



January 11, 2002

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

Re: Supplementary information on Sri Lanka
Scheduled for review by CEDAW Committee on January 28, 2002

Dear Committee Members:

This letter is intended to supplement the periodic report submitted by Sri Lanka, scheduled to be reviewed by this Committee during its 26th session. The Center for Reproductive Law and Policy (CRLP), an independent non-governmental organization, hopes to further the work of the Committee by providing independent information concerning the rights protected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This letter will highlight one area of particular concern related to the status of women's reproductive health and rights in Sri Lanka: the country's discriminatory laws on abortion.

Because reproductive rights are fundamental to women's health and equality, States Parties' commitment to ensuring them should receive serious attention. Further, reproductive health and rights are explicitly protected in CEDAW. Article 12 requires States Parties to "take all appropriate measures to eliminate discrimination against women in the field of health care," and specifies that governments should ensure access to "appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."¹ Article 10(h) requires that women have "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."²

The Committee's General Recommendation 24 on Women and Health affirms that "access to health care, including reproductive health, is a basic right under [CEDAW]"³ and is fundamental to women's health and equality. Moreover, the

General Recommendation considers it the responsibility of States Parties to “[e]nsure the removal of all barriers to women's access to health services, education and information, including in the area of sexual and reproductive health,” and to “[p]rioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance.”⁴

We wish to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women in Sri Lanka.

In its report to the Committee, the government states that "[t]here are no discriminatory penal laws" in Sri Lanka.⁵ However, under the Penal Code 1883, the "termination of pregnancy is a punishable offence unless caused in good faith for the purpose of saving the life of the mother."⁶

The illegality of abortion violates CEDAW's guarantees of the right to reproductive health care. Government neglect of the health and life risks associated with clandestine abortion leads to unwarranted and preventable risks for all Sri Lankan women. Reliable information about the conditions under which they are performed is lacking. There have been, however, reports of women and doctors being arrested and prosecuted on abortion-related charges.⁷

This Committee has consistently criticized restrictive abortion laws⁸ and has asked States Parties to review legislation making abortion illegal,⁹ praised States Parties for amending their restrictive legislation¹⁰ and encouraged women's groups to oppose restrictive abortion laws.¹¹ In reviewing a similarly restrictive abortion law, this Committee has previously urged the government under review "to amend, as a matter of priority, ... discriminatory criminal laws, including the law on abortion."¹²

The government states that "there is evidence of widespread illegal abortions being conducted..."¹³ However, the government report lacks statistics about the number of illegal abortions, post-abortion complications, and deaths resulting from unsafe abortions. A 1998 UNFPA-sponsored workshop on reproductive rights draws on anecdotal evidence to estimate that there are about 750 abortions performed daily in Sri Lanka.¹⁴

The government report states that "[t]here is anecdotal police evidence that incidents of rape [are] increasing,"¹⁵ and cites police statistics of 1,066 reported cases of rape in 1998, compared with 354 in 1992.¹⁶ Incest has likewise been deemed a "growing concern."¹⁷ Yet, despite such a disturbing increase in sexual crimes, rape and incest remain impermissible grounds for legal abortion. This Committee has linked sexual violence and access to abortion, condemning the criminalization of abortion in the case of rape.¹⁸

Although the government has acknowledged the widespread occurrence of illegal abortions and attempted to liberalize the law in 1995, the restrictive law still stands.¹⁹ It has been noted that opposition to abortion law in Sri Lanka has been fueled by religious and customary norms that relegate women to traditional gender roles.²⁰ In failing to mobilize the political will required to pass such reform, the government continues to deny women their rights to equality and health.

We hope the Committee will consider addressing the following questions to the government of Sri Lanka:

1. What legislative and policy measures are being taken to address the issue of unsafe abortion, in particular efforts to reform the law that criminalizes abortion? What provisions has the government made for post-abortion care?
2. What measures are being taken to combat the persistently high rates of violence against women? Given the high incidence of sexual violence, what efforts are being made to permit women to obtain legal and safe abortion to terminate pregnancies resulting from rape and incest? Is emergency contraception made available as part of counseling and services offered to victims of such crimes?
3. Given the government's comments on difficulties in providing health services to women in "refugee camps and in conflict affected areas,"²¹ how is it working to remedy what the World Health Organization has characterized as a "health situation ... under severe threat?"²²

There remains a significant gap between CEDAW provisions and the reality of women's reproductive health and lives in Sri Lanka. We applaud the Committee for its commitment to women's reproductive rights and the strong concluding observations and recommendations the Committee has issued to governments in the past, which stress the need to take steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Sri Lankan government's report. If you have any questions, or would like further information, please do not hesitate to contact us.

Very truly yours,

Melissa Upreti
Staff Attorney, International Program

Laura Katzive
Staff Attorney, International Program

¹ Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].

