



Women's Rights are Human Rights

A Training Guide



Acknowledgements

The Human Rights Commission of Sri Lanka would like to appreciate and thank the United Nation's Population Fund (UNFPA) for establishing a partnership with the Commission to work a Training Guide, on furthering the protection of the rights of Women and girl child. Furthermore, the Commission extends its sincere gratitude towards Mr. Alain Sibenaler, Representative – UNFPA and Ms. Nirosha Welgama, former National Programme Analyst – Gender, who coordinated with the Commission and other members of staff of UNFPA Sri Lanka for the contribution made by them to make this effort a success.

Partners : The Human Rights Commission of Sri Lanka and the United Nations Population Fund (UNFPA) wishes to acknowledge the significant contribution and corporation of the three experts to this Training Guide: namely, Ms. Kamala Liyanage (PhD, Keio-Tokyo), Ms. Ramani Jayasundere (PhD, University of Colombo, Sri Lanka), and Ms. Rose Wijeysekere (MPhil, Colombo).

The partners would also like to thank all the governmental and non-governmental organizations, institutions, individuals, UN Agencies, INGOs and participants for their valuable contribution during the training sessions.

We wish to especially acknowledge the services of Ms. Ramani Jayasundere who has carefully perused the reports, and has also made a tremendous contribution by assisting in compiling this report to make the final document.

Our heartfelt gratitude is extended to all the staff of the HRCSL who assisted in composing this report in their respective capacities.

Forward

The Human Rights Commission of Sri Lanka, being established in 1996, could be named as the leader in protecting, promoting and providing human rights education in Sri Lanka. In 2005 the HRCSL took a significant step concerning Women's Rights protection through initializing the "Policy Against Sexual Harassment in the Work Place".

Ensuring women's rights has enormous socio-economic ramifications. Women's rights including equality and non-discrimination are articulated and promoted in numerous international human rights conventions, programmes of actions and policy frameworks. However, it could be said that gender is the next basic factor in the construction of a person's identity. It is also the strongest. It is the social/cultural meaning and values given to sexual differences. In Sri Lanka the economic and social changes combined with the three-decade conflict and the natural disastrous situations have impacted negatively on the life of the women and girl child.

This Training Guide will be initialized in the form of several modules and sessions conducted through several training programmes. Namely : Module One -Knowledge Building -Concepts Relating to Gender, Module Two – Rights, Module Three - Law, Legal Rights and Mechanisms, Module Four-Capacity Building Making Rights. The main reason behind the execution of a training guide is to fill the lacuna created and pragmatic issues faced in conducting training programmes relating to protection and promotion of Women's rights and gender issues. Thereby, the said guide will be acting as a manual to the trainer guiding him/her through process.

Message from UNFPA Representative, Mr. Alain Sibenaler

As Representative of UNFPA, the United Nations Population Fund in Sri Lanka, I am very happy to have partnered with the Human Rights Commission of Sri Lanka (HRCSL) in developing this training guide on furthering the protection of the rights of women and the girl child.



Human rights are violated every time a girl is married off under the age of 18, every time a child is denied an education and every time a person is subjected to abuse. Human rights also include sexual and reproductive health and rights and freedom from all forms of violence including gender based violence. However, still many women cannot freely decide the number, spacing or timing of their children. Some lack the information or means to make these choices, while others face coercion, discrimination or violence when they exercise these rights.

Protecting women's rights – including sexual and reproductive health and rights – of all people is a precondition for individual well-being and collective sustainable growth.

The last few decades have seen the enactment of laws and policies protecting women's rights and sexual and reproductive health and rights in many countries. UNFPA has been very closely working with government authorities, civil society organisations, academia and other relevant stakeholders in ensuring women's rights, especially of those who are marginalised. For this purpose UNFPA has supported the development of a compendium for the HRCSL to highlight the reproductive rights in existing laws and by-laws in the legal and administrative systems of Sri Lanka, drafted by Prof. Savitri Goonesekere.

Despite the progress in enacting laws and policies, there has been inconsistency in the enforcement of these laws and implementation of these policies. Many marginalized groups and vulnerable populations have seen limited progress.

UNFPA continues to play the role of convener on issues around gender based violence in the UN system by chairing the Gender Theme Group and Forum against GBV. These forums provide a good platform to all relevant stakeholders to bring up relevant issues on GBV at a policy and grassroots level and take appropriate action.

We hope that through this training manual the officers of the Human Rights Commission will become more familiar with gender based violence and women's rights so that they will ensure that women and girls rights are protected and are also empowered to claim their rights.

Mr. Alain Sibenaler
UNFPA Representative Sri Lanka

The Human Rights Commission of Sri Lanka

National Human Rights Institutions are State bodies with a constitutional and legislative mandate to protect and promote human rights. They are part of the State apparatus and are funded by the State. However, they operate and function independently from government.

