



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women Forty-eighth session

### Summary record of the 971st meeting

Held at the Palais des Nations, Geneva, on Wednesday, 26 January 2011, at 10 a.m.

*Chairperson:* Ms. Pimentel

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports submitted by States parties under article 18 of the Convention (continued)**

*Combined fifth to seventh periodic reports of Sri Lanka (CEDAW/C/LKA/5-7; CEDAW/C/LKA/Q/7 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Sri Lanka took places at the Committee table.*

2. **Ms. Wijayatillake** (Sri Lanka), introducing her country's combined fifth to seventh periodic reports (CEDAW/C/LKA/5-7), said that they covered a period in which the Government and people of Sri Lanka had faced unprecedented challenges. The State had had the formidable task of maintaining national security and law and order during the 30-year terrorist conflict. At the same time, Sri Lanka had pursued an ambitious national plan, with an emphasis on economic and infrastructure development, to enhance the quality of life of the population. In May 2009, terrorism had been defeated, and the task of rebuilding a fractured nation had commenced. As in all situations of armed conflict, women and children had suffered most. The report highlighted the manner in which Sri Lanka had sought to comply with its obligations under the Convention during that difficult period.

3. After the end of the armed conflict, the Government had worked to promote the economic, social and political life of the people with the help of development programmes focusing on rehabilitation, reconstruction and reconciliation.

4. The tsunami of December 2004 had devastated nearly two thirds of Sri Lanka's coastline and caused great loss of life and property. The floods of December 2010 and January 2011 had destroyed valuable infrastructure in the east and north-east of the country and left many homeless. All those natural disasters had had an adverse impact on the situation of women. Nevertheless, Sri Lanka remained committed to complying with its obligations under the Convention. Progress had been exemplary in many areas while, in others, much remained to be done.

5. In presenting its report to the Working Group of the Universal Periodic Review in May 2008, Sri Lanka had recognized the need to address grave violations of women's human rights in situations of armed conflict and women's potential contribution to peacebuilding, and it had endorsed the approach based on giving greater impetus to gender mainstreaming in the promotion of international peace and security. Sri Lanka had formulated a national human rights action plan which included a thematic action plan for women. That plan, which provided for the use of measurable indicators and for monitoring and evaluation, addressed issues in the areas of health, gender violence, political representation, economic empowerment, employment, the informal sector, workers in the rural and plantation sectors, women affected by conflict, environment and gender discrimination.

6. While the armed conflict had been ongoing, several programmes had been launched to ensure respect for human rights within the armed forces. The Directorate on Human Rights and Humanitarian Law had been set up within the Sri Lankan Army and had conducted awareness-raising and training programmes on human rights and humanitarian law for security personnel. The police had set up a human rights division to strengthen the role of law enforcement officers in protecting human rights.

7. The State machinery responsible for human rights, internally displaced persons and ex-combatants had been strengthened by the establishment in early 2006 of a special ministry for human rights, the humanitarian assistance provided by international agencies, the work of the Ministry of Resettlement and Disaster Relief Services and the reactivation

of the Bureau of the Commissioner General of Rehabilitation. Complaints of abuse of women had been investigated and a culture of accountability enforced. During that period, the human rights ministry had received monthly reports from protection agencies mandated to monitor the situation of internally displaced persons and had followed up on reports of sexual violence against women. A presidential directive of June 2006 had given clear instructions to be followed by the armed forces and the police in the event that women or children were arrested or detained. All those initiatives testified to Sri Lanka's commitment to protecting human rights and were in keeping with Security Council resolution 1820 (2008) on women and peace and security.

8. Massive humanitarian rescue operations during the final stages of the war had focused on ensuring the safety of civilians and rescuing them from terrorists. With assistance from United Nations agencies, Sri Lanka had assumed responsibility for the care of 300,000 displaced persons, including 12,000 ex-combatants, more than 2,000 of them women.

9. Since the end of the conflict, the Government had been assisting internally displaced persons and ex-combatants, both men and women, under the Way-Forward on Rehabilitation, Reinsertion and Reintegration initiative. That nationwide initiative used a phased approach to support beneficiaries' social and economic reintegration into their families and communities. It was also essential to promote equitable access to education (including catch-up education), vocational training, wage-earning activities, self-employment and microfinancing facilities and business support services in order to sustain the reintegration programme. All female ex-combatants participating in the programme had been released and were back with their families. Underage girls who had been forcibly recruited and had surrendered had been given vocational training and basic education. It was worth noting that girls had accounted for one third of forcibly recruited children.

