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FOKUS WOMEN is the Sri Lanka Country Office of FOKUS Oslo. FOKUS, Forum for Women and Development is a knowledge and resource center for international women's issues with an emphasis on the spreading of information and women-centered development cooperation. FOKUS' primary goal is to contribute to the improvement of women's social, economic, and political situation internationally.

FOKUS partners with several organizations based in Sri Lanka on a programme that focuses on women, peace and security. FOKUS has supported this programme in Sri Lanka since 2012.

This shadow report has been prepared by FOKUS WOMEN. The report includes the findings of several research studies conducted by FOKUS WOMEN and desk research. FOKUS partner organizations and other organizations that engage with FOKUS WOMEN working with female heads of households affected by the war listed below were also consulted. They provided valuable input to the report based on their experiences of working at grassroots level.

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1. Eastern Social Development Foundation (ESDF)
2. Home for Human Rights (HHR)
3. Muslim Women Development Trust (MWDT)
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5. Rajarata Praja Kendraya (RPK)
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Shadow Report on Female Heads of Households affected by the Armed Conflict in Sri Lanka

1. OVERVIEW

The internal armed conflict of 30 years has had a disproportionate impact on female heads of households (FHH) in Sri Lanka and has resulted in an increase in the numbers of FHH. Currently, one in every five households in Sri Lanka is headed by a female.¹ These FHH have been unable to enjoy their right to equality due to intersecting forms of discrimination arising out of the law; national policies; administrative practice; and due to actions of non-state actors.

This Report will deal with violations of the rights of FHH under Articles 2, 5, 7, 10 – 14 of CEDAW as interpreted in the General Recommendations (GR) 19, 30 and 33 in particular. In its previous Concluding Observations (CO) on Sri Lanka's state report, the Committee specifically recognised the impact of the armed conflict on women and made several recommendations to the state including recommendations to ensure respect for their economic and social rights; to protect Tamil women IDPs and ex-combatants; and to include women in transitional justice processes.² The Lessons Learnt and Reconciliation Commission too identified FHH as a specific category of war affected women whose human rights have been violated.³

The Government of Sri Lanka (GoSL) in its 2015 State Report, except in the provision of limited livelihood support, has not recognised or addressed the human rights violations experienced by FHH as a group that has been adversely affected by the armed conflict. In its 2015 Report, the GoSL states for instance that it has provided livelihood and vocational training to 'single parents' and 'women headed families' respectively and also reports on two other programmes.⁴ It further reports that 'conflict affected widows' and 'disabled women' are prioritised in rehabilitation projects.

This Shadow Report demonstrates that these interventions have been both inadequate and ineffective. FHH in Sri Lanka continue to experience grave violations of their human rights; particularly FHH affected by the armed conflict. Substantive equality is a significant challenge to Sri Lanka's women in general: particularly in relation to the right to be free from gender based violence; gender stereo typing; political representation⁵ and the right to employment.⁶ Within this broader context FHH form a specific group that require the immediate and focused attention of the GoSL. FHH, particularly in war affected and rural Sri Lanka, experience discrimination in relation to applicable laws; the implementation of welfare programmes; due to gender based violence, within the family and in the community; due to the lack of access to justice; and also due to the lack of inclusivity in transitional justice and peace building. Factors that contribute to this situation include gender stereo typing; lack of gender mainstreaming in the development of state policies; a state centred approach to welfare; and the lack of awareness of state obligations under CEDAW by public servants, the police and the armed forces.

2. METHODS AND LIMITATIONS

This Report is based mainly on eight studies concluded recently, by FOKUS WOMEN, on the status of FHH and their access to economic, social and cultural rights. These studies were carried out in partnership with community-based organizations that are working with FHH and collaborate with FOKUS WOMEN. Four of these reports study the state of FHH in geographical locations affected by the war and rural living.⁷ The other four reports study the themes of sexual exploitation; child marriage; language as a barrier in the criminal justice system (focusing on violence against women);⁸ and military widows. This Shadow Report also incorporates the findings and data gathered by FOKUS WOMEN partner organizations and other grassroots women's organizations that work on FHH issues with FOKUS WOMEN.⁹ Based on these studies and other evidence, this Report calls on the CEDAW Committee to identify the FHH in Sri Lanka as a specific affected group of women and make recommendations to the GoSL to immediately address their human rights violations.¹⁰

The impact of the armed conflict on FHH was island wide. The primary limitation of this Report is that it focuses mainly on selected types of FHH: FHH who live in the Northern and Eastern provinces in which the hostilities took place; FHH who live in villages bordering those areas in the North Central province; FHH from the Muslim community that was forcibly evicted by the Liberation Tigers of Tamil Eelam (LTTE) in Puttalam; and military widows living in the South.

3. ARTICLE 2: PROHIBITION ON DISCRIMINATION

3.1. LAW AND POLICY MEASURES

A. Who is an FHH?

The GoSL has no official definition for FHH. The FOKUS WOMEN studies reveal that inclusion or the exclusion of FHH from different welfare programmes depends on the varied definitions and terms that are used. The terms include war widows; female headed household; and a single parent family. It is not clear as to how inclusive these terms are. For instance whether women whose partner is missing and women whose husbands are in detention are included in these definitions is unclear. Consequently the actual number of FHH is unknown and there is no disaggregated data that recognises the diversity among FHH. This was affirmed in the interviews conducted at the Ministries in charge of Women and Resettlement respectively. Moreover what is meant by a 'household' is also unclear and is defined by the 'social structures in practice.'¹¹ The official definitions for a household and a head of the household in Sri Lanka are those employed by the Department of Census and Statistics which are notably gender neutral.¹²

Certain policy initiatives have been made recently by the GoSL to address some of the needs of some FHH. They include: a Secretariat for widows and FHHs; a Special Task Force for FHHs and widows; commissioning the drafting of a national policy on FHHs; and the allocation of Rs 50 million (USD 357,143) for implementation of programmes for FHH.¹³ However, FHH state that the funds allocated are inadequate; and that policies are designed ad hoc and are revised arbitrarily. Specific details of

these programmes or the rationale for the implementation of these programmes are not readily accessible to the public.

The GoSL is currently developing a policy on FHH. Consultations have been held with civil society, academia and government officials working at district level. A National Centre for Empowering Widows and Women Headed Families was established in *Killinochchi* (Northern Province) in November 2015.¹⁴ However, the name of the centre itself suggests that the intervention focuses on the families headed by women rather than on the woman who heads the family. Even though the Ministry has assigned two officers to this Centre they are not available at the Centre: moreover, as admitted by the Ministry, the actual mandate and work plan of the Centre has not been determined yet. This approach is reflected in the latest state report of 2015 as well. Furthermore the reference to widows is confusing. The justification for distinguishing between widows and FHH is unclear as a widow falls within the categorization of a FHH.

Defining FHH is challenging given the heterogeneity within the category. For instance ‘unmarried women, married with husband remaining in the household without any economic contribution, widows, grandmothers, divorced, separate/deserted women, women whose husbands have been absent for more than five years for economic reasons and women whose husbands have disappeared’ were identified in one study as the categories of FHHs.¹⁵ Additionally, some FHH were formerly LTTE combatants; some FHH have disabilities and/or have acquired disabilities due to the war; and some are military widows.

