



**Convention on the Elimination
of all Forms of Discrimination
Against Women**

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Committee on the Elimination of Discrimination
Against Women (CEDAW)
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

SRI LANKA

v.85-29710

[1279]

Report under U.N. Convention of Elimination
of all forms of Discrimination against Women

Part 1

The peoples of Sri Lanka are a combination of various ethnic groups and nearly three fourth of its population consist of Sinhalese while Tamils and Muslims constitute the other major groups. Women comprise 49.5 per cent of the total population and customarily they enjoy a very high status in society when compared to other Asian countries. The position of the females in traditional Sinhalese and Tamil society was not totally inferior to males, but it may be described as custodial or tutelary subordination. They had very little or nothing to do with public affairs though they did not have a system like Muslim purdan. The Hindu society (i.e. Tamil) was much more conservative when compared to the Sinhalese counterpart and the social pressures against any such role was much stronger.

2. Since the beginning of sixteenth century the littoral parts of Sri Lanka came under the rule of Portuguese and then the Dutch in quick succession. In 1790, the British took over from the Dutch and in 1815, the whole island was subjugated. Sri Lanka gained independence in 1948.
3. Western rule has left some indelible marks on the legal fabric of this country, which has influenced to varying degrees in the different facets of our society. The introduction of Roman Dutch law during the Dutch rule may well have reinforced the protective subordination of Sinhalese women living in the littoral territory. This law still remains the basis of our common law. However, the Dutch did recognize the local customary laws such as Tesavalamai law (customs of Malabar inhabitants of Jaffna) and the Muslim law. During the British rule, a considerable part of the English law was also introduced, but the British retained all

other laws that existed under the Dutch Government of the Maritime Provinces and the Kandyan law or the customs and usages prevailing among the Sinhalese living in the Kandyan Provinces. Thus, today one individual may be subject to various systems of law in connection with different transactions. The main branches of our law are the Sinhalese or Kandyan law, Buddhist law, Hindu law, Muslim law, Tesavalamai law, Roman Dutch law and English law.

4. The social and economic development that took place in the latter part of the nineteenth century paved the way for emancipation of women. Under the Roman Dutch law, the marriage gave rise to a universal community of property and conferred on the husband marital power over his wife's person and property reducing her position to a minor child under his custody, care and guardianship. These provisions of the law were incompatible with conditions prevailing at that time and some of these disabilities were removed by legislation - for example, the Matrimonial Rights and Inheritance Ordinance No. 15 of 1876. This was further strengthened by the Married Women's Property Ordinance No. 18 of 1923, which brought the legal status of a married women to that of a "femme sole". But, this did not affect the Kandyans, the muslims and the Tamils of the Northern Province and to date some aspects of their legal capacity is determined by reference to their own personal laws.
5. Introduction of universal suffrage to this country in 1931, marked the beginning of a new trend towards the equality of sexes. All men and women over 21 years became eligible to vote at General and local elections. Sex was no bar to being a elector or to being elected if persons were otherwise qualified. At the first General Election held in 1931 under the universal suffrage no woman was elected to the State Council. Nonetheless, before the end of the same year a woman managed to enter the legislature at a by-election. After that event, twenty five years had to pass before a woman became a Cabinet minister, but four years

later, a woman Prime Minister, the first in the world, was in office. She held that office twice - the first from the year 1960 to 1965 and the second from 1970 to 1977. Today we have eight women members of Parliament of whom two are Cabinet Ministers and two are District Ministers of non-cabinet rank. There are women members in local bodies yet their numbers are very small. Though the qualifying age for voters was reduced from 21 years to 18 years in 1959, the legal age of majority still remains at 21 years.

6. Following the introduction of the Free Education Scheme in 1945, equality of sexes has been successfully enforced in the important and vital field of education. The School Census of 1977 showed that about 63.7 per cent of the female school age population (5 - 14 years) were enrolled in schools, which amounted to 1.5 million of female or 48.7 per cent of the total enrolment in schools. Accordingly, at this level, the males slightly outnumbered females but in higher grades, the situation was reversed. The current rate of literacy in females is 85 per cent and it is much higher than in most Asian countries. To further support education, the State provides free school books to students from Grades 1 to 10.
7. At the time the University of Ceylon was established in 1942, females were 10.1 per cent of the admissions. Admissions increased to 24.6 per cent in 1961, 37.3 per cent in 1966, 42.3 per cent in 1972 and 44.5 per cent in 1982. While the total number of students decreased during the years upto 1977, the proportion of females continued to rise with their interests mainly confined to the fields of art, humanities and social sciences. In these, the females were the majority - 54.5 per cent in 1967 and 53.2 per cent in 1973. In the faculties of medicine and science, they were generally less than one third of the student population. They were poorly represented in the agriculture, veterinary and engineering faculties.