10. In May 2010, the President of Sri Lanka had set up the Lessons Learnt and Reconciliation Commission to report on the lessons learned from the conflict; to ascertain whether any persons, groups or institutions bore direct or indirect responsibility in that regard; to determine how restitution might be made; to identify the institutional, administrative and legislative measures to be taken in order to prevent a recurrence of such events in the future; and to promote national unity. The Commission had held public meetings and discussions at which women had freely expressed their views; those views would be taken into consideration in future recommendations.

11. Despite unprecedented difficulties, Sri Lanka had made progress in the areas of education, employment and health care for women. In addressing the economic and social consequences of the conflict, it was important to strengthen the role of women. An effective response was required to overcome the social legacy of the greater number of war widows and to provide psychological counselling for women who had suffered or witnessed violence. A common identity for the Sri Lankan people had to be forged. The Government was working to promote respect for diversity, pluralism and multiculturalism. Given the matriarchal values in Sri Lankan society, women would play an important role in that regard.

12. A number of issues continued to be of concern. Despite programmes to encourage women to become politically involved, they were still reluctant to do so because of the acrimonious nature of politics, the high cost of election campaigns, concern about the burden of multiple roles and a perceived lack of confidence on the part of political parties in women's ability to attract votes.

13. Violence against women was receiving increased attention. Legislative reforms had led to the passage of very progressive legislation. The Prevention of Domestic Violence Act had been promulgated, and steps had been taken to improve its implementation. Legal

provisions governing the prosecution and punishment of offenders were adequate, but attention needed to be focused on prevention as well, and the Government was working towards that end with all of its partners in the justice system.

14. Measures taken to enhance law enforcement and ensure the protection of women in the former theatre of conflict included the establishment of additional women's and children's desks and the recruitment of Tamil-speaking male and female police officers. In recent months, 80 women's and children's desks had been set up and more than 100 new police recruits had been hired.

15. The new Ministry of Foreign Employment Promotion and Welfare had been mandated to protect women migrant workers. Unskilled migrants were trained, and employment agencies were under closer scrutiny to ensure compliance with protective legislation.

16. The economic empowerment of rural women was being pursued at national level, and the success of the many programmes in that area was being assessed. The latest programme launched by the Ministry of Economic Development to promote the village economy focused on encouraging local women to engage in home-based activities. Unemployment remained higher among women than men, but its rate of decline was promising.

17. Another legacy of the conflict was the large number of female-headed households. Based on data collected by the Ministry of Child Development and Women's Affairs, programmes for those households were being implemented, with an initial focus on areas affected by the conflict, through women's societies at village level.

18. Women were acknowledged as equal partners in implementing the country's development programme. However, Sri Lankan culture and tradition had ingrained a belief in the value of the roles of mother and wife. The ultimate goal was to do away with gender discrimination and to ensure the empowerment of women so that they could make the choices that mattered to them as wives, mothers, professionals and income-earners. Sri Lanka remained firmly committed to upholding its obligations under the Convention.

19. **Ms. Šimonović** said it was clear that Sri Lanka had experienced enormous difficulties in the aftermath of decades of fighting and of the tsunami and recent floods.

20. Noting that the State party was committed to complying with the Convention, she asked about its incorporation into the national legal system. Article 12 of the Constitution of Sri Lanka contained a general provision on equality and protection before the law for all, but the State party did not have a law specifically prohibiting discrimination against women, as required under the Convention. She would like to know how the Convention, in particular articles 1 and 2, would be incorporated into the women's rights bill so as to prohibit direct and indirect discrimination in all walks of life. She would also welcome information on how women's rights would be made part of the State party's human rights charter.

21. Did Sri Lanka have a specific legal provision reflecting the rights set out in the Convention, as it did in the case of the International Covenant on Civil and Political Rights? The Committee would welcome more information on how international conventions in general were taken into account in domestic legislation. She commended Sri Lanka on its ratification of the Optional Protocol, but asked how it would function if domestic legislation were not brought into line with the Convention. She also enquired what role the High Court played with respect to the Optional Protocol.

22. **Ms. Patten** said that she was disappointed at the complete absence of data in the report on the situation of women affected by the conflict and on their current living conditions. It was a fact that serious concerns about gross violations of human rights and