As an independent state body with a broad mandate to protect and promote human rights, the Human Rights Commission of Sri Lanka was established under Act, No 21 of 1996. This is the National Human Rights Institution in Sri Lanka. This Commission has been incorporated in line with the United Nations' Paris Principles, affirming obligations of Sri Lanka as a member of the United Nations. HRCSL vision is to ensure human rights for all and promote and protect Rule of Law.

The Commission shall consist of five members chosen from persons having knowledge of, or practical experience in, matters relating to human rights. All members are appointed by the president on the recommendation of the Constitutional Council. One of the members so appointed shall be nominated by the Chairman of the Commission. The Commission shall hold office for a period of three years. The HRCSL work is focused mainly under four areas. Investigation and Inquiries, Monitoring, Education and Advocacy.

Investigation and Inquiries

The Human Rights Commission of Sri Lanka has the mandate to receive complaints of fundamental rights and investigate their validity and details and, if appropriate, ensure that the case is effectively brought to court, following established procedures.

According to the functions set out under section 10(a) and (b) of the Human Rights Commission Act No 21 of 1996, the Commission is assigned to carry out two special tasks in relation to the protection of rights.

10 (a) closely monitor executive and administrative practices and procedures in order to assure that the provisions of the Constitution relating to Fundamental Rights are adhered to.

10 (b) Inquire and investigate into complaints relating to infringement of Fundamental Rights and subsequently settle them or take measures to resolve them.

Section 11 provides for powers conferred upon the Commission to enforce such functions. The section relatively suggests that the Commission has the power to investigate any infringement or imminent infringement of fundamental rights.

Article 14 of the Commission Act suggests that the Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, investigate an allegation of the infringement or imminent infringement of a fundamental right of such a person or a group of persons.

Monitoring

The core function of monitoring is to monitor the welfare of persons detained either by judicial order or otherwise, undertaking research into human rights and these can contribute expressively to the elimination of discrimination against women and the advancement of their rights and status.

In 2005, the Human Rights Commission took a significant step in relation to protection and promotion of women's rights, when the commission released the "Policy against Sexual Harassment in the Work Place". Moreover, the commission also gave substantial advocacy in response to domestic violence and gender based violence as well. HRCSL has also established various monitoring programmes for places of detention. We at the HRCSL believe that such programmes are fact finding missions.

Education

The HRCSL plays a significant and a necessary role in promoting and protecting women's rights and concerning thriving matters such as human trafficking. Thus the fundamental role of upholding human rights, its education, making recommendations on law reforms and working on the civil society too would contribute to the advancement and attainment of the rights and status of women and girl-children. Furthermore, the HRCSL promotes awareness of human rights by conducting programmes, seminars and workshops and disseminates and distributes the results of such research.

Out of the number of human rights education programmes conducted by the Education and Special Programmes Division of the Head-Office, a significant amount of them were dedicated to the area of concern – Women's Rights.

HRCSL ensures that human rights standards are an integral part of the professional training curricula of certain public officials (Police, Prison etc.)

Advocacy

The Commission Act suggests that the Commission has the power to advise and assist the government in formulating legislation. The HRCSL can also advocate and make sure that all laws and policies integrate a gender perspective and are consistent with related laws and advocacy for the inclusion of special measures when needed. HRCSL can examine legislation already in force, as well as draft bills and proposals under discussion, recommending possible amendments. HRCSL can also promote the adoption of new legislative measures.

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Introduction

The aim of the Training Guide

Promoting gender equality by addressing women's rights is an essential commitment to protecting human rights. In order to ensure integration of gender equality into its work, the Human Rights Commission of Sri Lanka prepared this Training Guide "Women's Rights and Human Rights" to provide knowledge and information to Human Rights Officers of the Commission.

This Training Guide is expected to build the training capacity of Human Rights Officers on gender as a concept and other related issues such as rights enshrined in national and international commitments to securing women's rights, various laws connected to the lives of women, and issues that specifically impact on women's security and empowerment. It further aims to provide the capacity for Human Rights Officers to recognize women's rights and work towards gender equality.

The Training Guide recognizes the valuable role played by Human Rights Officers as persons who can and do raise awareness, ensure proper data collection and documentation on rights related issues and provide redress to vulnerable women and men. Thus the Training Guide aims to provide further knowledge and build the capacity of Human Rights Officers to carry out their duties.

The use of the Training Guide

This Training Guide is prepared primarily to provide information and knowledge to Human Rights Officers working for the Human Rights Commission of Sri Lanka. While it will help enhance the day to day services provided by these Officers, it can further serve as a guide to raise awareness and train groups such as government officials at district, divisional and village level, and civil society activists on women's rights.