Question: On what basis does the GoSL target FHH for specific welfare programmes? What data is available on FHH and the classification of FHH?

Recommendation

- : Develop a national policy on FHH within a rights based framework**
- : Adopt clear and inclusive categorizations of FHH that will be used uniformly in welfare and resettlement policies and programmes. Use ‘women responsible for the household’ instead of ‘Female Heads of Households’ as a means of avoiding the discriminatory consequences that arise due to terminology**
- : Maintain a disaggregated database on FHH in Sri Lanka which reflects the heterogeneity within the group.**

B. Applicable Law

The Constitution

The scope for seeking a remedy for the violation of the right to equality of a FHH under the Constitution is narrow. The Sri Lankan Constitution recognises the right to equality as a fundamental right and includes sex as a prohibited ground of discrimination.¹⁶ The violation or imminent violation of a fundamental right by executive or administrative action or omission can be challenged before the Supreme Court within 30 days of such violation.¹⁷ To date however, the Supreme Court has not made a pronouncement on gender discrimination under this right. The fundamental rights chapter does not recognise economic and social rights.¹⁸ The fundamental rights jurisdiction is vested

exclusively in the Supreme Court, which makes it inaccessible for women from rural and war affected communities. The right to information was recently recognized and a bill for the implementation of the right has been presented in Parliament.¹⁹

Existing written and unwritten laws that are in violation of the chapter on fundamental rights is declared to be valid by the Constitution.²⁰ Thereby personal laws that include discriminatory provisions against women namely the *Muslim* law; *Tesawalamai* law; and *Kandyan* law are given constitutional recognition²¹. Furthermore, the Constitution does not guarantee remedies for the violation of the right to equality by non-state actors. The Women's Charter, a non-binding policy declaration remains the only state commitment to the respect of women's rights in Sri Lanka²². A Commission on Women has been proposed but remains as a draft law that has not been adopted.

Legislation

While certain provisions in the personal laws in Sri Lanka discriminate against women in general, FHH are further discriminated due to specific provisions and practices under these laws. *Tesawalamai*, the law applicable to Tamils that inhabit the Northern Province, discriminates against the married woman by requiring her husband's consent for all transactions related to her immovable property.²³ Where consent cannot be obtained where husband is missing; is imprisoned for more than 2 years; or where he is of 'unsound mind' the District Court is authorised to 'supply consent'. The Court is authorised to include 'conditions and restrictions as the justice of the case may require'.²⁴ The woman, in such instances, is required to make an application to Court every time such consent is required. The married FHH under *Tesawalamai* is therefore faced with an excessive and unacceptable burden in dealing with her own immovable property (see section on Tamil FHH below).

Laws that regulate grants of state land are also discriminatory of women with regard to intestate succession, which gives preference to the male heir.²⁵ FHHs experience numerous challenges in claiming the land that belonged to their spouse; in receiving land from the state; and also in relation to intestate succession. Furthermore due to prevailing practices of granting a dowry to a daughter upon marriage, FHH are under pressure to provide a daughter entering into marriage a house or a plot of land. These challenges are compounded in the case of FHHs affected by the armed conflict. Displacement; lack of education; lack of access to state run welfare programmes; the discriminatory provisions of *Tesawalamai* law, add several layers of complexity to their plight thereby effectively undermining their right to land. The CEDAW Committee in its COs to Sri Lanka's report in 2011 has recommended to the GoSL that these laws be revised to reflect among other things, gender equality. Moreover, single ownership is the current state practice in the granting of state land. Following the patriarchal interpretation given to the term 'Head of the Household' state land is vested with the male spouse. As evidenced in the work of *Rajarata Praja Kendraya* (RPK), in situations where the female subsequently assumes headship, she is effectively prevented from ownership rights to such land. Where the permit had been issued in the name of the husband and he had not nominated a successor in title, a wife succeeds to the permit. However, the spouse is required by law to possess the land within six months of the demise of the husband.²⁶ FHH face numerous barriers in meeting this legal obligation due to security concerns, the demands of caring for the family and also due to

other men in the community who compete with her for the land in question. For instance in a recent Supreme Court determination, a widow who could not demonstrate possession of the land within six months of her husband's death was denied legal ownership of the land.²⁷ If land is granted on the basis of joint or co-ownership, the surviving spouse is able to continue to enjoy legal ownership to such land.

These findings were confirmed in the studies undertaken by FOKUS WOMEN. Majority of the participants - 64% (sample of 500) of the participants in the *Ampara* study,²⁸ 80% from *Puttalam*²⁹ (sample of 1000) and 53% from *Anuradhapura*³⁰ (sample of 351) claimed that they owned land. Particularly in the Northern and Eastern Provinces, among the Tamil and Muslim communities, land is passed from mother to daughter. However, several issues were raised by these FHHs regarding land ownership. They included the lack of legal documentation establishing land ownership; and delay by administrators in providing documents for state land.³¹ In addressing issues related to land, FHH are required to negotiate with government officers, some of who are often reported to be insensitive to the particular vulnerabilities of FHH and also seek sexual favours in return. Such women often require counselling and assistance in dealing with administrative regulations, completing application forms and in attending to their documentation needs. Such assistance is not formally available.

The CEDAW Committee's repeated calls for the repeal of these laws, including the call for abolishing the use of the concept of 'Head of the Household' are yet to be implemented by the GoSL.³²

Question: what measures have been taken to reform the personal laws and land law to ensure compliance with Sri Lanka's obligations under CEDAW?

Recommendations

- : Adopt a comprehensive clause on the right to equality and non-discrimination in the proposed new constitution. Prohibited grounds of discrimination should include maternity; gender; rural living; marital status; and disability**
- : Introduce judicial review of legislation to ensure a mechanism for striking down legislation that is discriminatory of women**
- : Establish the proposed Commission on Women according to Paris Principles and provide the Commission with constitutional recognition**
- : Recognise joint or co-ownership in the grant of state land**
- : Ensure effective and full implementation of the right to information**

Administrative Practice

The implementation of welfare programmes for the FHH is ad hoc and the criteria for selecting beneficiaries are often unknown. The GoSL emphasises on income generation in designing programmes for FHHs. This 'welfare' approach assumes that ensuring income generation would lead to the resolution of the other challenges experienced by FHHs. Such an ad hoc and narrow approach leaves patriarchal structures and discriminatory practices untouched and is therefore ineffective.

Furthermore the methods of income generation introduced by the state have not been suited to ground realities.

The Women's Ministry states that it can only empower up to 300 women through financial assistance per year due to financial restrictions. The Women's Bureau conducts a loan program which gives Rs. 20,000 (USD 121, interest free) to widows. Discussions had with officials of relevant ministries suggest that these programmes are designed based on available funds rather than based on needs that are identified through a systematic assessment. The implementation of the programmes is heavily reliant on the reasonable exercise of administrative discretion.

A rights based approach is notably absent in these programmes. For instance, under the 100 Day plan of the incumbent President, 320 widows were given a grant of Rs. 30,000 (USD 214). The Programme was focused on women in the Northern and Eastern Provinces and adjoining districts. These grants were made through the Women Development Officers (WDO) in Divisional Secretariats. The grant program gave preference to income level (lowest); age of the widows (with preference for the younger FHH); number of dependents; and was based on whether they are self-employed or not.