humanitarian law had been raised in the last stages of the conflict by members of the international community, including the Human Rights Council, and that independent human rights groups and the media had not been allowed to verify allegations in that regard. It was also a fact that, in September 2008, the Government of Sri Lanka had ordered all international aid organizations to leave the northern area of the country and that human rights defenders and journalists had been the targets of threats. It would be useful if the State party could provide data on the return of internally displaced persons and more information on policies in place to address the return, resettlement and rehabilitation of women affected by the conflict, especially minority groups, such as Muslim and Tamil women. She would also like to know whether Sri Lanka would be favourable to a visit to the country by the Committee to look into disturbing reports about the living conditions of internally displaced persons and other victims of the war. It would also be useful to learn what efforts had been made to relax the state of emergency, which continued in effect even though the conflict had ended more than one year earlier. Reportedly, the continued militarization of former areas of conflict was increasing the vulnerability of Tamil women to violence and sexual harassment, and a number of cases of sexual violence perpetrated by members of the armed forces in the return areas had been cited. There had also been reports that women in rehabilitation centres had been separated from the other internally displaced persons and detained on suspicion of involvement with the Liberation Tigers of Tamil Eelam (LTTE) and that the International Committee of the Red Cross had been prevented from visiting those centres since June 2009. She asked for data on the number of women detained, what procedural safeguards were in place for them, what access they had to the courts and to legal representation, and what legal provisions protected victims and witnesses.

23. She wondered whether it might not be preferable to establish an independent international accountability mechanism that would enjoy public confidence both in Sri Lanka and elsewhere. She also would like the delegation to comment on whether unrestricted humanitarian aid might have made the difference between life, illness or even death in many cases. She would appreciate learning whether any initiative was being taken to remove impediments to the work of NGOs, especially in the northern and eastern parts of the country, where women were most in need of help.

24. **Ms. Halperin-Kaddari** said that there was a plurality of legal systems in the area of family relations and personal law in Sri Lanka and there were many discriminatory customary and personal laws which were certainly not in line with articles 2, 15 and 16 of the Convention. It seemed that married Tamil women needed their husbands' permission to conclude contractual land agreements or even to appear in court, and she asked what the Government's position was in that regard, bearing in mind that Sri Lanka had not made any reservations to those core articles of the Convention. Could women choose between the various legal systems, or was the applicable system determined by their religious affiliation? In other words, must a Muslim woman be married under Muslim law, or could she opt for marriage under the more egalitarian civil law regime?

25. Referring to paragraph 10 of the report (CEDAW/C/LKA/5-7), which said that any State intervention to reform Muslim personal laws would need the approval of the community, she sought clarification of the concept of "community". Was it limited to religious leaders, who were invariably males, or were women's views also heard? In its previous concluding observations (A/57/38, para. 275), the Committee had suggested that the Government should consider comparative Muslim jurisprudence in other countries so that reforms could be introduced. She asked whether the Government was prepared to engage in that task.

26. **Mr. Bruun** said that, even after making allowances for the difficult circumstances faced by Sri Lanka, the State party's efforts to fulfil its obligations under the Convention

seemed to leave much to be desired. To begin with, Sri Lanka did not have a legal framework that specifically addressed discrimination against women, and a bill on the establishment of a national commission on women had not obtained parliamentary approval. Furthermore, the State party had failed to meet its reporting obligations under article 18, given that its third and fourth periodic reports (CEDAW/C/LKA/3-4) had been considered nine years previously, in 2002. That state of affairs, together with the fact that civil society had not been adequately consulted in preparing the current report and that there was no rule requiring parliamentary consideration of the State party's periodic reports, gave the impression that the Convention was not taken seriously in the domestic legal system. Laws and practices that discriminated against women, including prohibitions on employment abroad for women with children under age 5, inadequate legislative provisions for women with disabilities and the criminalization of same-sex relations, served only to strengthen that impression.

27. **Ms. Schulz** said that lesbian and transgender women in Sri Lanka appeared to be excluded from the protection of the law, given that section 365 of the Criminal Code made homosexual relationships between consenting adult women a criminal offence punishable by imprisonment and/or fine. In addition, under the Vagrants Ordinance, the police did not need a warrant to arrest any person deemed to be idle or disorderly. Such criminalization of homosexuality was contrary to the State party's obligations under article 2 of the Convention and general recommendation No. 28. It deprived lesbian women of the rights to which they were entitled under the Convention and under the Constitution of Sri Lanka. It also meant that they did not enjoy certain benefits provided under Government programmes and measures, including those aimed at post-conflict and post-tsunami reconstruction. She encouraged the Government to consider abolishing the relevant articles of the Criminal Code and the Vagrants Ordinance so as to bring Sri Lanka's law into conformity with the Convention.

28. **Ms. Murillo de la Vega** asked how many ex-combatant women were members of the Reconciliation Commission set up by the Government. Ex-combatants had first-hand knowledge of the conflict and were those best placed to describe the difficulties they had encountered, especially those relating to abuses of authority on the part of military and non-military staff members.

