

ENDING SEXUAL BRIBERY IN SRI LANKA



Compilation of Centre for Equality and Justice
Sri Lanka Advocacy Documents | 2016-2022

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Ending Sexual Bribery in Sri Lanka

Compilation of

Centre for Equality and Justice Advocacy Papers | 2016 -2022

INTRODUCTION

Sexual bribery is a form of corruption where sex, rather than money, is the currency of the bribe. The phenomenon disproportionately affects women who are vulnerable and dependent on those entrusted with power to provide services.

This publication is a compilation of all the initiatives undertaken by the Centre for Equality and Justice (CEJ) on Sexual Bribery since 2015*. CEJ's work on this issue commenced with research into incidents of sexual bribery experienced by war-affected Sinhalese, Tamil and Muslim women in selected districts. These findings laid the foundation for and informed CEJ's past and current efforts on tackling sexual bribery. The content of this publication including research briefing papers, the material on lobbying and advocacy efforts with stakeholders to influence law and policy reforms and awareness-raising efforts has been consolidated and can be used as a repository of information for sexual bribery related initiatives by like-minded organisations and other relevant stakeholders.

Shyamala Gomez

Executive Director,

Centre for Equality and Justice

** Centre for Equality and Justice (CEJ) is a not for profit local women's organization based in Colombo. CEJ was established as a company limited by guarantee in late 2017. The core staff of CEJ are all former staff of FOKUS WOMEN, the Country Office in Sri Lanka established in 2012 by FOKUS, Forum for Women and Development, a women's organization based in Oslo. The work on sexual bribery commenced while at FOKUS WOMEN and was built on by CEJ over the past few years.*



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A stylized illustration in shades of yellow and orange. On the left, a woman is depicted from the chest up, wearing a sari and looking down at a document she is holding. On the right, a hand is shown pointing upwards. The background is a solid yellow color with a dark orange horizontal band at the top containing the title.

A RESEARCH PAPERS ON SEXUAL BRIBERY IN SRI LANKA

Primarily utilizing interviews, surveys, and targeted focus groups, these research briefing papers published by CEJ offer essential insight into Tamil, Sinhala, and Muslim war-affected women's experiences with sexual bribery. Covering twelve districts in the North, North Western, North Central, Southern, and Eastern provinces, the research highlights critical issues and recommends priority actions

1 | SEXUAL EXPLOITATION OF FEMALE HEADS OF HOUSEHOLDS AFFECTED BY WAR IN THE NORTH OF SRI LANKA



SEXUAL EXPLOITATION OF FEMALE HEADS OF HOUSEHOLDS AFFECTED BY WAR IN THE NORTH OF SRI LANKA

Background

Women can be victimized differently by corruption on account of vulnerabilities created by gender. Despite the prevalence of various forms of corruption that affect women more specifically, these acts often escape reporting or measurement because they are not always perceived as corruption and as a result of the shame associated with sexual crimes.

The end of the war in the North of Sri Lanka has brought new challenges to women. Reports of sexual exploitation (SE) of women by state and quasi-state officials, as well as state officials in charge of law enforcement and security have been documented by human rights organizations. This emerging trend of SE requires urgent attention from relevant authorities especially in the context of the government moving forward with post-war policy reforms.

This study provides an overview of the current legal framework for addressing sexual bribery in Sri Lanka and discusses 25 case studies of female heads of households (FHHs) from the war-affected Northern Province, in order to highlight contexts in which they are particularly at risk.



Definitions:

The laws that apply in relation to sexual exploitation or bribery may vary depending on the nature of the act and the context in which it occurs. This is evident from the diverse range of international and national legislation and case law relevant to this subject matter. However, for the purpose of this study;

- Sexual bribery (SB) can be defined as an "improper benefit" that is sexual in nature, demanded from a person (in our research, women who are heading their families) by men in positions of power in exchange for a service or a favour.
- Sexual exploitation (SE) means solicitation of a sexual act in exchange for remuneration. It is carried out against one's will or knowledge, including by means of threat or use of force or other forms of coercion. It also involves abuse of power and one's vulnerability or giving or receiving of payments/benefits to achieve the consent of a person having control over another person.
- Sexual exploitation is the overarching concept under which sexual bribery is categorized. Therefore, sexual bribery is a form of sexual exploitation.

Methodology

- This research was done after consultations with different stakeholders in the North where there have been complaints regarding SE.
- FHHs were the target group of this study because these women face more sexual harassment and are more susceptible to SE due to the lack of a male in the household.
- The study was conducted in all 5 districts of the Northern Province that were affected by the war.
- Puttalam district, of the North Western Province, was also included in order to capture the experience of the evicted Northern Muslim IDP women.
- 25 case studies were undertaken (21 Tamil & 4 Muslim women).
- 10 interviewers did the case studies. These interviewers are also women's rights activists while some of them were also trained in professional counselling.
- Targeted focus group discussions with government officials were also undertaken.

Findings

Reasons for increased sexual exploitation of women in the North:

- Stark increase in the number of FHHs due to death and/or disappearance of male family members.
- Increased militarisation after the end of the war.
- The failure to consider their experiences in designing resettlement and development plans.
- Failure to ensure participation and representation of FHHs at decision-making levels.
- Delays and lack of gender sensitivity in the justice system, combined with inactivity and corruption in law enforcement.

Victims' profile:

- The victims of such SE were predominantly between the age of 25-35 Tamil women who were married and subsequently widowed at a young age.
- Most had dependent children or elders and had assumed multiple roles as breadwinners and caregivers.
- Three Muslim women's issues were related to getting assistance through the Quazi courts.
- There are at least four cases in which the same officers had demanded SB.
- Nineteen women were mothers who needed to access state services to get housing or related support, livelihood assistance or jobs.
- Women felt that they were subject to SB because they did not have money or material assets to give.
- The interviewees stressed many times that it was their loneliness that let these men see them as being susceptible.
- Twenty two of the women we spoke to did not approach counsellors or seek professional help in overcoming their trauma.
- Only two of them said they had obtained counselling or sought help in psychological healing.
- Eight of them seemed to have suffered silently, and for them the suffering continues to date.
- Six spoke for the first time and felt relief even though there was initially a reluctance to talk about these incidents.

- Two of them, after talking, said they wanted to monitor the accused and collect evidence to get him punished.
- In two cases (in Vavuniya and Mannar), they have collected some evidence of the accused officer demanding sexual bribes from other women as well.
- Of the 25 cases detailed here, six women spoke for the first time about the incident to an outsider.
- Only seven women lodged official complaints.
- Those who had made complaints had male family members' support whereas those who did not have such support feared the mere exposure of the issue. These women also expressed that surveillance and social ostracization would only enable the officers who demanded SB to further harass them. They feared for the safety of their children and, if they had girl children, worried about the shame that would fall on them if the SB incident became public.
- None of the accused has been charged except for being transferred to another location.
- While many considered these experiences an overarching gender issue, some felt that it is not only gender discrimination but also ethnic discrimination.

Perpetrators/Accused

This research recognizes the vulnerability of women to sexual bribery and exploitation specifically in the post-war structures, connected mostly to return, rehabilitation, resettlement and development. Likewise, truth, justice and reparation have been the primary reasons for war-affected women to increasingly approach the state institutions. As a result, officials they approached for the above reasons subjected women to sexual exploitation.

1. State officials in charge of law enforcement and security, public services and legal services
2. Humanitarian aid worker
3. Psychiatric social worker
4. Religious leader
5. University lecturer

It is noteworthy that most of the officials who are mentioned in the case studies were already notorious for such SE and yet no action had been taken against them for such prior violations.

Circumstances of the victims that required the assistance of the aforesaid officers

- Government officials claim sexual favours from women in return for various government services – e.g., in exchange for providing certification of residence and character or documents that prove eligibility for various rehabilitation and resettlement assistance.
- The officials claim sexual favours in return for finding employment or livelihood assistance.
- Women who approached state officers to complain about issues such as a missing family member were asked for sexual favours by these officers.
- law enforcement personnel subjected women to sexual exploitation when they were approached for official purposes as well. E.g., in obtaining permission for events etc.

- Court officers have demanded sexual favours in return for handling legal and other administrative matters of the victims.
- State officials have sexually exploited women by threatening them of actions that would affect them adversely if they failed to comply.
- There is also a tendency for officers to ask for sexual bribes when FHHs approach them for favours. E.g.: To expedite their access to services, to prioritise their names in beneficiary lists, to ignore their ineligibility and include them in assistance schemes, to obtain jobs for them or their children using political influence, to hide from some wrongdoing, etc.

Types of SE

- Rape (in some cases, multiple times).
- Sexual harassment and inappropriate physical behaviour.
- Verbal sexual harassment including demands for sexual intercourse.
- Verbal threats to behave in a particular manner/to put up with certain behaviour in order to get things done.
- Harassment via phone at night and often when the perpetrator was intoxicated.
- Asking the victim to meet the perpetrator alone in order to get what was needed.

Why women failed to seek relief or redress

- Language barrier caused them not to seek justice – E.g.: Bribery Commission staff had spoken to the victim only in Sinhala.
- The perpetrators are not ordinary people but people in powerful positions.
- Many did not have a clear idea of where to complain even though at least half of them knew SB is an offence under the Sri Lankan law.
- Twenty three of the 25 women interviewed said they don't have any confidence in the current structures to deal with SB issues.
- Many had grave concerns about making police complaints and in some of the group discussions the women kept talking about the corruption and sexism within law-enforcement structures.
- Social stigma:
 1. Many of the single women did not even want to talk about the incident to a close friend or a family member, fearing that they would be found at fault for behaving inappropriately.
 2. In at least five cases, women said their mother, neighbour or mother-in-law have found fault with them for their clothing or having got too close to the officer who demanded SB.
 3. Many single women feared that telling someone what happened would bring shame on them and cause community or family members to restrict their movements.
 4. At least three women in the case studies felt that since they had lived for a long time without men around them, that if they complained of sexual exploitation they would be perceived to be lying or fantasising.
 5. One woman went to the extent of cutting her long hair since she thought it was her hair that attracted men

Referrals for victims of SE

Listed below are the legal and institutional mechanisms in place that could provide relief or redress for FHHs who are victims of SE.

Legal:

- Human Rights Commission
☎ : 011-2689064
- Bribery Commission
011-2586257
- Legal Aid Commission
☎ : 011-5335329 /
011-5335281
- NGOs such as Women in Need that handle legal matters
- Public Service Commission
☎ : 011-2136600/
650/700
- National Police Commission
☎ : 011-5107722

Security:

- Women and Children Desk at all police stations
☎ : 011-2826444/
011-2768076
- Women Development Officers at the Divisional Secretariats
- Shelters run by NGOs and religious institutions that provide support to women

Medical:

- GBV Desk of any government hospital

Psycho-social support:

- National Committee on Women ☎ : 1938 or 011-2186063
- Child and Women Development Units of the Ministry of Women and Child Affairs
- Women's Organisations (NGOs/INGOs) functioning at regional and national levels

Counselling

- Women in Need
☎ : 011-4718585
- Women Development Center
☎ : 081-2234511,
081-2228158

Recommendations

1. The Bribery Act should be amended to include 'sexual gratification' as a specific form of gratification and penalties for sexual gratification should be enhanced.
2. 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.
3. Fifty per cent or more female representation at all levels should be ensured in all post-war service delivery structures and proposed transitional justice mechanisms.
4. A sexual bribery inquiry mandate should be added to existing independent commissions, such as the Police Commission, Election Commission, Bribery Commission, and Public Service Commission.
5. Each of these Commissions should have a gender-sensitive and trusted procedure to investigate and handle cases of sexual bribery.
5. A public awareness campaign must be initiated on available redress mechanisms in the Public Service Commission, Police Commission, and Human Rights Commission so that women are aware of these mechanisms and how and for what they can approach them.
6. The Government of Sri Lanka (GoSL) should issue a circular to all heads of public administrative/service departments to adopt a zero-tolerance policy with regard to sexual bribery and sexual harassment, and any such breach should be subject to thorough investigation by a competent committee set up to handle such cases.
7. The state service and educational institutions should put in place

internal mechanisms and guidelines to prevent sexual bribery and to deal with such complaints. Such efforts should be combined with adequate awareness raising and a supportive environment so as to encourage women to file complaints and obtain redress.

8. Circular No. 919 issued by the University Grants Commission should be amended to include guidelines to curb not only ragging but also sexual bribery and sexual exploitation (SE).
9. A Code of Conduct must be put in place for officers that directly deal with FHH like Samurdhi Officers, Grama Niladharis, Development Officers, Public Health Officers and other government officers in relation to SB.
10. It should be mandatory that all government departments and institutions maintain records and databases of instances of sexual bribery.
11. The laws and applicable punishments against sexual bribery should be displayed in police stations, universities, prominent locations, public spaces, public transport, and in all government institutions in English, Sinhala and Tamil.
12. GoSL should initiate a public awareness campaign to inform people at the ground level of existing complaint mechanisms to report cases of sexual bribery and subsequently to alert people when any new legislation/administrative circular or mechanism is introduced in this regard.
13. All circulars and awareness programs should be in all three languages, but most importantly in Sinhala and Tamil. The investigation and complaints mechanisms put in place to deal with SB should be staffed with persons who are competent in both Sinhala and Tamil languages. Those proficient in both Sinhala and Tamil should staff institutions such as the Human Rights Commission, Public Services Commission and National Police Commission.
14. Women Development Officers should be made the focal points to deal with sexual exploitation and SB. They must be equipped with knowledge and facilities to provide referrals for psychosocial support.
15. Religious leaders must be made aware of the services women who encounter SE and SB related problems should access and these religious leaders should share this information with the wider community.
16. Psychosocial assistance needs to be widely available with awareness on how to access these services.

Conclusion

- Sexual exploitation and the extortion of sexual favours from women (or men) in exchange for service is not a new issue in Sri Lanka. In fact, it is widespread and increasing, partly due the prevalence of the culture of impunity related to violence against women.
- Nevertheless, this research was conducted in the North with the intention of integrating some preventive measures within the current transitional justice mechanisms that are being discussed in relation to accountability and end-of-the-war issues.
- This research is an early warning for the policymakers and legislators who are working towards reconciliation and lasting peace. It highlights the need to challenge traditional disparities and structural discrimination against women in the post-war context if one aspires to build an inclusive and equitable peace.
- The progressive realisation of women's rights and women's access to justice – the strengthening of laws dealing with all forms of violence against women and women's right to information and choice; making the victim- and witness-protection mechanisms trustworthy and gender-responsive; and the inclusion and participation of women, including FHH, at every level of the transitional justice process – must be seen as critical factors for meaningful reconciliation and sustainable peace-building in this post-war context by those responsible for policy and decision making.

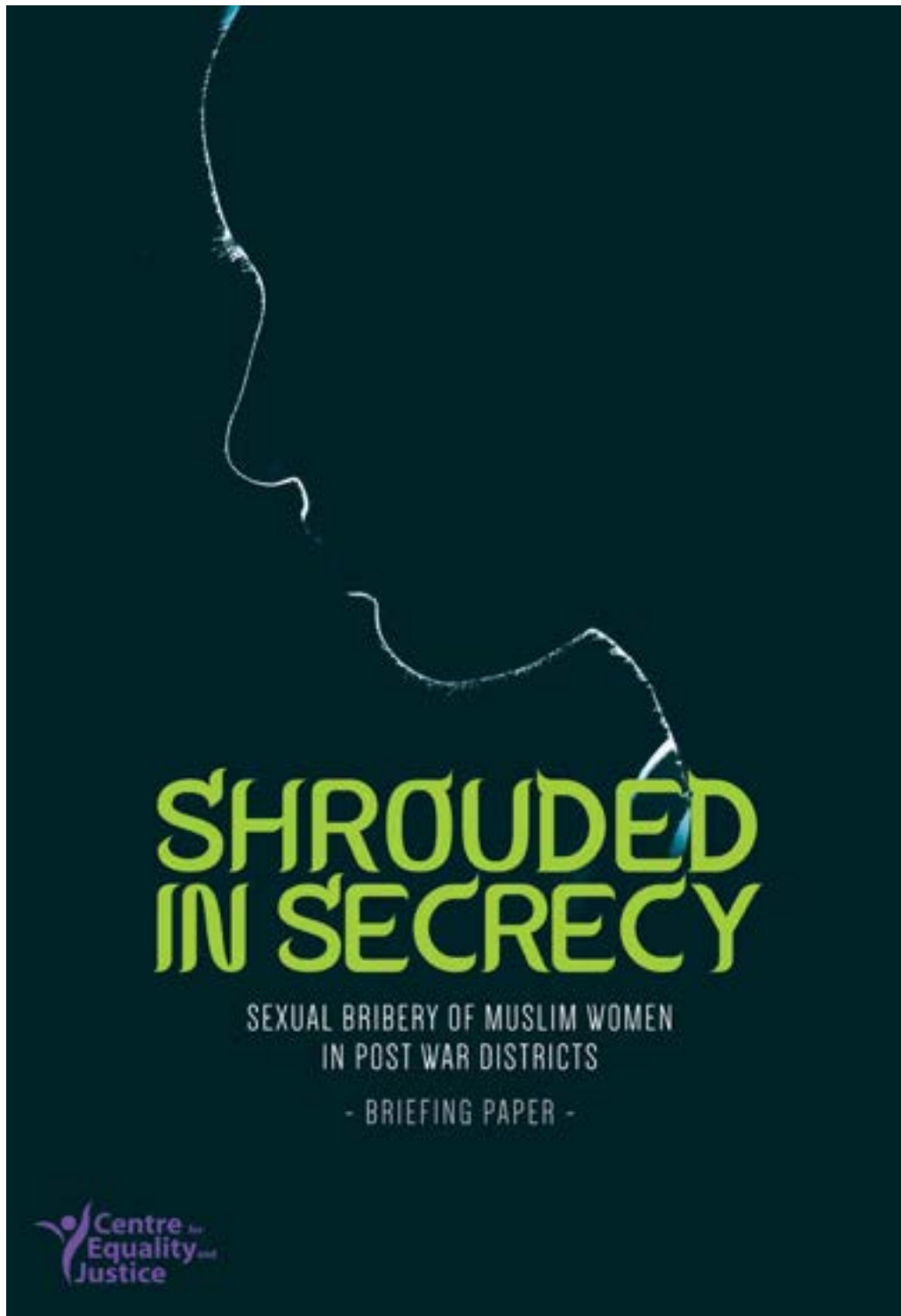


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FOREWORD

The research for this study commenced while FOKUS WOMEN was in operation in Sri Lanka. The study was finalized and printed by the Centre for Equality and Justice in April 2018.

FOKUS WOMEN (now Centre for Equality and Justice – CEJ) undertook a series of research studies in 2015 which flagged the many challenges faced by women in the post-war context. The sexual exploitation of women, by those including government officials and members of the security forces, is a phenomenon that has surfaced after the war. Female heads of households are particularly vulnerable. These women are targeted by unscrupulous officials who abuse their authority and exploit these women.

FOKUS WOMEN (now CEJ) conducted a study on the sexual exploitation of female heads of households in the North and documented 25 such cases in 2016. This research revealed the pervasive nature of the problem and the need to explore the incidence of sexual bribery further. In order to understand the prevalence and the nature of the incidence of sexual exploitation among Muslim women, this study documents ten in-depth case studies of women who have faced sexual bribery at the hands of public service officers at various levels of authority. In the absence of their husbands, these women are targeted by men in power who abuse their authority and exploit these women. The study also provides an analysis of the case narratives and recommendations to relevant stakeholders on how to tackle the issue.

We thank Shreen Saroor, Activist, for undertaking this study and for her commitment and perseverance. The experiences of the women who have been documented in these case studies must be taken into consideration by the state in designing codes of conduct for government officials and also to pave the way for the systematic handling of such cases by agencies such as the Human Rights Commission of Sri Lanka and the Bribery Commission. The Centre for Equality and Justice hopes the study will also contribute to law and policy reforms on sexual bribery. This report is a tribute to the women who told their stories.

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* This is the third in a series of research studies on sexual bribery of war affected women from Sinhala, Tamil and Muslim communities.



INTRODUCTION

This study focuses on the sexual exploitation and sexual bribery of Muslim women primarily located in the Eastern Province (Trincomalee, Batticaloa and Ampara) as well as in Puttalam (North Western Province) and Polonnaruwa (North Central Province). It builds on the research that was conducted among war-affected Tamil women in the North (FOKUS WOMEN 2016) and Sinhala military widows in the South (FOKUS WOMEN 2017).

It is important to keep in mind that many Muslim communities in the North and East have suffered mass killings and evictions, prolonged displacement, 'disappearances', abductions and loss of livelihood & land. Some of the Muslim women who were part of this study had been displaced due to the war while one woman had lost her first husband during the war.

Though this study did not specifically focus on female heads of households, seven out of ten women interviewed for this study were single and heading the family as its chief income provider. However, they refused to identify themselves as 'head of the household', possibly due to cultural norms; they preferred to identify an older relative - mother, mother-in-law or male relative- as the head of the household.

Extensive research, over several decades, has clearly shown that female heads of households (FHH) are particularly vulnerable to sexual harassment, sexual exploitation and sexual bribery due to the lack of a male in the household. Their economic survival and socio-political status is often dependent on the cooperation of state representatives whose support and services are essential. This in turn exacerbates their vulnerability.

The United Nations' definition of sexual exploitation is "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting

monetarily, socially or politically from the sexual exploitation of another." Sexual bribery is a particular form of sexual exploitation where a solicitation of sexual conduct is made in exchange for rewards and favours or the provision of services of any kind.

Like their Tamil counterparts in the North and Sinhala counterparts in the South, Muslim women in the East too complained of constantly facing sexual harassment as well as being coerced into sexual bribery and other forms of sexual exploitation as they sought to apply for government jobs, tried to lodge complaints or procure records from the police station, visited the District Secretariat to apply for a grant, approached the grama niladari (local government official) to get documents certified, interacted with a Probation Officer, and appealed to a member of the Provincial Council to upgrade a local school.

The findings of this study disproved common assumptions held by government officers such as Women Development Officers as well as Muslim community workers and activists that Muslim women were less vulnerable to sexual bribery, unlike Sinhala and Tamil women, because they were more modest in dress and behavior and rarely ventured out to seek government assistance due to lack of awareness of available resources and male domination of families.

This briefing paper provides an overview of the current legal and constitutional framework for addressing sexual bribery in Sri Lanka, sets out the methodology used for the research study, contextualises the women featured in the ten case studies, summarises key points drawn from the case studies and concludes by offering a variety of recommendations.

LEGAL AND CONSTITUTIONAL IMPLICATIONS OF SEXUAL BRIBERY

- It is a violation of the Bribery Act for public officials to solicit bribes. Private companies, institutions and individuals are not encompassed within this law and are thus not punishable under this law. Other legal frameworks provide punishment for sexual harassment in the private sector.
- While sexual bribery is not specifically mentioned in the Bribery Act, the definition of “gratification” as “including any favour or advantage of any description whatsoever” could be interpreted as encompassing sexual favours as well.
- The Sri Lankan Penal Code also emphasizes that the word “gratification” is not restricted to pecuniary gratifications or to gratification estimable in money. Therefore, it can be interpreted as including sexual gratification.
- Sexualized forms of bribery are encompassed within the fundamental rights chapter of the Sri Lankan Constitution as any form of sex-based discrimination is a violation of fundamental rights. It is conditional on the party committing such an act belonging to the executive or administrative branch of the state.

‘He came close to me, rubbed his body against mine and said he would like to help me.’

METHODOLOGY

- This research was conducted during a period of heightened insecurity for Muslim women, especially activists, who were being closely monitored by Muslim religious leaders who sought to stop them lobbying for the reform of the Muslim Marriage and Divorce Act (MMDA). This resulted in many women who had experienced sexual bribery being afraid to approach the researchers.
- Therefore, this research study had to be limited to ten Muslim women from three provinces of Sri Lanka – Eastern, North Western and North Central. This is a fraction of the many Muslim women who may have experienced sexual bribery.
- Though we were informed of two Muslim women who had lodged complaints against the police, for sexual bribery, and one woman had even gone to court, they could not be interviewed as they could no longer be located. One woman had moved out of the district in order to avoid intimidation by those whom she had accused, as well as censure from her neighbours.
- Of the ten women interviewed, eight were from the Eastern Province, a region severely affected by the three decade-long civil war.
- Of these eight, four were from the Trincomalee District, three from Batticaloa District and one from Ampara District.
- One woman from Puttalam (North Western Province) as well as another from Polonnaruwa (North Central Province) were also part of this study.
- Additionally, five district-based focus group discussions with activists who have been working with the Muslim community were conducted in




‘Almost two years have passed, but I am still suffering from this incident and feel unable to tell anyone the entire story. I am not even sharing all the details with you.’

Vavuniya, Puttalam, Batticaloa, Trincomalee and Ampara. Eight one-on-one meetings with lawyers and human rights activists were also conducted.

- Upon completion of the focus group discussions and one-on-one meetings, an individual from one of these groups was picked to serve as the main researcher for each district. This individual was then linked with three local activists (with counseling experience) who were hired as research assistants.
- The main researcher trained the research assistants to have initial discussions with affected women and to obtain their consent to be part of this study. These women were then asked to fill a detailed questionnaire before the one-on-one interviews began.
- It was difficult to persuade the women to share their own experiences of sexual bribery, at the onset of the interviews. Therefore, the researchers worked with either a community

mobiliser or a women’s rights activist who had already established a connection with these women or had assisted these women in some capacity, in each district, in order to gain their trust and confidence.

- Many visits were required before an interviewee would be willing to share confidences. Long discussions were held about cases that had already been documented and the advocacy work already carried out, based on the study of women in the North, before women felt free to talk about their own experiences.



‘A young Muslim woman like me cannot go to court..’

- In some instances, women were reluctant to provide details regarding their own experiences with sexual bribery, despite several preliminary conversations. These interviews could not be included in the final report.
- Interviews often took place in the presence of other family members, which was not a very conducive environment for the sharing of intimate details.
- Two women wanted the researcher to mention the names of the government officials who had abused their power and solicited sexual bribes from them. However, after considering the power that these men enjoyed and their proximity to their accusers, it was decided to omit the names.

‘My siblings had already warned me not to venture around alone, and if they knew of this, it would put an end to my social work.’

- Information that directly connected the interviewee to the perpetrator was excluded in all ten cases.
- Some of the women who were interviewed were subsequently provided with counseling services.

CONTEXTUALISING INTERVIEWEES

- The majority of the women interviewees were single and had young children or elderly parents who were dependent on them.
- Out of the ten women interviewed, six of them had either been divorced or abandoned by their husbands. One woman's marriage did not last more than a week. The women pointed to Muslim men's right to polygamous relationships as the reason for the high rate of domestic violence, divorce and abandonment within the Muslim community.
- The majority of these women only had a very basic level of education as they had been married off when they were very young or had to start working at a young age due to the death of the main breadwinner.
- Only one young, unmarried woman had been continuing to study while working as a project officer in a NGO but her career goals had to be abandoned when a sexual bribe was solicited from her.
- The majority of these women had no skills sets resulting in them not being able to secure sustainable livelihoods. They earned a living through sewing, making short-eats and breakfast foods, cleaning cashew nuts, working as a cleaner etc. One woman even had to give up one her children for adoption due to poverty.