FHH state that the implementation of these programmes is problematic. They state that information is often not made available to them; that reasons are not given on administrative decisions; and particularly at the village level, administrative power is abused to demand favours from FHH.

In the *Ampara* district, the participant FHH stated that they received monthly financial support ranging from Rs 140 – Rs 560 (USD 1 - 4).³³ There is both uncertainty and unpredictability in how these grants are administered. Women in *Ampara* had stated that though they receive Rs 140 (USD 1), Rs 40 (USD 0.3) is invariably deducted for an unknown reason.³⁴ Another woman, in the same district, was promised Rs 100 000 (USD 714) as a loan but was only paid Rs 82 000 (USD 586) and was told that the remainder was deducted for costs including for insurance.³⁵ At a consultation in Jaffna it was stated that Rs 400 (USD 3) was given monthly to FHH whereas the monthly allowance for elders over the age of 70 was Rs 2000 (USD 14).³⁶ It was further noted that women 'were reluctant to share their experiences about *Samurdhi* due to the fear of repercussions.'³⁷ (*Samurdhi* is the welfare programme of the state for the poorest of the poor).

With regard to state pensions for widows of members of the armed forces and civil defence forces, of the FHH interviewed in *Anuradhapura*, 24% (sample of 351) received a salary or pension of the deceased husband.³⁸ Another 23% (sample of 351) stated that since their husbands were working in these services only on a temporary basis, they received no support. Some others stated that they received only a onetime payment. Some others claimed that though they had received payments, that they were subsequently withdrawn. Several others were waiting for an extended period of time for their applications to be processed.

In the absence of clear guidelines requiring a rights-based approach, administrative practices are often informed by patriarchal notions that subject FHHs to discrimination. Women from *Ampara* district for instance pointed out that FHHs who wish to be employed in the Middle-East as migrant workers are unable to do so due to regulations that prevent women with children below 5 years from migrating for work.³⁹ Moreover, these women had no access to information on these policies

and were dependent on hearsay or what officials themselves verbally state to them. Attempts to challenge the circular that allegedly prevents women with young children from migrant work was denied leave to proceed by the Supreme Court and dismissed.⁴⁰

Question: What is the state mechanism for communicating information pertaining to programmes for FHH? Why is it that FHH claim that the information pertaining to these programme are not accessible?

Recommendation:

: Establish accessible grievance mechanisms at the lowest administrative levels to address issues related to discrimination against FHH in the implementation of welfare policies and programmes

: Improve accessibility to the Human Rights Commission and the Legal Aid Commission by establishing branches in every administrative district and by providing information on services provided by these institutions

: Establish a method of communication between the community and public officials that can feed into the review of the implementation of welfare programmes

3.2. ACCESS TO JUSTICE

FHHs have minimal awareness of whether there are any local remedies and/or mechanisms that they can resort to if they experience discrimination at the hands of the state or by non-state actors. For instance, none of the women interviewed for the study in the *Ampara* district were aware of the remedies available to them through the Human Rights Commission. Due to intersecting factors such as lack of access to education and patriarchal customs, the majority of FHH have minimal legal literacy.⁴¹

As noted by the CEDAW Committee where FHH have sought to access justice they were faced with numerous discriminatory practices including language barriers; discriminatory religious courts and cultural stereotyping.⁴² Due to the lack of Tamil speaking officers at police stations, and lack of translators during court proceedings, Tamil speaking FHH claim that they are discouraged from seeking legal remedies and also discouraged from pursuing litigation.⁴³

Muslim FHH are subject to the jurisdiction of the *Quazi* Courts. *Quazi's* are required to be 'any male Muslim of good character and position and of suitable attainments' and are appointed by the Judicial Service Commission.⁴⁴ Furthermore on the basis that proceedings are not adversarial in these Courts, representations by a lawyer are expressly prohibited.⁴⁵ As pointed out by the Muslim Women Development Trust (MDWT), lack of gender sensitivity and the prevailing patriarchy within the community results in undermining the access to justice of Muslim FHH before the *Quazi* Court.⁴⁶ The Legal Aid Commission, with 76 branches island-wide, provides legal aid based on income but only in civil matters.⁴⁷ The Human Rights Commission has only ten regional offices and one sub office across the island. In comparison there are 103 judicial divisions in Sri Lanka.

Laws, regulations, circulars are not available in all three languages island-wide. Even the laws that are accessible cannot be understood easily. Consequently FHH are unable to learn of their legal

rights or entitlements. As per the Constitution and policy, Sinhala and Tamil are official languages.⁴⁸ The Official Languages Commission in Sri Lanka is mandated to monitor adherence to the Languages Policy. However, the Commission can only make recommendations and therefore is unable to enforce compliance with the Policy.

Questions: What measures are in place to effectively monitor the implementation of the Official Languages policy in the war affected areas?

: What measures has the GoSL taken to ensure women's access to justice particularly in the post war context?

Recommendation:

: Immediately ensure that police stations are serviced with male and female officers who speak Tamil, particularly in the North and in the East

: Ensure that administration of justice complies with the official language policy. A complaints mechanism should be available in every court to receive complaints regarding the violation of the policy by a judicial officer, police officer or any other officer of the court.

: Undertake a country-wide needs assessment study to systematically identify the access to justice issues experienced by women, including FHH

: Ensure that police, lawyers particularly the state prosecutors, judiciary are gender-sensitive and that they are briefed about the prevailing state of human rights of FHH

: Ensure that laws, regulations, policies and other documentation relevant to FHH are accessible in all three languages

: Reform the *Muslim Marriage and Divorce Law* to include minimum qualifications for appointment as a *Quazi* and to remove any restrictions for women being appointed as a *Quazi*. As a temporary special measure, the law must allocate a quota for women *Quazis*. A *Quazi* should preferably be a lawyer or at least trained in the law, including in human rights law. Legal representation should be permitted before the *Quazi* court.

3.3. SEXUAL EXPLOITATION

FHH report that they are subjected to sexual exploitation and are solicited for sexual bribes. 25 such cases of serious and repeated experiences of sexual exploitation of FHH, including sexual bribery have been documented by FOKUS WOMEN.⁴⁹ FOKUS WOMEN partners working in the region, such as WANT (Women's Action Network for Transformation), and FHH living in the Northern Province state that they are under surveillance and are subjected to sexual exploitation when they are ordered to report to an army camp.