29. Recalling that the State was required to protect the right to life of men and women alike, she wished to know why cases of sexual violence were not channelled through an expedited court procedure but were instead subjected to an 8-to-12-year docket delay. She wondered why consideration was being given to introducing reconciliation and mediation procedures in cases of sexual violence, since such procedures were a totally inappropriate means of dealing with those types of offences, and why the police had recourse to mediation procedures in cases of domestic violence. She wished to know what progress the Government had made in compiling statistics on the incidence of rape, sexual violence and domestic violence, given that such data were essential to the development of effective public policy. While it was understandably difficult to collect such statistics, those relating to violence should be accorded the highest priority.

30. The wide diversity of parallel legal systems in Sri Lanka all shared the same bias in favour of male land ownership. She wished to know what steps the Government was taking to guarantee women their right to equality before the law as it related to land ownership. She requested an explanation of how the various parallel legal systems and laws were reconciled with one another.

31. She would appreciate additional information on child ex-combatants in military-run rehabilitation camps and asked whether efforts to remove such children from the camps were being intensified. In view of reports that internally displaced women and women victims of war had been subjected to sexual violence and abuse by military servicemen, she

asked whether the Government planned to lay down penalties in the Military Code for military personnel guilty of such offences.

32. **Ms. Wijayatillake** (Sri Lanka) said that international treaty obligations that were not already met under Sri Lanka's existing domestic legislation were addressed through the enactment of subject-specific legislation. The principle of gender equality and the prohibition of discrimination based on gender were embodied in the Constitution, which eliminated the need for supplementary legislation in those areas. Violence against women was prohibited under both the Criminal Code and the Prevention of Domestic Violence Act. There had been no legal impediments to passage of the bill for the establishment of a national commission on women – only a delay in the process owing to the recess of Parliament. The bill's aim was to establish a focal point for women's issues and a procedure for dealing with complaints of violations of women's right to equality. The bill was being re-examined and ought to be submitted to Parliament by July 2011.

33. **Mr. Ranasinghe** (Sri Lanka) said that the vast majority of the persons who had been displaced by the conflict had returned to their homes. The remaining 15,000 lived in semi-permanent centres and enjoyed complete freedom of movement. Rehabilitation centres for ex-combatant women had been administered by female schoolteachers and staff. There had not been a single complaint of abuse in those centres, and all of those women and children had returned to their homes. A small number of women had returned voluntarily to the rehabilitation centres in order to follow a teacher-training programme, which attested to the fact that there had been no instances of abuse.

34. **Mr. Nawaz** (Sri Lanka) said that article 27 (6) of the Constitution, which provided for equality of opportunity for all citizens and prohibited sex discrimination, illustrated the way in which Sri Lanka's existing legislation addressed a key principle of the Convention and obviated the need to transpose the Convention into domestic legislation.

35. The advisability of establishing an independent international accountability mechanism within the framework of reconciliation efforts depended on whether domestic remedies had been exhausted, since only then could international criminal law be invoked. Sri Lanka had shown, through the establishment of the Reconciliation Commission, that it was offering ex-combatants domestic remedies. An international accountability mechanism was therefore unnecessary.

36. Responding to earlier queries, he said that child marriages were virtually non-existent in Sri Lanka and thus no longer posed a problem. In reply to a question concerning the reform of Muslim law, he said that, in that context, the term "community" had been used to refer to all stakeholders concerned by that reform. Stakeholders were being consulted by the special Muslim Law Commission set up to identify gaps and anomalies in Muslim law and to determine the best way to remedy them. Regarding the issue of same-sex discrimination, it was possible to interpret article 12 (2) of the Constitution, which prohibited sex discrimination, as extending that prohibition to cover discrimination on the basis of sexual orientation.

37. **Ms. Wijayatillake** (Sri Lanka) said that the police did not use mediation or reconciliation procedures in dealing with complaints of sexual violence, which was an offence under the Criminal Code, but only in cases of marital dispute. The Prevention of Domestic Violence Act, which fell under civil law, provided that women or persons acting on their behalf could request the courts to issue a protection order. Such an application could be made irrespective of whether criminal proceedings had been instituted. Delays in prosecuting sex offences were attributable to the docket overload of the courts, which was a general problem, not one concerning sex offences in particular. Policymakers were currently reforming court procedure so as to make it more efficient. The Government had succeeded in formulating progressive legislation on violence against women and children.

Although improvements were needed to increase the effectiveness of the Prevention of Domestic Violence Act, it was incorrect to state that the Act was not being applied. The fact that it had been adopted unanimously by Parliament demonstrated the Government's policy of zero tolerance with regard to domestic violence. Several programmes had been organized in an effort to raise awareness about domestic violence among judges and law enforcement officers and to strengthen the application of the Act.

