEDAW was approved by the Cabinet. Its provisions include a range of civil, political, economic and social rights. In the same year, the country also ratified the ILO Convention on equal pay for equal work. Unlike the ILO Convention though, while the rights espoused in the Women's Charter are enforceable, they are not legally binding.¹¹⁵

In 1995, the 1883 Penal Code of Sri Lanka was amended to include provisions criminalizing several forms of gender-based violence and abuse. Amendments include raising the age of statutory rape to 16 years old, unless the man is the woman's wife and the woman is not less than 12 years old. This exception was introduced to preclude Muslim marriages where girls as young as 12 years old are married off. Evidence of penetration was made on a sufficient basis to prove rape while spousal rape is not recognized except when the man and woman are judicially separated. Punishment for rape in aggravated circumstances (i.e. gang rape, custodial rape, rape of a minor, rape of a pregnant woman and rape of a woman with mental or physical disability) is enhanced and another provision was introduced imposing a mandatory minimum sentence. Incest and prostitution are prohibited as well as domestic violence, which includes acts of murder, miscarriage, hurt, wrongful confinement, assault, sexual harassment and abuse, and criminal intimidation.¹¹⁶ Verbal and physical abuses are penalized, punishable by up to five years imprisonment and a fine.¹¹⁷ Punishments range from fines and compensation to imprisonment.¹¹⁸

Table 34. Sexual Abuse and their Corresponding Punishments

Section in Act	Offence	Imprisonment		Fine	Compensation to Victim for Injuries
		Min. Yrs.	Max Yrs.		
364 (1)	Rape	07	20	Mandatory	Mandatory as Determined by Court
364(2)	Rape Aggravated*	10	20	- do -	- do -
364(3)	Statutory Rape which is also incest	15	20	- do -	No
364A	Incest	07	20	- do -	No

* Aggravated circumstances include gang rape, custodial rape, rape of a minor, rape of a pregnant woman, rape of a woman mentally or physically retarded.

Source: Center for Women's Research, 2001. Retrieved from www.iwraw-ap.org/using_cedaw/srilanka.doc

On the other hand, like marriage, property laws are governed by four different legal systems. While the general, Kandyan and Muslim laws state that both men and women have the right to own and dispose of personal property regardless of marital status, the Tesalawamai law prohibits them from dealing with or disposing immovable property without the consent of husband. Furthermore, while the general law provides for equal rights as regards inheritance, Muslim law discriminates against women and gives them less shares than male heirs. Widows will inherit half

of the portion that a widower would inherit. The mother of a decedent is entitled to half of the share of the father of the decedent and while daughters can be heirs, their shares are less than those of male heirs. Kandyan law, on the other hand, states that daughters who marry in *diga* (where a bride is taken into her groom's house) after the death of her father must transfer any property she inherits to her brothers or binna-married sisters (where the groom is taken into the bride's home). Rights to agricultural land also favor males- where if a land owner dies without an heir, or if his or her spouse remarries, the property will devolve according to a schedule of ordinance with males given precedence over females.¹¹⁹

There are four legal systems that govern divorce in the country. Some customary laws discriminate against women. In Kandyan law, while a husband may file for a divorce on the grounds of adultery, a wife must file for adultery with incest or gross cruelty. In Muslim law, husbands need not cite a reason for divorcing a wife, while a wife must prove ill treatment or any other condition amounting to a fault.¹²⁰

Laws on employment emphasize a woman's freedom to work, although a number of women groups protest the legal infrastructure's deficiency in protecting women against discrimination and abuses in the workplace. The law allows women to work in the police and the armed service, in the private sector as professionals and workers; or in the public sector as government employees. However, restrictions still exist. Amendments to the 1942 Factories Ordinance increased the number of overtime hours women and young persons could work. In the public sector, a woman is given a paid 12-week maternity leave regardless of marital status, cause of pregnancy or duration of employment while the private sector allows for a 12-week maternity leave for the first two pregnancies and a six-week leave for subsequent pregnancies.¹²¹