According to the case studies FHH are subjected to sexual exploitation by public servants and those in charge of public security; health care workers; and employers of civil society organizations. Offenders act with impunity and target FHH who are vulnerable due to several factors. For instance where the spouse is detained or is missing, FHH are dependent on the military and the police to investigate into the matter. Due to poverty FHH seek employment and assistance to meet their financial needs. Due to the impact of the armed conflict FHH are in need of access to land, documentation and housing. In the words of an FHH interviewed for the study:

*We live in a society that looks upon women as sexual objects and if we are not protected or guarded by men, then we the single women, can be used in any way the men want. I feel after the end of the war this trend of exploiting single women has increased. This is due to these women being poor, and needing material and financial assistance and they are malnourished and vulnerable to exploitation.*⁵⁰

Sri Lankan law prohibits the offer or the solicitation of any gratification but it does not specifically penalise sexual bribery.⁵¹ Furthermore, the Commission to Investigate into Allegations of Bribery and Corruption is located in Colombo which requires victims to complain either in writing or by way of telecommunication. The impunity with which offenders target and approach FHH and the lack of accessible and effective remedies for FHH subject to sexual exploitation was described by an FHH in the following words:

*Well laws can be brought about but poor people like me can't use them, no? From where will we get money to hire a lawyer and then how do we face society? Do we have any evidence to prove these things? Can I just tell the court he showed me bad pictures and touched me? And what would be the punishment then? Even rapists are roaming around freely on the streets these days. When he gets out and wants to hurt me who will protect me? I can't even run.*⁵²

The failure of the state in this regard is a violation of its obligation to ensure non-discrimination and where the offender is a non-state actor, the state is in violation of its due diligence obligation to prevent sexual exploitation.⁵³

Question: What are the measures the GoSL has taken to ensure that FHH are not subject to exploitation, particularly sexual exploitation, in the delivery of government services?

:How many cases of sexual exploitation have been prosecuted and perpetrators punished?

Recommendations: Immediately investigate and prosecute perpetrators of sexual violence including sexual bribery

: The Bribery Act should be amended to include 'sexual gratification' as a specific form of gratification with enhanced penalties for sexual gratification. This law should be accessible in Sinhala and Tamil

: Guidelines to address sexual harassment in state sector institutions developed by the Human Rights Commission of Sri Lanka should be amended to deal with sexual bribery complaints and the HRC should create a special complaint procedure to deal with it.

: A sexual bribery inquiry mandate should be added into existing independent commissions, such as the Police Commission, Election Commission, Bribery Commission, and Public Service Commission. Each of these Commissions should have a gender sensitive and trusted procedure to investigate and handle cases of sexual bribery.

: A wide public awareness campaign must be initiated on laws prohibiting sexual exploitation and bribery and on available redress mechanisms.

: A Code of Conduct must be put in place for officers that directly deal with FHH like *Samurdhi* Officers, *Grama Sevakas*, Development Officers, Public Health Officers and other government officers, in relation to sexual bribery.

: It should be made mandatory that all government departments and institutions maintain records and databases of instances of sexual bribery.

3.4. VIOLENCE AGAINST WOMEN

As observed by the UN Secretary General, violence against ‘women at risk, including war widows and female heads of household’ in Sri Lanka is an area of serious concern.⁵⁴ Sexual violence against women continues to be reported from the war affected community and has been documented internationally.⁵⁵ As a group of women who are in general subject to social stigma and other challenges including poverty, FHHs are vulnerable to violence. However, due to the lack of enforcement of laws and the absence of support networks, women who experience violence do not necessarily report it even within the community. For instance, 88% (sample of 1000) of Muslim women interviewed for one of the studies reported domestic violence while 49% of Muslim FHH in the same study stated that they chose to remain silent about the violence they had experienced.⁵⁶ In the *Ampara* study it was revealed that only 3% (sample of 500) of the women who had experienced violence had complained to the police.⁵⁷ The absence of an adult male gives rise to a perception that they are physically weak and makes them targets for sexual violence. Psychological violence has been raised as a concern by FHH. As described below, this form of violence is both difficult to identify and to address.

*When we are talking about violence, we talk only about or mainly about the physical violence. Women like us are dying daily due to emotional violence. If we go to a public place, our villages speak bad of us as we are separated. They are teasing our emotions. We can't tell this to others. Even our children face problems in schools due to our broken family life. They too are suffering silently.*⁵⁸

Question: What are the measures the GoSL has taken to address the psycho social needs of women affected by conflict? What kind of training is undergone by counsellors appointed by the state?

: What specific accountability mechanisms have been introduced to end impunity and ensure accountability for sexual violence against women in the context of the armed conflict and post conflict?

Recommendation: Ensure that adequately trained and ethically committed women police officers, Judicial Medical Officers, Magistrates and counsellors are available to enforce the legal guarantees provided under the *Prevention of Domestic Violence Act* and other relevant penal laws prohibiting sexual violence. These public officers and judiciary should be able to communicate directly with victims of gender-based violence or through independent translators provided by the state.

: ensure accountability for sexual violence committed in the context of the armed conflict against women

3.5. SPECIFIC GROUPS OF FHH

Within the heterogeneous group of FHH, this Report highlights the state of human rights of five specific sub groups of FHH due to the grave nature of the violations of their human rights and due to the lack of attention by the GoSL thus far to their specific circumstances.

A. Muslim FHH

Muslim FHH are subject to discrimination due to the application of the *Quazi* Court system; early marriage; and due to stigma.⁵⁹ The *Quazi* courts enforce the Muslim law which applies in relation to marriage, divorce, custody and maintenance of Muslim women.⁶⁰ All *Quazis* are required to be male by law and there are no specific qualifications or requirements for their appointment. The Muslim Women's Development Trust (MWDT) has come across numerous instances where judgements that are discriminatory towards Muslim FHH are issued by the *Quazi* courts and where the FHH do not have access to advice on how those decisions could be challenged.⁶¹ These issues are compounded by the prohibition of legal representation in proceedings before the *Quazi* court. These findings have been confirmed in another recent study on the *Quazi* court system.⁶²

Early marriage among the Muslim protracted IDP community has resulted in young FHH.⁶³ From the 1000 surveyed for the study on Muslim FHH, 42% had married under 18.⁶⁴ Such FHH experience several barriers in enjoying their economic and social rights. For instance most have not completed their education or received vocational training and consequently enjoy minimal opportunity for formal or informal employment.⁶⁵ 74% (sample of 1000) of these Muslim FHH stated that they experience discrimination. Of them 34% (from 740 FHH) stated that such discrimination was due to their FHH status and 23% (from 740 FHH) because they are IDP.⁶⁶

B. Tamil FHH

Tamil FHH are another group who experience specific forms of discrimination due to intersectionality of their ethnicity: psycho-social trauma; application of *Tesawalamai* law; and language.⁶⁷

FHH affected by the war predominantly speak Tamil, the minority language. The study by FOKUS WOMEN on language demonstrates that FHH are unable to access the criminal justice system due to the language barrier.⁶⁸ Experiences of such discrimination of 15 FHH from the Northern and Eastern Provinces have been studied for this report. These FHH report that at the police stations, including the Police Bureaus for Prevention of Abuse of Children and Women; at Prisons; during court proceedings including accessing translations provided by male translators; and in accessing state funded medical services that FHH experience discrimination. Due to lack of information in the Tamil language Tamil FHH are made vulnerable and are unable to seek justice.

Tamil FHH are subjected to sexual violence including sexual bribery. Where the spouse or child of the FHH is missing, the FHH are denied their right to truth; they are faced with cumbersome administrative and legal procedures in obtaining certificates of death; and they experience severe

forms of psycho-social trauma for which adequate counselling services have not been made available thus far.⁶⁹ Viluthu reports that FHH who were formerly combatants of the LTTE state that they are ostracised and stigmatised by their own community. Consequently, they are unable to engage in any livelihood even though they have been trained in relevant skills during their rehabilitation by the GoSL.