38. The Government had no plans to abolish the Vagrants Ordinance since continuing to combat vagrancy was considered necessary. The Ordinance was not intended to be applied to prostitution, which was not a criminal offence in Sri Lanka.

39. A special Muslim law commission had been appointed by the Government to consult with the members of the Muslim community and to obtain their acceptance of legal reforms. It was standard Government practice to task special committees with the review of personal laws in order to determine whether they were having an adverse impact and, if so, to explore ways to amend them. Such a practice greatly facilitated subsequent implementation of the amended laws.

40. **Mr. Ranasinghe** (Sri Lanka) said that there were approximately 18,000 internally displaced persons residing in four relief villages. That number would be reduced to 15,000 by the end of January 2011; those individuals would be placed in three semi-permanent centres but would have complete freedom to return home if they wished. The fact that many relief village residents had found employment in the areas surrounding the villages made it difficult for them to return to their places of origin.

41. **Ms. Wijayatillake** (Sri Lanka) said that sections 365 and 365 (a) of the Criminal Code had been identified as requiring legislative review and reform. Although the Land Development Ordinance admittedly contained a discriminatory feature and no post-enactment review of the legislation had been undertaken, a bill to amend the provision that allowed male heirs to be named as beneficiaries in preference to female heirs appeared in the schedule to the Ordinance. The bill had already been submitted to Parliament and had received Cabinet approval, but still needed the endorsement of the provincial legislature because it concerned a devolved subject. It should be noted that the Government was committed to eliminating discriminatory legislation and took proactive measures to do so. A law could therefore be amended, even in the absence of litigation challenging its legitimacy. The Government had already intervened in that manner on a number of occasions and would continue to do so.

42. The Government's actions regarding the sensitive matter of high security zones were intended to guarantee security for all citizens and were not related to the issue of gender.

43. The lack of adequate consultation with civil society during the preparation of Sri Lanka's third and fourth reports had not been due to reluctance on the Government's part to engage with NGOs and civil society, but rather to a series of internal administrative problems. The fact that it was not standard practice to submit reports for treaty bodies to Parliament did not mean that such reports were not taken seriously.

44. **Mr. Ranasinghe** (Sri Lanka) said that areas formerly held by the military had been returned to civilian control and people had been resettled. No military-run establishments remained in former conflict areas.

45. **Ms. Šimonović** urged the Government to consider fully incorporating all the provisions of articles 1 and 2 of the Convention into domestic legislation, with particular reference to substantive gender equality and the prohibition of both direct and indirect discrimination, whether by individuals or institutions, against women in all areas.

46. **Ms. Murillo de la Vega**, referring to the delegation's comments on the use of mediation in cases of domestic violence, said that the adoption of new legislation did not

necessarily demonstrate a zero-tolerance approach. A time frame for resolving the issue of land ownership should be established, as all of Sri Lanka's various legal systems placed the power to sign contracts and make decisions in the hands of men; the definition of the term "head of household" should also be reviewed.

47. **Ms. Schulz** said that she welcomed the delegation's indication that the criminal status of homosexuality would be reviewed within the framework of legislative reform. She was pleased to learn that prostitution was not criminalized in Sri Lanka and that prostitutes were not subject to the Vagrants Ordinance. However, it was unclear why the Ordinance applied to persons engaged in consensual sexual relations, where there was no exploitation involved. She would welcome an update on measures taken to address that issue in the forthcoming periodic report.

48. **Ms. Hayashi** requested clarification about how the State party fulfilled its obligations under the Convention to share information and consult with Parliament after receiving the Committee's concluding observations.

49. While she appreciated the State party's assurances that freedom of movement was guaranteed to internally displaced persons in camps, she had received reports that women were subjected to harassment and were searched, measures which constituted a de facto restriction on their freedom of movement. She asked whether there was any substance to the reports and, if so, what measures the Government was taking to resolve the problem.

50. In light of reports that NGOs and other humanitarian agencies had been denied access to refugee camps, she wished to know what steps the Government was planning to take in that regard. She requested clarification on the implementation status of the 2006 thematic action plan on women and asked whether it had been superseded by the new National Action Plan for the Protection and Promotion of Human Rights.

51. **Ms. Halperin-Kaddari** asked whether, bearing in mind the fact that Sri Lanka had not made any reservations to articles 2, 15 or 16 of the Convention, the Government's review of personal status laws also included Thesawalami and Kandyan law. She would like to know whether the Government was considering introducing an element of choice by giving all persons access to the general legal system, regardless of their religious affiliation.