The format of the Training Guide

This Training Guide contains information and knowledge that can be imparted using participatory methodology, and comprises diverse methods and activities.

The Training Guide consists of four main Modules. Each Module comprises a number of Sessions.

MODULES		SESSIONS		
No	Module Title	No	Session Title	Duration
1	Knowledge Building- CONCEPTS RELATING TO GENDER	1	What is Sex and Gender	1 hour
		2	Gender Stereotypes	1 hour
		3	Gendered Socialization and its Agents	1 hour
		4	Power	2 hours
		5	Women's Empowerment	2 hours
		6	Gender Mainstreaming	1 hour
		7	Gender Based Violence	45 minutes
		8	Power and Violence Against Women	45 minutes
2	Knowledge Building RIGHTS	1	What are Rights	1 hour
		2	Human Rights, Special Characteristics and Classifications	2 hours
		3	Human Rights are Women's Rights	1 hour
		4	Women's Rights: Historical Evolution	2 hours
		5	Gender Equality	1 hour
		6	Gender Equity	1 hour
		7	Discrimination based on gender	1 hour
		8	The Rights Base Approach	1 hour
3	Knowledge Building LAW, LEGAL RIGHTS and MECHANISMS	1	What is Law	45 minutes
		2	The National and International Legal Protection Women	2 hours
		3	Sri Lankan Laws Applicable to Marriage	1 hour
		4	Dissolution of Marriage	45 minutes
		5	Law Relating to the rights and Obligations of Spousal Support/Maintenance	45 minutes
		6	Crimes against Women: Criminal Law Penal Amendments	1 hour
		7	A Woman's Right to Work (Part 1)	1 hour
		8	A Woman's Right to Work (Part 2)	1 hour
		9	Housing/ Land/Property Laws and Policies	1 hour
		10	UN Security Council Resolution – 1325	1 hour
		11	Beijing Platform for Action	1 hour
		12	Reproductive Rights	45 minutes
		13	Prevention of Domestic Violence	1 hour
		14	Sexual Harassment	1 hour
		15	Women's Rights as in Disaster Situations	1 hour
		16	Rights of the Internally Displaced	1 hour
5	Capacity Building – MAKING RIGHTS REAL	1	Leadership to become a Change Agent	1 hour
		2	Documenting Violence Against Women	1 hour
		3	Documentation Methods and Analysis	1 hour
		4	Using data and information	1 hour
		5	Networking and Referral	1 hour

Each Module is arranged as follows:

- Module Number
- Module Title
- Introduction to the Module
- Objectives of the Module

Each Session is arranged as follows:

- Session Number
- Session Title
- Objectives of the Session
- Duration of the Session
- Activities to be used in the Session explained in a step by step process
- Materials needed by the Trainer to conduct the Session
- Handouts that can be given out at the Session
- References if any

The Training Guide can be used to conduct one single programme or be used to conduct separate Modules or Sessions.

Agenda

As a 7 day programme

The Manual includes a full 07 day Training Programme. The Programme Agenda can be carried out as a full programme comprising seven days from 9.00 a.m. to 5.00 p.m. each day.

An illustration of a Programme Agenda would be as follows:

Common Sessions

- Morning Tea Break 15 minutes
- Lunch 1 hour
- Afternoon Tea Break 15 minutes

Day 01

Introductions Session	1 hour
What is Sex and Gender	1 hour
Gender Stereotypes	1 hour
Gendered Socialization and its Agents	1 hour
Power	2 hours
Women's Empowerment	2 hours

Day 02

Gender Mainstreaming	1 hour
Gender Based Violence	45 minutes
Power and Violence Against Women	45 minutes
What are Rights	1 hour
Human Rights, Special Characteristics and Classifications	2 hours
Human Rights are Women's Rights	1 hour

Day 03

Women's Rights: Historical Evolution	2 hours
Gender Equality	1 hour
Gender Equity	1 hour
Discrimination based on gender	1 hour
The Rights Based Approach	1 hour

Day 04

What is Law	45 minutes
The National and International Legal Protection of Women	2 hours
Sri Lankan Laws Applicable to Marriage	1 hour
Dissolution of Marriage	45 minutes
Law Relating to the rights and Obligations of Spousal Support/Maintenance	45 minutes

Day 05

Crimes against Women: Criminal Law Penal Code Amendments	1 hour
A Woman's Right to Work (Part 1)	1 hour
A Woman's Right to Work (Part 2)	1 hour
Housing/ Land/Property Laws and Policies	1 hour
UN Security Council Resolution 1325	1 hour
Beijing Platform for Action	1 hour

Day 06

Reproductive Rights	45 minutes
Prevention of Domestic Violence	1 hour
Sexual Harassment	1 hour
Women's Rights as in Disaster Situations	1 hour
Rights of the Internally Displaced	1 hour

Day 07

Leadership to become a Change Agent	1 hour
Documenting Violence Against Women	1 hour
Documentation Methods and Analysis	1 hour
Using data and information	1 hour
Networking and Referral	1 hour
Concluding Session: Evaluation and Conclusion	1 hour

As individual Sessions

The agenda can also be conducted in 20 individual components. When conducting Sessions separately, ensure that the sequence of Sessions in the Guide is followed.