Institutions and Helpdesks

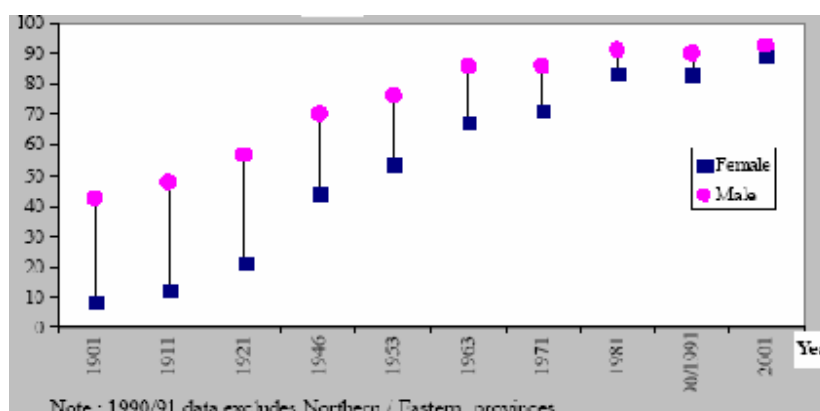
Since the late 1970s, when Sri Lanka signed the CEDAW, a number of ministries and organizations were established focusing on women's rights and gender equality. A Ministry of Women's Affairs (MWA) was established in 1988. The Women's Bureau (WB) was created in 1978 while the National Committee on Women (NCW) was established in 1993. The latter is tasked with overseeing the implementation of the Women's Charter (WC). A Gender Complaints Unit (GCU) was created under the Committee's supervision and leadership.¹²² The Ministry of Women's Affairs drafted the 2002-2007 National Plan of Action for Women (NPAW). The document advances women's rights in the areas of education, health care and violence against women.¹²³

C. Economic, Political and Educational Opportunities for Women

One of the successes of Sri Lanka's national welfare system is the equal access to education by men and women.

Literacy rates of men and women are almost the same and the gap is decreasing over time. In 2000, male literacy rate was 94 percent while female rate was 89 percent. By 2005, female literacy rate was 90 percent with male literacy rate at 95.¹²⁴

Figure 11. Gender Gap in Literacy Levels, 1901-2001



Source: Department of Census and Statistics, n.d. Retrieved from www.statistics.gov.lk/social/social%20conditions.pdf

The proportions of boys and girls attending primary, secondary and tertiary schools are almost equal¹²⁵ with girls slightly outnumbering boys in the secondary level. This is due to the higher dropout rates among boys, except in the plantation sector and among rural Muslims.¹²⁶

Apart from differences in literacy rates by sex, differences among women must also be emphasized. Sinhalese women have higher literacy rates than their Muslim or Indian Tamil counterparts. Their comparatively greater mobility and autonomy allow Sinhalese women to go to school, while the Muslim and Indian Tamil women face various cultural and economic hurdles that impede their completion of the required schooling. Muslim women are prohibited from venturing outside the house due to *purdah* while Indian Tamil women work in plantations at an early stage in life.¹²⁷ In general, Indian Tamil women in the estate sector have lower educational levels, literacy rates, health status and life expectancy than women elsewhere in the country.¹²⁸

As regards to economic opportunities, women are allowed to work in any job while the law espouses non-discrimination in hiring, wages, or in the workplace. The law also allows women to borrow money from financial institutions, although, this is difficult due to the fact that land titles are usually given to men.¹²⁹

Despite a seemingly encouraging legal environment, most women work in low-paying, low-skilled jobs. Unemployment rate for women is higher than that of men (52% vs. 48%) in 2004.¹³⁰ Ironically, the highest rate of unemployment is found among women who have higher educational qualifications. In 2000, 59 percent of women with educational qualifications between grade 0-10 were employed while only 16 percent of women who have reached GCE Advanced Level (i.e. senior secondary school) and above were working.¹³¹