52. **Mr. Bruun** said that the obligation undertaken by States parties in article 2 (e) of the Convention clearly included that of taking measures to eliminate discrimination against women by persons in the private sphere and by non-State actors. Yet, according to the information provided by the State party in paragraph 48 of its report (CEDAW/C/LKA/5-7), the special procedure set out in Sri Lanka's Constitution did not appear to adequately meet that obligation. It was important to ensure that the State party's understanding of its obligation under article 2 (e) concurred with that of the Committee, and he therefore requested clarification on that point.

53. **Ms. Patten** asked whether the Government's desire to ensure real progress extended to the plight of Tamil women and whether the Government would welcome a visit from the members of the Committee to assess the situation.

54. **Ms. Wijayatillake** (Sri Lanka) said that her Government would be happy to consider a visit from the Committee. She wished to point out that the Constitution did not limit the definition of discrimination to action taken by administrative or executive powers, but referred to discriminatory acts by any individual as well. A case could therefore be brought against any party guilty of discrimination.

55. The ongoing process of legislative reform involved reviewing the various legislative systems in Sri Lanka, including Muslim law, Thesawalami law and Kandyan law, and the Government was awaiting the recommendations of subject-specific committees examining a range of cross-cutting issues, such as land ownership and adoption, with a view to

drawing up proposals for new legislation. An action plan for women would be drafted following in-depth consultations with civil society.

56. **Ms. Sugathadasa** (Sri Lanka) said that the final draft of the National Action Plan incorporated the recommendations of ad hoc committees concerning fields such as health and employment and the results of consultations with NGOs and the general public. That draft was ready for submission to the Cabinet and then to Parliament.

57. **Ms. Wijayatillake** (Sri Lanka) said that the Thematic Action Plan for Women was broader in scope than the National Action Plan for the Protection and Promotion of Human Rights and covered issues not directly related to human rights. The two plans complemented each other and were well integrated.

58. The State party agreed that a time table was required to address the issue of land ownership, as the Government was also anxious to amend the existing legislation.

59. In addition, an initiative had been launched to review the current legislative provisions regarding lesbianism and draw up recommendations in order to ensure compliance with international law.

60. **Mr. Ranasinghe** (Sri Lanka) said that all the camps for internally displaced persons were managed by civilian authorities, and no military staff remained. There had been no reports of harassment or the imposition of any restrictions. The random checks which were performed did not affect all individuals, and there were no restrictions on media or news agency access to the camps, other than that requests had to be made through the proper channels.

61. **Ms. Wijayatillake** (Sri Lanka) said that Members of Parliament maintained a dialogue with the Ministry of Women's Affairs on issues falling within the scope of its mandate. The Committee's concluding observations would be submitted to a consultative committee of Parliament, which would then discuss the issues and decide what steps should be taken.

62. **Mr. Nawaz** (Sri Lanka), in response to an earlier observation made by Mr. Bruun concerning the application of article 2 (e) of the Convention, said that the jurisprudence of the Supreme Court had extended the scope of article 12 of the Constitution to include non-State actors. Cases could be brought under the special procedure for accessing the Supreme Court concerning the infringement of fundamental rights by non-State actors provided that a link to the authorities could be established. For example, if a woman's rights had been violated and the police had failed to take action, she could initiate proceedings.

63. **Ms. Jahan** said that, although Sri Lanka had been the first country in the world to elect a female prime minister, it had the lowest rate of female participation in political life in the region. While other Asian countries had adopted affirmative action measures to encourage women to go into politics, Sri Lanka still had no quotas for women in local government or in Parliament. She wished to know what was being done to support women's political participation. She wished to know whether political parties, or the State, had taken any steps to set up funds for women candidates or to ensure that a given minimum number of women were on party nomination lists. Referring to the proposed discretionary combined quota of 25 per cent for women and young people, she enquired as to the reason for the Government's reluctance to adopt a mandatory quota.

64. It was also necessary to create an enabling environment for women with regard to education and employment. She wished to know why the Government had not taken advantage of existing constitutional provisions for affirmative action and why it had chosen to apply a more restrictive definition of equality than the one set forth in the Constitution.

65. **Ms. Hayashi** said that entrenched gender roles remained an obstacle to women's involvement in key political and decision-making bodies. It was perhaps incumbent on the Government to support women's involvement in political life. Under the Convention, Governments must not only refrain from discriminatory practices but also protect women from discrimination by private actors and guarantee de facto equality. She invited the State party to read the Committee's general recommendations Nos. 25 and 28, which clearly referred to those obligations.

66. Although article 12 (4) of the Constitution provided for special measures to promote women's rights, no temporary special measures had been implemented. She requested sex-disaggregated data on women in national and local elections and enquired as to the Government's reasons for not releasing nomination lists.