C. Military Widows

As per official records there are 9681 military widows in Sri Lanka.⁷⁰ Military widows are understood to include spouses of members of the armed forces, police and civil defence forces (an auxiliary unit) who died in action. It does not include spouses of armed forces who acquired disability due to the armed conflict. The Military widows are another specific group of FHH who experience discrimination due to administrative policies; and social stigma.

According to a study on 292 military widows (220 widows and including 49 with disabled spouses) by FOKUS WOMEN, prevailing policies regarding salary and pension payable to a military widow are discriminatory. Where a member of the armed forces dies in action or a police officer dies while on duty, his salary is payable up to the year on which such person would complete his 55th birthday.⁷¹ Thereafter, a pension is payable. The entire amount was payable to the widow and is within the range of Rs 35 000 – Rs 55 000 (USD 250 – 393). For those military widows whose spouse died after 2007, 25% of this benefit is paid to the parents of the deceased if living and only 75% goes to the widow and children. Widows of members of the Civil Defence Forces receive much less, Rs 2700 (USD 19). Compensation is paid additionally to the family members as follows: Rs. 25,000 (USD 179) for his wife; Rs. 25,000 (USD 179) to each parent; Rs. 18,500 (USD 132) to each child, up to a maximum of Rs. 75,000 (USD 536).⁷² However, it was evidenced that the actual amounts received by the family members vary and the FHH are unaware of the reasons for such variation.

Prior to 2010, a remarrying military widow was not entitled to receive the salary or pension of the deceased. This discriminatory practice was changed in 2010, to a policy whereby a remarrying widow receives 50% of the salary for ten years as a lump sum. Military widows have stated that this policy discourages remarriage and additionally make them targets of men who sexually exploit them and wish to benefit from the lump sum grant.

The GoSL requires the *Grama Niladhari* to report annually on the marital status of military widows and of widows of police officers every three months. This requirement places a private aspect of the life of a military widow, their family life and sexuality, under public scrutiny and also leads to the compounding of the social stigma associated with remarriage by a military widow. The FHH feel that their personal lives are constantly under scrutiny by the state and by the community.⁷³

D. Elderly FHH and FHH with Disability

Age and disability, particularly disability acquired due to the armed conflict,⁷⁴ are two other factors that further undermine the dignity of FHH in the Sri Lankan context. The laws regulating rights of elders and of persons with disability are inadequate and ineffective.⁷⁵ Lack of adequate social

security services; disruptions in the social fabric due to the war; lack of accessible environments are additional barriers that such FHH are faced with.⁷⁶

Question: How will the national policy on FHH recognise the heterogeneity among FHH? In what ways will the policy ensure targeted interventions to address the specific human rights violations experienced by different types of FHH?

Recommendation: Ensure that the policy currently being drafted on FHH identifies the specific concerns among the different types of FHH

: Initiate and facilitate a dialogue within the community on culture, religion and gender equality particularly to ensure the integration of military widows and ex-combatants into communities

: The design and implementation of welfare and livelihood training programmes must take into account specific vulnerabilities among the FHH population

4. ARTICLE 5: SEX ROLE STEREOTYPING AND PREJUDICE

FHH are subjected to gender stereotyping due to prevailing cultural and religious worldviews. Consequently they face barriers in the enjoyment of their human rights including their right to access to justice. Previously the CEDAW Committee has recommended to the GoSL to implement a 'comprehensive strategy' to address gender stereo-typing.⁷⁷ The problem however, persists. Dominant patriarchal values on the one hand characterises FHH as vulnerable victims who are in need of patronage and protection. On the other hand, their perceived vulnerability make them targets for sexual and other forms of violence. Widow FHHs are stigmatised in certain cultures and are considered as bad omens. Consequently they are marginalised and are prevented from actively participating in the social and cultural life of the community including weddings; coming of age ceremonies; and house-warming ceremonies. FHH, particularly military widow FHH, and FHH who are ex-combatants, state that their bodies, their conduct and their social interactions are heavily regulated by the community and come under scrutiny by.

Many FHH have sought to challenge these stereo-types by asserting their independence and by defying discriminatory cultural norms.⁷⁸ However FHH state that prevailing cultural norms continue to constrain and stigmatise them within the community.

Question: what measures have been introduced in primary and secondary education to address issues pertaining to gender stereo-typing including the stereo-typing of FHH?

Recommendation: Ensure that education, particularly the education of professionals (especially legal education) sensitises society on gender equality

: Raise awareness on the negative consequences of gender stereotyping through cultural and religious practices

5. ARTICLE 7: POLITICAL AND PUBLIC LIFE

FHHs face barriers in the political and public life of the community. The low visibility of women in its public and political life is, in general, a grave concern in Sri Lanka which has replicated itself in the areas of reconstruction and resettlement in war affected areas and in transitional justice and in peace building.⁷⁹ In one study it was noted that they felt 'humiliated, threatened and discriminated by the local politicians.'⁸⁰ In the absence of adequate political representation of their interests FHH are compelled to engage with existing patriarchal power structures which often address their issues and needs on the basis of political expediency. FHH whose spouses and/or children are missing are particularly vulnerable in this context. As a response, *Viluthu* has established *Amara* fora for FHH in the Northern and Eastern Provinces. Through these fora, FHH are organised and mobilised to act collectively in seeking remedies for violations of their human rights but also to act collectively to claim their right to be active in the community.

5.1. TRANSITIONAL JUSTICE

FHH have not been included in transitional justice initiatives. Thus far, national policy in the post conflict period had focused on the development of infrastructure. The recently elected government has indicated that it would adopt a more holistic approach to transitional justice and reconciliation. To date, there have been no specific state led transitional justice or peace building initiatives in which FHHs could participate and be involved in.

In 2011, the CEDAW Committee recommended the inclusion of women in the 'country's post-conflict, reconstruction and peace building process.'⁸¹ Among women, FHH should be recognized as a specific group, given the specificity of the forms of discrimination experienced by them.⁸² FHH state that they are marginalized in resettlement programmes; that they are targeted for sexual violence by state and non-state actors and therefore fear for their safety; that they experience trauma due to disability acquired due to the conflict and widowhood due to the conflict; and that they experience compounded trauma due to enforced disappearances that occurred both during and after the armed conflict.

FHH who assumed leadership of the family due to the disappearance of her spouse is compelled to support the family; seek her missing partner; engage with the cumbersome bureaucratic process in applying for the death certificate and/or compensation; and cope with conflict related trauma and the trauma of being a family member of a missing person. Up to 2013, the only remedy available to FHH was to apply for a certificate of death under a temporary law.⁸³ In September 2015, the GoSL has committed before the UN Human Rights Council to issue Certificates of Absence to missing persons and also to ensure accountability for enforced disappearances.⁸⁴ However as pointed out by *Viluthu*, FHH are unable to assert their right to truth due to the continued surveillance of the North and East. They state that due to prevailing conditions even fact finding cannot be carried out effectively among FHH.

Question: What steps has the GoSL taken to ensure that women and FHH are represented in discussions regarding the establishment of Transitional Justice mechanisms for Sri Lanka?