Few women ever reach managerial levels, especially in the private sector. Majority are employed either as semi-skilled or unskilled workers. The rest take jobs as clerks or secretaries. Many of them are employed in the informal sector, where hours of work, wage rate, and work environment are largely unregulated. One such example is the country's free trade zones (FTZs). In the FTZs, about 80 percent of the workers are single women, 70 percent of whom are between the ages of 17 and 25 years.¹³²

**Table 35. Percent of Women Employees to Total Employees
by Major Occupational Categories, 1975-2002**

Major Occupational Categories	Percentage of women						
	1975	1980	1985	1990	1993	1998	2002
Administrative & Managerial Workers	6.6	9.6	12.8	16.9	16.4	20.6	23.6
Professional, Technical & Related Workers	11.1	18.1	18.2	25.3	23.9	29.0	28.4
Clerical & Related Workers	17.1	22.7	28.3	38.8	40.5	39.0	37.5
Sales Workers	13.2	21.1	28.9	32.3	35.4	29.1	27.1
Foreman & Supervisors	12.9	12.5	13.6	19.9	24.6	21.2	20.5
Skilled & Semi Skilled Workers	34.9	26.3	34.2	48.2	56.6	52.4	48.4
Un-skilled Workers	41.0	40.7	44.0	48.8	51.9	48.6	45.7
Total	34.8	33.7	36.6	44.3	48.3	44.8	41.2

Source: Department of Census and Statistics. Retrieved from www.statistics.gov.lk/social/social%20conditions.pdf

Due to employment difficulties, a number of women have migrated abroad as domestic workers. In 2000, nearly 97 percent of all migrant workers were housemaids - all of them were women.¹³³ This led to situations where almost 10 percent of all women migrant workers were suspected to have been a victim of some form of physical, psychological or sexual abuse.¹³⁴

Daily wage rates for female agricultural workers are less than those of men. Whereas men are paid at least 200 rupees, women receive only 100 to 150 rupees (US \$.97 to \$1.45). This discrimination stems from customary practices where women's labor is considered lighter than that of men.¹³⁵ In the estate sector, customary practice also dictates that husbands take their wives' salary, resulting in loss of autonomy and control over finances.¹³⁶

As regards to political opportunities, women have the right to vote and run for a position in the office. In fact, a number of Sri Lankan women have been elected to positions of power in the country. Some have even managed to win the highest seats in government. A closer study of the political situation will show that female political participation (measured in terms of the number of seats held by women in local and national government) is actually quite low.

In 2000, of a total of 379 representatives in the Provincial Council (PC), only 15 were women (4 %). The percentages of women in the Urban and Municipal Councils (UMC) were even lower at one percent and two percent, respectively. There were three women-mayors. These were in the provinces of Kandy, Jaffna, and Nuwara-Eliya. On a more optimistic note, the number of elected female Members of Parliament has been increasing through the years.¹³⁷

Table 36. Representation of Women in Parliament, 1947-1994

Seats in Parliament		Years in which Parliamentary Term Commenced									
		1947	1952	1956	1960 March	1960 July	1965	1970	1977	1989	1994
No. of Seats in Parliament	For Elected M.P.s	95	95	95	151	151	151	151	168	196	196
	For Nominated M.P.s	6	6	6	6	6	6	6	-	29	29
	Total	101	101	101	157	157	157	157	168	225	225
No. of Female M.P.s (Includes those elected/appointed mid-term)	No. Elected	3	2	4	2	3	6	6	6	11	10
	No. Nominated	-	-	-	-	-	-	-	-	1	2
	Total	3	2	4	2	3	6	6	6	12	12
Total No. of Male M.P.s (Elected and Nominated)		98	99	97	155	154	151	151	159	213	213
No. of Female M.P.s as a % of	Elected M.P.s	3.2	2.1	4.2	1.3	2.0	4.0	4.0	3.6	5.6	5.1
	Nominated M.P.s	-	-	-	-	-	-	-	-	3.4	6.8
	Total No. of M.P.s	3.2	2.0	4.0	1.3	1.9	3.8	3.8	3.6	5.3	5.3