8. The disapproval of female employment was based on the traditional patriarchal concept of women's role as a homemaker and a mother. These, it was believed, should take precedence over everything else. Such views are still prevalent though not to the same degree as in the past. The alteration of values is reflected in a raised female labour force participation rate from 13.4 per cent in 1959 to 14.1 per cent in 1963 and 16.9 per cent in 1969/70. The proportion of women in the total labour force has gone up from 20.8 per cent in 1963 to 25.0 per cent in 1969/70. The Labour Force and Socio-economic Survey of 1980/81 shows that there are 5.6 million persons in the labour force of whom 27.4 were females. The female labour force has risen from 570,000 in 1946 to 1,535,700 in 1980 and the annual average growth rate was 2.9 per cent or 0.9 per cent higher than that of males. The main fields accommodating female workers are the plantation industry, manufactory of wearing apparels, education and domestic services. In these fields proportion of females exceeds 40 per cent. Between 1971 and 1983, the employed women in these sectors increased from 727,600 to 810,500, an increase of 11.8 per cent. The percentage increase in agricultural employment is twice as high as in non-agricultural employment. The growth of employment in the traditional sector tends to expand the agricultural activities for women but traditional agriculture remains a male dominated industry. In the plantation sector, female employment does not show any expansion.
9. Culturally conditioned personality traits make many women resign to less stimulating and demanding employment. They are concentrated in the service sector of the economy, generally in the lower income generating jobs, such as health, education, handicrafts and clerical employments. There is also a concentration of women in unskilled and semi-skilled employment in manufacturing industries. Growth of employment in these sectors was very small, while education and health sectors registered an increase of 134.7 per cent and domestic and other services recorded a decrease of female employment. Manufacture of textiles and wearing apparels has recorded the highest proportion of female employment. It was 73.2 per cent and 63.5 per cent respectively in 1953 and 1971.

10. Though there was no barrier to women entering the legislature since 1931, their entry into the public service was restricted. Entry of women into the higher bureaucracy namely, Ceylon Civil Service occurred long after a woman had become a Cabinet minister. Indeed a woman became Prime Minister of the country in 1960 before woman gained entry into this domain (higher bureaucracy). In 1972, the number of women entering the Sri Lanka Administrative Service (former Ceylon Civil Service) by competitive examination was limited to 10 per cent while much less prestigious clerical service was 20 per cent. In 1973, 53.4 per cent of those seeking entry to the clerical service were women and as a group they had better educational qualifications than the men at every level. These limitation were removed in 1980 and all men and women are now chosen on a equal basis. There were no such restrictions on women entering the legal and medical professions or the tutorial staff of the Universities.
11. The barriers to equality of opportunity in employment are social and economic rather than legal or constitutional. Section 15(1) of the republican constitution of 1972 prohibited discrimination on the ground of sex. But, there were some restrictions imposed by administrative regulations on the admission of females into public service. This was given constitutional sanction by a proviso under the same section mentioned above.
12. National development policies adopted since 1975, refer to the employment of women on an equal basis with men. The situation has changed much and the conditions improved, since the promulgation of the new constitution in 1978. Article 12(2) thereof prohibits all kinds of discrimination on the ground of sex and further provides that nothing in this Article shall prevent making special provision for the advancement of women. Article 126 confers the right on any person to prosecute against the infringement of rights under these provisions.

13. In general, the principle of equal wages for equal service has been accepted as the normal practice with regard to the professions and the state employed. But, the majority of female workers of semi-skilled and unskilled groups engaged in industry and agriculture receive lower wages than the men engaged in similar employment. The worst disparity was prevailing in the plantation sector and this historical anomaly was done away with effect from 1st April, 1984 and now the men and women in this sector receive equal wages.
14. In the field of labour laws there are many safeguards for females rather than discrimination. They enjoy many benefits and privileges owing to their sex. Women are now entering the labour force in greater numbers and today 90 per cent of the employees within the Free Trade Zone of the Greater Colombo Economic Commission are females. The Employment of Women, Young Persons and Children Ordinance of 1923 and the subsequent amendments thereto administer and regulate their employment. Night work for women is now allowed subject to specific conditions. The Widows and Orphans Pension rights were extended to women in 1983.
15. The Sri Lanka Women's Conference is an organization linked to the International Alliance of Women, which affiliates 32 women organizations including the islandwide pioneer rural women's movement called the Lanka Mahila Samithi. In 1978, the Women's Bureau of Sri Lanka was established on a proposal sponsored by these organizations during the International Year for Women in 1976. In June 1983, the Ministry of Women's Affairs was established and its objectives and functions are to identify all areas, projects and institutions related to women for the improvement and welfare of their quality of life and status. The Women's Bureau of Sri Lanka is under the direct control of this Ministry.