Recommendation: Ensure that FHH are specifically included in any transitional justice initiatives.

: Establish specialized and targeted transitional justice initiatives that address the specific human rights violations experienced by FHH, including the recognition of the right to truth by law

: Use the 'immediate aftermath' of the armed-conflict as a 'strategic opportunity' to 'adopt legislative and policy measures to eliminate discrimination against women'⁸⁵

: Fifty per cent or more female representation (at all levels; top to bottom) should be ensured in all post-war service delivery structures and proposed transitional justice mechanisms.

: While the decision of the GoSL to issue Certificates of Absence to missing persons is commended, in the implementation of this measure the GoSL must be sensitive to the particular challenges that a FHH may face in obtaining such a document. The option of obtaining this Certificate should not compromise the right of the family of a missing person to truth or to accountability. Nor should it deprive the rights of the missing person.

: FHH must be ensured the right to freely participate in the public and political life of the community without being stigmatised or exploited for political gain

: Adopt temporary special measures to increase women's political representation

6. ARTICLE 11: EMPLOYMENT

FHH in particular are vulnerable to economic hardship and lack of employment. In the post conflict context FHHs have been provided with livelihood support both by the GoSL and by civil society organizations. However, evidence from the communities suggests that this support has not been effective. The studies carried out by FOKUS WOMEN point to the need for a holistic and sustainable approach in this regard. For instance a woman from *Ampara* district stated that she was provided with a three wheeler but that due to the gender stereo-typing of the driving of three wheelers she was subject to discrimination in her attempt to work as a three wheeler driver.⁸⁶ Another woman from the same district had been provided training on shoe making but she claims that she does not have a market for selling shoes.⁸⁷ In the first example, the socio-cultural context has not been duly considered and in the second the economic viability of the support provided has been ignored.

According to information gathered, the design of livelihood support by the state is driven primarily by availability of resources. No effort seems to be made to balance the needs of proposed beneficiaries with available resources. Furthermore, at present there are no mechanisms to ensure the sustainability of the support given. The lack of structured and continuous assessment of these programmes seems to result in each intervention being ad hoc and ineffective.

Question: What is the basis on which livelihood assistance for FHH are designed and implemented by the GoSL?

Recommendation: Ensure that livelihood support is provided according to a needs assessment and that such support is sustainable and is subject to periodic assessment. Livelihood

interventions must be part of a broader programmatic intervention that ensures viability and profitability of the livelihood activity

: Economic opportunities must be made available on the basis of equality of opportunity

7. ARTICLE 12: HEALTH

Specific forms of psycho-social trauma is experienced by war affected FHH. The Committee has recognised that state obligations to respect the right to health include the obligation to ensure trauma treatment and counselling.⁸⁸ All the studies conducted by FOKUS WOMEN highlights psycho-social issues and trauma as a serious concern in relation to FHH. Factors that contributed to trauma include the loss of a spouse and parent; armed-conflict related trauma, resulting in interruptions to education etc; trauma related to loss of property and income; loss of a sense of security due to absence of the adult male; due to threats to security by members of the armed forces and police; and in some cases due to acquiring disability during the armed conflict.⁸⁹ Furthermore, it has been established that the war-affected communities in Sri Lanka have been subjected to collective trauma in addition to their individual experiences of trauma.^{90 91}

The Ministry of Women's Affairs has placed Relief Sisters and Women Development Officers at Divisional Secretariats to address concerns of this nature.⁹² Counsellors are available at the local authority level (*Pradeshiya Sabha*).⁹³ However, whether they have been given suitable training and are equipped to counsel women who experience trauma, is questionable. Civil society organizations have attempted to meet the need for psycho-social counselling among war affected women. For instance, the National Peace Council (NPC) has conducted some workshops for women in *Trincomalee* and *Mannar* at which women have been encouraged to speak freely and openly about the trauma they have experienced and also about the difficulties they experience. Many FHH who participated in these workshops have reported that sharing their stories with other women had been an empowering experience.

Question: What is the GoSL policy for addressing psycho-social trauma of war affected communities, especially the FHH?

: What specific programmes are currently being implemented to address war related psycho-social trauma?

Recommendation: Guarantee access to FHH to mental health care through the state funded health care system

: ensure availability of Tamil speaking, well trained female counsellors in Tamil speaking war affected areas and for Sinhala speaking military widows

: implement community based programmes to improve the mental health of war affected women including truth telling and the sharing of memories

: encourage and facilitate aesthetic and art based forms of expression among the war affected communities including FHH

8. ARTICLE 14: RURAL WOMEN

War affected FHH in Sri Lanka are located primarily in the rural context. In the Sri Lankan context rural living often means poverty; inadequate enjoyment of economic and social rights; and lack of access to effective remedies. 80% of Sri Lanka's population is rural.⁹⁴ Given that financial assistance offered to FHH is meagre and not on par with assistance offered under other categories rural FHH are particularly vulnerable.⁹⁵

As pointed out by the *Rajarata Praja Kendraya* (RPK) FHH in the former 'border villages' (primarily Sinhalese villages that are located along the borders of the Northern and Eastern Provinces) endure discriminatory practices including lack of opportunity for employment; and sexual violence and exploitation.⁹⁶ FHH in these communities do not receive sufficient benefits from post conflict reconstruction programmes conducted by the state and by Non-Governmental organizations. They experience severe hardships in realising their economic and social rights and of their dependents. These challenges faced by the rural FHH can translate into long-term vulnerabilities for them and for their dependents.

Underage Marriage

Underage marriage and cohabitation on the one hand has resulted in young FHH with dependents in rural communities. On the other hand, increase in FHH has contributed to underage marriage due to difficulties experienced by FHH in caring for their dependent children. Under age marriage of girls is reported to have increased in Sri Lanka particularly in the North, East and among the rural communities.⁹⁷ Eighteen is the minimum age of marriage, except in the case of Muslims.⁹⁸ The *Muslim Marriage and Divorce Act* does not prescribe a minimum age of marriage. In practice 12 years is considered to be the minimum age of marriage for Muslim girls. Moreover, except for a Muslim woman of the *Hanaffi* sect, Muslim women are not required by law to sign at the registration of the marriage. The guardian of the woman signs on her behalf.⁹⁹ The official marriage ceremony often takes place in the absence of the Muslim woman.

Registration of marriage is not mandatory (except under the *Kandyan* law) and the law recognises marriage by habit and repute and customary marriage.¹⁰⁰ Girls below eighteen enter into de facto marriages in the rural communities for several reasons. These reasons include concerns for the physical safety of young girls; destabilisation of community life due to the armed conflict; poverty; discontinuation of education due to the armed conflict; unemployment; romantic relationships resulting in elopement; and due to prevailing cultural norms. As stated by RPK, the practice of underage marriage continues in rural communities even though the initial and armed-conflict related factors that led to the practice have ceased to exist.

Question: How does the GoSL ensure that communities in border villages, especially FHH and their dependents, are included as beneficiaries in post-war reconstruction and development programmes?

: What mechanisms are in place to prevent underage marriages?