Source: UNESCAP. Retrieved from http://www.unescap.org/huset/women/reports/sri_lanka.pdf

D. Violence Against Women

While amendments to the Penal Code have strengthened the legal system, some acts of violence against women still remain legal. Foremost among these is female circumcision among Muslims. The practice of making a symbolic incision on a girl-child's clitoris on or before the 40th day of her birth is done across the country and remains unregulated by law.¹³⁸ Another practice is the insistence of medical practitioners on acquiring the husband's consent before a woman can obtain sterilization.¹³⁹ Even if these practices are criminalized or prohibited, the present track record as regards the enforcement of already existing laws provides little hope that they will fade. Even if violators were arrested, litigation takes between 9 and 12 years before reaching a conclusion, an obstacle that discourages many from reporting abuse or violence.¹⁴⁰

Table 37. 'Grave Offences' of Gender Related Violence Reported to the Police, 1997-1999

Nature of Offence	Women	Children	Women	Children	Women	Children
	1997	1997	1998	1998	1999	1999
Rape	397	315	164	394	339	625
Murder	3	5	9	6	62	14
Attempted Murder with a Weapon	0	0	1	0	4	13
Sexual Harassment	356	250	213	340	342	394

Source: The Police Bureau for the Protection of Women and Children, Castle Street, Colombo. (January 2000) CENWOR, www.iwraw-ap.org/using_cedaw/srilanka.doc

Data on the number of women who were victims of abuse are scarce. Given the nature and the stigma attached to some crimes such as incest or rape, underreporting is highly likely. In 1999, as many as 339 women reported having been raped while 342 reported having been sexually harassed.¹⁴¹ Some official reports also stated the occurrence of rape by government officials, usually by armed forces personnel; rape is also used as a terror tactic by some Tamil rebel groups.¹⁴²

Table 38. Prevalence of Abuse, 2000

Category of Abuse	Prevalence		95 % Confidence Limits	
	No.	%	Lower (%)	Upper (%)
Ever abuse	219	18.3	16.1	20.5
Current abuse	127	10.6	8.9	12.3
Abuse during pregnancy	56	4.7	3.5	5.9
Current sexual abuse	32	2.7	1.8	3.6

Source: WHO/SEARO, www.whosea.org/LinkFiles/Reproductive_Health_Profile_intro.pdf

The prevalence of abuse is noted. In a survey on gender-based violence, of the women who were ever abused, at least 30 percent said that it occurred at least once a week and of the 56 women who reported being pregnant during the survey, about 20 percent said that they were abused at least once a week. Thirty seven percent of currently abused women suffer physical injury. The main perpetrator of abuse is the husband followed by the mother-in-law and sister-in-law. Although prevalence of physical abuse is low during pregnancy, the main perpetrator of abuse during the period of pregnancy is the mother-in-law. To remedy the situation, women activists drafted a Domestic Violence Act in 2001. It was taken up for discussion in 2002.¹⁴³