Part II

16. Articles 1, 2, 3 and 4 of the Convention - Sri Lanka has recognized the principle that discrimination against women is fundamentally unjust and constitutes an offence against human dignity. Article 12(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka expressly declares -

"All persons are equal before the law and are entitled to the equal protection of the law ."

Further, article 12(2) of the said constitution states -

"No citizen shall be discriminated against on the ground of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds ."

In terms of article 12(3) of the constitution -

"No person shall on the grounds of race, religion, language, caste, sex or any one of such grounds be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion ."

Thus the constitution itself provides right to equality which can be enforced through the Supreme Court in terms of Article 126 of the constitution.

17. Article 5 - Prior to the establishment of the Women's Bureau of Sri Lanka in 1978, there was no public institution for direct co-ordination of women's activities. The Ministry of Women's Affairs was established in 1983, with a view to expanding the current activities to the grass root level and to facilitate the obtaining of funds and services of experts in this field.

Appropriate measures are being taken to educate the public and an awareness is being gradually created regarding the need for women to be on an equal footing with men. A research unit has been established in the Women's Bureau of Sri Lanka to study matters pertaining to women and to ascertain the areas where improvement is needed. Vide para 15 above.

18. Article 6 - In Sri Lanka, prostitution is prohibited and declared as an offence. Further, any person who procures any girl under 21 years of age to leave Sri Lanka with a view to illicit sexual intercourse with any person outside Sri Lanka commits a penal offence. Also, it is a penal offence for any person to procure any girl or woman to become a prostitute within or outside Sri Lanka. The Penal Code of Sri Lanka also prohibits exportation or importation of any person as a slave.
19. Article 7 and 8 - In Sri Lanka, irrespective of sex every person above the age of 18 years is entitled to vote in all elections and public referenda. (see para 5 above). This includes the right to vote at elections for the office of President, elections to parliament and local authorities. There is no discrimination on the ground of sex for any person contesting for public office. Generally, any person who is qualified to be a elector shall be qualified to be elected as a member of Parliament or member of any local authority. Every such elector who is above the age of 30 years is qualified to be elected to the office of President. Women have equal rights with men to hold public office and to exercise all public functions.
20. Article 9 - There is no discrimination with regard to the citizenship on the ground of sex. In Sri Lanka, there are several races and the wife is treated as of the race of her husband for certain purposes. On marriage the wife acquires the rank and dignity of her husband and continued to retain them during her widowhood as well. She also acquires her husband's domicile though not his citizenship unless she opts to do so.

21. Article 10 - There is no legal provision discriminating against women in this area. Article 12(2) of the constitution embodies principles of equality and any infringement thereof could be challenged in the Supreme Court in terms of Article 126 of the constitution. Further, there is no discrimination on the ground of sex with regard to admission to any University, Law College or any other professional institution. The disqualification which existed in legal education was removed by the Sex Disqualification Removal (Legal profession) Ordinance, Cap. 55 legislative enactments of Sri Lanka. There is also no legal impediment for any women to join the teaching staff or to receive any scholarship. Every person of both sexes has the right to follow any study course for continuing education including adult education.
22. Article 11 - There is no special law which discriminates against women married or unmarried in socio-economic life. The Maternity Benefits Ordinance, Cap. 140 and the Shop and Office Employees Ordinance Cap. 129 of the legislative enactments of Sri Lanka ensure effective rights of women to work and not to be discriminated against on the ground of marriage or maternity.
23. Article 12 - There are no special laws restricting the access of women to health care services.
24. Article 13 - There are no legal impediments in the areas of economic and social life.
25. Article 14 - Vide para 17 above. Continuing action also is being taken by the Ministry of Women's Affairs and the Women's Bureau of Sri Lanka to apply, implement, monitor and achieve the policies, plans, ideas and objectives stipulated in the above article of the Constitution.

26. Articles 15 and 16 - Vide para 4 of part 1 above. The Married Women's Property Ordinance No. 8 of 1923 which came into operation on 12.4.1924 conferred on married women, the status of 'femme-sole' removing many of the disabilities of married women under the Roman Dutch law. The concept of community of property was abolished and the wife got the right to own or dispose any property without the consent of her husband. The age of majority is fixed at 21 years for both sexes but it would be conferred by operation of law according to the Age of Majority Ordinance. The majority also can be obtained by marriage. A dissolution of marriage before reaching the age of 21 years does not revive the minority status. Irrespective of the sex, every person has the legal capacity to buy, sell or otherwise dispose of any property either movable or immovable. The General Marriage Ordinance prescribes the law relating to marriage. According to this law, women have the same right as men to choose a spouse and to enter into marriage upon their free will and full consent. This Ordinance which was enacted in 1907 provides that males above the age of 16 years and females above the age of 12 years have the capacity to marry and marriages below these age limits are prohibited, and if a marriage is contracted between the parties below the said age limits, such marriages ipso-facto become null and void. The General Marriage Ordinance makes it mandatory to register all marriages.