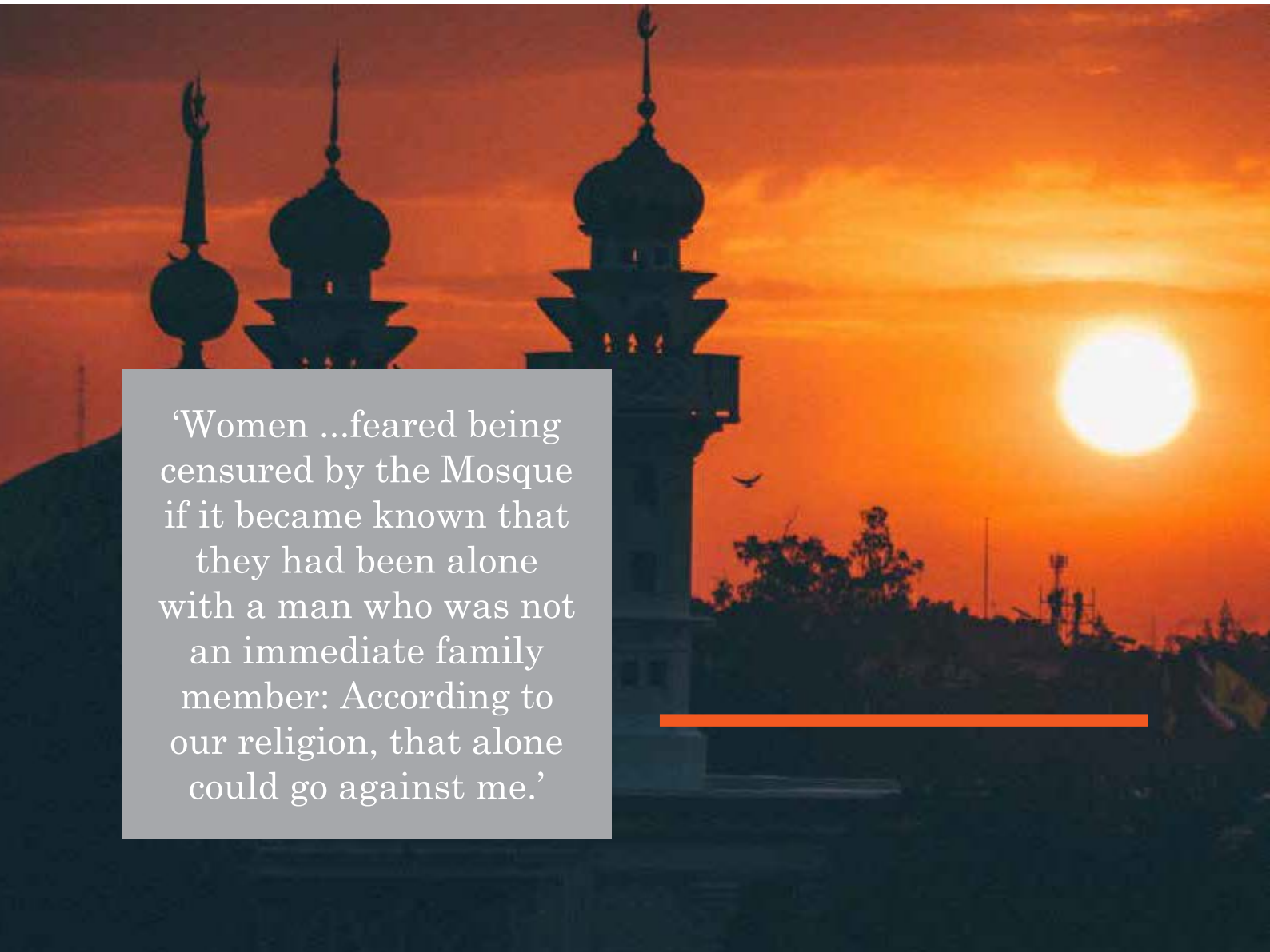
- Two women were involved in social work which had earned them the respect of the community at large.
- Several women had been married multiple times as they had been unable to sustain themselves and their children on their own or because their parents felt they were too vulnerable as single women.
- Some women had suffered or continued to suffer abusive marital relationships.
- Seven of the women were either thirty years of age or younger when they experienced incidents of sexual bribery.
- Five of the women observed that it was their perceived loneliness and vulnerability that had elicited demands of sexual bribery.

ANALYSIS OF FINDINGS

- Sexual exploitation and sexual bribery must be understood within the broader context of Sri Lankan society which is patriarchal and does not adequately value or respect women. For example, when one woman complained of being repeatedly beaten by her husband to the all-male, Muslim Qazi court, their only response was that she needs to adjust herself to this life as if not, her husband would marry another woman.
- Men perceiving widows and single women as particularly vulnerable, malleable and open to sexual predation is a common phenomenon among all strata of Sri Lankan society. It is further exacerbated in contexts of power inequality such as when impoverished women or single women seek various services from state representatives and institutions.

‘He told me that he would look after all my child’s expenses and also make my position permanent in the school, if I fulfill his needs from time to time.’

- Some women have faced multiple situations of sexual bribery while others have sought to escape compromising situations by marrying, re-marrying or going overseas to work as a housemaid. While the threat of many sexually exploitative situations has ended or been circumvented, some continue to loom large in these women’s lives despite many years having lapsed or if the predator continues to live or work in their vicinity.
- Most women had confided to a friend or relative about the incident of sexual bribery she had faced. However, this was the first time most women had spoken about it to an outsider. Then too, some of them felt embarrassed to reveal all the details of the distressing and embarrassing situations they had faced.



‘Women ...feared being censured by the Mosque if it became known that they had been alone with a man who was not an immediate family member: According to our religion, that alone could go against me.’

- Women were particularly shocked and upset when those who solicited sexual bribes were known to them or from their own community, ie., Muslim men. One woman noted, ‘I had thought that he would be respectful to the Abhaya that I wear.’
- Of the 10 cases of sexual bribery that were mentioned by the interviewees, only three women had lodged complaints – one woman had lodged a complaint with the OIC (Officer in Charge) and the Women’s Desk at the police station, another woman had lodged a complaint with the OIC, a women’s group and the Human Rights Commission while a third woman had lodged a complaint with the international donor of the NGO where she worked.
- The fact that none of these complaints were taken seriously nor the perpetrators punished resulted in further disillusionment for the women.
- Occurrences of sexual exploitation and sexual bribery have exacted a heavy psychological toll on the women. Interviewees noted that they experienced feelings of disgust, shame, sadness, anger and disillusionment during and after the incident.
- One woman vomited soon after the incident while another felt weak and lifeless while yet another had frequent nightmares of being raped by her sexual predator. Another woman didn’t leave her house for an entire year and had trouble eating. Yet another described her experience which could never be undone as giving her a ‘wound that was even worse than cancer’.
- Parents, friends and in some instances, mere acquaintances, have played a crucial role in supporting these women to resist demands of sexual bribery. They have lent a sympathetic ear, offered advice and encouragement and even helped to circumvent the sexual predator’s power.

- However, the woman who confided in her husband ended up getting beaten by him due to him assuming that she had encouraged the perpetrator.
- Some women have also drawn on their inner strength and resolve to struggle against sexual predation. Two women had sought counselling while another noted that she had moved on and was confident that Allah would punish her perpetrator.

Perpetrators/Accused

- All the sexual predators were representatives of the state:
 - Police officers (3 cases)
 - The District Secretary (1 case)
 - Member of a Provincial Council (1 case)
 - Secretary to a member of the Provincial Council (1 case)
 - Probation Officer (1 case)
 - Grama Niladari (1 case)
 - Administrator of a government school (1 case)
 - Employee of the Eastern University (1 case)
- It is noteworthy that several officials who are mentioned in the case studies were already notorious as sexual predators. Two of the interviewees complained of experiencing sexual bribery when visiting the same police station.

‘I would wake up in the middle of the night and have frequent nightmares of him raping me.’

- Even though official complaints had been made against some government officers while others had already acquired a reputation as a sexual predator, this did not deter them from continuing their sexual predation.
- When complaints were made against police officers, their colleagues did not take the accusations seriously. One officer refused to take down the complaint and prevented the woman from meeting with the OIC. In another instance, a complaint was made to the OIC but he scolded the complainant and told her that he didn't have time for someone like her. Disappointingly, even a complaint that was made to a woman police officer at the Women and Children's Desk, who was known to the complainant, was not taken seriously. The woman police officer informed the woman that she 'fights a lot and is making up these stories'. Even a complaint to the Human Rights Commission had not elicited any response.

‘ I was scared that on one hand that he would kill me if I complained, and on the other hand that everyone would have something to talk about now because, until now, the men could not find fault with me. ’



Circumstances that led to Sexual Exploitation and Sexual Bribery

Occurrences of sexual exploitation and sexual bribery must be understood in the broader context of the lives of these women which leave them vulnerable to sexual predation.

- Four instances of sexual bribery occurred when the women were seeking to uplift themselves economically – seeking government employment that offers a pension or trying to migrate to the Middle East as a house maid.
- Three incidents of sexual bribery occurred when women sought the services of the police, the upholders of law and order and their primary recourse for justice in the context of a land dispute, non-payment of child maintenance and the certification of a murder.
- Two incidents occurred when women were involved in social service - one woman was trying to get a toilet built for an impoverished woman while another woman sought to have her local school upgraded.
- One incident occurred when a woman was seeking medical help for her young daughter who had cancer.

‘He is from my community, and I had thought that he would be respectful to the Abhaya that I wear.’

Types of Sexual Exploitation and Sexual Bribery

- Visiting the woman’s home at night and demanding sexual favours.
- Visiting the woman’s home during the day time on various pretexts and trying to touch and grab her.
- Sexual harassment and inappropriate physical behavior.
- Demands to have sexual relations.
- Demand for the woman to live with the predator.
- Making the woman stay in office till late in the evening or requesting her to visit him in office after working hours.
- Being subject to suggestive comments, sexual innuendo and abusive and insulting language; being the butt of jokes uttered.
- Facing verbal threats of harm being done to her if she made a complaint or informed anyone.
- Penalizing her for not acceding to his demands by taking her child away.

‘He spoke with me for a long time and asked why I was living a lonely life. He openly asked me whether I would sleep with him that night.’

It is noteworthy that none of the women admitted to actually acceding to any requests of sexual bribery as they always managed to flee the scene. However, some women did refer to having their 'private parts' groped and refused to offer further details of the sexual assault.

The majority of the interviewees who resisted sexual predation shared a variety of useful tactics they had mobilised to halt or circumvent a dangerous situation. Such tactics spanned a broad range and some have been more successful than others:

- Abandoning the service or documentation they sought.
- Hitting the predator with the attendance register.
- Pushing aside the predator and running away.
- Scolding, shouting and throwing things at the predator.
- Keeping a three-wheeler waiting so she could make a quick getaway.
- Escaping to a neighbour's house.
- Making a complaint to his superior officer as well as to the Women's Desk, women's groups and the HRC.
- Avoidance.
- Asking the help of friend.
- Seeking help from a friend's mother.
- Getting help from other government officers.
- Requesting help from a woman police officer.

'I should have spat on his face and hit him but he is a policeman from our own community'

'He said that no one from the Muslim community would support me as I was a convert to Islam and asked me to consider living with him.'

Why women failed to seek relief or redress

- Two key reasons why women did not lodge complaints were:

- Fear of social stigma and losing honour and respect within the Muslim community. All the women noted that it is they who would be perceived as the wrong doer.

Women also feared being censured by the Mosque if it became known that they had been alone with a man who was not an immediate family member: 'According to our religion, that alone could go against me'.

One woman feared that if her siblings heard about what had happened to her, they would stop her travelling alone resulting in her not being able to continue her social service.

- Fear of reprisals from the perpetrator especially since he was more powerful, both economically and socially, than the woman. Most of the women were afraid to even name the institution where the perpetrator worked. However, they were also concerned that the perpetrator, if unpunished, would continue to demand sexual bribes from other women.

- Women felt that they would not be believed because:

- she was poor and powerless.
- she was perceived to be sexually loose and immoral.
- she had been propositioned by a very powerful political figure.
- she had been propositioned by someone who was well respected and renowned for his charitable activities.

- there were no witnesses.
- complaints are treated with either disinterest or ridicule.

- Several women were also fearful that the person taking down her complaint would also sexually harass her.
- There was a general consensus among the women that law enforcement officers were often the worst sexual predators (also see page 8 point No. 4 for references to how other officers, OICs and even women police officers treated these women).
- Most of these women had been rarely exposed to NGOs and rights based activism and had limited knowledge of how to access legal institutions or even independent, non-state authorities that they could appeal to for help and redress.
- Two women who had faced solicitations of sexual bribery by police officers were aware of the Human Rights Commission (HRC) and one woman had even lodged a complaint with the Commission, to no avail. The other woman noted that if she went to the HRC they would investigate the issue with the help of the same police officers who had perpetrated the atrocity so she had no faith in that process.
- The majority of the women were clear that the perpetrators should be punished but they did not see this happening through the current legal system that does not even recognize sexual bribery. They therefore preferred to invoke divine justice by calling upon Allah or considering the possibility of public punishment such as stoning the perpetrator to death as is done in Saudi Arabia.

RECOMMENDATIONS

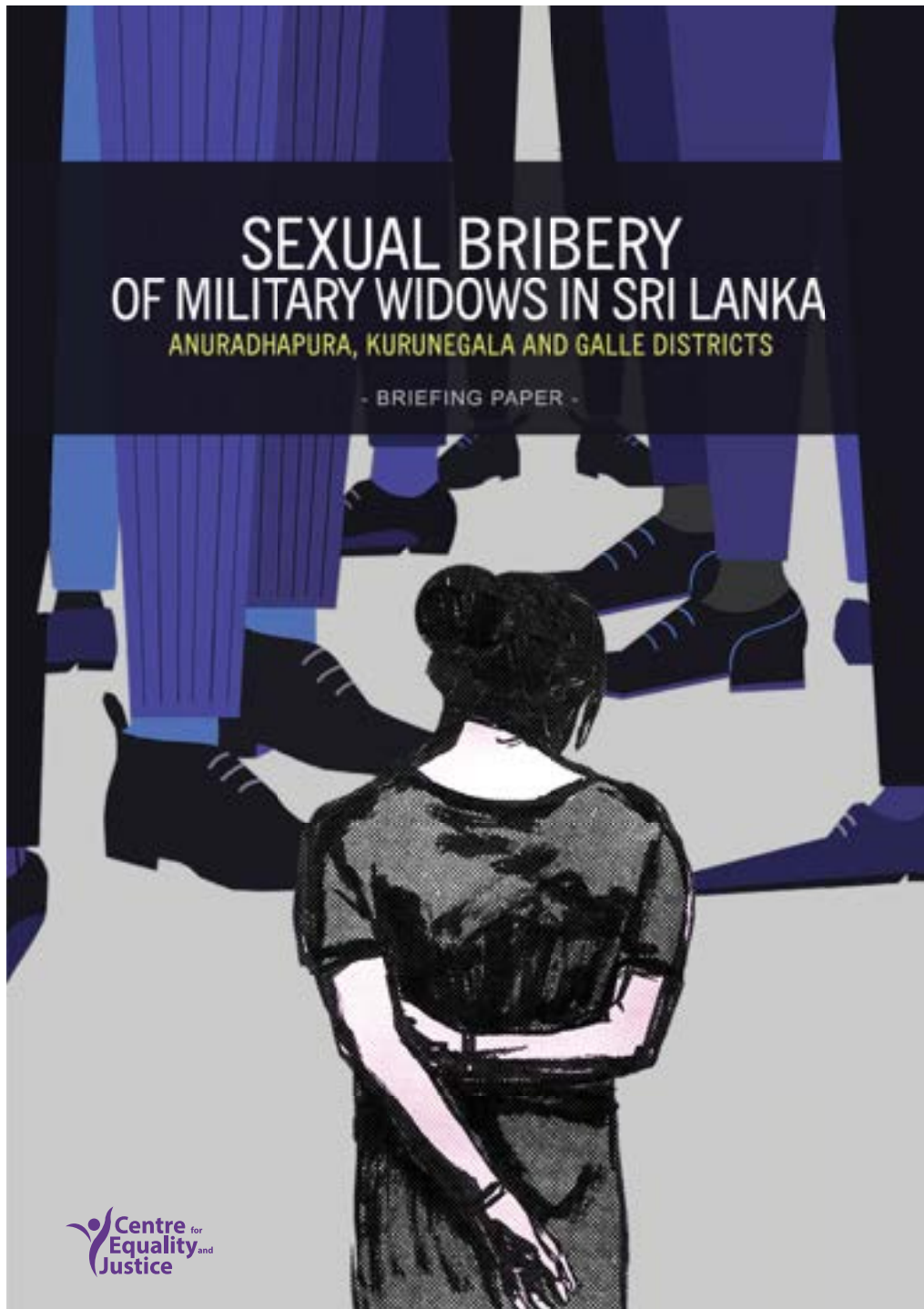
- There should be a vetting system for government officers eligible for promotions. The system should include a review of complaints of sexual bribery and sexual exploitation against such officers. Officers with an untainted record of character and service should be promoted while those who have solicited sexual bribery should be promptly dismissed.
- Trusted officers with proven track records of impartiality and gender sensitivity should be appointed to investigate sexual bribery complaints within either the Bribery Commission or Human Rights Commission. The structure should be easily accessible, be responsive and, most importantly, treat affected women with dignity and without moral judgment. Mechanisms should also be set up to safeguard the identity of victims.
- The government should promote change in societal attitudes through education and mass awareness campaigns designed to combat biases around the issue of sexual exploitation and sexual bribery.
- The government should set up an efficient redress structure which victims of sexual bribery can access or be referred to.
- Government officers should be educated on laws and redress structures related to sexual bribery.
- Police officers should be trained to treat women equally.
- The Penal code should be revised to include harsher punishment for sexual bribery. Further there should be stronger laws (eg: harsher punishment equivalent to rape or attempted rape) against sexual bribery.
- Firm action should be taken against perpetrators and those mechanisms should be publicized in order to act as a deterrent for other perpetrators.
- The government should provide legal aid to victims of sexual bribery so that they can pursue complaints or legal cases.
- The government should provide counseling to victims to cope with social stigma when they decide to openly share their experiences.
- The Public Services Commission should include sexual bribery within its mandate.
- An independent commission should be established to deal with sexual bribery complaints from women while ensuring utmost confidentiality.
- An online platform should be created to report incidents of sexual bribery.
- Transparency International Sri Lanka and other like-minded organizations should take the initiative in dealing with sexual bribery and provide referrals to relevant state institutions when cases are reported.
- 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. The Human Rights Commission should also create a special complaint procedure to deal with it.
- Fifty percent 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.
- 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 available redress mechanisms in the Public Service Commission, Police Commission and the Human Rights Commission so that women are aware of these mechanisms and the procedures behind them.
- The government should issue a circular to all heads of public administrative/service departments to adopt a zero- tolerance policy with regard to sexual bribery and sexual harassment and any such breach should be subject to thorough investigation by a competent committee set up to handle such cases.
- State services and educational institutions should put in place internal mechanisms and guidelines to deal with such complaints and prevent sexual bribery. Such efforts should be combined with adequate awareness raising and a supportive environment so as to encourage women to file complaints and obtain redress.
- Circular No. 919 issued by the University Grants Commission should be amended to include guidelines to curb not only ragging but also sexual bribery and sexual exploitation.
- A Code of Conduct that also refers to sexual bribery must be put in place for government officers who deal directly with women such as Grama Niladaris, Probation Officers, Samurdhi Officers, Development Officers and Public Health Officers.
- It should be made mandatory that all government departments and institutions maintain records and databases on instances of sexual bribery, exploitation and harassment.
- The laws and applicable punishments against sexual bribery should be displayed in police stations, universities, prominent locations, public spaces, public transport and in all government institutions in English, Sinhala and Tamil.
- The government should initiate a public awareness campaign to inform people at grassroot level, of existing complaint mechanisms to report cases of sexual bribery and subsequently to alert people when any new legislation/administrative circular or mechanism is introduced in this regard.
- All circulars and awareness programs should be in all three languages, but most importantly in Sinhala and Tamil. The investigation and complaints mechanisms put in place to deal with sexual bribery should be staffed with persons who are competent in both Sinhala and Tamil languages. Institutions such as the Human Rights Commission, Public Services Commission and National Police Commission should be staffed by those with proficiency in both Sinhala and Tamil.
- Women Development Officers should be made the focal points to deal with sexual exploitation and sexual bribery. They must be equipped with knowledge and facilities to provide referrals for psychosocial support. In addition, they must have the authority to directly inform the nature of the abuse to high-level complaint handling mechanisms.
- Religious leaders must be made aware of the services that should be accessed by women who encounter sexual exploitation and sexual bribery related problems and be encouraged to share this information with the wider community.
- Psychosocial assistance needs to be widely available to those who have experienced sexual exploitation and bribery along with awareness being raised on how to access these services.

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* This is the second in a series of research studies on sexual bribery of war affected women from Sinhala, Tamil and Muslim communities.



INTRODUCTION

There are currently over 9,000 Sinhala military widows in Sri Lanka. A 'military widow' is a woman whose husband's death is a direct result of his service in the Armed Forces, including the Army, Navy, Air Force, Police and the Civil Defence Force. Given the large number of MIA (Missing in Action) in Sri Lanka, wives of these servicemen as well as wives of disabled servicemen are also included in the category of 'military widows'; all three contexts have resulted in women being the heads of households and bearing all socio-cultural and politico-economic responsibilities within the household.

Extensive research, over several decades, has clearly shown that female heads of households (FHH) are particularly vulnerable to sexual harassment, sexual exploitation and sexual bribery due to the lack of a male in the household. Their economic survival and socio-political status is often dependent on the cooperation of state representatives whose support and services are essential. This in turn exacerbates their vulnerability.

Sinhala military widows, despite the privileged position they are supposed to be accorded in society as spouses of 'fallen heroes,' are also marginalized and exploited, albeit to a lesser degree than FHH, including war widows, from minority communities. Like Tamil and Muslim FHH in the Northern Province, a large number of Sinhala military widows too have complained of constantly facing sexual harassment as well as being coerced into sexual bribery and other forms of sexual exploitation as they have sought to apply for their husbands' salaries, procure bank loans, get documents certified and enroll their children in schools, from the military as well as various other state and private institutions.

Exploitation is "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another." Sexual bribery is a particular form of sexual exploitation where a solicitation of sexual conduct is made in exchange for rewards and favours or the provision of services of any kind.

This research study provides an overview of the current legal and constitutional framework for addressing sexual bribery in Sri Lanka and discusses ten case studies of Sinhala military widows located in the districts of Kurunegala, Anuradhapura and Galle, in order to highlight contexts in which they are particularly at risk.

“

I have noticed that it is the woman who makes the complaint who ends up getting blamed for inviting such sexual advances.

”

LEGAL AND CONSTITUTIONAL IMPLICATIONS OF SEXUAL BRIBERY

- It is a violation of Sri Lankan law for public officials to solicit bribes. Unfortunately, private companies, institutions and individuals are not encompassed within these laws and are thus not punishable under the Bribery Act. Private companies and other individuals are covered under other applicable laws.
- While sexual bribery is not specifically mentioned in the Bribery Act, the definition of “gratification” as “including any favour or advantage of any description whatsoever” could be interpreted as encompassing sexual favours as well.
- The Sri Lankan Penal Code also emphasizes that the word “gratification” is not restricted to pecuniary gratifications or to gratification estimable in money. Therefore, it can be interpreted as including sexual gratification.
- Sexualized forms of bribery are encompassed within the fundamental rights chapter of the Sri Lankan Constitution as any form of sex based discrimination is a violation of fundamental rights.
- It is conditional on the party committing such an act belonging to the executive or administrative branch of the state. Private companies, institutions and individuals are not mentioned here.

METHODOLOGY

- This research study focused on ten Sinhala military widows who faced various, often multiple, instances of sexual bribery and other forms of sexual exploitation, in three districts in three different provinces of Sri Lanka —Kurunegala (North Western Province), Anuradhapura (North Central Province) and Galle (Southern Province).
- The selection of these three districts was based on previous research which indicated that the highest number of military widows were located in the Kurunegala district (28%) with Anuradhapura following closely with 25% of widows.
- The third highest population (19%) was in the Kandy district, but it had to be dropped from the study due to adverse weather conditions prevailing in the country, between May and July 2017, when the interviews were conducted. Kandy district was replaced by Galle district, which has 13% of military widows (Ibid).
- All the interviews for the case studies were conducted in Sinhala by an experienced researcher domiciled in the Kurunegala district. She was accompanied by a local activist, in each district, who had a long association and friendship with the military widows who were interviewed. This was essential in ensuring the interviewees’ trust and confidence.
- Though a detailed questionnaire was formulated, it was only used as a guide by the researcher, regarding which thematic areas should be covered in the interview, as she was well aware that open-ended conversations was the most fruitful method for collecting data for case studies.

“

I scolded him saying
who is going to sign
documents in the
middle of the night?

”

-
- Often, an interviewee was visited more than once in order to build trust as well as elicit further details of sexual bribery.
 - A very important aspect that had to be kept in mind throughout the research project was that military widows, unlike other Sinhala FHH as well as Tamil and Muslim FHH, have a clear cut, dependent relationship with the military, and by extension the state, due to them receiving either all or significant portions of their deceased husband's salary or military pension which is their primary source of sustenance.
 - While the cooperation and goodwill of military personnel and state officials, at a variety of administrative levels, is crucial for the military widow to receive this salary/pension, it is also these personnel who are most likely to sexually prey on her, so there is great fear and reluctance on the part of these women to speak about it let alone make a complaint.
 - Military widows were so fearful of reprisals that though 15 women were interviewed for this study, five of them requested that their case studies not be included in this report.





“

Until now I had thought that it was the sad reality of vulnerable, isolated women to face these kinds of harassments from men in positions of power.

”

-
- The women who agreed to have their case studies included, requested that the names of sexual predators not be mentioned. They also begged that even the military camp or government office where the sexual predator was located should not be named.
 - The above requests were honoured and special care was taken to mask the identity of the interviewees by using pseudonyms and not listing the villages or the districts in which they are located.
 - Every effort was made to provide information and/or support to any interviewee who wished to make a complaint to the Human Rights Commission, wanted to follow up on a complaint she had lodged, was interested in pursuing a legal route or who wished to receive psycho-social counselling.