67. **Ms. Šimonović** asked whether Sri Lanka planned to ratify the Geneva Conventions and, given the large number of internally displaced persons in the country, why it had not yet done so. In view of the important steps Sri Lanka had taken towards female empowerment as early as 1931, it was disappointing that it had been unable to sustain that pace of progress, and she asked what the main obstacles were in that regard. In patriarchal societies, the use of gender-neutral terms in legislation, such as the requirement to register "heads of household", concealed an inherent gender bias. She asked the delegation to elaborate on the State party's efforts to amend legislative provisions which indirectly discriminated against women and to challenge patriarchal attitudes.

68. **Ms. Awori** said that she commended the State party for the enactment of the Prevention of Domestic Violence Act. However, independent sources had pointed out that women were unaware of that law and not encouraged to report instances of domestic violence. In that regard, she would like to know if shelters existed for victims of domestic violence. Other sources had also indicated that the action plan attached to the Prevention of Domestic Violence Act had yet to be implemented. What steps was the Government taking to put it into effect?

69. Reports also indicated that sexual violence was pervasive in Sri Lanka and that there had been many allegations of major and minor offences. She would welcome more information about the incidence of violence in Sri Lanka, about measures to combat it, and about the types of protection offered to women. In addition, she wondered what measures the Government was taking to encourage women to report cases of violence committed against them, particularly sexual violence.

70. Although an amendment to the Criminal Code had made statutory rape a criminal offence, and the age of consent had been raised from 12 to 16, rape was still not considered a crime if the woman was married or separated without a court order and, in the Muslim community, marital rape was not a criminal offence even if the girl involved was under the age of 16. She wished to know what steps the Government was taking to criminalize rape in all circumstances and whether it planned to reform the present legislation to introduce a single comprehensive law covering all types of sex offences.

71. **Ms. Patten** said that, as far back as 2000, there had been allegations of sexual violence, including rape, being committed by members of Sri Lankan security forces and the Sri Lankan police force. More recent information indicated that Tamil women had been victims of sexual violence during the last phase of the conflict and that relatively few cases had been reported to the authorities. It would be helpful to know what measures were being taken to encourage women to report cases of sexual violence and to prosecute the perpetrators of such acts. She would also like to know whether the Sri Lankan judiciary was familiar with evolving international jurisprudence in the areas of violence against women — under which rape and gender-based crimes could be classified as war crimes, crimes

against humanity or even genocide — and whether the State party had the political will to take action to eliminate the climate of impunity in that country.

72. **Ms. Rasekh** said that she welcomed the steps taken by Sri Lanka to prevent trafficking in women and children, especially since it was both a source and a destination country. She wondered, however, why it had not yet ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and what plans it had to do so. Reports indicated that many women were trafficked to Sri Lanka from other countries, that they were deported without protection or legal assistance, that they could be arrested and fined, and that they were often encouraged to testify against their traffickers without police protection. She would like to know what protection measures the State party was offering to victims, such as shelters, hotlines and witness protection programmes. Despite the provisions of the Criminal Code that criminalized trafficking and some large-scale arrests of traffickers, it seemed that virtually no convictions had resulted. Clarification would be welcome. Lastly, she would like to know what role was played by the Bureau of Foreign Employment and other Government agencies in combating trafficking in women and children.

73. **Ms. Jahan** said that she had been informed that Sri Lankan women and children were trafficked overseas and prostituted by organized criminal groups; advertisements appeared on the Internet. What was worse, Sri Lankan girls were lured into a life of prostitution by priests, on religious pretexts. Article 6 enjoined States parties to suppress traffic in women and the exploitation of prostitution. Detailed clarification would be welcome.

74. Despite strict laws prohibiting trafficking and severe punitive measures, Sri Lanka had appeared on the United States special Tier-2 Watch List. She would like to know, in that regard, what training was offered to law enforcement personnel and immigration officials to identify potential victims of trafficking, in particular since women were often victims of traffickers posing as recruiters of migrant labour. Lastly, she would like to know whether Sri Lanka had ratified the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution of the South Asian Association for Regional Cooperation (SAARC).

75. **Ms. Wijayatillake** (Sri Lanka) said that she would like to clarify that the Constitution recognized the right to equality for all. That was not limited to executive or administrative actors; any person was free to lodge a complaint with the courts for violations of the right to equality. The special Supreme Court procedure, however, in fact applied solely to executive and administrative actors.

76. In reply to a number of questions from Committee members, she indicated that the national human rights action plan did indeed provide for assistance programmes for women who had been affected by violence during the conflict period. In addition, female headed households were receiving priority attention, and the Government was continuing to monitor and assess its programmes to ensure genuine results.