Recommendation: Facilitate economic development and employment opportunities that would benefit FHH in rural areas particularly border villages

: Provide opportunities for vocational training, especially for those who have not completed their secondary education

: Prescribe a minimum age of marriage including for Muslims

: Registration of marriages by the parties to the marriage must be made mandatory by law

: Conduct an awareness raising campaign through the public service regarding the minimum age of marriage and the consequences of underage marriage

¹ The number of FHH has increased from 19.2% in 2001 to 23% in 2010. Dept of Census and Statistics

² *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Sri Lanka*, 8 April 2011, CEDAW/C/LKA/CO/7, ¶ 41

³ Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011), ¶¶ 5.103, 6.92

⁴ State Report 2015, para 100, the other two programmes are the ‘Single Parent Families Development Programme and the ‘*Divi Neguma*’ programme para 120; *Divineguma Act*, No 1 of 2013.

⁵ According to the Inter-Parliamentary Union, only 5.8% of Sri Lanka’s parliament comprises of women.

⁶ The female participation in the labour force of Sri Lanka is 36.7 % of the economically active population in the First quarter 2015. However out of the economically inactive population 74.1 % are females, Department of Census and Statistics, *Sri Lanka Labour Force Bulletin*, ISSN 1391-3050, Issue No. 68; Maternity Benefits Act, No 26 of 1952

⁷ These three studies were commissioned by FOKUS WOMEN. The studies are based on interviews conducted with female heads of households: 500 from Ampara; 351 from Anuradhapura; and 1000 from Puttalam. *A Report on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Anuradhapura District* (FOKUS WOMEN 2015); *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS V2015); *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN 2015); *Post War Trends in Child Marriage Sri Lanka* (FOKUS WOMEN 2015).

⁸ *Language as a Barrier in Accessing the Criminal Justice System in cases of Violence Against Female Heads of Households (FHH) in the North and East* (FOKUS WOMEN 2016); *Sexual Exploitation of Female Heads of Household Affected by War in Sri Lanka: twenty-five case studies* (FOKUS WOMEN 2016).

⁹ The partners are: National Peace Council; Home for Human Rights; *Rajarata Praja Kendraya*; *Viluthu*; Muslim Women Development Trust; Women Development Centre, *Akkaraipattu*; Women’s Action Network for Transformation, Jaffna; and the Centre for the Study of Human Rights, University of Colombo.

¹⁰ It should be noted that in the jurisprudence of CEDAW recognition for FHH and the specific nature of the violation of their right to equality is still an emerging issue.

¹¹ *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN 2015) 5.

¹² Definitions employed by the Department of Census and Statistics are as follows: ‘A household may be (i) a one – person household or (ii) multi-person household. A one-person household is one where a person lives by himself and makes separate provision for the food. A multi-person household is one in which a group of two or more persons live together and have common arrangements for provision of food. Household includes not only members of the family such as husband, wife and children but also others such as relatives, boarders, domestic servants etc. who live with the family and share the same common arrangements of cooking and partaking of food with them. Lodgers of a household, who have their own separate arrangements for meals are considered as a separate household.’ and ‘Head of a household is the person who usually resides in the household and is acknowledged by the other members of the household as the head.’ Available at <http://www.statistics.gov.lk/PopHouSat/CPH2011/index.php?fileName=ConceptsandDefinitions&gp=StudyMaterials&tpl=2>

¹³ Discussions with officials from the Ministry of Women’s Affairs (14 August 2015).

¹⁴ See for instance, A New Intervention for the Socio – Economic Empowerment of Women Headed Households, Ministry of Women and Child Affairs (20th May 2015), <http://www.childwomenmin.gov.lk/English/news/ministry-news/intervention-socioeconomicempowermentof>

¹⁵ *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN 2015) 4.

¹⁶ The Constitution of the Democratic Socialist Republic of Sri Lanka (1978), Article 12 (the Constitution).

¹⁷ Article 17 read with Article 126 of the Constitution.

¹⁸ The right to access to education has been recognized by the Supreme Court within the right to equality. See for instance: The Z Score case S.C. (FR) Application No.29/2012

¹⁹ The Nineteenth Amendment, § 2; and Article 14A to the Constitution

²⁰ Article 16 of the Constitution.

²¹ Muslim Marriage and Divorce Act, No 13 of 1951; Kandyan Marriage and Divorce Act, No 44 of 1952; and Jaffna Matrimonial Right and Inheritance Ordinance of 1911. Roman Dutch Law is the common law of Sri Lanka and is the general law applicable to women who do not fall under the personal laws.

²² The Women's Charter was approved by the Government of Sri Lanka on 3rd March, 1993.

²³ Matrimonial Rights and Inheritance (Jaffna) Ordinance, No 1 of 1911, §6; Also applies to women who marry a man to whom *Tesawalamai* applies.

²⁴ Supra, § 8

²⁵ Land Development Ordinance, No. 19 of 1935 (LDO), §§ 48(A) & (B).

²⁶ Section 48A read with section 61 of the LDO.

²⁷ *Leelawathie v Perera* SC Appeal 166/2010 SC Minutes 15th November 2012.

²⁸ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN 2015) 18

²⁹ *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN 2015) 13

³⁰ *A Report on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Anuradhapura District* (FOKUS WOMEN 2015) 10

³¹ Supra 16.

³² *Concluding observations of the Committee on the Elimination of Discrimination against Women : Sri Lanka*, 8th April 2011, CEDAW/C/LKA/CO/7, ¶45

³³ These payments are made every 3 to 4 months and are subject to reductions. See in this regard: *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN 2015) 21

³⁴ Supra 16.

³⁵ Supra 17.

³⁶ District level consultation with public officials by FOKUS WOMEN, conducted in Jaffna on the 29th of January 2016.

³⁷ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN 2015) 17.

³⁸ *A Report on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Anuradhapura District* (FOKUS WOMEN 2015) 13.

³⁹ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN 2015) 18.

⁴⁰ *Migrant worker challenges Govt over restrictive rule* (Business Times, 1 September 2013), available at <http://www.sundaytimes.lk/130901/business-times/migrant-worker-challenges-govt-over-restrictive-rule-59771.html>.

⁴¹ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS 2015) 19.

⁴² CEDAW) *General Recommendation No. 33 on women's access to Justice*, 23 July 2015, CEDAW/C/GC/33, ¶9.

⁴³ *Whither Justice? The Language Barrier in Accessing the Criminal Justice System in cases of violence against female heads of households in the North and East of Sri Lanka*, FOKUS WOMEN, 2016.

⁴⁴ S 12 of the Marriage and Divorce (Muslim) Law No 41 f 1975 as amended.

⁴⁵ S 74 supra.

⁴⁶ See CEDAW General Recommendation No. 33 on women's access to Justice, ¶ 25(d): The state has a duty to protect women from 'interpretations of religious texts and traditional norms that create barriers to their access to justice and result in discrimination against them.'

⁴⁷ Legal Aid is provided to those individuals receiving a monthly income of Rs. 8000.00 or less; The Legal Aid Law, No. 27 of 1978

⁴⁸ Article 18 of the Constitution

⁴⁹ *Sexual Exploitation of Female Heads of Households Affected by War in Sri Lanka: Twenty-five Case Studies* (FOKUS WOMEN, 2016)

⁵⁰ Supra 31.