PROFILES OF MILITARY WIDOWS

- The majority of these women were extremely young when they were widowed and often had very young children dependent on them.
- Several women also had to support their parents and in one case, two siblings, in addition to their children, with their husband's salary.
- Many widows had to wait several months before they could start receiving their deceased husband's salary. Until then, they were dependent on their parents or in-laws, with the latter often treating them very cruelly.
- Two women only receive 75% of their husband's salary as 25% of it is allotted to their husband's parents. One woman had to wait five years before she could even receive this portion.
- The majority of these women only had a very basic level of education and no skills, resulting in them not being able to secure sustainable forms of employment.
- With the exception of one woman, all the others were unemployed and completely dependent on their husband's salary which ranged from Rs 10,000 to Rs 50,000 per month.
- Most women continued to be single as re-marriage would result in them losing their husband's salary.
- The majority of the women were burdened with debt, either accrued by their husband or which they had secured to build their house.
- However, most women had been able to build their own house or hut and live

independently with their children while also supporting ageing parents or other relatives.

- The majority of the women mentioned being very lonely and longing for love and companionship.
- They spoke despairingly of the sexual exploitation they have to face on a daily basis, not only from state and military personnel but also their colleagues, neighbours, relatives and in one instance, a Buddhist monk.
- Their psychological well-being was extremely poor with seven women noting that they were depressed. Of this group, four specifically mentioned that they often felt suicidal and one had actually attempted to kill herself and had to undergo psychiatric treatment. She continues to take medication.

“

My husband too was in the military so how can we publicise these unseemly aspects of the military?

”

ANALYSIS OF FINDINGS

- Different forms of sexual exploitation and sexual bribery must be understood within the broader context of Sri Lankan society which is patriarchal and does not adequately value or respect women. One woman summed it up well when she noted: “I have been very involved in social service activities as well as political activities but men never appreciate you for the work you do. You are merely a sexual object in their eyes.”
- Men perceiving widows and single women as particularly vulnerable, malleable and open to sexual predation is a common phenomenon among all strata of Sri Lankan society. It is further exacerbated in contexts of power inequality such as when economically deprived widows and single women seek services from state and military institutions.
- Many women have faced multiple situations of sexual bribery. While the threat of many sexually exploitative situations have ended or been circumvented, some continue to loom large in these women’s lives, while yet others are ongoing.
- Most women had confided to a friend or relative about the incident of sexual bribery she had faced. However, with the exception of three widows, this was the first time they had spoken about it to an outsider.
- Of the 16 cases of sexual bribery that were mentioned by the interviewees, only two widows had lodged complaints - with the OIC (Officer in Charge) at the police station and with the Commanding Officer at an army camp. One widow’s mother had also directly confronted her daughter’s sexual predator.
- The fact that none of the complaints were taken seriously nor the perpetrators punished resulted in further disillusionment for the widows. In the context where the predator was directly confronted, it resulted in denials and further accusations that led to the widow’s mental stability being further jeopardised.
- Occurrences of sexual exploitation and sexual bribery have exacted a heavy psychological toll on the military widows. Interviewees noted that they experienced feelings of disgust, shame, sadness, anger and disillusionment during and after the incident. One had felt suicidal.
- Parents, siblings and close friends have played a crucial role in supporting these women to resist demands of sexual bribery. They have lent a sympathetic ear, offered advice, protected and even confronted sexual predators.
- Some women have also drawn on their inner strength and resolve, to struggle against sexual predation. One woman even attended a Human Rights workshop in order to better understand the kinds of behavior she had to deal with.

“

We live a life of great freedom now as there are no men to dominate us

”



“

I even tried to take
poison and kill myself

”

Perpetrators/Accused

The majority of sexual predators were representatives of the state:

Military personnel (5 cases)

Those working at the District Secretariat (3 cases)

- Policemen (2 cases)
- Manager of a State Bank (2 cases)
- Grama Niladari (1 case)
- Principal of a National School (1 case)
- Post Master (1 case).

Of the private individuals who have been sexual predators:

- three were associated with the military, including 2 relatives (one currently serving and one retired from the military) and a disabled soldier who was the President of the War Heroes' Association.
- the other private individual was a road contractor.

It is noteworthy that several officials who are mentioned in the case studies were already notorious as sexual predators. However, no official complaint had been made against them so they continued their sexual predation unscathed. When



“

My neighbours didn't suspect anything as he shows the world that he is an amazingly considerate human being

”

complaints were made against some officials, their senior officers took the accusation very lightly and offered excuses on their behalf or did not pursue the matter any further.

- **Circumstances that led to Sexual Bribery**

- Occurrences of sexual bribery must be understood in the broader context of the lives of these widows which leave them vulnerable to sexual predation.
- All these widows are dependent on their husband's salary. Three incidents of sexual bribery occurred when they sought to complete the paper work in order to receive this salary.
- The central objective of most military widows has been to build a house for themselves and their children or to complete house building work/renovations initiated by their husbands. This has required them to seek housing loans either from the military or a state bank, resulting in the highest number of sexual bribery incidents (six cases).

- Ensuring a good education for their children resulted in three cases of sexual bribery.
- Widows taking on leadership roles and who are actively involved in community development work have also been targeted (three cases).

- **Types of Sexual Bribery**

- Visiting the widow's home at night while intoxicated and demanding sexual favours.
- Sexual harassment and inappropriate physical behavior.
- Demands to start an affair.
- Demands for a one-off sexual encounter.
- Constant sexual harassment over the phone.
- Asking the widow to meet the perpetrator alone in the evening, outside the office or to go on a trip with him.
- Being subject to suggestive comments and sexual innuendo as well as intimate, probing questions being asked during routine interviews.
- Verbal threats and delaying tactics when sexual bribe is refused or avoided.

It is noteworthy that none of the widows admitted to actually acceding to any requests of sexual bribery. However, one woman was considering the possibility, out of sheer desperation.

- The majority of the interviewees who resisted sexual predation shared a variety of useful tactics they had mobilised to halt/circumvent/diffuse a dangerous situation. Such tactics spanned a broad range and some have been more successful than others:

- Abandoning the service/favour they sought.
- Giving a tongue lashing to the predator.

- Having him beaten up.
- Making a complaint.
- Avoidance.
- Changing the mobile number.
- Using a friend's mailing address.
- Requesting help from more sympathetic military officers.
- Asking a male family member to accompany them to a rendezvous point.
- Having a male family member mediate on their behalf.

- **Why women failed to seek relief or redress**

Two key reasons why women did not lodge complaints were:

1. Fear of reprisals from the military and government officers in the form of delays in processing loans, 'misplacement' of crucial documents, withholding of disbursements, being committed to a mental asylum, stalking, threatening and harming the widow and her children.
2. Fear of social stigma and losing honour and respect: "it is the woman who makes the complaint who ends up getting blamed for inviting such sexual advances," noted several women. Some military widows

“

I am now disgusted with the entire male race. They have harassed me at every turn...

”

“

Who is going to believe
that a much younger
man desires me?

”

were also worried that their children, in-laws etc., would get to hear about these incidents and think less of them.

- » Women felt that they would not be believed because:
 - ✓ she was poor and powerless.
 - ✓ she had been propositioned by a much younger man.
 - ✓ it would be a case of “his word against mine”.
 - ✓ complaints are treated with “apathy and disinterest”.
- » One woman felt it would be a case of “my falling from the frying pan into the fire” i.e. getting into further trouble.
- » Another was fearful of being sexually harassed by the policeman or army officer taking down her complaint.
- » There was a general consensus among the women that law enforcement officers were corrupt and often the worst sexual predators.
- » Several women were not aware of independent, non-state authorities that they could appeal to for help and redress.
- » One woman who was aware of the Human Rights Commission noted that she did not

know how to go about making a complaint to them.

- » The majority of women were concerned that their children would be ridiculed and disrespected if these sordid details were made public.
- » Some were worried that their complaints would cast a bad light on their dead husbands as well as the military.
- » The majority of the interviewees were also skeptical that they could find any recourse through the legal system, which requires the expenditure of much time and money. One woman noted: “I have no confidence in this country’s laws.. If there were proper laws and moral codes in this country, people would not treat vulnerable women like us the way they do.”
- » Two women were open to taking a legal route for redress if they could do it as a collective, rather than as individuals.
- » Another said she would be willing to testify against her sexual predator if she could do it anonymously.
- » Another woman was of the opinion that there was “no point in meting out punishments to these kinds of men... they need to be taught how to behave humanely.”

“

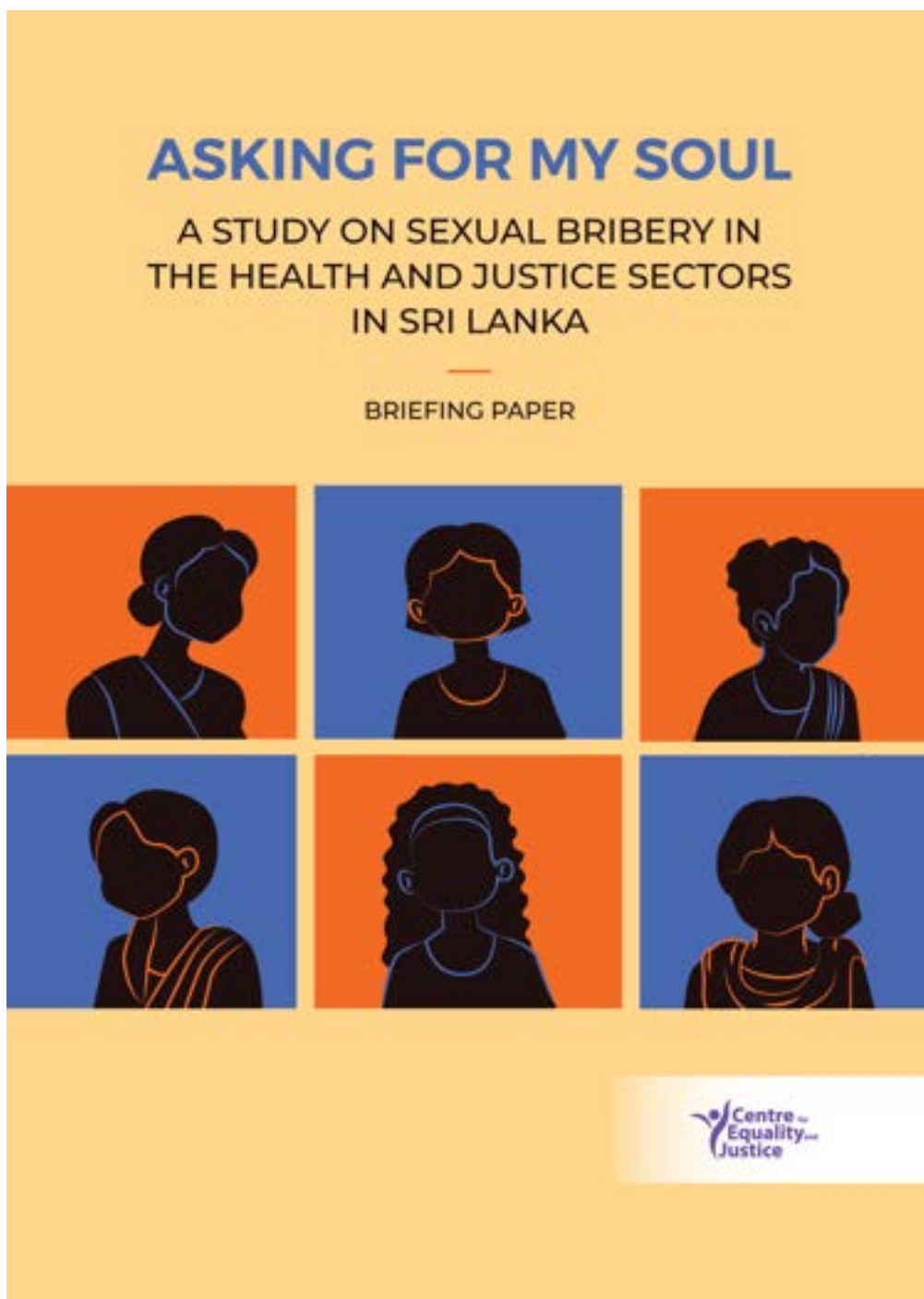
He has taken revenge on
me since that day...

”

RECOMMENDATIONS

- The Bribery Act should be amended to provide enhanced penalties for sexual gratification.
- FHH should be made aware of such penalties and other legal recourses that they can avail themselves.
- Free legal support should be provided to FHH who might wish to pursue legal measures.
- A code of conduct with regard to sexual bribery should be formulated for all state officials, including military personnel, and prominently displayed, in all three official languages, in all government offices.
- A supportive environment that encourages women to make complaints about sexual bribery should be provided in every government institution.
- Guidelines on how to address complaints of sexual bribery within the state sector should be developed by the Human Rights Commission and disseminated to all government offices.
- A special, gender sensitive complaint procedure should also be set up within the Human Rights Commission to deal with sexual bribery.
- All government offices should maintain a database of instances of sexual bribery and a yearly audit should be made of such instances to ensure that such incidents have been investigated and the sexual predators punished.
- A far reaching awareness campaign should be launched, commencing at school level, to not only discuss issues of sexual bribery but to also address the troubling stigmatisation of women who seek to raise such issues.
- There should be a significant attitudinal change towards women and widows in particular, among military personnel, government officers and society in general.
- The media should play a more proactive role in raising awareness about rampant sexual bribery within both the state and private sector in Sri Lanka.
- More women officers should be appointed to administer services to FHH.
- Regional offices should be set up so that FHH don't have to travel to Colombo to attend to various matters. FHH would then not have to depend on men to accompany them, mediate for them, and sexually bribe them in the process.
- A simple, quick and efficient process should be set up to issue the deceased husband's salary to a military widow, soon after his death, so that she can cover funeral expenses, maintain her household, make loan repayments without defaulting etc.
- A military widow should continue to receive her deceased husband's salary even if she decided to re-marry.
- Counselling centres that focus on both economic and psychological issues should be set up, independent from the military, so that military widows can share the difficulties they face in strict confidentiality and procure advice on how to address them.
- Psycho-social counselling should also be provided to offspring of deceased military personnel.
- Military widows should be strengthened mentally to figure out how to circumvent situations of sexual bribery.

ASKING FOR MY SOUL A STUDY OF SEXUAL BRIBERY IN THE HEALTH AND JUSTICE SECTORS IN SRI LANKA



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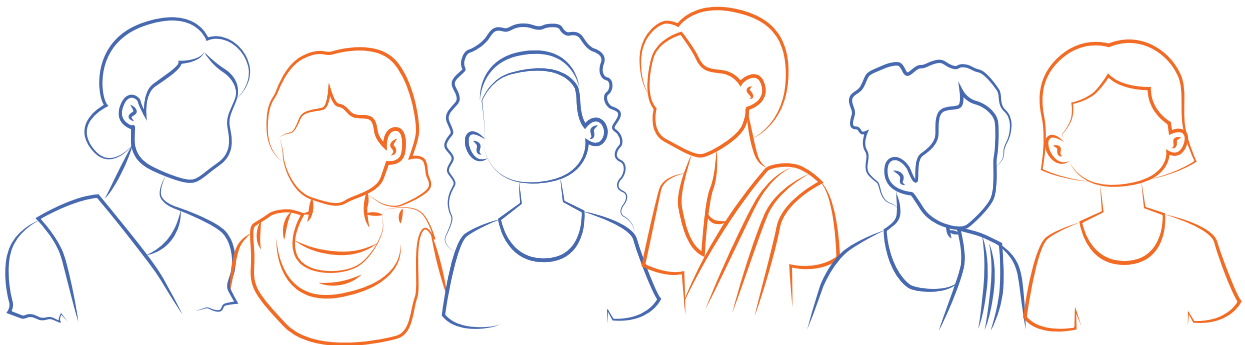
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ASKING FOR MY SOUL
A STUDY OF SEXUAL BRIBERY IN
THE HEALTH AND JUSTICE SECTORS
IN SRI LANKA

BRIEFING PAPER



This briefing paper highlights the key insights on sexual bribery as identified through a qualitative study undertaken by CEJ from 2021 to 2022. The detailed report of the study is available with CEJ.



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WHAT IS SEXUAL BRIBERY?

Sexual bribery occurs when a public officer makes sexual demands for the provision of any state service. Individuals are made to believe that unless they give in to the sexual demand, the service will not be provided. Examples include visitation rights to family members in remand custody, acting on police complaints, and accessing a clinic at a public hospital. The International Association of Women Judges describes sexual bribery as 'sextortion' and defines it as **'an explicit or implicit request to engage in sexual activity in exchange for a government benefit.'**¹ Transparency International describes it as corruption where **'sex, rather than money, is the currency of the bribe. It is not limited to certain countries or sectors but can be found wherever those entrusted with power lack integrity and try to sexually exploit those who are vulnerable and dependent on their power.'**²

Globally, it is now acknowledged that sexual bribery must be recognised as a grave issue that requires targeted action. Currently, the United Nations Convention Against Corruption (2004), does not specifically recognise or prohibit sexual bribery. But the United Nations³ and other leading international bodies such as the International Bar Association have recognised that sexual bribery is a form of corruption. It is also a human rights violation and a crime.⁴

In Sri Lanka, the Bribery Act (1965) declares that soliciting or providing 'gratification' for obtaining a public service or for influencing the performance of public service amounts to a bribe.⁵ The Act defines 'gratification' broadly.⁶ It is possible, therefore, for law enforcement authorities and for the judiciary to interpret the Bribery Act to include a prohibition on sexual bribery. The Court of Appeal has decided in 1998 that 'gratification' under the Bribery Act 'is used in its larger sense...The craving...for sexual intercourse is an example of mental and bodily desires, the satisfaction of which is gratification which is not estimable in money.'⁷ This was a case where a male Senior Security Manager of the National Housing Development Authority was convicted under the Bribery Act for soliciting a sexual bribe from a female security guard. This is the only reported case in Sri Lanka where sexual bribery was recognised as falling within the Bribery Act. The studies conducted by the CEJ, including the study conducted in 2021/2022 reveal that sexual bribery is a serious problem. The lack of prosecutions and convictions, despite these reports of sexual bribery, is an indication that an implicit prohibition is not adequate or effective in dealing with sexual bribery. To prevent and remedy sexual bribery and to recognise it as a form of corruption, a criminal offence and as a human rights violation, the law must explicitly prohibit sexual bribery. CEJ has advocated for amending the Bribery Act to specifically criminalise sexual bribery. Participants in this study too were of the view that a clear, specific and strong law is necessary to prevent and remedy sexual bribery.

¹ Naming, Shaming, and Ending Sextortion: Toolkit (International Association of Women Judges 2012) 9

² Breaking the Silence around Sextortion: The links between power, sex and corruption 8 (Transparency International 2020)

³ The definition of corruption by two United Nations Conventions can be interpreted as including sexual bribery; the United Nations Convention Against Corruption and the United Nations Convention Against Transnational Organised Crime. Sri Lanka ratified these Conventions in 2004 and 2006 respectively.

⁴ Sextortion: A Crime of Corruption and Sexual Exploitation (International Bar Association 2019)

⁵ Bribery Act of 1954 as amended.

⁶ Section 90 of the Bribery Act.

⁷ *Kathubdeen v Republic of Sri Lanka* [1998] 3 Sri LR 107, 117. The Court cited H S Gour, *Penal Law of India*, (Law Publishers India) Vol 1 (edition not specified in the judgement).

BRIBERY & CORRUPTION IN SRI LANKA

According to studies conducted so far, bribery and corruption are systemic and entrenched in Sri Lanka. Sexual bribery has been identified as a significant issue with over 60% reporting first-hand or secondary knowledge of instances of sexual bribery.⁸ Sri Lanka ranks 102 out of 180 countries on the Corruption Perceptions Index and Sri Lanka's score for 2021 is 37 out of 100.⁹ According to the Global Corruption Barometer, 79% think that government corruption is a 'big problem' and 16% of public service users had paid a bribe in the previous 12 months (as per data available as of 2020).¹⁰

The 'Global Corruption Barometer 2019 Sri Lanka' report offers insights on the incidence of sexual bribery (sextortion) in the country. According to this report over 60% had first-hand experience with demands for sexual bribes or knew of persons who had experienced it.¹¹ 46% of respondents 'felt sextortion happened occasionally, often or very frequently.'¹² Urban respondents perceived sextortion to be more prevalent than rural respondents. Notably, half of the participants in the sample from the Estate sector had felt that 'sextortion occurred frequently or very frequently.'¹³

A study on women's experiences in accessing the public service, conducted in 2014, found that 52.3% of women had

experienced bribery and corruption in the preceding 6 months. This study was conducted among 501 households and 10 major sectors in the public service. Corruption was reported at 58.1%, 30.9% and 28% in the legal sector, Divisional Secretariat and health sector respectively. The study found that women from the plantation sector (65.6%) and conflict-affected areas (64.8%) were more at risk of being approached for bribery or corruption. In the study, more women in rural areas (68.2%) reported being subjected to bribery and corruption than urban women (38.6%). Finally, female-headed households (59.7%) were found to be more susceptible to bribery and corruption than male-headed households (49.6%).¹⁴ The average amount paid as a bribe was calculated by this study as SLR 1,429.00.

CEJ has carried out three studies in the last several years on the issue of sexual bribery. The study 'Sexual Exploitation of Female Heads of Households Affected by War in the North of Sri Lanka' (March 2016) was based on twenty-five case studies of the experiences of victim-survivors of sexual bribery. These victim-survivors were from the war-affected Northern Province and the Puttalam district. 'Shrouded in Secrecy: Sexual Bribery of Muslim Women in Post-War Districts' (July 2018) is a study based on ten interviews among Muslim women about the incidence of sexual bribery. The participants in this study were from Batticaloa, Ampara, Trincomalee, Polonnaruwa and Puttalam districts. 'Sexual Bribery of Military Widows in Sri Lanka' (July 2018) is a study based on ten case studies

⁸ 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 30

⁹ 'Corruption Perception Index 2021' (Transparency International 2022) 3

¹⁰ 'Global Corruption Barometer Asia 2020' (Transparency International 2021) 51

¹¹ 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 30

¹² 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 19

¹³ 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 19

¹⁴ 'Women's Experience of Corruption in the Public Service' (Transparency International, Sri Lanka, June 2014) 42

from Anuradhapura, Kurunegala and Galle districts. The report, 'Amending Law and Policy to Address Sexual Bribery in Sri Lanka' (August 2020) and 'Ending Sexual Bribery in Sri Lanka, Legal and Procedural Reforms, Part II' (April 2022) by the CEJ makes recommendations for reforming Sri Lanka's law to specifically criminalise sexual bribery.¹⁵

THE STUDY BY CEJ

CEJ undertook a study from 2021- 2022 in continuing its efforts to understand the incidence and nature of sexual bribery in Sri Lanka. The study focused on two significant sectors in the public service, justice and health and on two specific groups, women and members of the LGBTIQ community. Except for the Southern Province, CEJ excluded provinces that had previously been targeted for study on sexual bribery. This study therefore included 19 in-depth interviews from the Central, Western, Uva, Southern and Sabaragamuwa provinces and five focus group discussions. The insights gathered were further complemented by twelve interviews with key informants in the justice and health sectors at the national and regional levels.

Women and persons of sexual and gender minorities experience discrimination in Sri Lanka. Moreover, because of the interpretation given to Section 365 of the Penal Code in Sri Lanka, sexual and gender minorities have been assumed to engage in criminal activities when they engage in sexual activities.¹⁶ This serious issue has

led to other forms of discrimination against members of the LGBTIQ community in accessing rights to employment, housing, legal remedies etc.

RESEARCH PARTICIPANTS

PROFILE OF PARTICIPANT VICTIM-SURVIVORS

The study involved a range of women and members of the LGBTIQ community and some of their key attributes are summarised below.



¹⁵ Ending Sexual Bribery in Sri Lanka: Legal and Procedural Reforms Part II (Centre for Equality and Justice, April 2022)

¹⁶ 'Knowledge, Attitudes and Perceptions Survey Report: Sri Lankan society's views about sexuality and LGBT people's experiences in Sri Lanka' (Social Scientists' Association 2021); 'Rethinking laws and policies that leave LGBTIQ+ Sri Lankans behind' (Westminster Foundation for Democracy 2021)

Province	District	Age (At time of narration)	Other details
Central Province	Kandy	49	Widowed mother
	Hatton	49	Mother (Married), spouse unwell
	Matale	50	Mother (Married. The incident occurred when husband was working overseas)
	Matale	23	Woman (homemaker)
	Kandy	23	Woman (homemaker)
	Kandy	32	Woman (homemaker)
	Matale	49	Woman (co-owner of a small tea plantation)
Sabaragamuwa Province	Ratnapura	38	Mother
	Ratnapura	43	Mother, self-employed
	Ratnapura	46	Mother, co-owns food business with husband
Southern Province	Hambantota	22	School student
	Hambantota	39	Mother
	Matara	42	Woman with physical disabilities working in the health sector
	Hambantota	29	Female medical student
	Galle	44	Female migrant domestic worker
Western Province	Colombo	38	Transgender sex worker
	Gampaha	40	Female sex worker
	Colombo	22	Transgender sex worker
	Colombo	23	Transgender sex worker

PROFILE OF PARTICIPANT KEY INFORMANTS

Health Sector	Justice Sector
Consultant Psychiatrist	Chief Inspector of Police
Postgraduate Medical Trainee	Police Inspector
Medical Doctor and Academic	Officer of the National Authority for the Protection of Victims of Crime and Witnesses
Public Health Midwife	Legal Practitioner
Public Health Midwife	Officer of CIABOC
Retired Nurse and Academic	Legal Practitioner

TYPES OF PERPETRATORS IDENTIFIED AND REASON FOR SEXUAL DEMANDS

All perpetrators that were identified by the victim-survivors were male. However, a key informant from the justice sector noted that women too have been identified as perpetrators on some occasions. A key informant from the health sector too made this observation. Nevertheless, it is important to note that the dominant view among the key informant interviews was that perpetrators are men.

Alleged Perpetrator	Service Offered/Trigger Incident
Justice Sector	
Male Lawyer	Seeking legal advice due to land dispute within the extended family
Male Police Officer	Due to police complaint about daughter failing to return home
Male Police Officer	Obtaining bail for remanded husband
Male Police Officer	Making a police complaint in order to replace lost identity card
Male Lawyer	Seeking legal representation regarding a land dispute which gave rise to the need to obtain bail
Male Lawyer	Seeking legal representation regarding a land dispute
Male Police Officer	Law enforcement in divorce proceedings
Male Prison Officer	Seeking visitation to remanded husband

Alleged Perpetrator	Service Offered/Trigger Incident
Male Police Officer	Obtaining approval for Family Benefit Report prior to departure for migrant work
Male Police Officers	To refrain from pressing charges, to release from custody
Male Police Officers	To release husband from custody
Male Police Officers	To refrain from pressing charges and to release from custody
Health Sector	
Male Nurse	Extra care provided to husband while receiving in-hospital care
Male Hospital Attendant	Obtaining a number for clinical consultation at the hospital for mother
Male Hospital Attendant	Obtaining an early appointment for clinical consultation at the hospital for mother
Male Doctor	Seeking medical advice
Male Public Officer in Health Sector	Seeking to prevent a transfer
Supervising Doctor	Seeking recommendation for hostel facilities during training
Male Hospital Attendant	To obtain a pass to visit a patient in a hospital in violation of applicable rules

METHODS USED FOR SOLICITING SEXUAL BRIBES

Perpetrators used a range of methods for making sexual demands. These included verbal and direct requests, verbal but indirect requests, phone calls and text messages. In some instances, the victim-survivor was forced into sexual bribery. Physical sexual violence by perpetrators was reported frequently by members of the LGBTIQ community who participated in this study.

