Fighting Domestic Violence - Sri Lanka

2. Introduction: framework guiding domestic violence law

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# 2.1 Are there civil and criminal legal remedies for domestic violence victims?

The PDVA mainly governs domestic violence in Sri Lanka.

In Section 23 of the PDVA, domestic violence includes "physical or emotional harm done by the spouse, ex-spouse or cohabiting partner to the other."

Section 2 of the PDVA states that the aggrieved party can file for a protection order from a magistrate's court upon ill-treatment. However, a retrospective view in 2020 showed that it has been nearly impossible for women to report violence due to being confined to their homes during the COVID-19 pandemic and lockdown.[1]

# 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

The Constitution of Sri Lanka provides a series of fundamental rights, which are akin to human rights. Regarding domestic violence, there is no express provision; however, the following could arguably cover domestic violence:

11. No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.[2]

Nevertheless, the following allows a waiver in terms of conflict with any existing laws:

16. (1) All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter.[3]

Amnesty International notes the following in its 2020 human rights review for Sri Lanka:

There was continued impunity for sexual and gender-based violence, despite repeated assurances by consecutive governments to tackle the issue. A total of 142 rapes and 42 cases of "serious sexual abuse" against children were reported to the police in just the first 15 days of the year.[4]

# 2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

Sri Lanka has not signed or ratified the Istanbul Convention.[5]

# 2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

The Istanbul Convention is not applicable to Sri Lanka.

# 2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

N/A

# 2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

Sri Lanka signed (1980) and ratified (5 October 1981) the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[6]

The CEDAW General Comment No. 35 adopts the term "gender-based violence against women" to make explicit the gendered causes and effects of violence. Paragraph 26 of General Comment No. 35 requires state parties to: (i) adopt legislation prohibiting all forms of gender-based violence against women and girls, harmonizing national law with the CEDAW; and (ii) repeal any laws that constitute discrimination against women.[7]

In 2016, Sri Lanka launched the National Action Plan to address sexual-based and gender-based violence with of the aim of creating a violence-free life for women and children with zero tolerance for sexual-based and gender-based violence in Sri Lanka, formulated using a multi-sectoral approach with engagement from key ministries representing nine sectors.

However, Amnesty International noted in its 2020 human rights review for Sri Lanka that there was continued impunity for sexual-based and gender-based violence, despite repeated assurances by consecutive governments to tackle the issue.[8]

# 2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

N/A

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