² *Id.*

³ Committee on the Elimination of Discrimination against Women, Gen. Recommendation 24, *Women and Health*, art. 12, para. 1, U.N. Doc. A/54/38/ (Part I) (1999).

⁴ *Id.* at para. 31(b), (c).

⁵ Third and fourth reports of Sri Lanka to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/LKA/3-4 (1999), para. 22 [hereinafter Government report].

⁶ *Id.* at para. 140.

⁷ See Sunila Abeysekera, *Abortion in Sri Lanka in the Context of Women's Human Rights*, REPROD. HEALTH MATTERS 87, 91 (1997).

⁸ See, e.g., **Andorra**, 31/07/2001, CEDAW/C/2001/II/Add.1, para. 27; **Belize**, 01/07/99, CEDAW/C/1999/L.2/Add.2, para. 26; **Bolivia**, 31/05/95, A/50/38, paras. 42-104, 82; **Chile**, 09/07/99, CEDAW/C/1999/L.2/Add.1, para. 28; **Colombia**, 04/02/99, CEDAW/C/1999/I/L.1/Add.8, para. 57; **Ireland**, 01/07/99, CEDAW/C/1999/L.2/Add.4, para. 25; **Jordan**, 27/01/2000, CEDAW/C/2000/I/CRP.3/Add.1/Rev.1, para. 2; **Mauritius**, 31/05/95, A/50/38, paras. 160-217, 196; **Namibia**, 14/07/97, A/52/38/Rev.1, Part II, paras. 69-131, 111; **Nepal**, 01/07/99, CEDAW/C/1999/L.2/Add.5, para. 31; and **Zimbabwe**, 14/05/98, A/53/38, paras. 120-166, 159.

⁹ See, e.g., **Argentina**, 23/07/97, A/52/38 Rev.1, Part II, paras. 273-32, 319; **Cameroon**, 26/06/2000, A/55/38, paras. 30-66, 60; **Chile**, 09/07/99, CEDAW/C/1999/L.2/Add.1, para. 28; **Colombia**, 04/02/99, CEDAW/C/1999/I/L.1/Add., para. 57; **Belize**, 01/07/99, CEDAW/C/1999/L.2/Add.2, para. 27; **Mauritius**, 31/05/95, A/50/38, paras. 160-217, 196; **Mexico**, 14/05/98, A/53/38, paras. 354-427, 408; **Namibia**, 14/07/97, A/52/38/Rev.1, Part II, paras. 69-131, 127; **Nepal**, 01/07/99, CEDAW/C/1999/L.2/Add.5, para. 32; **Paraguay**, 09/05/96, A/51/38, paras. 105-133, 131; and **Zimbabwe**, 14/05/98, A/53/38, paras. 120-166, 159.

¹⁰ See, e.g., **Belgium**, 09/05/96, A/51/38, paras. 164-196, 181.

¹¹ See, e.g., **Colombia**, 12/04/94, A/49/38, paras. 450-498, 492.

¹² *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nepal*, para. 23, U.N. Doc. CEDAW/C/1999/L.2/Add.5 (1999).

¹³ Government report, *supra* note 5, at para. 140.

¹⁴ See Dr. Prasanna Gunasekera, *Abortion, Safe Motherhood and Reproductive Rights*, in Proceedings of the Workshop on Reproductive Rights 19 (1998), available at <http://www.unfpa.org/regions/apd/countries/srilanka/srlrights.doc>.

¹⁵ Government report, *supra* note 5, at para. 140.

¹⁶ *Id.* at para. 38, table 1.

¹⁷ *Id.* at para. 140.

¹⁸ See, e.g., **Colombia**, 04/02/99, CEDAW/C/1999/I/L.1/Add.8, para. 57; **Jordan**, 27/01/2000, A/55/38, paras. 180-181; **Myanmar**, 28/01/2000, CEDAW/C/2000/I/CRP.3/Add.2/Rev.1, para. 40; **Nepal**, 01/07/99, CEDAW/C/1999/L.2/Add.5, para. 31; **Panama**, 02/07/98, CEDAW/C/1998/II/L.1/Add.4, para. 32; and **Venezuela**, 27/01/97, A/52/38/Rev.1, para. 236.

¹⁹ Despite strong support from the National Committee of Women, the proposed provisions to broaden legal grounds for abortion to include rape, incest and fetal impairment were withdrawn before reaching parliament. Government report, *supra* note 5, at para. 51.

²⁰ See generally Abeysekera, *supra* note 7.

²¹ Government report, *supra* note 5, at para. 142.

²² Press Release, World Health Organization (WHO), WHO warns of alarming health situation in Sri Lanka (May 12, 2000), available at <http://www.who.int/inf-pr-2000/en/pr2000-32.html>.