RESPONSES OF VICTIM-SURVIVORS TO DEMANDS FOR SEXUAL BRIBES

Most victim-survivors who participated in this study refused to give in to the demand for sexual bribes. Sex workers of the LGBTIQ community who participated in this study gave into the demands and had no opportunity to escape or avoid the perpetrators. Victim-survivors expressed anger, frustration, fear, and anxiety about being subjected to a demand for sexual bribery.

SEXUAL BRIBERY: A THREE-DIMENSIONAL PROBLEM

Sexual bribery is a complex, multi-dimensional problem. The study focused on three interrelated aspects: sexual bribery as a form of corruption, as a human rights violation and as a criminal offence. These aspects are closely interrelated and overlap.

1. SEXUAL BRIBERY IS CORRUPTION

‘

This is the lowest form of bribery. This is similar to asking for someone's soul. ’

Jeeva (Matale district, Central Province)

‘

After this incident, I was really scared to talk too much with a man. Let alone look at their faces when speaking. I was afraid to talk about this issue even with a government officer. ’

Seetha (Hatton, Central Province)

The incidences of sexual bribery examined for this study are a particularly egregious form of abuse of power. Agents of the state abuse the authority and discretion vested in them by law, to demand sexual bribes

in order to provide services, that they are obliged to provide, by law. The in-depth interviews reveal that perpetrators act with impunity. Victim-survivors are left to deal with the trauma/stigma and they do not have effective legal remedies available to them.

Sexual bribery, therefore, is evidence of entrenched corruption. It is evidence of a failure on the part of the state to perform its core function – that is to use its unique authority and power to serve its people. Sexual bribery is also an indication that democracy is failing. Representatives and agents of the people are not only failing to perform their duty within the limits of the law but are actively abusing the authority they derive through the ballot and the law.

2. SEXUAL BRIBERY IS A HUMAN RIGHTS VIOLATION

‘

My mind was set on doing anything for my job. However, I had to sacrifice my whole life for my job. He called me for two days. I agreed to comply on the second day as I was helpless and did not have any other option. He was thrilled when I told him that I would come wherever he wanted me to. ’

Iromi (Matara district, Southern Province)

‘

I was absolutely dejected [by the incident]. Because I had done nothing wrong. I am not a person who would even wear revealing clothes. After the incident, I don't sleep well, I can't concentrate and I have become very forgetful. I wonder why such things happen to me as similar incidents had happened even before. I keep thinking of such previous events. Since that day [Sexual bribery incident], until today, I still think of those incidents [cries]. 》

‘

After this incident, with all the previous memories storming my mind, I have even considered taking my own life [cries]. 》

Manori (Gampola, Central Province)

‘

Actually, I was really angry and sad with that policeman. Because he did this when I was alone and helpless. I was extremely helpless. I haven't even done anything wrong. 》

Manori (Gampola, Central Province)

Victim-survivors have reported that sexual bribery violates their human dignity. It is sexual harm that carries trauma and stigma. It is a violation of a person's bodily integrity and the right to privacy. Several victim-survivors noted mental and physical health issues that they had to deal with because of sexual bribery. They also noted how it has had a long-lasting impact on how they perceive public officers. In many cases, sexual bribery prevents victim-survivors from enjoying other rights such as the right to access public services, the right to a livelihood and their rights as family members of persons in custody.

Sexual bribery, therefore, violates civil and political rights as well as the economic, social and cultural rights of victim-survivors. In this study, it was evident that most victim-survivors could not seek remedies for the wrong they suffered. There were no effective remedies available to them. This issue is discussed further below.

3. SEXUAL BRIBERY IS A CRIMINAL OFFENCE

Sexual bribery is a grave and irreversible harm caused to the bodily integrity of victim-survivors. It is also harm caused to an individual's privacy and the social fabric. When service providers of the state make sexual demands from those who come to them seeking their services, it erodes the effectiveness and sustainability of public institutions and of the rule of law. In many instances, social media and mobile phones were used to solicit sexual bribery. Perpetrators targeted victim-survivors through phone calls at home and at night time, leaving victim-survivors with no options for avoiding them. These practices are examples of criminal behaviour for which perpetrators should be punished. Consent is a central issue in sexual bribery. Some victim-survivors attempt to refuse

verbally, and some are compelled to use physical violence to say no, often with no success. In other instances, the consent or lack of it is immaterial to the incident. Perpetrators use coercion or violence to engage in sexual violence. In such instances, it is essential that the crime is understood as sexual bribery as well as sexual violence.

It was evident from the study that perpetrators acted with impunity in soliciting sexual bribes. Victim-survivors failed to make complaints due to fear, stigma, lack of confidence in the criminal justice system, lack of support and because they felt helpless. Many victim-survivors felt overwhelmed and devastated by the experience of sexual bribery. They were already navigating complex social realities such as poverty, discrimination due to gender and caregiving responsibilities. They did not have the emotional, financial or social resources to pursue legal action against the sexual demand made of them.

A critical finding of the study is that the very personnel who are vested with discharging criminal justice have been identified as perpetrators by victim-survivors. This came out very clearly in the in-depth interviews and focus group discussions with members of the LGBTIQ community. When police officers or prison officers are alleged to be perpetrators of sexual bribery, victim-survivors feel victimised by the justice sector. They note that the law favours the powerful and victimises them. Victim-survivors think that there is no hope of justice or accountability.

“ Then he asked me, “Then what do you have that you can give us? Stay with us [implied: sexual] if you don't

want to take this to the courts. Entertain us”. I am telling [you] all this, so this won't happen to someone else. ”

Nuzrath (Colombo, Western Province)

“ I don't want to go to police stations and courts for nothing. The law favours them. At the end of the day, we just get shamed. ”

Gayani (Hambantota, Southern province)

“ Now I am scared to even ask for directions from a policeman' and 'Even today, my heart would start beating fast when I get a call from an unknown number. ”

Jeeva (Matale, Central Province)

“ I thought that it is definitely a big offence for a person, who is there to protect the law, to be behaving like this. ”

Lalitha (Matale, Central Province)

KEY FINDINGS

PERSONAL IMPACT

- Sexual bribery has a deep psychological and emotional impact on victim-survivors.
- Victim-survivors experience internal stigma and stigma in the community due to the incident.
- The forms of sexual bribery reported by sex workers from the LGBTIQ community were severe and inhuman.
- Sexual bribery is a barrier to accessing public services. As persons fear being approached for sexual bribes, they discontinue accessing public services, such as attending a clinic or try to avoid seeking public services unless absolutely necessary.
- Sexual bribery prevents victim-survivors from enjoying their economic rights such as the right to a livelihood and the right to ownership of land.
- Victim-survivors had not spoken about their experience except with a trusted person. Therefore, many of them welcomed the opportunity to participate in the study and recall the incident on the basis of confidentiality to an empathetic listener.
- Victim-survivors are unaware and do not have the resources to access psycho-social support for dealing with the trauma and stigma they experience due to sexual bribery.

COMMUNICATION TECHNOLOGY

- Communication technology and social media were used by perpetrators to make sexual demands and to continue

to demand sexual bribes that they had made in person. Communication technology was a common method for soliciting sexual bribery.

- Victim-survivors felt pursued and hunted by perpetrators because of the way in which perpetrators could persist with their sexual demands through mobile phone technology and social media.
- The right to data privacy and the right to privacy of victim-survivors had been breached by perpetrators to solicit sexual bribes. Personal information of victim-survivors was used by public servants for sexual bribery, a criminal offence.

IMPACT ON MEMBERS OF THE LGBTIQ COMMUNITY

- Members of the LGBTIQ community who are sex workers feel routinely targeted for sexual bribery.
- The severity of the stigma, trauma and economic hardship caused by sexual bribery is compounded for victim-survivors of the LGBTIQ community. They are already victimised due to the criminalisation of 'voluntary carnal intercourse against the order of nature' and 'any act of gross indecency' sex in Sri Lanka.
- Members of the LGBTIQ community think they have no recourse in the law for the offence of sexual bribery because of their marginalised status in society.

IMPACT ON FAMILY AND COMMUNITY

- When family members are caught up in the incident of sexual bribery such

family members are placed at risk as they could be targeted for harassment.

- Sexual bribery makes victim-survivors fearful of their security and the security of their family members. They feel that they or their family members may be approached again with sexual demands. Victim-survivors feel hunted by perpetrators.
- When victim-survivors keep the incident of sexual bribery a secret from their loved ones, it has a negative impact on personal relationships and therefore on their well-being.
- In some instances, the only source of support and comfort for victim-survivors is their close and trusted social support.

FACTORS THAT LEAD TO VULNERABILITY TO SEXUAL BRIBERY

- Key informants from the justice and health sector were of the view that sexual bribery occurs in their sector and many had second-hand knowledge of such incidents.
- In the case of women, the absence of their spouse from the home (due to employment or due to being held in detention) places them at risk of sexual bribery.
- Involvement in illegal activities, such as the distribution of illegal substances or activities that are perceived as being illegal, such as being a sex worker also places women and members of the LGBTIQ community at risk of sexual bribery.
- Poverty and disabilities are two other factors that make women and members of the LGBTIQ community vulnerable to sexual bribery.

- In some instances, the very act of seeking services from the public sector had placed victim survivors at risk of sexual bribery. Key informants identified trainees, junior employees and service recipients as victims of sexual bribes.

VICTIM-SURVIVOR PERCEPTIONS OF SEXUAL BRIBERY

- Victim-survivors categorically viewed sexual bribery as ethically and morally wrong.
- Many were unsure as to whether the law explicitly prohibited sexual bribery but were of the view that it should be a criminal offence.
- Victim-survivors described feeling fear, helplessness and anxiety due to the experience of sexual bribery.
- Victim-survivors had a sense that they were one among many other victims.

PERCEPTIONS OF PERPETRATORS (AS REPORTED BY VICTIM-SURVIVORS)

- Victim-survivors were objectified and reduced to a source of sexual pleasure by perpetrators, regardless of consent on the part of the victim-survivor.
- Some perpetrators have an extremely casual and transactional (quid-pro) attitude about sexual bribery. They seem indifferent or oblivious to the impact their demand has on victim-survivors.
- Many victim-survivors refused consent explicitly or implicitly but in several of those instances, the perpetrator was indifferent to the lack of consent by the victim-survivor.

- Sex workers from the LGBTIQ community state that perpetrators disregard their consent. They say that their consent was immaterial to the perpetrators. The assumption seems to be that because they are sex workers, they should give into sexual bribery.

PERCEPTIONS ABOUT REMEDIES FOR SEXUAL BRIBERY

- The impunity enjoyed by perpetrators was identified by key informants as a reason for the unwillingness of victim-survivors to seek legal remedies for sexual bribes.
- Victim-survivors did not perceive the law, legal personnel and legal institutions as defending their rights. Their lived experience was that the law protected the perpetrators and personnel working in legal institutions who demanded sexual bribes.
- Victim-survivors did not think the law or legal institutions could provide them with an effective remedy for sexual bribery.
- Victim-survivors were of the view that any investigation into sexual bribery, even if it was carried out, would not be impartial or confidential.
- The public nature of a complaint, inquiry and investigation deterred victim-survivors from seeking any legal remedies. Available procedures were not viewed as victim-friendly.
- Perpetrators had abused the discretion vested in them by law to demand sexual bribes from victim-survivors.
- Because of the criminalization of sexual acts against the 'order of nature' and the arrest of sex workers under the Vagrants Ordinance, sex workers and members of the LGBTIQ community

took the view that they could not expect the law to offer them any protection, remedy or justice.

IMPACT OF THE PANDEMIC

- The restriction of movement during the pandemic offered some protection to victim-survivors. They could avoid contact with the perpetrator.
- In the case of sex workers from the LGBTIQ community, the pandemic made them more vulnerable to sexual bribes. They were compelled to violate curfews in order to engage in their livelihood and consequently were targeted for sexual demands.



RECOMMENDATIONS

RECOMMENDATIONS FOR THE STATE

- Guarantee the independence of the Commission to Investigate Bribery or Corruption through the re-introduction of an independent Constitutional Council.
- Adopt enabling legislation to give domestic legal effect to the UN Convention Against Corruption.
- Explicitly prohibit and criminalise sexual bribery or sexual forms of gratification through legislative reform.
- Repeal section 365 of the Penal Code that criminalises 'unnatural sex' among consenting adults.
- Repeal the Vagrants Ordinance.
- Explicitly recognize equal rights of sexual and gender minorities in all areas including access to public places and public services.
- Enact legislation to legalise and regulate commercial sex work after a process of consultation.
- Conduct studies to inquire into the reasons for the incidence of sexual bribery.
- Publicly share the findings of such studies.
- Create awareness among the public on sexual bribery and its severity.
 - Awareness raising must occur at all levels from the national to the community level.
 - Ensure that women and sexual and gender minorities are reached through such programmes.
- Involve theatre and the arts in awareness raising.
- Use social media such as Facebook to create awareness.
- Create community-level awareness through public servants and at community-level meetings such as meetings for Samurdhi recipients.
- Implement targeting awareness-raising programmes among future potential perpetrators such as public officials and the police.
- Adopt specific policies at the national level to prevent, investigate and prosecute and remedy sexual bribery. Such policies must be developed through an inclusive and participatory process involving all stakeholders. In particular, women and members of the LGBTIQ community who are at higher risk of being subjected to sexual bribery should be consulted in drafting a national policy. The national policy must be subject to periodic review.
- Educate and empower victim-survivors to speak publicly about their experiences of being victimised for sexual bribery. This will create awareness and reduce the stigma that is attached to victim-survivors of sexual bribery. Such public engagement might also encourage them to seek justice.
- Proactively work towards a change of mindset about the stigma related to sexual bribery among public servants as well as among the public.
- Train police officers to create awareness about the complicity of some of their colleagues in the incidence of sexual bribery. Such training should be aimed at preventing the occurrence of sexual bribery through the police and establishing a zero-tolerance policy for sexual bribery.

- Train lawyers to create awareness about the complicity of their colleagues and some personnel in the justice sector in the incidence of sexual bribery. Such training should equip lawyers to use and consider existing legislation such as the Bribery Act, public law remedies (fundamental rights and writs) and even private law remedies to seek legal remedies for victim-survivors of sexual bribery.
- Offer a tailor-made course aimed at training stakeholders and the public at a higher education level such as the university level. Such a programme of study should be designed to address sexual bribery as a human rights violation, as a criminal offence as well as as a manifestation of corruption.
- Review the CIABOC Act and the Human Rights Commission Act to identify whether these legal regimes should be amended to authorise the two Commissions to investigate or inquire into complaints of sexual bribery.
- Fully implement the Assistance to and Protection of Victims of Crime and Witnesses Act.
- Amend the Victims and Witnesses Protection Act to specifically provide for victim protection, particularly in public reporting of crimes and complaints of crimes.
- Review procedures for making complaints about sexual bribery so that intermediaries may make complaints on behalf of victim-survivors.
- Establish a confidential hotline to make complaints.
- Employ undercover sleuths to identify perpetrators of sexual bribery.
- Court proceedings relating to sexual bribery should be held on camera.
- Reform the Bribery Act to ensure that punishment for sexual bribery includes a heavy fine.
- Implement a ban from employment for perpetrators in the public service for a period proportionate to the gravity of the sexual bribe.
- Provide effective compensation for the victim-survivor.
- Provide effective monetary compensation for victim-survivors.
- Provide counselling for police officers.

RECOMMENDATIONS FOR CIVIL SOCIETY

- Undertake studies and assessments to review the fulfilment of state responsibility to prevent sexual bribery.
- Monitor the effectiveness of the current legal regime and remedies in the prevention of sexual bribery.
- Civil society organizations should proactively create awareness among the public about the incidence of sexual bribery and the severity of its impact.
- Women's groups can take collective action to make complaints about sexual bribery.
- Sexual and gender minorities could collectively organize and mobilise to seek remedies for sexual bribery and to prevent its occurrence in the future as they generally experience discrimination.
- Cultivate a network of solidarity and support among victim-survivors.

RECOMMENDATIONS FOR PRIVATE SECTOR, PROFESSIONAL BODIES

- Implement a zero-tolerance policy on sexual bribery.
- Review and revise professional codes of conduct to explicitly prohibit sexual bribery and to provide for a robust and fair complaints mechanism.
- Support efforts by civil society to monitor the incidence of sexual bribery.
- Support and sponsor efforts to lobby for law reform to explicitly criminalise sexual bribery.
- Ensure transparency and accountability when inquiring into complaints about sexual bribery at an institutional level.
- Contribute to funds to support victim-survivors of sexual bribery.
- Lobby for law reform to ensure effective remedies for victim-survivors of sexual bribery.



**Your Rights
No Conditions**

Sexual bribery is an unacceptable
form of corruption

 **1954**
to report sexual bribery

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Mapping Study Of
Women's Self-Help Groups
In Anuradhapura,
Kilinochchi
And Kurunegala
Sri Lanka : A Summary

Centre for Equality and Justice

July 2019

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Introduction

CEJ conducted a mapping study of **Self Help Groups (SHG)** in selected villages across three districts; **Anuradhapura, Kilinochchi and Kurunegala** in Sri Lanka. The exercise included focus group discussions (FGDs), and interviews. These FGDs and interviews aimed to understand the structure and function of some SHGs in Sri Lanka, and the issues faced by female members with emphasis on the issue of **sexual bribery and sexual exploitation**. This exercise is part of a long-term intervention in female-headed households, particularly targeting **military widows** in Anuradhapura and Kurunegala and **war widows** in Kilinochchi¹.

This report summarizes the findings of the interviews and FGDs, and makes recommendations for existing SHGs as well as for partner organizations planning to set up new SHGs with the primary aim being to **empower military widows and war widows by addressing the high incidence of sexual bribery and sexual exploitation against them**, which also acts as a significant barrier to their socio-economic advancement and perpetuates vulnerability and intergenerational conflict.

¹ War widows, for the purpose of this initiative, are defined as conflict-affected Female Headed Households (FHH) whose husbands are dead, been killed, have been disappeared or missing as a consequence of the conflict between 1983 and 2009. Military widows, also situated within the category of FHH, are defined as women whose military husbands served in the Armed Forces, Police and the Civil Defense Force, and died or were declared missing as a consequence of the conflict between 1983 and 2009.

Methodology

Locations	The FGDs and interviews were held across Anuradhapura, Kurunegala and Kilinochchi.
Number of meetings	CEJ organized a total of 17 focus group discussions and 23 interviews.
Time period	The FGDs and interviews were held between March - April 2019
Definition of 'Self Help Group'	This was loosely defined since 'SHG' was not a commonly used term. Accordingly, any group that empowered women socially or financially, and gave women a collective voice, were included.
Self Help Groups included	Some groups specifically targeted women (Women's Group, Women's Community Based Organization, The Network of Community Leaders, Sirakukal Women's Group, Women's Rural Development Society, Amara Women's Group) while others included both men and women (Ranaviru Sewa, Samurdhi, Samurdhi Group, Funeral Society, Ranaviru Sewa Authority).

Names of groups and approximate number of members in each district

District	Partner Org.	Existing Self Help Group	Women's group	Total No of Groups	Approx. No of Members
Anuradhapura	Rajarata Praja Kendraya (RPK)	Ranaviru Sewa Authority	No	5	65
		Women's Group	Yes	2	
		Women's Community Based Organization	Yes	1	
		Funeral Society	No	1	
		The Network of Community Leaders	Yes	1	
Samurdhi	No	1			
Kilinochchi	Jaffna Social Action Centre (JSAC), Viluthu Centre for Human Resource Development	Sirakukal Women's Group	Yes	16	1781
		Samurdhi Group	No	18	
		Women's Rural Development Society	Yes	24	
		Amara Women's Group	Yes	10	
Kurunegala	Women's Resource Centre	Ranaviru Sewa Authority	No	5	42

Participant profiles

Participants were all female, ranging from their early twenties to their late sixties. Most participants were married with children. All participants were heads of their households, and included those widowed, separated from their husbands, divorced, deserted, married to husbands unable to generate an income, and wives of the disabled.

Language

Tamil, as needed.

The FGDs and interviews were conducted in Sinhala and

Findings

Daily Challenges And Issues Faced

[Note: Although the FGDs and interviews were initially focused on sexual bribery and related issues, participants often spoke more of daily financial and social struggles. CEJ has noted these also, in the belief that a) these issues are interrelated, and b) these issues must all be dealt with holistically to empower women to escape a cycle of poverty, violence and abuse.]

1. Sexual Bribery and Harassment

- Public officials ask for sexual bribes from female heads. This is not widely known or spoken about.
- Women reported sexual harassment and sexual bribery by the police, and officers of the District Secretariats and Grama Niladharis.
- Younger women are especially approached for sexual favours. Men expect that they will easily say yes. When women are older, the offers are more subtle.
- Public officials misuse information given for official purposes, such as telephone numbers, to continually harass women.
- When women complain about attempted sexual bribery to senior officers, there is usually no action taken. Sometimes the officer only gets transferred. He is allowed to do the same in the new place.
- When faced with sexual bribery and harassment, women leave the public office and don't pursue their needs. This increases their poverty and social exclusion, and makes them more vulnerable.
- Where women refuse to offer sexual favours, but ask for their needs anyway, their cases are deliberately slowed or paused. (E.g.: divorce, search for the disappeared, pensions)

- Women feel that sexual bribery and harassment are closely tied to financial instability. If they had a stable income, they would not need to approach public officers as much. When they did access public services, they would be treated with more respect.
- Female heads of households are harassed for sexual favours by men within their communities.
- In Kilinochchi, there are rumours of sexual harassment by those connected to foreign financial assistance, who support women and expect sexual favours in return.
- Because of their poverty, women are unable to initiate legal action against officers and men who harass them.
- In some cases, women have become pregnant as a result of sexual bribery, leaving them completely vulnerable.

2. Social Discrimination and Interference

- Military widows are belittled by others in the military framework, including soldiers and military wives. Their own sacrifices for the country are forgotten.
- Widows are held back by cultural norms. E.g: they cannot wear colour, have an outgoing social life, speak to men or welcome them into their homes. They are sometimes blamed for bringing bad luck and causing their husbands' death. This stops them from returning to normal, independent life, and they live only for their children.
- Society holds the same standard for single mothers as other parents. When children misbehave, the single mothers are blamed without thought for their struggles.
- Single women sometimes face even more social stigma because of their caste or socio-economic status. This adds to their burdens.

3. State institutions not being accessible

- Female heads are not able to report abuses to the police. They go to social leaders such as monks instead.
- Women often avoid accessing public officers to avoid sexual bribery. When they need to, they try to access female officers.
- There is a lack of female leadership and female officers in State institutions to deal with women's issues.
- There is no easily accessible information on the rights women, and of the services available to them widows and female heads of households. For example, family of the disappeared are not aware of the certificate of absence, which prevents them from accessing key administrative services and benefits.

4. Physical and Psychosocial wellbeing

- Disabled female heads and those with psychological challenges are excluded from social service programmes. Since such women rarely leave the house, they cannot attend meetings and are left out.
- Women have no leisure time for themselves, because of other financial and family burdens.
- There are threats to the physical safety of women in these provinces because of the increase in illicit alcohol breweries and use of narcotics.

5. Challenges to livelihood and financial stability.

- This is a major concern across all the provinces, and was often the reason for the founding of the self-help groups. There is much poverty in all three provinces, and female-heads of households often suffer the worst.
- When children grow up and don't contribute to support the family, female heads are still expected to provide for them.

- Since property and material goods are usually tied to men, female heads of households are usually left with nothing. They must either return to their parents, or support themselves and start all over.
- Women who try to go out and earn their own livelihood are discriminated against as 'bad women'. This is a challenge to female heads who need to work to provide.
- Female heads of households are often overburdened, since they are both breadwinners and caregivers for their family. This often includes extended family such as parents and elders.
- Some women are not so injured that they meet the disability criteria for benefits. However, they have persistent harm (e.g. shrapnel lodged in the body) that stops them from working full days or doing heavy manual labour. Because of this, they struggle to find work.

Functions And Benefits Of The Self-Help Groups.

1. The self-help groups collectively approach public officials with the needs of their members: The women are taken more seriously, and there is less chance for them to be ill-treated and abused.
2. The groups collectively speak out against social problems, and are able to effect change (e.g.: illicit liquor breweries)
3. The self-help groups give women the space to talk about the problems they face without judgement and stigma. For example, women share experiences of sexual harassment and sexual bribery, and think of solutions to avoid or confront it. It gives them hope to know that the other women have faced the same problems and have overcome it. It also encourages a sense of unity to know how they face the same struggles.
4. New female heads are able to learn from the older members of the group and gain courage.
5. The women educate themselves on how to generate income. They then train other women on these methods: Through this, they become more empowered together, and are more financially independent. Many women noted that the main purpose of self-help groups was to generate livelihood.
6. Some groups start joint financial enterprises (e.g.: collective market). Sharing their responsibilities gives them more time to also take care of their other responsibilities.
7. Through the self-help groups, the women educate themselves on women's rights and the services available for female headed households. Through this, they inform and empower each other.
8. The groups' meetings give the women a chance to rest. Some groups come together to stage dramas, garden, host cultural events and play games. This builds unity, and also gives them the chance to laugh and take time or themselves.

Challenges Within Self-Help Groups

1. Women with disabilities are often excluded from self-help groups because they are house-bound.
2. Women with disabled husbands are sometimes excluded.
3. In Kilinochchi, some women joined the civil protection service and wear the army uniform. Because of this, they are distanced from the community and excluded from groups.
4. Caste identities sometimes come into the inner politics of self-help groups. This leads to a hierarchy within self-help groups. Members also don't trust each other enough to speak of their experiences.
5. Because female heads of households are often busy, they are unable to gather often and to mobilize new members. Several groups have stopped functioning because of this.
6. In some official organizations (Ranaviru Sewa), women report that they are often called and told to wait for hours before being able to meet officials. In addition, the benefits they get in return are also small and decreasing. Because of this, there is little value in belonging to the group.
7. There is sometimes a lack of understanding between members because of the generation gap. For example, older women don't believe or sympathize with the problems faced by younger women (such as domestic violence).
8. The groups must have a good relationship with the local Grama Niladhari. If this is not done, local authorities will interfere in the activities of the group. There is a fear that where SHGs have livelihood activities such as a common fund, some members will not contribute. This sometimes keeps women from participating in existing groups.