⁵¹ The Bribery Act, No 11 of 1954 as amended. See also Section 158 of the Penal Code Act, No 6 of 1968.

⁵² *Sexual Exploitation of Female Heads of Household Affected by War in Sri Lanka: twenty-five case studies* (FOKUS),⁴⁷

⁵³ CEDAW *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 16 December 2010, CEDAW/C/GC/28, ¶¶9-13.

⁵⁴ United Nations Security Council (UNSC), *Report of Secretary General on Conflict-related Sexual Violence*, 23rd March 2015, S/2015/203; See also Office of the High Commissioner for Human Rights Inquiry on Sri Lanka (OISL) Report para 626

⁵⁵ Yasmin Sooka, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009–2014*, (March 2014)

⁵⁶ *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN, 2015) 89-92.

⁵⁷ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN, 2015) 21.

⁵⁸ A statement made by a participant at a focus group discussion, *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN, 2015) 89

⁵⁹ For instance the Muslim Women's Development Trust has also held the view that "the anomalies in the system have culminated in the Quazi courts becoming hotbeds of patriarchy, and condoning what the general law considers to be abhorrent behavior."

⁶⁰ Registration of Muslim Marriages and Divorce Act No. 13 of 1951, § 12(1)

⁶¹ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN, 2015) 19.

⁶² Saleem Marsoof, *The Quazi Court System in Sri Lanka and its Impact on Muslim Women* (Muslim Women's Research and Action Forum/Women Living under Muslim Laws, 2011 reprint).

⁶³ Final Report of the Citizens' Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990: *The Quest for Redemption: The Story of the Northern Muslims*

⁶⁴ *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN, 2015) 18

⁶⁵ Only 9% of the 1000 Muslim FHH had had adult education and vocational training. *Survey on the Status of Muslim Female Heads of Households and Their Access to Economic, Social and Cultural Rights* (FOKUS WOMEN, 2015) 70

⁶⁶ Supra 81

⁶⁷ For instance Vilithu has also held the view that "Psycho-social support is among the primary needs of war-affected women"

⁶⁸ *Whither Justice? The Language Barrier in Accessing the Criminal Justice System in cases of Violence Against Female Heads of Households (FHH) in the North and East* (FOKUS WOMEN)

⁶⁹ The Registration of Deaths (Temporary Provisions) Act, No. 19 of 2010; A family member of a person missing for more than an year (due to 'terrorist or subversive activity or civil commotion) can make the application.

⁷⁰ Ranaviru Sewa Authority, Annual Report 2011, (http://www.parliament.lk/uploads/documents/paperspresented/annual_report_rana_viru_seva_authority_2011.pdf)

⁷¹ Widows and Orphans Pension Fund (Armed Forces) Act, No 18 of 1970

⁷² The Ministry of Defense Sri Lanka, (<http://www.defence.lk>)

⁷³ *Living in Shadow: Status of Military Widows in Sri Lanka* (FOKUS WOMEN 2016).

⁷⁴ Samararatne D & Soldatic K, *The social inclusion of rural women with disability in post-armed conflict Sri Lanka*, (August 2014)

⁷⁵ Protection of the Rights of Elders Act No. 9 of 2000; Protection of the Rights of Persons with Disabilities Act, No 28 of 1996

⁷⁶ Samararatne D & Soldatic K, *The social inclusion of rural women with disability in post-armed conflict Sri Lanka*, (August 2014)

⁷⁷ *Concluding observations of the Committee on the Elimination of Discrimination against Women : Sri Lanka* , 8 April 2011, CEDAW/C/LKA/CO/7, ¶ 23.

⁷⁸ See Rajasingham-Senanayake D., 'Post Victimisation: Cultural Transformation and Women's Empowerment in War and Displacement' in Selvy Thiruchandran (ed) *Women, Narration and Nation* (SSA 1999)136.

⁷⁹ *Concluding observations of the Committee on the Elimination of Discrimination against Women: Sri Lanka*, 8th April 2011, CEDAW/C/LKA/CO/7, ¶¶30-31; Sri Lanka has never had more than 6 % women in any house. Currently only 5.8% of seats in the National Parliament, 4.1% of seats in the Provincial Councils (PC), and 2.3% of seats in the Local Government (LG) bodies are represented by women.

⁸⁰ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN, 2015) 22

⁸¹ *Concluding observations of the Committee on the Elimination of Discrimination against Women : Sri Lanka*, 8th April 2011, CEDAW/C/LKA/CO/7, 41(h)

⁸² CEDAW General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 1 November 2013, CEDAW/C/GC/30, ¶ 42

⁸³ The Registration of Deaths (Temporary Provisions) Act, No. 19 of 2010

⁸⁴ United Nations General Assembly (Human Rights Council) , *Promoting reconciliation, accountability and human rights in Sri Lanka*, 29th September 2015, A/HRC/30/L.29

⁸⁵ CEDAW General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 1 November 2013, CEDAW/C/GC/30, ¶ Amara Forum for Female Heads of Households comprised of 17,000 war affected FHH's proposal supported by Viluthu which was submitted to the government for a Widows' Charter released in December 2015.

⁸⁶ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN, 2015) 10.

⁸⁷ *A Study on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Ampara District* (FOKUS WOMEN, 2015) 10.

⁸⁸ CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health), 1999, A/54/38/Rev.1, Chapter I, ¶16.

⁸⁹ *A Report on the Status of Female Heads of Households and their Access to Economic, Social and Cultural Rights: Anuradhapura District* (FOKUS WOMEN, 2015) 13-14.

⁹⁰ See for instance, Daya Somasunderam, *Addressing collective trauma: conceptualisations and interventions*, Vol. 12(2014 Supplement 1) *Intervention* 43. The term collective trauma ‘represents the negative consequences of mass disasters at the collective level, that is on the social processes, networks, relationships, institutions, functions, dynamics, practices, capital and resources; to the wounding and injury to the social fabric.’ (47)

⁹¹ Daya Somasunderam, *supra* 47

⁹² According to the Ministry of Women’s Affairs there are 10 Relief Sisters and 72 Women Development Officers in the Northern and Eastern Provinces.

⁹³ According to the Ministry of Women’s Affairs there are 42 counsellors at the local authority level in the Northern and Eastern Provinces.

⁹⁴ Brief Analysis of Population and Housing Characteristics: Population and Housing Censuses in Sri Lanka, (<http://www.statistics.gov.lk/pophousat/pdf/p7%20population%20and%20housing%20text-11-12-06.pdf>)

⁹⁵ For instance the allowance for elders over the age of 70 is Rs 2000 and the monthly grant for persons with disability is Rs 3000 while the monthly grant for FHH is Rs 400.

⁹⁶ For instance the *Rajarata Praja Kendraya* has expressed that “[the] border villages are often overlooked by the state and non-state actors, donors and researchers. These villages faced similar issues to those prevalent in the war zone”

⁹⁷ *Post War Trends in Child Marriage Sri Lanka* (FOKUS WOMEN, 2015)

⁹⁸ Marriage and Divorce (Muslim) Act No 13 of 1951, § 23

⁹⁹ *Supra*, §18

¹⁰⁰ Marriage Registration Ordinance No 19 of 1907; Marriage and Divorce (Kandyan) Act No 44 of 1952.