77. She did not understand the question about follow-through by the Cabinet on the Prevention of Domestic Violence Act, since no such action was required. The Act was currently being implemented. Training programmes concerning it had been conducted for law enforcement personnel and the judiciary, and awareness-raising radio and television spots had been produced. Awareness never came instantly: after legislation was enacted, it took time for knowledge to spread.

78. There were legal aid centres throughout the country that handled complaints from women who were victims of violence. Protection orders were issued when necessary. And yet, that was a civil remedy rather than a criminal one. The Government's emphasis was on

seeking the best solution for problems in the home; it did not want the remedy to worsen matters. In training courses for law enforcement officers, they were advised to handle each situation on a case-by-case basis. The National Commission on Women had established a set of guidelines on the administration of shelters for women; there were also shelters run by NGOs, for which the State party was grateful.

79. Sri Lanka had a comprehensive legal framework for handling crimes of sexual violence; in the view of the Government, the matter did not end there. The next step was to ensure effective implementation. There appeared to be some confusion regarding statutory and marital rape. Statutory rape was any act of intercourse with a child under 16; consent was not an acceptable defence. Exceptions were made for girls between the ages of 12 and 16 who were married under Muslim law; when the Muslim law was amended, it would be possible to tackle the relevant provisions. Marital rape was another matter. The Criminal Code recognized that rape could occur even if a woman were not legally separated from her husband. A woman who had been raped must initiate a complaint, and the Attorney General would decide whether or not to prosecute. There was currently no move under way to amend provisions covering rape or marital rape.

80. The Government did not believe that it needed a comprehensive law on sexual offences; the current arrangements were very effective. Removing sexual crimes from the Criminal Code, the primary law of the country, would diminish the seriousness of those offences; that was not considered an appropriate course of action.

81. There was certainly no climate of impunity in Sri Lanka. In its introductory remarks, the delegation had described a series of initiatives that had been taken to counter sexual violence and to enhance accountability in the security forces. Its commitment to that undertaking was both serious and sincere. Sri Lanka had signed the United Nations Convention against Transnational Organized Crime and had incorporated a new definition of trafficking into the Criminal Code. Issues related to immigration and trafficking had been addressed in the Government's responses to the list of issues and questions (CEDAW/C/LKA/Q/7/Add.1). Her Government had not been informed about many of the allegations that had been raised by Committee members.

82. **Ms. Sugathadasa** (Sri Lanka) said that it was true that the State party had been placed on the United States special Tier-2 Watch List; however, it had held discussions with the American Embassy in Sri Lanka, which had acknowledged that the Government was taking measures on behalf of migrant women. Sri Lanka's foreign embassies had safe houses for stranded women, who were provided with assistance and tickets home. In addition, the Bureau of Foreign Employment provided training programmes for Sri Lankan migrant workers, who could not go abroad without certification. Medical insurance and other benefits were provided to migrant women.

83. **Mr. Nawaz** (Sri Lanka) said he would like to provide some clarifications. Divorced women were sometimes granted custody of their children, which indicated that the country was adapting to the expectations set forth in article 5 (b). The Criminal Code stipulated that consent was required for sexual intercourse; use of force was not permitted. That provision covered marital rape and rape following a legal separation; marital rape was therefore prosecutable. The State party had taken note of the statement that rape could qualify as genocide.

84. A question had been raised regarding the conviction of traffickers. The Government was ready and willing to prosecute and convict traffickers; the success of the prosecution depended upon the success of the evidence in establishing proof beyond a reasonable doubt.

85. **Ms. Wijayatallake** informed the Committee that the proposal to prevent mothers of children under 5 years of age from accepting employment overseas had been dropped.

86. **Mr. Ranasinghe** (Sri Lanka) said that he had participated in the Way-Forward on Rehabilitation, Reinsertion and Reintegration initiative since May 2009; there had been no cases of violence being committed against women or children during that period by members of the security forces. The rehabilitation centres housing women and girls were administered, secured and protected by women schoolteachers; no complaints had been made. A series of programmes had been conducted to teach internally displaced persons about their rights. Soldiers and officers could not get away with committing violence against women and children; if they did so, they were subject to disciplinary action or even court martial.

87. **Ms. Rasekh** said that she had not heard an answer to her question regarding measures taken to eliminate trafficking. Nor had an answer been given to the question as to whether the State party had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It was not clear from the report whether Sri Lanka had drawn up an action plan on trafficking.

88. **Ms. Hayashi** said that her questions regarding mandatory quotas and witness protection plans for victims of sexual offences had not been answered. She would also like to know more about what Sri Lanka was doing to learn from the best practices of neighbouring South Asian countries.

*The meeting rose at 1 p.m.*