Recommendations

General Recommendations

1. For a self-help group to be effective and for members to feel safe, every-one should be treated equally. Accordingly,

- There should be no different treatment or privilege given due to caste, race, religion, or other socio-economic background.
- Women from different situations should be welcomed. For example, wives of the disabled should also be recognized as female heads of households.
- The group should try to make meetings accessible to all. For example, where there are disabled members whose movements are limited, the group should have their meetings at her home or someplace accessible to her.
- Members must understand the position and needs of others in the group. Members must not be judged because of the work they do, or the institutions they work with.
- Groups should not allow themselves to be divided by their political views, or by inter-group politics.
- Members must be sensitive to the different experiences of different women from different generations, and be open to listen and understand each other's struggles without criticism.

2. Members should be able to trust their group. Accordingly, the internal discussions and experiences of the members must be kept confidential, and cannot be shared for any reason without consent. Similarly, within the group there should be no judgement or victim blaming of members who have been harassed and hurt. Where there are consequences such as pregnancy, groups should be willing to provide comfort, advice and security.

3. Women may feel uncomfortable sharing experiences of sexual harassment and bribery with men present. Mixed SHGs should create spaces and events where women members can meet privately. This will allow for more open and sympathetic discussion on gender-specific issues.
4. Many women need the support of self-help groups to maintain their livelihood. Groups should work collectively towards members' financial independence and stability. This can include a collective business plan, 'chit groups' (where members pool money to benefit one member). However, groups should also not focus on livelihood and financial contributions, since this could keep women from joining.
5. Self-help groups should also prioritize members' psychosocial health and happiness. Accordingly,
 - Groups should regularly have meetings where members can share their personal struggles and victories
 - Groups should plan recreational activities to do together, such as gardening, drama, talent shows, social service etc.
6. Groups must be registered with the local authorities and have a good relationship with them. Otherwise, there may be opposition to the activities of the group.
7. Group leaders must be sensitive to the time constraints of female heads of households. Meetings must be regular and held at a time where most members can attend.
8. Groups should build links with similar self-help groups across the country, to listen to and empower each other, and to bring greater attention to their struggles and experiences.
9. Group leaders must prioritise the group's sustainability. Members must be frequently consulted on ensuring the continuity of the group.
10. Often female heads of households and other vulnerable women don't know that self-help groups exist. Groups should focus on outreach, to inform and include other women in vulnerable positions.

Recommendations On Sexual Bribery

1. Sometimes, some members of a self-help group may not know about sexual bribery or harassment, and are unprepared to face it. Group leaders must inform their members of the prevalence of it, and train them on their rights and how to face such situations.
2. Members must be given the time and space to share their experiences of sexual bribery without judgement.
3. To avoid sexual harassment and sexual bribery, members should try to coordinate and approach officials with their needs as a group. This may reduce the chance of women being openly targeted.
4. Where members are approached for sexual bribes, groups should collectively complain to the official in charge. This may increase the chance of being taken seriously, and the offending officer being disciplined.
5. Often, the public is unaware of the prevalence of sexual bribery. If possible, groups should collectively share their experiences with the public, the media and government officials. This may lead to more steps being taken to prevent and punish this.

Recommendations For Partner Organizations

1. Partner organizations can play a key role in capacity building.
 - Training members on steps to making the self-help group sustainable. When self-help groups fail, members lose their trust in such groups, and are unlikely to join one again.
 - Training groups on methods and grants to ensure stable livelihood. Also training members on financial management.
 - Working with the groups to provide vocational training to members.

- Training groups on the laws relating to sexual bribery, and the steps to making a complaint and taking action.
- Training members on their rights as women, and on independent institutions they can approach (e.g. the Human Rights Commission)
- Prepare short informative brochures/ publications which the groups can share with new members. These can address the above issues (Sexual bribery and related laws, pathways to financial stability, making self-help groups sustainable, women's rights)

2. Helping small self-help groups to communicate their needs and complaints to government institutions and larger NGOs.

3. Facilitating introductions between leaders of self-help groups and local government authorities. This can ensure that groups have contacts in government institutions in case they need to lodge a complaint or seek help.

4. Since victims of sexual bribery and harm often go to a community leader instead of the police, partner organizations should identify trustworthy activists and NGOs which can be contacted instead of government officials.

Recommendations For Policy Advocacy

1. Sexual bribery must be dealt with as a prevalent issue, and as a serious crime.

As such,

- The public must be informed of the process to report incidents of sexual bribery
- Perpetrators of sexual bribery must be held accountable, and severely disciplined.
- Victims must be given access to legal aid to pursue justice and compensation for sexual harm and bribery.
- There must be more female officers in all government institutions, to handle the cases of vulnerable women.

2. Female heads of households must be empowered to become financially independent and stable. Accordingly, the government should:

- Provide vocational training to such women
- Increase support through financial and material benefits
- Prevent micro-loan companies from taking advantage of women in this position
- Provide state-sponsored grants to female heads, allowing them to build their own businesses

3. The physical and psychological health of female heads of households is vital.

- Women should be offered medical support and counselling.
- The government must take steps to de-stigmatize psychological illness and medication.

4. Social stigma and pressures hugely impact female heads of households.

There must be a widespread effort to de-stigmatize widowhood and singleness. The government should encourage and support self-help groups in empowering female heads to fight against social pressures.

5. The government should focus on outreach, so that female heads of households are aware of their rights and the services offered to them.

Conclusion

It is clear that female heads of households and other vulnerable women face many challenges in Sri Lanka – both financial and social. It is important that their situation is recognized, and that the government takes steps to support them appropriately.

However, it is also clear that self-help groups play an important role in providing these women with a community, and with more power as a collective. It is important that this is encouraged and replicated. There are apparent challenges within self-help groups, and these must be dealt with, leaving stronger and more united groups.



Hidden Challenges: Addressing Sexual Bribery Experienced by Military Widows and War Widows in Sri Lanka

සැකවුණු අභියෝග: ශ්‍රී ලංකාවේ රණවිරු බිරිත්දෂවරුන් සහ යුද්ධයෙන් සැමියන් අහිමිවූ කාන්තාවන් විසින් අත්විඳින ලද ලිංගික අල්ලස් ආමන්තූණය කිරීම

මறைந்திருக்கும் சவால்கள்: இராணுவக் கணவரை மற்றும் போரினால் கணவரை இழந்த பெண்கள் அனுபவிக்கும் பாலியல் இலஞ்சத்தினை அடையாளப்படுத்தல்



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B LOBBYING

CEJ has engaged with numerous organizations and networks to raise awareness of sexual exploitation and sexual bribery as serious issues in Sri Lanka. Our efforts include awareness-raising activities such as sharing research findings with community women, updating and working with networks to distribute referral leaflets, and organizing and conducting press conferences and media campaigns. We also organized discussions with the Forum Against Gender-Based Violence and other like-minded organizations to

draft lobby documents and advocate for priority changes, such as the amendment of the Bribery Act to include 'sexual gratification'. Additionally, we worked with numerous organizations to provide legal and counselling services to victim-survivors. Put together, our work with diverse collaborators contributed to the goal of holistically addressing this serious topic by employing varied approaches including direct confrontation, partnership building, and creative use of the arts and theatre.

1 | MEETING MINUTES OF LOBBY GROUP

1.1 | Round Table Discussion On Sexual Exploitation

FOKUS WOMEN IN COLLABORATION WITH OPEN SOCIETY FOUNDATIONS (OSF)

TUESDAY, 21ST MARCH 2017 | 10 A.M. TO 12 NOON | FOKUS WOMEN OFFICE

Background

Ms. Shyamala Gomez, Country Director, FOKUS WOMEN

In 2015, Ms. Shreen Saroor was helping FOKUS WOMEN with a study on Sexual Exploitation (SE), which came about as a result of the work she has been carrying out. It was considered useful and necessary to document the incidents of sexual exploitation. A particular donor wanted to find out if we would be interested in implementing the recommendations that emerged out of the study. The project's theme is advancing **zero tolerance for Sexual Exploitation as a state obligation**. A dual approach is sought to be adopted. Firstly, at ground level awareness must be raised and support be provided for women at grassroots. Secondly, we must lobby with policy makers, so that State assumes the role of initiators and movers of this project.

Goals of the project

1. Conceptual Clarity – It is important to distinguish between other forms of sexual harassment and sexual exploitation. At the initial meeting several participants brought up incidents of domestic violence and child

abuse. Clarity on what Sexual Exploitation means is important for advocacy.

2. As a follow up to the initial survey, 20 more case studies are being carried out. These 20 case studies will document the stories of 10 Muslim women from the North, East and/or Puttalam, and 10 military widows. With regard to military widows, previous studies have hinted that the many vulnerabilities of these women make them potential targets of sexual exploitation.
3. Much like the lack of conceptual clarity, there is a lack of awareness in victims, that what they are being asked for is a form of bribe. It is important to raise this awareness at ground level. Equally important is to empower women to resist the requests, obtain support, and to provide psycho-social assistance to women who have been affected by the incidence.
4. Parallel to the above, it is important to pursue change at the highest level. Sexual bribery must be explicitly incorporated as a form of bribery in the Bribery Act. Currently, the term "gratification" does not include the form of sexual gratification. This cannot be left to judicial interpretation, and must be included in explicit terms.

Objectives of the Meeting

1. Create a pressure group which will lobby for the amendment of the Bribery Act, and work towards a holistic approach in tackling Sexual Exploitation.
2. Share the findings of the study for further dissemination and campaigning.

Discussion points

- In response to a query raised regarding the study being limited to Female Heads of Households it was said that, the particular study has been limited to FHH only because the larger project under which it was being carried out was in relation to FHH. Sexual Bribery must be explored beyond FHH, and the follow-up studies are already attempting to expand the scope of affected women to be studied.
- With the introduction of the quota system, there have been claims that Sexual Bribery has been demanded to be given nominations under the National List.
- The need for protection of the victim's identity was agreed upon by all. Safeguarding the anonymity of the victim is crucial, especially in cases where the alleged perpetrator is a high ranking official. The inquiry process for women affected by sexual violence is often one that re-traumatizes the victim.
- The Bribery Commission can function on its own mandate, post the 19th Amendment to the Constitution. Therefore, incidents of sexual bribery can be inquired into. However, it has been suggested that the anonymous petitions are disregarded in order to reduce the workload.
- Transparency International looks at concerns relating to Sexual Exploitation globally, and this is something that has always fallen under the radar. It was agreed upon the issue of sexual bribery is in fact the mandate of Transparency International Sri Lanka, and that they have an active role to play – even spearhead the project.
- Sexual Exploitation in the private sector – The State has to come to assume some responsibility over incidents of Sexual Exploitation in the private sector as well. There have always been reports of sexual bribery in the recruitment processes of banks, and among lower level employees in the garment sector.
- Sexual Bribery demanded by school principals from mothers, to admit children to school was revealed to be rather prevalent. The mothers who have been compliant are not only economically and socially vulnerable. Well-educated, well-employed mothers from urban areas also fall victim to such demands due to the heavy competition in school admissions.
- In addition to legal and administrative mechanisms, several other support mechanisms must be in place. Psycho-social assistance in particular is very essential for affected women, who suffer from intense guilt, shame and less frequently, PTSD. For example, the need has been demonstrated to help women face Transitional Justice mechanisms. This establishes the need for a multi-prong approach to the issue.
- Sexual bribery is neither new nor rare; it is well known, and occurs widely. However, it is rarely associated with the idea of bribery – which has predominantly monetary connotations. The two incidents are viewed as two separate social ills. This goes back to the point to the point on conceptual clarity, but nonetheless, any impediment to accessing a service which takes the form of a sexual favour, must be imminently associated with the idea of bribery in people's minds. This can be achieved only by way of awareness campaigning at every level.
- Legal provisions which penalize the incident of sexual harassment are likely to be cited to insist that provision has been made already to incorporate claims of sexual bribery. These examples include the Penal Code¹ and *Kuthubdeen v Sri Lanka*. However, the explicit recognition of "sexual gratification" in the Bribery Act will reap benefits not merely from a human rights perspective, but also from an administrative law, or Rule of Law perspective. The participants at the meeting all have different mandates, and the concern relating to sexual exploitation is one that can be approached from all such angles.

¹ Sections 158 and 160

Recommendations from the discussion

- The goals of legislative amendment and an active public discourse must be pursued analogously. Such a public discourse will establish the necessary political and economic cost that may have to precede any legislative change. This will also ensure that the proposed change cannot be omitted in the final stages of passing the Bill.
- The terminology of Sexual Exploitation and Sexual Bribery should be brought into all circulars and codes of conduct issued by the State. This will reflect the State adopting a zero tolerance stance.
- The 11 independent commissions should be given a mandate to look into allegations relating to Sexual Bribery. This will also engender the inquiry processes of these commissions.
- Efforts at amending the Bribery Act to include Sexual Bribery could be linked to the broader efforts at reforming the Bribery Act, which are currently gaining momentum, especially in view of the mandate of the new government. As CIABOC is reviewing the entire anti-corruption regime, the inclusion of Sexual Bribery in the Act could be advocated as one further element of reform. Strategically, such collaboration would also be expedient. This would also avert any speculation that this is a solely “NGO – driven” change, which would make the proposed change susceptible to last moment elimination.
 - While the argument made is valid and recommends an expedient route, there is usefulness in specifically amending the Bribery Act for sexual bribery.
- Relevant organizations, especially Transparency International, should consider making online assistance available. Ideally, this would be a website where those who have been asked to give a sexual bribe can record their stories, without divulging their identities. A legal assistance system can also be made available.
- Mechanisms must be in place to ensure protection for the victim who comes forward to provide an affidavit² or evidence. At ground level, it is the fear of exposure and danger which prevents victims from not only speaking up but even continuing to reside in the areas they used to. Unless the protection actor is well ensured, any legislative amendment may not come to fruition, as there may not be any complaints. In such event, the culture of sexual bribery is likely to continue.
- The importance of a media campaign was highlighted during the discussion. Such a campaign would challenge the current mindset which normalizes sexual favours because bribery is the norm. This would go a long way in getting a public discourse started and keeping it alive. It was also suggested by Mr. Sudharshana that media publicity can be provided through his column in the Ravaya newspaper, and his television show.
- A brief document could be published with statistical data relevant to the incidents of sexual bribery for advocacy, both with policy makers and at ground level.
- Many suggested that getting Ms. Nelum Gamage on board would prove useful, as she has extensive knowledge on the subject as well as ground level realities.

² The Bribery Commission insisted on an occasion that it can act on any allegations of sexual bribery, only if an affidavit is presented by the victim.

LOBBY GROUP MEETING ON AMENDING THE BRIBERY ACT

TUESDAY, 26TH SEPTEMBER 2017 | 3.30 P.M. TO 5 P.M. | FOKUS WOMEN OFFICE

Background

Ms. Shyamala Gomez, Country Director, FOKUS WOMEN

The project's titled "advancing zero tolerance for sexual exploitation as a State obligation" was initiated beginning of 2017. The project adopts a dual approach by firstly, raising awareness at ground level and providing support to women at grassroot level and document incidents of sexual bribery for advocacy purpose. Secondly, the project seeks to lobby with policy makers, so that State assumes the role of initiators and movers to recognize the serious impact of sexual bribe against women and take necessary steps.

Goals of the project

1. Documentation of the prevalence of Sexual Bribery: As a follow up to the initial survey, 20 more case studies are being carried out. These 20 case studies will document the stories of 10 Muslim women from the East and Puttalam, and 10 military widows. With regard to military widows, previous studies have hinted that the many vulnerabilities of these women make them potential targets of sexual exploitation.
2. Advocacy on law and procedural reforms to recognize sexual bribe: to recognize sexual bribe explicitly in words as a form of bribery offence in the Bribery Act. (Currently, the term "gratification" does not include the form of sexual gratification in the Act, but the legal interpretation has given the case law.)

Objectives of the stakeholder meeting held³:

1. Share the draft lobby document on sexual bribery for feedback and recommendations (copies were handed out to all participants).
2. Increase the engagement of a pressure group to lobby for the explicit recognition of sexual bribery as a serious crime in the law on bribery and corruption.

Sharing progress of stakeholder interviews and draft lobby document.

Niroshika Wegiriya - Research assistant shared the general feedback received from 15 key informant's interviews⁴. The information gathered through the KIs were incorporated in to the draft lobby document. She stated that all **15 KIs recognize the prevalence of sexual bribery** and were aware of the fact that sexual bribery was illegal. Some of the KIs were of the view that the complex nature of taking sexual bribe may not leave much evidence to prove the incidence of sexual bribery.

She further stated the three views which emerged from the interviews with regard to the need for amending the bribery law

1. One group was of the view that the prevailing law is adequate to respond to sexual bribery and what is needed is wider awareness and effective enforcement
2. Second group was of the view that the prevailing law is adequate but in addition a clause can be added to explain "any other services" where sexual bribery can be included as an explanation to the gratification to the bribery act But when drafting an additional clause to explain the term "any other services", extreme attention must be taken in capturing all other categories under "any other services" If not more damage can be done by restricting any other option for prosecution

³ List of participants is Annex 1.

⁴ The key informant's interviews included the following institutes: Representative from Bribery commission, Human rights commission, Police Commission, Law commission and Public Service Commission, Bar Association of Sri Lanka, two trade unions representing Public sector employees, Ministry of Public administration, (Establishment unit), Civil society, a member of Judicial, Ministry of Women Affairs and a Women Development Officer.

3. Third group was of the view that the prevailing law is adequate, but in addition an amendment can be made to include sexual bribery. However, it should not create space for victimized women to be charged as a bribery giver.

Most of the KIs stated the lack of reporting as an issue which may be due to the lack of awareness and lack of faith in the implementation mechanisms. Many female KIs were of the view that social stigma does not allow or support women to report incidents of sexual bribe very easily. Therefore, all the KIs were of the view that **wider awareness need to be created among general public** to recognize sexual bribery as a serious form of bribery, promote reporting of incidents and increase knowledge on actions that can be taken against such incidents. **Public and private officials need to be made sensitive on issues of sexual bribery. In addition, procedures and mechanisms need to be strong and clear to protect the victims of sexual bribery. Higher level commitment is necessary for all of these actions.**

Sabrina Esufally (Consultant to the project in drafting the lobby document) provided a brief introduction to the draft document (presentation is attached as annex 2). The presentation was initiated with expectation from the discussion as to **how a policy can be leveraged to address the incidents of sexual bribery**. Providing a brief context related to sexual bribe and its impact, she stated that the **cost of corruption on women is more than men** due to the fact that women are far more depended on the state services because they represent the majority of the poorest in the country. Transparency International Sri Lanka (TISL) study shows extent of the prevalence of sexual harassment in the public sector. In the context **Female Heads of Households (FHH) have significant issues related sexual bribery** when accessing services from male officials at the ground level. The United Nations Convention against Corruption (UNCAC) **requires state parties to criminalize offering and receiving undue advantages for services** but when it comes to sexual bribery, offering and receiving a bribe does not become relevant in many instances due to the nature of power imbalance between the parties and exploitation. Then she explained the terminology used in defining sexual bribery as an issue. The

term **“sextortion”** is used when there a request made by the person to perform an act of sexual favor/services and those requests were made in exchange of promise to do something in return. She further explained **how other countries in the word have addressed the issue of sexual bribery through legal and policy framework** and those could be explicitly recognizing sexual bribery under the country’s anti-corruption statute, implicitly addressing sexual bribery under the country’s anti-corruption statute (Sri Lanka is within this) and addressing sexual bribery through the ethical rules, and professional codes of conduct applicable to public officers. She also highlighted the fact that an **act of sexual bribery could have elements of a sexual offence as well as a bribery offence**, prosecuting under both offences will have its consequences such as in sexual violence offences the consent of the victim becomes a key factor to prove a case and on the other hand a bribery case both giver and receiver could be charged therefore finding a path to capture both these but not penalized the victim survivor After explaining the Sri Lankan law in the bribery act and case law she moved to explain how the press report sexual bribe with an objection to such offences and therefore engaging media as an ally to work on the issue. Finally, she explained the proposed recommendation first is to **propose a law reform to the Bribery Act to cover sexual bribery explicitly** where she explained why she used “Abuse of authority” to capture what it is and to mention the victim as a victim but not a giver to be prosecuted under bribery law. Then to propose **an administrative solution to acknowledge the sexual bribery** therefore the establishment code need to be amended to include sexual bribery. She stressed the need to identify champions in support of these amendment such as ministry of public administration create ownership to the public sector and other strategies that could adopt by civil society in order to address sexual bribery such as having a website and mapping out issues through geolocate applications.

Discussion points

Legal reforms Discussion started with the understanding of the difficulty to propose a law reform without harming the victim survivor of a sexual bribery case. Therefore, the discussion moved towards coming to a consensus regarding the need to draft the position paper

either by providing exact wording to be used in the amendment to Bribery Act or only to provide ideas as to the need of legal reforms to Bribery Act. Then it was agreed that giving ideas may not be a good idea. It was also of the view of the participants that terminology has to be framed with extra caution so that it will not re-victimize women. Whether the law could capture all the possible acts which would amount to sexual violence was also discussed.

The terminology used in the draft “abuse of authority” was discussed by the participants by raising a number of issues such as how would a woman perceive “abuse of authority” and whether the term reflects an “intermediary person” in the law (who often plays a major role in the activities of public sphere) and therefore terms “including solicitation, facilitation and offering” were suggested to capture the intermediary persons and the persons who abet and aid indirectly in taking bribes. Further suitability of using the term “preferential treatment” was discussed and some participants expressed concern that it would be more appropriate to use “benefit” or “advantage”. Some were of the view that explicit interpretation of sexual bribery should be included.

Rather than having a separate offence included in to the Bribery Act, amendment to the prevailing offences in the Bribery Act to be made in order to recognize sexual bribery was also discussed. Further suggestion was that providing an explanation to the definition of gratification in the Bribery Act to include sexual bribery as the explanation provided in the case of sexual harassment (section 345) of the penal code. The concern with this approach was that whether the women will be prosecuted as bribe givers and may place victims in a bad situation. Another point was raised with the possibility of including an exception clause to the Bribery Act by stating that in the case of sexual bribe giver should be exempted from prosecution.

There were views which supported the idea of focusing more energy on creating space for women to come forward and complain and create a public discourse. Documentation of cases/incidents were important in lobbying for policy changes.

Extending the bribery Act to private sector was also discussed. One participant questioned the

legal status, when there is a private sector (eg. Private banks) employee is involved in soliciting or taking sexual bribery. TISL was of the view that there is no written prohibition in filling a case against a private sector under the bribery Act.

The need to change administrative measures amend the Establishment Code(EC) was discussed.

Lack of resources and capacity of the Commission to Investigate Allegation of Bribery or Corruption (CIABOC) who would be the most suitable institution to own this policy change was discussed. It was agreed the need to supplement the capacity of the CIABOC in handling sexual bribery cases. Since CIABOC is interested in working on prevention measures, this discourse can be initiated with them. Prevention unit at CIABOC need to work with women to understand the prevalence and nature of sexual bribes.

As an alternative to create a conducive environment for women accessing services, possibility of recording one to one meeting with public and public officers was raised. But many were of the view that there will be lot of practical difficulties in doing so and including power imbalance between parties and lack of resources.

Recommendations

- Amend the Bribery Act by considering the discussion points where a victim should not be prosecuted.
- Identify some champions who could own/advocate the proposed amendment
- Ministry of Justice, National Policy Ministry, Ministry of Public Administration, Women and Children Desk at Police were identified as ministries to be approached in order to initiate a dialog on this amendment.
- Approach parliamentary oversight committee on women and gender to table the policy paper.
- Amend the Establishment Code(EC) to include sexual bribery.
- Address the issue of SB at the upcoming UNCAC under prevention element.

- Focus more on awareness programs and sensitization as a way of prevention.
- Define clear goals for a discourse and the end result in order to focus on a strategy. It was discussed that the required discourse and the platform which would be amending the law, making time frames and identifying the stakeholders have to be identified in the first instance.

1.2 | Lobby Group Meeting On Amending The Bribery Act

TUESDAY, 26TH SEPTEMBER 2017 | 3.30 P.M. TO 5 P.M. | FOKUS WOMEN OFFICE

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RECOMMENDATIONS

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1.3 | Lobby Meeting With Core Group

“DEVELOPMENT OF A STRATEGY TO LOBBY AND ADVOCATE FOR LAW AND POLICY REFORMS RELATING TO SEXUAL BRIBERY”

TUESDAY, 20TH JULY 2021 | 10.30 A.M. TO 12 P.M. | VIRTUAL MEETING (VIA ZOOM)

Name of the facilitator

Centre for Equality and Justice (CEJ) as part of the project on Sexual Bribery funded by The Asia Foundation

Name of the rapporteur

Amra Ismail

Names of CEJ representatives

Shyamala Gomez, Ando Anthappan, Yureshya Perera and Amra Ismail

Key Highlights

- This report documents the discussion at the core lobby group virtual meeting on “Development of a Strategy to Lobby and Advocate for Law and Policy Reforms Relating to Sexual Bribery” facilitated by the Centre for Equality and Justice (CEJ) as part of the Project titled ‘The Open Secret: A Multi-Pronged Approach to Combat Sexual Bribery in Sri Lanka’ funded by the Asia Foundation.
- The objective of the meeting was to develop strategic interventions in consultation with the core lobby group to advocate for law and policy reforms addressing sexual bribery with relevant authorities.
- Remarks by Shyamala Gomez, Executive Director, Centre for Equality and Justice
 - CEJ has been involved in lobbying for

law and policy reforms on sexual bribery since 2016.

- The call for such reforms is based on evidence obtained through research and documentation of stories among the war affected women from the Sinhalese, Tamil and Muslim communities in Sri Lanka.
- The lobby group was formed to push forward the agenda of law and policy reforms relating to sexual bribery with the hope of obtaining concrete results.
- Reforms are aimed at enabling all genders to use such laws and policies to combat sexual bribery.
- Remarks on the trajectory of CEJ’s work on Sexual Bribery by Ando Anthappan, Senior Project Coordinator, Centre for Equality and Justice.
- Research
 - The issue of sexual bribery was identified during a discussion between Shyamala Gomez and Shreen Saroor in 2015.
 - Three separate research studies were conducted based on a total of 45 case studies- 25 of which were of Tamil female heads of households including those in IDP camps in Puttalam, 10 military widows and 10 Muslim women.
 - The districts covered in the Northern Province were Vavuniya, Kilinochchi, Mullaitivu, Jaffna, Mannar and Puttalam. The Sinhala Military widows interviewed were from Kurunegala, Kegalle and Anuradhapura. The Muslim women interviewed were based in Batticaloa, Ampara, Trincomalee, Polonnaruwa and Puttalam.
 - These three research studies which assess the narratives and the experiences of sexual bribery constitute

the foundation of the work of the CEJ on sexual bribery.

- The CEJ hopes to expand the scope of its research by moving away from the war affected context and being more inclusive to include women and the LGBTIQ+ community from the Central, Western, Uva, Southern and Sabaragamuwa Provinces.