References

- ¹⁰⁷ WomenWarPeace.Org. *Sri Lanka*. Website: http://www.womenwarpeace.org/sri_lanka/sri_lanka.htm , last accessed 5 June 2007
- ¹⁰⁸ De Silva, I. 1997. *The Ireland of Asia: Trends in Marriage Timing in Sri Lanka*. Asia Pacific Population Journal. Website: <http://www.unescap.org/esid/psis/population/journal/1997/v12n2a1.htm> , last accessed 4 June 2007
- ¹⁰⁹ Department of Census and Statistics. N.d. *Social Conditions of Sri Lanka*. Website: www.statistics.gov.lk/social/social%20conditions.pdf , last accessed 5 June 2007
- ¹¹⁰ De Munck, V. and Dudley, N. 2000. *Weaving Hard and Soft Data Together to Compare Gender Norms in Sri Lanka and the United States*. Website: www.union.edu/PUBLIC/ANTDEPT/spafiles/munck.rtf , last accessed 5 June 2007
- ¹¹¹ Pieris, I. and Caldwell, B. 1997. *Gender and Health in Sri Lanka*. Website: <http://www.htc.anu.edu.au/pdfs/Pieris1.pdf> , last accessed 5 June 2007
- ¹¹² Cultural Profiles Project Citizenship and Immigration Canada. *Family Life*. Website: <http://www.cpc.ca/english/srilanka/family.html> , last accessed 5 June 2007
- ¹¹³ Abeykoon, A. 1995 *Sex Preference in South Asia: Sri Lanka an Outlier*. Website: <http://www.unescap.org/esid/psis/population/journal/1995/v10n3a1.htm> , last accessed 5 June 2007
- ¹¹⁴ WHO/SEARO, op. cit.
- ¹¹⁵ USAID. 2004. *Gender Assessment for USAID/Sri Lanka*. Website: www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/ga_srilanka.pdf , last accessed 5 June 2007
- ¹¹⁶ Center for Reproductive Rights. 2004. "Sri Lanka." In *Women of the World: Laws and Policies Affecting their Reproductive Lives*. New York, USA.
- ¹¹⁷ World Health Organization Regional Office for Southeast Asia (WHO-SEARO). 2006. *Introduction*. Website: www.whosea.org/LinkFiles/Reproductive_Health_Profile_intro.pdf , last accessed 18 August 2006
- ¹¹⁸ Center for Reproductive Rights, op. cit.
- ¹¹⁹ Ibid.
- ¹²⁰ Centre for Women's Research. 2001. *Sri Lanka's Shadow Report Center on the UN Convention on the Elimination of All Forms of Discrimination Against Women*. Website: www.iwraw-ap.org/using_cedaw/srilanka.doc , last accessed 5 June 2007
- ¹²¹ Center for Reproductive Rights, op. cit.
- ¹²² Ibid.
- ¹²³ Center for Reproductive Rights, op. cit.
- ¹²⁴ Asia Pacific Cultural Center for UNESCO. 2005. *Sri Lanka*. Website: <http://www.accu.or.jp/litdbase/stats/lka/lka1.htm> , last accessed 5 June 2007
- ¹²⁵ UN MDG Country Report. 2005. *Promote Gender Equality and Empower Women: Goal 3*. Website: www.mdg.lk/country_report/Goal%203.pdf , last accessed 5 June 2007.
- ¹²⁶ Asian Development Bank. 1999. *Country Briefing Paper: Women in Sri Lanka*. Website: www.adb.org/Documents/Books/Country_Briefing_Papers/Women_in_SriLanka/women_in_srilanka.pdf , last accessed 5 June 2007
- ¹²⁷ De Munck, et. al., op. cit.

¹²⁸ USAID, op. cit.

¹²⁹ Center for Reproductive Rights, op. cit.

¹³⁰ Department of Census and Statistics, 2004, op. cit.

¹³¹ De Munck, et. al., op. cit.

¹³² Ibid

¹³³ Ibid.

¹³⁴ Matignoni, J. 2002. *Violence against women in Sri Lanka*. Website:
<http://www.omct.org/pdf/vaw/srilankaeng2002.pdf#search=%22violence%20against%20women%20in%20sri%20lanka%20omct%22> , last accessed 18 August 2006

¹³⁵ Ibid

¹³⁶ ADB, op. cit.

¹³⁷ UNESCAP. N.d. *State of Women in Urban Local Government: Sri Lanka*. Website:
www.unescap.org/huset/women/reports/sri_lanka.pdf , last accessed 18 August 2006

¹³⁸ Center for Reproductive Rights, op. cit.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Matignoni, op. cit.

¹⁴³ WHO/SEARO, op. cit.