- Lobby and Advocacy

- Local

- CEJ approached the Commission to Investigate Bribery or Corruption (CIABOC) in 2017, shared its findings on sexual bribery and proposed legal and policy reforms plans.
- The Bribery Act does not include a specific definition of sexual forms of gratification.
- In 2017, CIABOC sought the input of the public and grassroots organizations for their National Action Plan. The working definition proposed by the CEJ of sexual bribery was incorporated into the National Action Plan to Combat Bribery and Corruption in 2019. The CEJ hopes to build on this achievement in the future. The definition is as follows:

“Sexual bribery” is proposed to be defined as a form of “gratification”

Sexual bribery is defined as sexual favours solicited and received by persons in power or authority, in the exercise of that power or authority. Such favours are solicited as a condition or giving employment, a promotion, a right, a privilege or any other service, favour or advantage. A “sexual favour” could be sexual intercourse, or any act that would not amount to sexual intercourse, but will amount to or constitute verbal or non verbal conduct of a sexual nature.

- CEJ is in the process of discussing a suitable approach to provide training for legal officers and investigation officers of the CIABOC.
- CEJ is also contemplating the possibility of developing a gender sensitive reporting platform (both online and offline) that enables victim survivors to lodge a complaint.
- Since 2017, CEJ has collaborated with Transparency International Sri Lanka on the issue of sexual bribery. TISL has included sexual bribery as one of its national level focus areas.
- In 2017/2018 CEJ formed a lobby group with civil society organizations, activists and journalists to discuss the issue of sexual bribery in detail and develop avenues to influence law and policy reforms. Several roundtable discussions were held.
- With the support of this lobby group, a lobby and policy document was drafted at the time outlining law and policy reforms. The document was presented to the Ministry of Justice and Law Commission members etc. However, CEJ could not follow up with discussions due to certain constraints.
- A participant during a lobby group discussion suggested that the Sri Lanka Institute of Development Administration (SLIDA) could include sexual bribery as part of their curriculum. Accordingly, CEJ approached SLIDA and was successful in including a module on sexual bribery into their anti-corruption module. Thereafter, CEJ conducted a session on a zero-tolerance policy for sexual bribery with senior public officers.
- CEJ developed several key policy documents in consultation with district level officials from the North, South and East as well as government officials at provincial level consultations. They are:

1. Circular on zero tolerance for sexual bribery.
2. A Code of Conduct on sexual bribery.
3. Suggestions to amend current guidelines on sexual harassment to include sexual bribery.
4. A module on training public officials to combat and respond to sexual bribery.

2 | LOBBY DOCUMENT ON AMENDING LAW AND POLICY ON SEXUAL BRIBERY

2.1 | Part I (2018)



AMENDING LAW AND POLICY TO ADDRESS SEXUAL BRIBERY IN SRI LANKA



A lobby group was formed by the Centre for Equality and Justice to lobby and advocate for the amendment of laws and policies to address sexual bribery in Sri Lanka. The lobby group consists of like-minded organizations and individuals working on these or similar issues. This lobby document has been prepared with input from the lobby group and will be used to lobby for change.

The lobby group comprises of:

Organizations:

1. Chrysalis
2. Family Rehabilitation Centre
3. International Centre for Ethnic Studies
4. Suriya Women's Development Centre
5. The Grassrooted Trust
6. Transparency International Sri Lanka
7. Viluthu, Centre for Human Resource Development

Individuals:

1. Asma Edris, Activist
2. Balasingham Skanthakumar, Researcher
3. Dinushika Dissanayake, Attorney-at-Law
4. Dr. M. Ganesan, Consultant Psychiatrist, National Institute of Mental Health, Sri Lanka
5. Gehan Gunatilleke, Attorney-at-Law
6. M. Mangaleswary Shanker Attorney-at-Law
7. Prof. Camena Guneratne, The Open University of Sri Lanka
8. Shamara Wettimuny, Researcher
9. Udeni Thewarapperuma, Attorney-at-Law

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Sexual bribery is a form of corruption where sex, rather than money, is the currency of the bribe. The phenomenon disproportionately affects women that are vulnerable and dependent on those entrusted with power to obtain services.

1. BACKGROUND

Corruption is defined, in broad terms, as the ‘abuse of power for private gain’. In 2016, Sri Lanka was ranked 95 out of 117 countries on the Transparency International Corruption Perceptions Index.¹ The country’s score declined a total of 12 places since 2015. Moreover, in the Global Corruption Barometer, Sri Lankan service users most reported paying a bribe in the context of obtaining services in public schools, the police, utilities, and identification and voting permits.²

Corruption negatively impacts society in a number of ways. For instance, it can result in state institutions and offices being misused and undermined for political means. Thus, preventing the development of an accountable political leadership. Moreover, corruption results in scarce public resources being used for personal enrichment rather than on the improvement of vital public services such as health, infrastructure and education.

2. THE COSTS OF CORRUPTION FOR WOMEN

At a societal level, studies have indicated that women as a group suffer from the costs of corruption to a greater extent than men.³ This is attributed to the fact that women represent a higher segment of a society’s poor population. Thus, making them more dependent on the government for essential services such as health, education, land, water and sanitation.

According to a study conducted in Sri Lanka by Transparency International, 79.5% of participants stated that there was an existence of sexual harassment in public service offices.⁴ Lower income and job insecurity amongst women has resulted in an inability to seek alternatives to corrupt demands by state officials. Often, these demands are in the form of sexual favours in exchange for the provision of essential public services.

1 See https://www.transparency.org/news/feature/corruption_perceptions_index_2016.

2 https://www.transparency.org/whatwedo/publication/people_and_corruption_asia_pacific_global_corruption_barometer.

3 See <http://www.tisrilanka.org/pub/reports/WEC.pdf>.

4 See <http://www.tisrilanka.org/pub/reports/WEC.pdf>.

In the aftermath of the ethnic conflict, sexual bribery has disproportionately affected groups of women, such as Female Heads of Households (FHH), including war widows.⁵ As primary breadwinners and caregivers of their families, these women are highly dependent on state officials to obtain economic benefits such as pensions, livelihood assistance and social security.

In the above context, the paper devises a legislative and policy framework for addressing sexual bribery in the public service. First, it will describe emerging international standards on sexual bribery. Second, the paper will explore comparative practices on addressing sexual bribery in the public service. Third, it will assess to what extent Sri Lanka's legislative and policy framework prohibits sexual bribery in accordance with emerging global trends. Last, the paper recommends interventions to strengthen Sri Lanka's legislative and policy framework on sexual bribery.

3. INTERNATIONAL STANDARDS

3.1 Bribery of Public Officials

Bribery has been defined as:

'offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust'. Inducements can include gifts, loans, fees, rewards or other advantages (e.g. tax exceptions, and sexual favours)'.⁶

The United Nations Convention against Corruption (UNCAC) requires states parties to criminalise the bribery of national public officials. In this context, article 15 of UNCAC directs states parties to criminalise both (a) the act of promising or giving a public official an undue advantage in order that the official acts or refrains from acting in the exercise of his or her duties and (b) the solicitation or acceptance of an undue advantage by a public official to act or refrain from acting in the exercise of his or her duties. Sri Lanka ratified UNCAC in March 2004.

5 See <http://womenandmedia.org/wp-content/uploads/2017/02/SHADOW-REPORT-TO-CEDAW-ALL-ISSUES.pdf>.

6 See <https://www.transparency.org/what-is-corruption/>.

3.2 Sexual Bribery

Sexual bribery is a form of corruption where sex, rather than money, is the currency of the bribe. The phenomenon disproportionately affects women that are vulnerable and dependent on those entrusted with power to obtain services.

According to a report compiled by the International Association of Women Judges (IAWJ), sexual bribery has both a sexual component and a bribery component. As such, for the offence of sexual bribery to be established there must be:⁷

- a. a request (whether implicit or explicit) to engage in unwanted sexual activity; and
- b. a person in a position of authority who solicits or accepts a sexual favour in exchange for exercising the power entrusted to him or her. This exchange is commonly referred to as ‘quid pro quo’, or ‘something for something’

Sexual bribery relies on coercive pressure rather than physical violence to obtain sexual favours. The imbalance of power enables the perpetrator to exert coercive pressure on the victim. Sexual bribery differs from traditional monetary bribery cases in that due to the high levels of coercion exerted on the victim, it would be inappropriate to prosecute the bribe giver as well as the bribe receiver.

Moreover, as sexual bribery occurs at the crossroads between corruption and sexual exploitation, it has been argued that the offence can be prosecuted under either a country’s anti-corruption framework or its sexual harassment and gender-based violence laws. However, the latter may not be suitable for prosecuting sexual bribery as a person that offers to trade sexual favours for obtaining a service may run the risk of being perceived as ‘consenting’ to such activity. Gender-based violence laws usually require evidence of physical force or overt refusal by the victim prior to establishing an offence. In the context of sexual bribery, this requirement ignores the pervasive effect of coercion and dependency on the victim’s choices. Due to these limitations, **this policy paper will focus on addressing sexual bribery under Sri Lanka’s anti-corruption framework.**

7 See <http://www.trust.org/contentAsset/raw-data/588013e6-2f99-4d54-8dd8-9a65ae2e0802/file>.

4. INTERNATIONAL PRACTICES

4.1 Addressing Sexual Bribery through Legal and Policy Frameworks

Although anti-corruption statutes have been traditionally drafted to address instances of financial impropriety, a number of countries have adapted their legal and policy frameworks to address sexual bribery. This adaptation usually utilises one or more of the following models.

- a. Expressly addressing sexual bribery under the country's anti-corruption statute
- b. Implicitly addressing sexual bribery under the country's anti-corruption statute
- c. Addressing sexual bribery through the ethical rules, and professional codes of conduct applicable to public officers

(a) Expressly Addressing Sexual Bribery

Certain countries have amended their anti-corruption statutes and criminal codes to expressly prohibit sexual bribery.

Section 27 of the Tanzanian Prevention and Combatting of Corruption Act of 2007, makes it an offence for 'any person in a position of power or authority to demand or impose sexual favours' as a condition of the exercise of that authority. Moreover, Taiwan's Criminal Code expressly criminalises the abuse of authority to extract sexual intercourse.

(b) Implicitly Addressing Sexual Bribery

Some anti-corruption statutes, whilst not explicitly addressing sexual bribery, use language broad enough to cover non-financial inducements such as sexual favours.

In the Philippines, section 3(e) of the Anti-Graft and Corrupt Practices Act of 1960, prohibits conduct by public officers that may cause 'undue injury' or give a private party 'unwarranted benefits, advantage or preference'. Moreover, under Kenya's Anti Corruption and Economic Crimes Act of 2003, a benefit is described as 'any gift, loan, fee, reward...service, favour, forbearance, promise or other consideration or advantage'. The terminology used in the statutes above is broad enough to be interpreted to include sexual favours.

(c) Addressing Sexual Bribery through Ethical Rules and Professional Codes of Conduct

Countries have also amended the ethical rules and professional codes of conduct governing public officers in a manner that addresses, and prohibits sexual bribery. Enforcement of these codes and rules are through administrative bodies rather than through the judiciary. Moreover, penalties are often employment related and include suspension from duty, or removal from office.

In Uganda the Code of Conduct and Ethics for the public service prohibits a public officer from subjecting others or being subjected to 'conduct of a sexual nature affecting his or her dignity which is unwelcome, unreasonable and offensive to the recipient'.

Ethical rules and professional codes of conduct can also fill gaps in the existing legal framework, offering redress that may not be available under the country's legislative framework.

In Mexico where its anti-corruption statute fails to recognise non-financial inducements, the country's code of conduct has permitted sexual bribery to be addressed by administrative bodies.

4.2 Prosecuting Sexual Bribery

A number of countries around the world have successfully prosecuted sexual bribery.

The Court of Appeal in Tanzania upheld the conviction of a police officer who promised to release a 14-year old girl in custody if she would have sex with him.⁸ Moreover, in Argentina, a police officer was accused of arresting a couple for speeding and subsequently demanding sexual favours from the driver's girlfriend in exchange for their release. The officer was successfully prosecuted for the charge of unlawful detention, mistreatment, theft and breach of the duties of a public official.⁹

In Uganda, a report published by the World Bank indicated that 4% of upper primary school pupils had been defiled by their teachers.¹⁰ In this context, country's Code of Conduct and Ethics for Public Service has been a useful instrument to ensure that perpetrators of sexual bribery are suspended or removed from public service.¹¹

8 See http://www.iawj.org/IAWJ_International_Toolkit_FINAL.pdf.

9 Ibid.

10 Ibid

11 Ibid

A notable challenge with respect to sexual bribery is that legal statutes are often insufficient to ensure prosecution. This is attributed to the fact that there is a lack of awareness that offence of sexual bribery is punishable under the law. Moreover, victims commonly lack the knowledge on where or how to report an allegation of sexual bribery. Additionally, victims of sexual bribery are often reluctant to lodge complaints for fear of prosecution or employment related sanction. This is attributed to the fact that under traditional anti-corruption frameworks both the offeror and the recipient of the bribe commit a punishable offence. Social stigma and community ostracisation is another pervasive disincentive for victims of sexual bribery to lodge complaints with the relevant authorities.

5. SRI LANKAN FRAMEWORK

5.1 Bribery Act

The Bribery Act No.11 of 1954 (Bribery Act) sets out a series of bribery related offences. These offences criminalise both (a) the act of offering any gratification to a public officer as an inducement for the performance (or non-performance) of a particular task, and (b) a public officer soliciting or accepting any gratification as an inducement for the performance (or non-performance) of a particular task.¹²

For instance, under section 16 of the Act:

- a. A person that 'offers any gratification to [a] public servant...as an inducement or a reward for such officer's interfering with the due administration of justice, or procuring or facilitating the commission of any offence...'; or
- b. A public servant that 'solicits or accepts any gratification as an inducement or a reward for interfering, procuring, facilitating' in relation to (a)

Is guilty of an offence under the Bribery Act, and is subject to rigorous imprisonment for a term not exceeding seven years, and a fine not exceeding five thousand rupees.

'Gratification' under the Bribery Act constitutes the following:¹³

- a. Money or any gift, loan, fee, reward commission, valuable security or other property or interest in property, whether movable or immovable
- b. Any office, employment or contract

¹² See http://www.ciaboc.gov.lk/web/images/pdf/publications/Bribery_Act_english.pdf.

¹³ Ibid.

- c. Any payment, release, discharge, or liquidation of any loan, obligation or liability in whole or in part
- d. Any other service, favour or advantage of any description; and
- e. Any offer, undertaking or promise of any gratification within the meaning of (a), (b), (c), and (d).

5.2 Recognising Sexual Bribery in Sri Lanka

Case Law

In 1994, the High Court in *Sri Lanka v. Abdul Rashak Kuthubdeen* held that demanding sexual favors could be considered a form of gratification under the Bribery Act.¹⁴ The case involved a female security guard filing a case alleging that her supervisor demanded sex in exchange for granting her request for transfer from Colombo to kalutura. The Court, in upholding the victim's claim, stated that the definition of gratification as a 'service', 'favor' or 'advantage' was wide enough to include the favor or advantage of sexual intercourse.

In recent years, there have been instances where law enforcement has acted against sexual bribery. For instance, in January 2016 the Secretary of the Sports Ministry of the Uva Provincial Council was arrested for trying to obtain sexual favours from a female officer who reported to him.¹⁵ Moreover, in September 2016, a Grama Niladari who demanded sexual favours from a flood victim was arrested in the Wanathamulla area.¹⁶ Instances of alleged sexual bribery have been viewed negatively by the press, and identified as a pervasive problem women face when accessing services from the state.¹⁷

However, since the offence of sexual bribery has not been articulated under Sri Lankan law, its application is likely to be selective in practice. Moreover, the failure to list sexual favours as a specific form of 'gratification' under the Bribery Act, can result in victims of sexual bribery being unwilling to report such conduct for fear of further harassment or employment related sanction. Furthermore, a key Informant noted that the terminology of 'gratification' inadequately captured the abuse and exploitation faced by victims of sexual bribery.¹⁸

14 See <http://hrlibrary.umn.edu/iwraw/shadow%20report-srilanka.pdf>.

15 See <http://newsfirst.lk/english/2016/01/uva-pc-sports-ministry-secretary-under-arrest/126295>.

16 See <http://www.hirunews.lk/143465/grama-niladari-arrested-after-he-demanded-sexual-bribery-from-flood-victim>

17 See <http://www.sundaytimes.lk/121028/news/lustful-cops-seek-sex-as-bribe-18425.html>.

18 key Informant Interview with a Retired Judge.

Enforcement and Prosecution

Beyond law reform, the enforcement and prosecution of sexual bribery remains a significant challenge. Key informants interviewed as part of this paper indicated a high prevalence of sexual bribery in areas concerning school admission and social security payments.¹⁹ These informants indicated that although investigative units had been set up in institutions to deal with instances of sexual bribery, they were often ineffective in practice, and rarely protected the complainant's anonymity. Key informants also indicated that sexual bribery was enabled by a culture in the public service that failed to educate officers on and penalise for conduct amounting to sexual bribery. Additionally, key informants stated that a significant obstacle to prosecuting sexual bribery was the limited access to information surrounding the components of sexual bribery and methods by which to denounce it. Moreover, key informants noted that the difficulties of prosecuting sexual bribery were compounded by the fact that there are often no witnesses at the time the offence is committed – thus, placing the burden on the victim to establish the credibility of her testimony. This practice can result in re-victimisation, furthering the reluctance of victims to report crimes of sexual bribery.

Moreover, according to the 2017 Sri Lanka Shadow Report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) marginalised women in post-war societies (e.g. FHH and ex-LTTE cadres) are vulnerable to sexual bribery when attempting to access to land, housing and other essential services.²⁰ Moreover, CEDAW expressed concern at the level of sexual bribery targeted at women allegedly perpetrated by the military and the police.²¹

The Commission to Investigate Bribery and Corruption (CIABOC) was instituted under the Commission to Investigate Bribery and Corruption Act No. 19 of 1994. The Commission's primary duties involve investigating and prosecuting offences committed under the Bribery Act No. 11 of 1954, and the Declaration of Assets and Liabilities Law No. 1 of 1975. Accordingly, CIABOC will have the jurisdiction to investigate and prosecute instances of sexual bribery. At present, figures published by CIABOC indicate that it has a backlog of approximately 11,000 case files.²² Therefore, key informants expressed concern that CIABOC's current backlog can inhibit the Commission from effectively investigating and prosecuting instances of sexual bribery.

19 13 key informants including those from government, CSOs, and the former judiciary were interviewed as part of this study.

20 See <http://womenandmedia.org/wp-content/uploads/2017/02/SHADOW-REPORT-TO-CEDAW-ALL-ISSUES.pdf>.

21 See <http://srilankabrief.org/wp-content/uploads/2017/03/CEDAW-Concluding-observation-on-Sri-Lanka.pdf>

22 <http://www.ciaboc.gov.lk/web/images/pdf/publications/reportonbriberyorcorruption2015english.pdf>.

6. RECOMMENDATIONS

In the current context, legislative and policy interventions to curb sexual bribery are necessary. This section will aim to propose interventions to law and policy in order to strengthen the regulatory framework dealing with sexual bribery.

1. Legislative Amendment

(a). Bribery Act

Judicial precedent has held that the term ‘gratification’ in the Bribery Act is broad enough to cover sexual bribery. Thus, permitting offenders of sexual bribery to be prosecuted under the Bribery Act.

However, this judicial precedent does not go far enough. This is due to the fact that: (a) the current framing of the offence of gratification could result in the prosecution of both the victim and the offender, and (b) the term ‘gratification’ fails to capture the extortion and abuse prevalent in the offence of sexual bribery.

As such, two amendments to the Bribery Act can be considered.

i. Introducing the offence of ‘sexual bribery’

In the context of legislating against sexual exploitation, the following provision could be introduced.

Sexual bribery -

Any person being in a position of power or authority, who in the exercise of this authority, solicits or accepts sexual favours as a condition for giving employment, a promotion, a right, a privilege or any other service, favour or advantage of any description whatsoever, commits an offence under this Act, and shall be liable on conviction to a fine not exceeding [insert] or to imprisonment for a term not exceeding three years or to both

ii. Amending the definition of ‘gratification’ under the Act to cover sexual bribery

Gratification -

Gratification includes:

- a. money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable
- b. any office, employment or contract

- c. any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part
- d. any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of Meaning of expressions. [§ 16,20 of 1994.] [§ 16,20 of 1994.] 25 any right or any official power or duty;
- e. any offer, undertaking or promise of any gratification within the meaning of the proceeding paragraphs (a), (b), (c) and (d); and
- f. sexual bribery, where a person in a position of power or authority, in the exercise of this authority solicits or accepts sexual favors as a condition for giving employment, a promotion, a right, a privilege or any other service, favour or advantage of any description whatsoever.

Provided however that victims of sexual bribery shall not be subject to prosecution under this Act.

(b). Establishments Code

The Establishments Code governs the conduct of public officers. At present, the offence of sexual bribery is not covered by the Code's list of offences. Furthermore, the public sector continues to demonstrate low levels of awareness regarding the elements and the offence of sexual bribery. Therefore, it is proposed that the Establishments Code be amended to ensure that a public officer obtaining an 'undue' advantage (e.g. sexual favours) whilst in the exercise of his or her official duties commits a punishable offence. Furthermore, if convicted of the above, a public officer should be subject to disciplinary sanction (e.g. suspension, reduced in rank, or termination).

2. Administrative Measures

Increased awareness amongst the public sector of (a) the ingredients that constitute the offence, and (b) the punishment associated with the offence, can aid in addressing sexual bribery. Such awareness can be advanced by the Public Services Commission, Human Rights Commission and CIABOC, in partnership with civil society organisations.

Public sector workers can be encouraged to report instances of sexual bribery without fear of disciplinary or employment related sanction. Additionally, there should be victim friendly processes for reporting instances of sexual bribery. For instance, victims can choose to lodge their complaints either at CIABOC, or at the public authority in question. The complaint should be recorded, and the alleged victim should be notified of the status of the complaint at regular intervals. Moreover, on the receipt of a complaint, public

authorities should have a process for conducting an impartial internal investigation. In public authorities, there can also be institutional mechanisms to prevent sexual bribery. For instance, there should be facilities where a member of the public can request that his or her meeting with a public official be recorded. A Code of Conduct for public officers can be adopted that specifically addresses sexual bribery in the public sector. Additionally, independent commissions could adopt internal guidelines that address sexual bribery and have a zero tolerance policy.

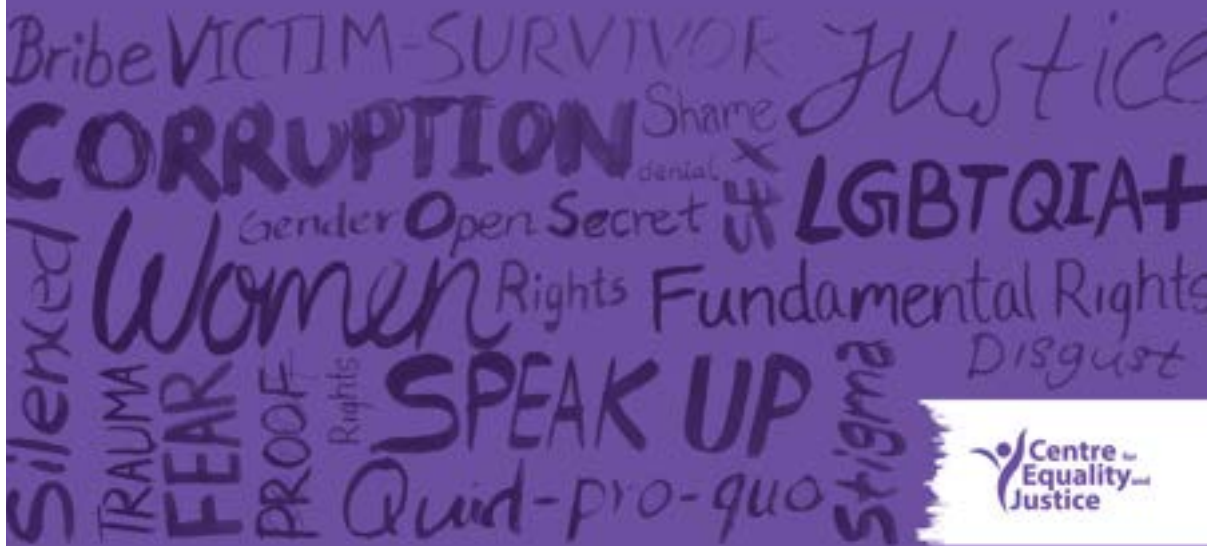
3. Public Awareness

Increased public awareness surrounding sexual bribery can serve to reduce victimisation. CIABOC can partner with civil society organisations to raise public awareness on sexual bribery. This awareness can take place via print media and social media platforms such as Facebook and Twitter. In addition to the above, a platform can be developed where individuals are able to report incidents of sexual bribery and geo-tag the relevant public authority. Individuals can report incidents anonymously on this platform through a verifiable identification number. Data from this platform can be used to highlight public authorities where sexual bribery is prevalent, and incentivise officers to refrain from sexual bribery.

Ending Sexual Bribery in Sri Lanka

Legal and Procedural Reforms

Part II



A lobby group was formed by CEJ in 2018 to advocate for the amendment of laws and policies on sexual bribery in Sri Lanka, including amendments to the Bribery Act to expressly include sexual forms of gratification. The lobby group consists of like-minded organizations and individuals working on similar issues.

Persistent lobbying with the support of the lobby group resulted in CIABOC incorporating CEJ's working definition of sexual forms of gratification into its 2019 National Action Plan for Combatting Bribery and Corruption in Sri Lanka as a proposed amendment to the Bribery Act.

In 2020 CEJ reconvened the lobby group as part of its ongoing work on sexual bribery by forming a Core Group to build on this success and formulate a strategy for future collective lobbying/advocacy initiatives for legal and policy reforms. The Core Group consists of representatives of civil society organisations, media, academia, legal and health sectors to galvanise collective action to prevent and address the incidence of sexual bribery in Sri Lanka.

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**ENDING SEXUAL BRIBERY
IN SRI LANKA:**

**Legal and Procedural Reforms
Part II**



INTRODUCTION

Bribery or corruption of any kind is generally criminalised in any legal system. This is because it results in misuse of state resources, and adversely affects the supply and development of infrastructure and public services such as health and education, vital for a thriving society. Further, corruption erodes trust in public institutions and brings about the downfall of an accountable political leadership.

The primary focus of this document is on one particular form of bribery, namely, sexual bribery.

UNDERSTANDING SEXUAL BRIBERY

Sexual bribery is not to be confused or conflated with sexual harassment. Sexual harassment has been defined as;

"...any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment."¹

Sexual bribery, on the other hand, also referred to as 'sextortion' by certain groups and organizations, has both a sexual abuse and corruption component. Several organisations and institutions have put forward various of definitions of sexual bribery.² For the purposes of this document, the definition adopted by the International Association of Women Judges³ and recognized by the International Bar Association⁴ and Transparency International⁵, will be used. As per this definition, sexual bribery is;

¹ United Nations Secretariat, Secretary General's Bulletin: Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority. (ST/SGB/2008/5) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/238/36/PDF/N0823836.pdf?OpenElement>

² The Commission to Investigate Allegations of Bribery or Corruption, Sri Lanka (CIABOC) when proposing legislative amendments suggested the following definition. "Sexual bribery" is proposed to be defined as a form of 'gratification'. Sexual bribery is defined as sexual favours solicited and received by persons in power or authority, in the exercise of that power or authority. Such favours are solicited as a condition for giving employment, a promotion, a right, a privilege or any other service, favour or advantage. A "sexual favour" could be sexual intercourse, or any act that would not amount to sexual intercourse, but will amount to or constitute physical, verbal, or non-verbal conduct of a sexual nature.; Article 4 of the African Union Convention on Preventing and Combating Corruption defines corruption to include not only "goods of monetary value," but also other types of "benefit," "favour," or "advantage" – terms that could be construed to cover the non-monetary, sexual benefit in a sextortion case.

³ IAWJ, Twenty Five Years of Judging for Equality (2016) 179.

⁴ Sara Carnegie, Sextortion: a crime of corruption and sexual exploitation (International Bar Association, 2019) <https://www.ibanet.org/MediaHandler?id=E5E451C2-ABB3-4518-BOED-5AAAEBCCDD5AA>

⁵ Hazel Feigenblatt, Breaking the silence around sextortion: The links between power, sex and corruption (Transparency International, 2020) https://images.transparencycdn.org/images/2020_Report_BreakingSilenceAroundSextortion_English.pdf

“[A] form of sexual exploitation and corruption that occurs when people in positions of authority whether government officials, judges, educators, law enforcement personnel, or employers seek to extort sexual favours in exchange for something within their power to grant or withhold. In effect, sextortion is a form of corruption in which sex, rather than money, is the currency of the bribe.”

Sexual bribery thus has both a sexual abuse and a corruption component, as the person demands a sexual bribe to carry out a duty or responsibility that he or she is bound to honour in terms of the law. The sexual abuse component comprises the demand for a personal benefit of a sexual nature for the perpetrator against the consent or free choice of the victim-survivor⁶. The corruption component in sexual bribery comprises the exploitation of a position of authority to demand a personal benefit in return for fulfilling a legally mandated duty.

The United Nations Office on Drugs and Crime (UNODC) has identified three distinct features of the corruption component of sexual bribery.⁷

i) Abuse of authority

This takes place when a repository of legitimate power (power can stem from codes of professional responsibility, social norms, community expectations or laws) exploits that power to secure personal benefits rather than using it for the intended purposes.

ii) Quid pro quo

Generally refers to sexual gratification sought by an employer, supervisor or any individual in a position of power or authority in 'exchange' of carrying out duties or providing services in the workplace.

iii) Coercive power

Physical violence or force is not an essential element of sexual bribery. Coercive power that comes with the authority or power held by the perpetrator is what is used most often to elicit sexual bribery from the victim-survivor.

⁶ Sara Carnegie, *Sextortion: a crime of corruption and sexual exploitation* (International Bar Association, 2019) <https://www.ibanet.org/MediaHandler?id=E5E451C2-A883-4518-BOED-5AAAEBCCDD5AA>

⁷ *Stopping the abuse of power through sexual exploitation: naming, shaming and ending sextortion* (International Association of Women Judges, 2012) https://www.unodc.org/res/jf/import/guide/naming_shaming_ending_sextortion/naming_shaming_ending_sextortion.pdf

CONSEQUENCES OF SEXUAL BRIBERY

As mentioned above, bribery of any sort including sexual bribery adversely affects trust in public authorities, access to public services and the overall development of a community or nation. Sexual bribery also severely impacts the short and long term wellbeing of the victim-survivors, grossly violating their fundamental human rights to be free from sexual violence of any kind, and belittles their human dignity. Earlier reports by the Centre for Equality and Justice (CEJ) have noted that “occurrences of sexual exploitation and sexual bribery have exacted a heavy psychological toll on the women. Interviewees noted that they experienced feelings of disgust, shame, sadness, anger and disillusionment during and after the incident.”⁸ One victim-survivor explained their experience as one which could never be undone, and as giving them a ‘wound that was even worse than cancer.’⁹

VICTIM-SURVIVORS OF SEXUAL BRIBERY

Certain groups in society that have been traditionally discriminated against, often bear the brunt of sexual bribery as well. For instance, previous research shows that women are impacted negatively by corruption, more so than men. One of the main reasons is that women constitute a higher percentage of the poorer population and hence are rendered dependent on the government for public services.¹⁰ Due to the imbalance of power in such circumstances, women are compelled to give in to the demands for bribery. The alternative might be delay, denial of services or poor quality services being provided. Further, a study by Transparency International found that “[v]ery often when women are compelled to bribe, it takes the form of sexual favours, as sexual extortion is a specific form of corruption that affects women disproportionately.”¹¹

However, it is of paramount importance to keep in mind when drafting laws, policies and formulating support mechanisms, that sexual bribery does not affect women alone. Men, women and members of the LGBTQI community can all be victim-survivors. In the case of the LGBTQI persons the prevalence of laws, practices and social stigma that discriminate against them based on their sexuality renders them further vulnerable to sexual bribery. In many instances, members of the LGBTQI community who are victim-survivors of sexual bribery are reluctant to report such issues as

⁸ Sexual Bribery of military widows in Sri Lanka: Anuradhapura, Kurunegala and Galle Districts (Centre for Equality and Justice, July 2018) <https://cejrilanka.org/wp-content/uploads/Sexual-Bribery-Of-Military-Widows-English.pdf>

⁹ Shrouded in secrecy: sexual bribery of Muslim women in post war districts (Centre for Equality and Justice, July 2018) <https://cejrilanka.org/wp-content/uploads/Shrouded-In-Secrecy.pdf>

¹⁰ Women's experience of corruption in public service (Transparency International Sri Lanka, June 2014) <https://www.tisrilanka.org/pub/reports/WEC.pdf>

¹¹ See n(10)

they fear that their complaints will not be considered seriously or that their identity will be revealed and expose them to further discrimination and stigma.¹²

EXAMPLES OF SEXUAL BRIBERY

Sexual bribery can take many forms. CEJ has previously highlighted several examples of sexual bribery.¹³ Sexual bribes have been demanded in return for completing paperwork to obtain employment or livelihood support, to admit children to school, to receive approvals to conduct various events, to handle legal or administrative matters in the Courts or to receive sanctions for development projects. In such instances, sexual bribery has been demanded or elicited in the form of inter alia rape, demands for sexual intercourse or a one-off sexual encounter, demand for the victim-survivor to live with the perpetrator, being forced to submit to inappropriate touching or exposing private body parts, posing for sexual photographs, and verbal threats of harm being done to the victim-survivor if they made a complaint or informed anyone or did not accede to the demands.

Other examples from Sri Lanka include a Grama Niladari demanding a sexual bribe from a flood victim in the Wanathamulla area,¹⁴ the Traffic Manager of the Uva Provincial Council Passenger Transport Services Authority soliciting a monetary bribe where the police also made note that a sexual bribe was also solicited¹⁵ to issue a route license for a student transport bus.

SHORTCOMINGS WITH THE LAW AND NEED FOR REFORM

Several laws which address bribery and corruption in Sri Lanka are discussed below. However, previous research¹⁶ has repeatedly highlighted that these laws are insufficient to address the issue of sexual bribery.

The United Nations Convention against Corruption (UNCAC) requires states parties to criminalise bribery by national public officials. Sri Lanka ratified UNCAC in March 2004. In this context, Article 15 of UNCAC directs state parties to criminalise both:

¹² Ellie McDonald, Matthew Jenkins and Jim Fitzgerald, *Defying Exclusion: Stories and insights on the links between discrimination and corruption* (Transparency International and Equal Rights Trust, 2021) <https://images.transparencycdn.org/images/2021-Defying-exclusion-Report-v2-EN.pdf>

¹³ See (9) and (10): *Sexual Exploitation of female headed households affected by war in the north of Sri Lanka* (FOKUS women, March 2016)

¹⁴ <http://www.hirunews.lk/143465/grama-niladari-arrested-after-he-demanded-sexual-bribery-from-flood-victim>

¹⁵ <https://www.hirunews.lk/english/270317/traffic-manager-of-uva-provincial-council-arrested-for-soliciting-a-bribe-sexual-favours>

¹⁶ Research on international practices- tackling sexual bribery (Centre for Equality and Justice, 8 November 2018); Amending law and policy to address sexual bribery in Sri Lanka (Centre for Equality and Justice, March 2018); Khyati Wickramanayaka, *Amending the Bribery Act and other related Acts to expressly include sexual bribery as an offence* (Centre for Equality and Justice, 2020);

- a the act of promising or giving a public official undue advantage so that the official acts or refrains from acting in the exercise of his or her duties and
- b the solicitation or acceptance of undue advantage by a public official to act or refrain from acting in the exercise of his or her duties.¹⁷

There are certain laws in place currently in Sri Lanka, which can be, and which have been in certain instances, used to address instances of sexual bribery. However, as these laws do not specifically address sexual bribery, these lacunae need to be filled.

i) The Bribery Act No. 11 of 1954 (Bribery Act)

The Bribery Act criminalises soliciting, accepting or offering any gratification by or to a public officer as an inducement for the performance (or non-performance) of a particular task. Gratification is defined to broadly include “any other service, favour or advantage of any description whatsoever.” This is echoed in the Commission to Investigate Allegations of Bribery or Corruption Act No. 19 of 1994.

The following shortcomings however have been identified with regards to this law in the context of sexual bribery:¹⁸

- a Victim-survivors who acquiesced to the demand for sexual bribery are at risk of prosecution. Due to the manner in which the law has been worded, victim-survivors are viewed as a party to the offence by offering gratification.
- b The law is applicable only to public officials and not to private actors, such as corporations. This excludes instances of sexual bribery in the private sector from being brought under the law. Thus, victim-survivors of sexual bribery in the private sector are not afforded a recourse in law.
- c Sexual bribery is classified as any other ‘gratification’ and does not consider the physical, psychological and other impacts of sexual bribery.
- d The existing provisions of the Bribery Act are insufficient to protect the victim-survivors.¹⁹ Section 79(1) of the Bribery Act already provides that:

¹⁷ Amending law and policy to address sexual bribery in Sri Lanka (Centre for Equality and Justice, March 2018)

¹⁸ Quid pro quo: a study of sexual bribery in Sri Lanka (Daily Financial Times, 24 January 2020) <https://www.ft.lk/opinion/Quid-pro-quo--A-study-of-sexual-bribery-in-Sri-Lanka/14-694260>

¹⁹ Khyati Wickramanayake, Amending the Bribery Act and other related Acts to expressly include sexual bribery as an offence (CEJ, 2020)

"In any proceedings for bribery before a court or commission of inquiry, the giver of a gratification shall be a competent witness against the person accused of taking the gratification and shall not be regarded as an accomplice, and the decision or finding of the court or commission shall not be illegal merely because it proceeds upon the uncorroborated testimony of such giver".

The protection afforded to victim-survivors of sexual bribery is limited in the above section as:

- a The section only relates to Court proceedings and leading evidence.
- b While the section does not regard the giver of gratification as an accomplice, it does not however completely absolve such a person of guilt.

ii) Commission to Investigate Allegations of Bribery or Corruption Act No. 19, of 1994

This law is to be read closely with the Bribery Act. Further, several of the limitations and gaps highlighted above in relation to the Bribery Act, are applicable to the CIABOC Act as well. Section 28 of this Act defines bribery as;

"the offer, solicitation or acceptance of any gratification in contravention of any provision of Part II of the Bribery Act, or any other act in contravention of any such provision."

iii) Penal Code Ordinance No. 2 of 1883

Sections 158 to 161 of the Penal Code criminalise accepting or obtaining gratification by a public official. Gratification is defined as;

"...not restricted to pecuniary gratifications or to gratification estimable in money."

Sections 345 (sexual harassment), 372 (extortion) and 483 (criminal intimidation) may also be used to prosecute sexual bribery.²⁰

The following shortcomings however have been identified with regards to the penal code in the context of sexual bribery:

- a The law is applicable only to public officials and not to private actors, such as corporations.
- b The law does not recognise sexual bribery as an offence by itself. This results in uncertainty and lack of clarity in the law. This can lead to improper charges and prosecutions that may have a higher chance of being dismissed on technical grounds. There is no consistency and no steady jurisprudence on this matter due to the lack of a clear legal definition.²¹
- c The lack of a specific definition and/or offence of sexual bribery also signifies the lack of emphasis or gravity placed on this particular issue, as it lacks legal recognition.
- d Sexual bribery is not addressed specifically and therefore the law does not consider the physical, psychological and other impacts of sexual bribery.

iv) Article 11 and 12 of the Constitution

Sexual bribery can be construed to be a form of 'torture, cruel, inhuman or degrading treatment or punishment' or 'discrimination on the ground of sex', under Articles 11 and 12 of the Constitution of Sri Lanka.

The following limitations however have been identified with regards to using these constitutional provisions to address sexual bribery:

- a Fundamental Rights can only be vindicated against public officials (administrative/ executive action) and not to private actors, such as corporations.
- b There is a time bar of one month – not conducive in instances where the experience is traumatic to the victim survivor who may require adequate time to recover and prepare documentation to file a fundamental rights application.

²⁰ Justice Shiranee Tilakawardane, Sextortion: A new name, an age-old crime (CeylonToday, 22 December 2019) <https://www.sundaytimes.lk/191222/sunday-times-2/sextortion-a-new-name-an-age-old-crime-383934.html>

²¹ Justice Shiranee Tilakawardane, Sextortion: A new name, an age-old crime (CeylonToday, 22 December 2019) <https://www.sundaytimes.lk/191222/sunday-times-2/sextortion-a-new-name-an-age-old-crime-383934.html>

- c Relative inaccessibility – fundamental rights can only be canvassed in the Supreme Court which entails several logistical and financial hurdles.

v) Establishments Code

The Establishment Code which governs and regulates the public sector and provides *inter alia* for disciplinary procedures does not address the issue of sexual bribery. Currently, the following references to the offence of bribery and corruption are present in the Code:

- a Rule 28 of chapter XLVII of Volume II of the Code deals with 'Disciplinary action against a Public Officer in view of orders issued against him by a Court of Law or Statutory Authority'.
- b According to Rule 28:3, a disciplinary order can be made against a Public Officer who has been found guilty of an offence by a court or statutory authority, even without a formal disciplinary inquiry. However, according to Rule 28:6, being acquitted, discharged or found not guilty for an offence does not mean disciplinary action cannot still be taken against a Public Officer in terms of the Code.

vi) Judicial Precedent

In terms of legal precedent in the case of *Kathubdeen v. Republic of Sri Lanka*, the Court recognized sexual bribery as an offence punishable under the law. In this instance the offence of 'gratification' under the Bribery Act was used to hold the accused guilty.²²

However, this is one of the rare instances of a judicial pronouncement in a matter of sexual bribery. It is recommended that lawyers strategically litigate to build a strong body of jurisprudence that can strengthen the call for a specific law on sexual bribery.

FORMULATING NEW LAWS TO CRIMINALISE SEXUAL BRIBERY

Recognizing sexual bribery as a stand-alone offence is important due to its widespread nature and the need to afford it legitimacy in law. This has also been underscored with regards to Sri Lanka, by the Committee on the Elimination of Discrimination against Women (CEDAW).²³ Further, a specific offence of sexual bribery is essential to ensure that perpetrators do not escape punishment due to non-recognition of the offence, lack of awareness, or being punished for only a part of their actions.²⁴

²² *Kathubdeen v. Republic of Sri Lanka* [1998] 3 Sri LR 107

²³ CEDAW/C/LKA/CO/8, Concluding observations on the eighth periodic report of Sri Lanka (3 March 2017)

²⁴ See n(6)

The Jammu and Kashmir Criminal Laws (Amendment) Act 2018 which particularly refers to sexual bribery,²⁵ the Prevention of Corruption (Amendment) Act, 2018 in India which addresses non-monetary undue advantage²⁶ and the Criminal Codes of the Federation of Bosnia and Herzegovina and the Republika Srpska which include the offence of “Sexual Intercourse by Abuse of Position”²⁷ are relevant examples that can be considered when drafting new laws.

The following elements can be considered when drafting a new law or introducing a specific offence of sexual bribery:

- › There was a good or service due to the victim-survivor that was withheld and/or threatened to be withheld (eg: the victim-survivor was denied a permit until and unless a sexual act is performed).
- › There was solicitation and/or acceptance of a sexual act/gratification (Carrying out of the act in itself is immaterial (eg: the perpetrator asking for, or accepting a sexual bribe should be sufficient to be found guilty of sexual bribery). Whether such sexual bribery or gratification was actually realized in practice should not be a factor in determining guilt).
- › Use of coercion (physical, verbal or psychological) – this can constitute a threat, intimidation or promise and is not limited to physical force. Section 119 of the Argentine Criminal Code for instance does not require active or physical resistance as a manifestation of the victim’s non-consent.²⁸ Similarly, as per the New South Wales’ Crimes Act 1900, lack of consent to sexual intercourse is determined *inter alia* by the “the abuse of a position of authority or trust.”²⁹
- › The intention of soliciting and/or accepting sexual gratification in exchange for fulfilling his/her duty – knowledge that the sexual act is solicited and/or accepted in exchange for a (public) service.

²⁵ A shortcoming in this law however is that only women are referred to as potential victim-survivors

²⁶ ‘Seeking sexual favours punishable under new anti corruption law’ The Hindu (September 2018) accessed 22 October; also see ‘Asking for sexual favours is a crime under anti-graft law: What does it mean for victims?’ The News Minute (September 2018) < <https://www.thenewsminute.com/article/asking-sexual-favours-crime-under-anti-graft-law-what-does-it-mean-victims-88125> > accessed 22 October 2018

²⁷ Research on international practices- tackling sexual bribery (CEJ 9 November 2018)

²⁸ Combatting Sextortion: A Comparative Study of Laws to Prosecute Corruption Involving Sexual Exploitation (Thomson Reuters Foundation) <https://www.trust.org/contentAsset/raw-data/588013e6-2f99-4d54-8dd8-9a65ae2e0802/file>

²⁹ Combatting Sextortion: A Comparative Study of Laws to Prosecute Corruption Involving Sexual Exploitation (Thomson Reuters Foundation) <https://www.trust.org/contentAsset/raw-data/588013e6-2f99-4d54-8dd8-9a65ae2e0802/file>

In most instances, victim-survivors of sexual bribery are reluctant to report or complain about their experiences.³⁰ From 2010–2019 only 13 cases have been reported to CIABOC, with only six being prosecuted.³¹ This can be for several reasons:

- › The power imbalance between the perpetrator and victim-survivor. The perpetrator is often of a higher economic or social class than the victim. The perpetrator holds the power to give or withdraw a public service.
- › Those who are coerced into giving the sexual bribe due to their dire circumstances feel guilty and regard themselves as having done something wrong.
- › Victim-survivors are afraid of not being believed or being dismissed and of the social stigma that they would be subjected to if it is known that they have been victims of sexual bribery, irrespective of whether they succumbed to the pressure or not;
- › Fear of reprisal from the perpetrator if the perpetrator is exposed, or of not receiving the service sought from the perpetrator in future.
- › Concerns regarding the complainants' safety before and after making the complaint and while pursuing remedies.
- › The fact that sexual bribery is not formally identified as a specific offence, lack of information and awareness on how or where to report, and lack of trust in the system that the complaint will be addressed.
- › Language barrier – most complaint and redress mechanisms are in Sinhala thus rendering them inaccessible to Tamil speaking victim-survivors. The centralised nature of CIABOC renders it inaccessible to victim-survivors outside the city of Colombo, compelling them to make a choice between using up resources to access CIABOC and not pursuing justice.

³⁰ Minoli De Soysa, *Sexual Bribery: The open secret* (Groundviews, 14th October 2020) <https://groundviews.org/2020/10/14/sexual-bribery-the-open-secret/>

³¹ *Sexual bribery: The silenced side of corruption* (Daily Financial Times, 3 September 2020) <https://www.ft.lk/Opinion-and-Issues/Sexual-bribery-The-silenced-side-of-corruption/14-705482>

There might also be evidentiary hurdles in prosecuting the offence of sexual bribery:

- › Institutional frameworks lack the capacity, including gender sensitivity and/or resources to effectively investigate or prosecute the conduct.
- › Inadequate or non-existent reporting or documentation of cases of sexual bribery.
- › Lack of corroborating witnesses and adequate circumstantial evidence, especially where the coercion is of non-physical nature.
- › The burden is on the victim/prosecution to prove lack of consent.

RECOMMENDATIONS

LEGISLATIVE AMENDMENTS

Suggested amendments to the Bribery Act³²

- › Addition of the term 'sexual bribery' and/or 'sextortion' to Section 90 of the Act, and defining the said terms to include sexual intercourse or any act that would constitute physical, verbal or nonverbal conduct of a sexual nature, including such through the use of digital technologies.
- › Similarly retroactive application of any new law on sexual bribery has also been discussed previously.³³ For the purposes of this document, it would suffice to mention that the introduction of an offence of sexual bribery does not preclude past violations being prosecuted under 'gratification'. Further, a provision should be specifically included to state that the victim-survivors of sexual bribery, (where sexual bribery was solicited and/or demanded and/or accepted without the full and free consent and/or offer of the victim), are not to be considered guilty even in respect of past violations.
- › In order to safeguard the privacy and safety of the victim-survivors:
 - a In-camera proceedings should be allowed in furtherance of Section 78(3) of the Act.
 - b The identity of the victim or any other details that may reasonably disclose the identity of the victim should not be disclosed to and/or by the media.
 - c The Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 should be specifically referred to in the Bribery Act as a mechanism to provide security to victims and/or witnesses of sexual bribery.³⁴

³² Detailed guidelines on sentencing have been addressed in a previous publication of the CEJ and will not be discussed in detail here.

³³ See n(21)

³⁴ See n(21)

Suggested amendments to the CIABOC Act

- › This law should be amended to include the solicitation or acceptance of sexual bribery under the Bribery Act as well.
- › Mandatory inclusion of at least one gender sensitive female member in the Commission.
- › The Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 should be specifically referred to in the CIABOC Act as a mechanism to provide security to victim-survivors and/or witnesses of sexual bribery.³⁵
- › Make provisions to ensure confidentiality in handling cases of sexual bribery, including severe penalties for breach of such confidentiality.

Suggested amendments to the Penal Code

- › Introducing a separate offence of sexual bribery (refer below for proposed elements of the offence).
- › As recommended earlier by CEJ, the Penal Code section should be wide enough to encompass situations in which persons holding authority over, holding out to have authority over, or in a fiduciary relationship with another demands or accepts any sexual gratification as a condition for doing or forbearing from doing any act.³⁶

REFORMING THE ESTABLISHMENT CODE

- › An amendment should be brought to Volume II of the Establishments Code (1999)³⁷ to impose disciplinary action on public officers who are found guilty of sexual bribery.
- › The Schedules of the Establishment Code should be suitably amended to ensure that the offence of sexual bribery is included; such as, in the 'First Schedule of offences committed by Public Officers' and Appendix 1, 'Definition of offences caused or committed by Public Officers'.

³⁵ See n(21)

³⁶ See n(21)

³⁷ Establishment Code of the Government of the Democratic Socialist Republic of Sri Lanka, Volume 2, 1999, [http://www.pubad.gov.lk/web/images/contents/e_code/establishments-code-volume-ii-1999\(e\).pdf](http://www.pubad.gov.lk/web/images/contents/e_code/establishments-code-volume-ii-1999(e).pdf)

HOLDING NON-STATE ACTORS ACCOUNTABLE

It is also recommended that sexual bribery should not be viewed as an issue to be dealt with only in the public sector. It is a problem that has to be addressed in both the public and private sectors, such as in industries employing large numbers of young women or private companies providing public services such as transport or education.³⁸ The Sri Lankan Supreme Court previously recognized that private companies carrying out a function of great public importance, with substantial financing from the government, and managed and controlled by the government is an agency or instrumentality of the government.³⁹ Section 295 (a) of the Norwegian Penal Code is a relevant example as it penalises *any person* who obtains sexual activity for himself/herself or another person, or makes a person perform acts corresponding to sexual activity on himself/herself by abusing a position, dependent relationship or relationship of trust. Thus, this section is not limited to instances where public officials are the perpetrators.

Further, Section 256 bis of the Argentine Criminal Code goes a step further, by envisaging an instance where the public official is the victim-survivor. The Argentine law penalises anyone who requests, receives or accepts a promise of money or any other gift to unduly exert his or her influence on a Public Official to do, delay or omit to do anything related to the Public Official's duties.

ENCOURAGING VICTIM-SURVIVOR COMPLAINTS

- › The reluctant or coerced participation of the victim-survivor, cannot be interpreted as consent, and the victim-survivor cannot be held liable.
- › The victim should not be named as a suspect or accused in a case of sexual bribery under any circumstances.
- › The law should be framed in a manner where a direct complaint from the victim-survivor should not be mandatory for investigations or prosecution to begin.
- › There should not be any prescription or statutory time limit for this offence; complaint, investigations and prosecution of sexual bribery should not be time-barred.

³⁸ *Rajaratne v. Air Lanka Ltd. And Others* [1987] 2 Sri LR 128

³⁹ *Rajaratne v. Air Lanka Ltd. And Others* [1987] 2 Sri LR 128

POLICY CHANGES

- › Add a sexual bribery inquiry mandate 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.
- › Provide paralegal services to the field officers and development officers attached to the State Ministry of Women and Child Development, Pre-Schools and Primary Education, School Infrastructure and Education Services to consider the design of a new project to continue this initiative on training to the national and local government officers.
- › Introduce specific provisions in the Witness and Victim Protection Act to cover victims and witnesses of sexual bribery – this will require amending current portions in the Act with regards to the composition of the Authority and the Division named under the Act, which comprises police and other public officials.
- › Establish institutional codes of conduct and internal complaint mechanisms within state institutions, and appoint trained, sensitised and rights aware officers to handle complaints and conduct investigations.
- › Introduce a 'Whistle-blower Protection Act' to safeguard those who report incidents of sexual bribery.⁴⁰
- › Set up a system to extend psycho-social and/or medical support for victim-survivors, to ensure that the issue of sexual bribery is addressed holistically.
- › Set up mechanisms to document incidents of sexual bribery, any recordings or other evidence to strengthen advocacy measures on this issue and to inform various policy and law reforms.
- › Create widespread awareness and a national conversation from the school level upwards on this issue to address the stigma surrounding sexual bribery, to educate the public on the gravity of sexual bribery and to make the public aware of available redress mechanisms.
- › Decentralise CIABOC to ensure its presence across the country, thus making it more accessible.
- › Ensure CIABOC's services are provided in the Sinhala, Tamil and English languages to make it accessible to all communities.

⁴⁰ Women's Experience of Corruption in Public Service (Transparency International Sri Lanka, June 2014)

3 | DEVELOPMENTS WITH THE BRIBERY COMMISSION OF SRI LANKA

A key component of CEJ's work on sexual bribery is translating research findings into positive change for women in Sri Lanka. Accordingly, over the years and across at least three separate projects, CEJ has met with several ministries and other institutions to advocate for crucial policy and law reforms, the enforcement of existing laws, and a change in culture that embraces zero tolerance for sexual bribery. CEJ has met with representatives from the Ministry of Justice, the Ministry of Women and Child Affairs, a President's Counsel and Commissioners of the Law Commission of Sri Lanka, the Public Service Commission of Sri Lanka, the Sri Lanka Institute of Development Administration, and the Deputy Chief of Staff of the Prime Minister's office.

These meetings have yielded positive outcomes and added value to lobbying efforts to end sexual bribery in Sri Lanka. Meeting with independent commissions and representatives of State institutions has provided CEJ with the opportunity to share details of ongoing initiatives to tackle sexual bribery and to distribute key awareness-raising materials such as lobby documents and research reports that include recommendations on law and policy reform directly to people in positions of power. In one instance, CEJ met with the Law Commission of Sri Lanka to discuss a proposed legal definition of 'sexual bribery.' This meeting resulted in Mr. Sanjeewa Jayawardene, President's Counsel and member of the Law Commission, agreeing to move ahead on the proposed reform and invited CEJ's Executive Director to review the suggested amendment and propose new language to redraft provisions of the existing law.

These meetings have also been crucial to coalition building and provided CEJ with new avenues for positive impact. For example, CEJ met with Ms. Dhara Wijayatilake, a member of the Public Service Commission of Sri Lanka, who

recognized the importance of addressing sexual bribery in the public sector. Ms. Wijayatilake connected CEJ with the Director General of the Sri Lanka Institute of Development Administration (SLIDA). SLIDA is the premier public-sector training organization in Sri Lanka for the development of knowledge and improvement of skills in Public Administration and Management. All Sri Lankan administrative service officers go through the SLIDA training programme prior to commencing work. Following discussions with the Director General, the CEJ Executive Director, a lawyer by training with over twenty-five years of experience in teaching, was invited to give a three-hour lecture session on sexual bribery as part of their module on Good Governance and Anti-Corruption. CEJ's Executive Director also developed a module on sexual bribery that was incorporated into SLIDA'S general training. Therefore, all public sector administrative officers in Sri Lanka will receive information on sexual bribery and how to reduce it before entering the workforce.

CEJ's lobbying efforts over the years have been fruitful, and the organization will continue to schedule meetings with key Commissioners and other relevant stakeholders to end sexual bribery in Sri Lanka.

3.1 | 1st Meeting



5th June 2017

Shyamala Gomez
FOKUS WOMEN
No 34 A, Sulaiman Avenue,
Colombo 05.

Mr. Sarath Jayamanne,
Director General for Prevention of Bribery and Corruption
Commission to Investigate Allegations of Bribery or Corruption
No 36 Malalasekera Mawatha,
Colombo 07.

Dear Mr. Jayamanne,

Addressing Sexual Bribery and Exploitation of Women in Sri Lanka

Thank you for taking the time to meet with my colleague Ando and myself from FOKUS WOMEN and Ms. Sashce Mendis of Transparency International on the 25th of May 2017 to have a discussion on the above. I am happy we had the opportunity to discuss this pressing issue affecting women from Sinhala, Tamil and Muslim communities.

As discussed at the meeting, we would appreciate your support on the following:

- **Amending the Bribery Act:**

The Bribery Act includes the term "gratification". However, it does not include sexual gratification and is left to judicial interpretation. We are working with like-minded organizations to incorporate 'sexual gratification' as a form of bribery in the Bribery Act. We would appreciate it if you can give us a letter indicating that FOKUS WOMEN is working on this initiative that we can use when we organize district level activities and other Colombo based advocacy activities.

34A Sulaiman Avenue
Colombo 5
fokuswomens.lk

- **Law and Policy Reform to Prevent Sexual Exploitation of Women:**

FOKUS WOMEN is in the process of engaging with relevant stakeholders with the aim of sensitizing them (policy makers, law makers, and independent commissioners) to have appropriate state mechanisms and procedures in place to prevent sexual exploitation of women. This includes initiatives such as engaging with media to introduce the issue of sexual bribery, amending existing guidelines to address sexual harassment in the state to deal with sexual bribery, including sexual bribery inquiry mandate into Independent Commission (in collaboration with CIABOC), develop and submit draft circular to the Ministry of Public Administration on adopting zero tolerance policy on sexual bribery and conduct district level consultations with government officers to draft code of conduct on sexual bribery. This process will be supplemented by research studies commissioned by FOKUS WOMEN to assess the impact of the issue among Tamil, Muslim and Sinhala Military widows across various districts.

As discussed at the meeting, we would be grateful if you could kindly connect us with an officer at CIABOC in order for us to gather necessary information which would feed into the above mentioned interventions and research initiatives.

- **Workshop organized by CIABOC:**

Thank you for keeping us informed about the workshop you will be organizing in the near future. As suggested at the meeting, a session on women and corruption would be useful to give visibility to women's issues. We also welcome your idea to instruct the facilitator at each breakout session to ensure that women's issues are taken into consideration in the deliberations of the workshop.

We appreciate your support in order to continue to partner with CIABOC and other relevant ministries, TI and likeminded organizations to address the issue of bribery and exploitation faced by women.

I look forward to your early response.

Sincerely,



Shyamala Gomez

Country Director, FOKUS WOMEN.

Cc:

Mr. Asoka Obeyesekere, Executive Director, Transparency International Sri Lanka.

Dr. Deepika Udagama, Chairperson, Human Rights Commission of Sri Lanka.

3.2 | Letter and email sent to CIABOC on the inclusion of sexual bribery



Clerk, Quazi, Justice of Peace, Officer from the Ceylon Electricity Board, Post Master, Secretary of a Provincial Minister, Provincial Councilor and Probation Officer. Please refer to the annexed briefing papers which provides an overview of the three detailed studies.

2. Proposed legislative and policy framework: In the above context, CEJ has devised a legislative and policy framework in collaboration with likeminded organizations and individuals. This lobby document has been prepared with input from the lobby group and has been endorsed by the following organizations and individuals: **Organizations:** Chrysalis (formerly CARE International), Family Rehabilitation Centre, International Centre for Ethnic Studies, Suriya Women's Development Centre, The Grassrooted Trust, Transparency International Sri Lanka, Viluthu, Centre for Human Resource Development.

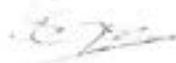
Individuals: Asma Edris (Activist), Balasingham Skanthakumar (Researcher), Dinushika Dissanayake (Attorney-at-Law), Dr. M. Ganesan (Consultant Psychiatrist, National Institute of Mental Health, Sri Lanka, Gehan Gunatilleke (Attorney-at-Law), M. Mangaleswary Shanker (Attorney-at-Law), Prof. Camena Guneratne (The Open University of Sri Lanka), Shamara Wettimuny (Researcher), Udeni Thewarapperuma (Attorney-at-Law).

The document seeks to address sexual bribery in the public service. As requested by you at the meeting in May 2017, we have included international standards on sexual bribery and comparative best practices from other countries. The lobby paper also recommends interventions to strengthen Sri Lanka's legislative and policy framework on sexual bribery. Please find enclosed a copy of the draft lobby document.

3. We also note the proposed work CIABOC will undertake to create awareness and work on preventive measures to be taken to combat bribery and corruption. CEJ has already begun to create awareness among grassroots communities, religious leaders and government officials on sexual bribery. We hope CIABOC will partner with CEJ and other organizations working on sexual bribery on these important interventions to combat bribery and corruption.

We appreciate your support to continue to partner with CIABOC and other relevant ministries, TISL and other likeminded organizations to address the issue of sexual bribery and sexual exploitation faced by women from all three ethnic communities. This letter and attached documents is copied to relevant ministries and Ministers, independent commissions, non-governmental organizations and State institutions that we will continue to work with in our advocacy to bring in sexual bribery as a serious form of violence against women into existing legal framework.

Sincerely,



Shyamala Gomez
Executive Director
Centre for Equality and Justice

Cc:

Hon. Mangala Samaraweera, Minister of Finance & Mass Media
Hon. Thalatha Athukorale- Minister of Justice and Buddha Sasana
Madam Chandrika Bandaranaike Kumaratunga (Her Excellency the Former President of Sri Lanka),
Chairperson, ONUR
Mr. M. S. Jayasinghe, Director General, ONUR
Mrs. W.M.M.R. Adikari, Secretary, Ministry of Justice
Mrs. Rosy Senanayake, Mayor, Colombo District
Hon. Mano Ganesan, M.P., Minister of National Integration, Reconciliation and Official Languages
Hon. (Dr.) Haesha De Silva, M.P., State Minister of National Policies and Economic Affairs
Mr. Austin Fernando, Secretary to the President
Hon. Eran Wickramaratne, M.P., State Minister of Finance
Ms. Ashoka Alawatte, Secretary, Ministry of Women's Affairs
Mr. J.J. Rathnasiri, Secretary, Ministry of Public Administration and Management

Chairperson, Commission to Investigate Allegations of Bribery or Corruption
Chairperson, Human Rights Commission of Sri Lanka,
Chairperson, Law Commission of Sri Lanka
Commissioner, Official Languages Commission
Chairperson, University Grants Commission
Chairperson, National Procurement Commission
Chairperson, Delimitation Commission
Chairperson, Finance Commission
Chairperson, Public Service Commission
Chairperson, Election Commission
Chairperson, Police Commission

Ms. Wasantha Perera Director General, Sri Lanka Institute of Development Administration
Mr. Asoka Obeyesekere, Executive Director, Transparency International Sri Lanka
Ms. Simrin Singh, Country Director, ILO Sri Lanka
Ms. Ritsu Nacken, Representative, Sri Lanka & Country Director, the Maldives, UNFPA
Juan Fernandez-Jardon, Senior Human Rights Advisor, OHCHR
Mr. Giuseppe Crocetti, Chief of Mission, IOM Sri Lanka
Ramaaya Salgado, Programme Analyst - UN Women Sri Lanka

3.3 | Amending the Bribery Act and other related Acts to expressly include sexual bribery as an offence

1. The need for an express offence of Sexual Bribery

1.1 The offence of Sexual Bribery is fundamentally different to the other forms of bribery in the Bribery Act. It is more than a law dealing with corruption, as it has an element of gender-based violence as it is related to the concept of consent. When a sexual act is demanded by a person in authority or holding out to being in authority, in exchange for some favour or the vindication of some right, the person performing the sexual act is coerced into performing the same, and cannot thus have consented to the Act. While other acts of corruption are criminalized because they involve an abuse of power, sexual bribery involves an abuse of power coupled with sexual violence.

2. Inclusion of Sexual Bribery as Part II(A) of the Act

2.1 It is suggested that ‘Sexual Bribery’ be included as a new Part to the Bribery Act, immediately following Part II which is ‘Offences of Bribery’.

2.2 The offence of Sexual Bribery is limited to the soliciting or accepting of a sexual bribe, and does not encompass the act of offering sexual bribes, as it is only in the former that a question of consent arises. It is important that the victim of sexual bribery is not themselves found guilty of an offence, and thus the offence of sexual bribery needs to be structured differently from the other offences of bribery under the Bribery Act. Most of the offences under Part II of the Bribery Act follow a similar structure, wherein each case first describes the offence of offering gratification, and thereafter describes the offence of receiving gratification.

3. Difference between sexual bribery and other forms of bribery

3.1 It is important to specifically differentiate sexual bribery from other forms of bribery so that the distinction between the two can be properly and clearly drawn. For the purpose of clarity, it can be explicitly mentioned that the person from whom the sexual bribe is solicited is the victim, or that they have not committed an offence, which will prevent misinterpretation of the section.

3.2 The categories of persons who would and would not be guilty of an offence of sexual bribery are demonstrated below;

Ordinary forms of Bribery	
Authority soliciting the bribe - OFFENCE	Person providing the bribe solicited - Not an offence
Person offering the bribe, unsolicited - OFFENCE	Authority accepting the bribe - OFFENCE
Sexual Bribery	
Authority soliciting the bribe - OFFENCE - Sexual bribery	Person providing the bribe solicited - Not an offence
Person offering the bribe, unsolicited - NOT SEXUAL BRIBERY (This may fall within the scope of other offences of bribery)	Authority accepting the bribe - OFFENCE - Sexual Bribery

3.3 The existing provisions of the Bribery Act are insufficient to protect the victim. Section 79(1) of the Bribery Act already provides that:

“in any proceedings for bribery before a court or commission of inquiry, the giver of a gratification shall be a competent witness against the person accused of taking the gratification and shall not be regarded as an accomplice, and the decision or finding of the court or commission shall not be illegal merely because it proceeds upon the uncorroborated testimony of such giver”.

3.4 However;

- i The section only relates to Court proceedings and is for the purpose of leading evidence, and
- ii The section is limited to saying that the giver of the gratification is not an accomplice, and does not state that such a person is not guilty of a crime.

4. Necessary elements of the section

4.1 It is important that the following elements are included into the section, for the reasons described below;

4.2 *“Not just a person in power or authority, but also a person holding out to be in a position of power or authority”*

4.2.1 It is recommended that persons who don't in fact have the power or authority to do the things they promise or offer in exchange for receiving sexual gratification should be brought within the ambit of the Section.

4.2.2 Section 24 of the Act criminalizes the accepting of a bribe even when the person who accepted such a bribe did not, in fact, have the power, right or opportunity to carry out the act for which the bribe was intended for.

However, this applies to the specific categories of officers in Part II of the Act, such as a judicial officers, Members of Parliament, and police and peace officers. If sexual bribery is included as a separate part of the Act, this would not be applicable to it, and so it should be explicitly mentioned.

4.2.3 Alternatively, Section 24 can be amended to read *“Where in any proceedings against any person for any offence under any section in this Part, or Part II(A) of this Act...”*

4.3 Nature of the coercion/solicitation

4.3.1 It must be explicit that it is not necessary for there to have been physical coercion in order for an act to amount to solicitation of a sexual bribe, and that it is even an offence for a public officer to solicit a sexual bribe verbally or by way of implication.

4.4 What has to be given/promised in return for performing the sexual act

4.4.1 All the situations covered in the Bribery Act which criminalize the demanding or acceptance of non-sexual gratification, should also be criminalized in the event that the gratification demanded or accepted is sexual in nature.

4.4.2 What the accused has to offer the victim in return for the sexual act should not be limited to 'a benefit', especially one determined based on financial benefit. Instances could arise in which a sexual bribe is solicited for reasons that would not fall within the definition of conferring a benefit or favour, but rather where the person in authority requests such a bribe in order to allow the victim to vindicate their rights, or in order to vindicate another person's rights.

4.4.3 For instance, a person may be told that they may be able to bypass

bureaucratic steps if they provide a sexual bribe. Similarly, a victim may be asked to perform a sexual act in order for bail to be granted to them or a loved one, or for them or a loved one not to be charged with an offence. In such instances the victim cannot be said to get some benefit or advantage which they would otherwise not have been entitled to, but rather to vindicate a right they are already entitled to, which through an abuse of power is being denied.

4.4.4 Such a situation is in fact more serious than when a sexual bribe is solicited in exchange for a favour as it exploits the desperation and urgency which the victim may be acting under, and so the wording of the section should not be vague with regard to such instances coming within its ambit.

4.4.5 Thus, ideally a wide phrase should be used that will allow any relevant action to fall within the scope of the section, such as ‘...as a condition for doing anything or forbearing from doing anything’.

4.5 Definition of sexual favour/gratification

4.5.1 The following is also proposed to be included in section 90, ‘Meaning of Expressions’;

Explanation - A

“sexual gratification or favour” for the purposes of section ... above, shall be;

- a *sexual intercourse, or*
- b *any act that would not amount to sexual intercourse, but will amount to or constitute physical, verbal or nonverbal conduct of a sexual nature, including the exposure of a private body part.*

Provided that it shall not be necessary for a sexual favour to be performed

physically and may include a sexual favour performed over the use of information and communication technology or any other means.

4.5.2 *In the context of increased use of ICT and mobile phones it may be important to explicitly highlight that the sexual act solicited or demanded may include an act to be performed over ICT or any other means. Victims may be requested to perform acts such as sending nude pictures of her/himself or any other pornographic materials to the offender.*

4.6 Punishment

4.6.1 *The punishment for the offence should be sufficient in consideration of the fact that this constitutes not just an act of corruption but also a case of sexual violence.*

4.6.2 *Under the Bribery Act, the offences of Bribery carry with them a sentence of up to 7 years, and a fine of up to five thousand rupees. The punishment attached to some sexual offences in the penal code are as follows;*

Offence	Penal Code Section	Punishment
Sexual harassment	S. 345	Imprisonment up to 5 year and/or a fine up to Rs. 5,000/- Compensation to be paid to the victim.
Rape	Ss. 363 and 364	Imprisonment between 7 to 20 years and a fine. Compensation to be paid to the victim.
Rape (aggravated circumstances)	S. 364	Imprisonment between 10 to 20 years and a fine. Compensation to be paid to the victim.
Incest	S. 364A	Imprisonment between 7 to 20 years and a fine.
Unnatural offences	S. 365	Imprisonment up to 10 years and a fine.
Grave sexual abuse	S. 365B	Imprisonment between 7 to 20 years and a fine. Compensation to be paid to the victim.

4.6.3 When deciding on the quantum of punishment for the offence of sexual bribery, comparison can be drawn to the offences of rape as described in S. 363(b) and grave sexual abuse as described in section 365B (b) of the penal code.

4.6.4 S. 363(b) states that a man is said to commit rape when he has sexual intercourse with a woman with her consent while she is in the lawful or unlawful detention, or when her consent has been obtained by the use of force or intimidation, or by threat of detention or by putting her in fear of death or hurt. S. 365B (b) states that one of the instances in which a person commits grave sexual abuse is when, even with consent – in similar circumstances, they do any sexual act which would constitute grave sexual abuse.

4.6.5 While these sections of the Penal Code use the phrase ‘with her consent’, when the victims consent has been obtained in these specified contexts, the law criminalizes these acts based on the rationale that in such a situation the victim cannot really consent due to the pressure that would sway their decision. This is similar to sexual bribery, as a person cannot really consent to the sexual act or gratification provided, when such contextual pressures exist.

4.6.6

When a person holding authority solicits a sexual act, the act of solicitation itself is an offence. However, for the purpose of sentencing, there are certain instances in which the law may provide for certain aggravated offences, which attach to them stricter punishments, such as;

- When the victim has carried out the act in response to the solicitation, as in such instances the damage to the victim is greater.
- When the sexual act is solicited from a person when they are in the lawful or unlawful detention, or when there has been the use of force or intimidation, or threat of detention or by putting the victim in fear of death or hurt. (The situations applicable to rape under section 363(b) and grave sexual abuse under section 365B (b))

4.6.7 In the case of the instances of the aggravated offence of sexual bribery, a minimum sentence can be set as in the case of some of the sexual offences. Minimum sentences are however not desirable in ordinary instances of sexual bribery, as a judge who feels the minimum sentence is excessive based on the facts of the case, when there has not been severe harm to the victim, may resort to suspending the sentence of the offender as a result.

4.6.8 Similar to the punishment in some of the sexual offences, provision should be included for compensation to be paid to the victim as well.

4.7 Retrospective application

4.7.1 Unless it is specified that the section will have a retrospective effect, it will not be possible to prosecute acts of sexual bribery already carried out under this section. These offences would however be punishable as gratification as per the definition in the Kathubdeen case¹, but this would carry with it the lesser punishment. It can also result in the victim also being accused of an offence, as would be the case in an ordinary offence of bribery.

¹ Kathubdeen v Republic of Sri Lanka [1998] 3 Sri LR 107 available at <https://www.lawnet.gov.lk/1998/12/31/kathubdeen-v-republic-of-sri-lanka/>

4.7.2 To retrospectively punish an act under the new section to be introduced may affect the Constitutionality of the Amendment in terms of Article 13(6) of the Constitution². However, this Article only prevents the imposition of a sentence which is more severe than the sentence in force at the time the offence was committed. It does not impose a bar on retrospectively specifying that categories of persons are not to be considered guilty of an offence. As such, the law may specify that a person from whom a sexual bribe has been solicited or demanded shall not be considered guilty of an offence if they have provided such bribe, with retrospective effect.

4.7.3 An additional problem that may arise is that because sexual bribery will be included under the new section, judges may interpret 'gratification' under the other provisions of the Bribery Act to exclude sexual gratification, an interpretation contrary to the Kathubdeen case. A suggested provision to prevent this would be as follows;

Nothing in this act shall prevent the prosecution and/or conviction of a person who has solicited or accepted forms of sexual gratification prior to the enactment of this amendment under the definition of 'gratification' under the Act.

5. Necessary amendments to the Bribery Act

5.1 there are several changes that should be made to the Bribery Act in order to accommodate the provision on Sexual Bribery;

5.2 There are several instances in the Bribery Act where provisions are said to apply to other sections in Part II of the Act. This should be amended to include sections in Part II (A) of the Act as well, or the Part of the Act containing sexual bribery.

The said references are contained in the following sections;

- Section 24 - Acceptor of gratification to be guilty notwithstanding that purpose not carried out.
- Section 25 (1), (2) and (3) - Attempt to commit, and abetment of, an offence under this Part.
- Section 30 - Offences under this Part to be cognizable.
- Section 90 - Meaning of expressions - definition of 'bribery'.

5.3 First proviso to Section 19 states that;

"Provided, however, that it shall not be an offence for a public officer to solicit or accept any gratification which he is authorized by law or the terms of his employment to receive;"

While the laws under which the soliciting or accepting gratification are not specified, it could be included here that this does not include sexual gratification. This could be by way of a further proviso, which is suggested to read as follows;

Provided further that such gratification shall not include any form of sexual gratification falling within section _____ of the Act.

² Article 13(6) - No person shall be held guilty of an offence on account of any act or omission which did not, at the time of such act or omission, constitute such an offence and no penalty shall be imposed for any offence more severe than the penalty in force at the time such offence was committed.

5.4 Protection of the identity of victims

- 5.4.1 It is important that the privacy of the victim is protected, as the victim could be subject to stigma. In contexts where the bribery has taken place in relation to employment, this stigma may have long lasting repercussions that negatively impact the victim's career. Further, a fear of the publicity and humiliation may prevent victims from making a complaint if this privacy is not guaranteed.
- 5.4.2 Section 78(3) provides that *'upon application made on that behalf by the Attorney-General or any officer authorized by him, the whole or any part of the proceedings in any court for bribery may be held in camera'*.
- 5.4.3 Section 78(3)(A) may be inserted thereafter to either make it mandatory that offences of sexual bribery must be held in camera, or that a judge should ascertain from a victim of sexual bribery if they wish for the proceedings to be held in camera.
- 5.4.4 Section 77 of the Act provides for restriction on the publication of details of proceedings before a Commission of Inquiry under the Act, and makes the contravention of such restrictions an offence. No such restriction is imposed on publication of details of other proceedings under the Act, even when held in camera. A section should be included similar to sections 77(1) and 77(3) in the case of proceedings relating to sexual bribery which take place in camera.
- 5.4.5 Such provision may be similar to section 365C (1) of the Penal Code which makes it an offence to print or publish the name or any matter which may make known the identity of any person against whom various sexual offences have been committed. The sentences in the penal code section may be used in this instance as well, i.e. 'imprisonment of either description of a term which may extend to two

years or a fine or with both'.

- 5.4.6 It can also be specifically provided that the provisions of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 Of 2015 shall apply.
- 5.5 Due to the sensitive nature of the offence of Sexual Bribery, provision can be included in the Bribery Act for specially trained officers to conduct the investigations into the offence.

6. Sexual Bribery by persons other than Public Officers

- 6.1 When viewed from a corruption standpoint, the State aims to prosecute those who commit acts of bribery for the reason that it relates to the abuse of power. However, the underlying rationale for the criminalization of sexual bribery goes above and beyond this, and is based on the idea that there cannot be proper consent to a sexual act in certain situations. The person in authority or holding out to be in authority uses the said authority to coerce the victim into performing a sexual act.
- 6.2 For this reason, it is not only sexual bribery that is committed by Public Officers which must be criminalized, any person who holds some authority over another in any other context too can in principle commit this offence, e.g., an employer or superior officer in the private sector.
- 6.3 As the Bribery Act is in principle an act based on combating corruption, and deals solely with public officers, a general provision dealing with sexual bribery not limited to public officers may be better included in the Penal Code. It should ideally be included with the other sexual offences, i.e., between sections 345 and 356C. This would make it clear that it is to be viewed as a sexual offence and not just from a corruption standpoint.
- 6.4 The section should be wide enough to encompass situations in which persons holding authority over, holding out to have

MEETING WITH PARTNERS AND ASSOCIATES

WEDNESDAY, 13TH JANUARY 2015 | ICES | 9.30 A.M.

After briefing the gathering on the process by which the CEDAW Committee reviews shadow reports, Ms. Patten went on to add that shadow reports are an essential counter-response to the façade of responsible undertakings presented in State reports. The vital role played by non-governmental organizations in this regard was highlighted for two reasons. Firstly, the credibility of citations in shadow reports presented by NGOs is generally stronger. Moreover, the CEDAW committee values shadow reports and the opening they provide to engage with NGOs working at ground level. In addition, Ms. Patten made the following comments:

- Article 2 of the CEDAW provides a broad definition of discrimination, such that it demands all ratifying parties to condemn discrimination in any of its forms. Women who are discriminated in unconventional ways often fall through the cracks when remedies are offered against discrimination. Article 2 provides a reprieve in such instances. Moreover, several women undergo multiple layers of discrimination. Such inter-sectionality is also brought within the scope of Article 2.
- Shadow reports by NGOs are now made available on the extranet, in order to guide writers of shadow reports as well as, provide alternative perspectives to the general public.
- Article 4 (a) of the Convention stipulates the undertaking of “temporary special measures” to bridge the gap between tokenistic equality and substantial equality. Affirmative action taken in order to accelerate “de facto equality” is not discriminatory.
- Discrepancies amid personal laws in Sri Lanka are a source of contention and potential discrimination. Discrimination stemming from the substantive personal law, its interpretation, practices and court systems can be brought within the scope of Article 15 of the Convention.
- National Action Plans must be inspired at leadership level, among multifarious sectors. A Minister of Health, who is not knowledgeable about the CEDAW will not be able to implement gender sensitive programs. Ministries, departments and agencies must be collaborated with to realize meaningful changes.

Thereafter, representatives from FOKUS partners went on to highlight some sources of discrimination at ground level.

MUSLIM WOMEN’S DEVELOPMENT TRUST

- Mothers of children below 5 who seek to be employed abroad need their husband’s consent in order to apply. While a regressive requirement on the whole, this is particularly harsh on FHH.

FOKUS WOMEN | Visit of Ms. Pramila Patten, CEDAW Committee Member

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