An illustration of a series of 2-3 hour individual Sessions could be as follows:

Session 1	Session 2	Session 3	Session 3	Session 4	Session 5
Introductions Session (1 hour) What is Sex and Gender (1 hour)	Gender Stereotypes (1 hour) Gendered Socialization and its Agents (1 hour)	Power (2 hours)	Women's Empowerment (2 hours)	Gender Mainstreaming (1 hour) Gender Based Violence (45 minutes)	Power and Violence Against Women (45 minutes) What are Rights (1 hour)
Session 6	Session 7	Session 8	Session 9	Session 10	Session 11
Human Rights, Special Characteristics and Classifications (2 hours)	Human Rights are Women's Rights (1 hour) Women's Rights: Historical Evolution (2 hours)	Gender Equality (1 hour) Gender Equity (1 hour)	Discrimination based on gender (1 hour) The Rights Based Approach (1 hour)	What is Law 45 minutes The National and International Legal Protection of Women (2 hours)	Sri Lankan Laws Applicable to Marriage (1 hour) Dissolution of Marriage (45 minutes)
Session 12	Session 13	Session 14	Session 15	Session 16	Session 17
Law Relating to the rights and Obligations of Spousal Support/Maintenance (45 minutes) Crimes against Women: Criminal Law Penal Code Amendments (1 hour)	A Woman's Right to Work (Part 1) (1 hour)	A Woman's Right to Work (Part 2) (1 hour)	Housing/ Land/Property Laws and Policies (1 hour) UN Security Council Resolution-1325 (1 hour)	Beijing Platform for Action (1 hour) Reproductive Rights (45 minutes)	Prevention of Domestic Violence (1 hour) Sexual Harassment (1 hour)

Session 18	Session 19	Session 20
Women's Rights as in Disaster Situations (1 hour) Rights of the Internally Displaced (1 hour)	Documenting Violence Against Women (1 hour) Documentation Methods and Analysis (1 hour)	Using data and information (1 hour) Networking and Referral (1 hour) Concluding Session: Evaluation and Conclusion

Guidelines for Trainers

To be an effective Trainer, the Trainer should:

- o Be friendly, should not make an effort to impose his or her opinions on participants but be a facilitator.
- o Avoid the use of judgemental words or phrases on the stereotypes on gender, ethnicity, religion, caste and any other differences.
- o Always keep eye contact and answer all questions.
- o Make all presentations, especially lecture type presentations interesting and interactive.
- o Use legible hand writing when using white boards and flipcharts.
- o Ask, be interested in and use participants' experiences relating to the subjects.
- o Prepare workshop guidelines and ethics suitable to the participants and share such at the beginning of the workshop.
- o Ensure pre workshop preparation is done conscientiously and properly. This will include gathering topical statistical data, additional information, case studies, pictures, newspaper articles and even anecdotes.
- o If a question is posed by a participants that the Trainer is unable to answer, be frank and undertake to provide an answer on the next day or at the next session. This must be followed up on the next day or at the next session.

To ensure effective Group work:

- o Ensure a balance of women and men in each group if it is a mixed group of participants.
- o Provide precise instructions and allocated time for the activity.
- o Select Group leaders to manage the Group, a Reporter to document the discussion and a Presenter to present Group findings.
- o Visit each Group and provide assistance to conduct the activity.
- o Encourage the active contribution of all Group members.

Panel of Writers

Kamala Liyanage (PhD, Keio -Tokyo) is a Senior Professor in Political Science, attached to the University of Peradeniya, Sri Lanka. She has experience in teaching, researching, and training mainly in fields of political science, human rights, gender studies and conflict resolution for nearly four decades. She has published over 60 books, manuals, articles, chapters and monographs on her areas of expertise. She further contributes her services as an activist to promote gender equality and good governance.

Ramani Jayasundere (PhD, University of Colombo, Sri Lanka) works in development, in the areas of law, justice and gender. She has over two decades of experience working on the promotion of gender equality, alternative dispute resolution, and access to justice. Her PhD is in women's equality in mediation processes.

Rose Wijeyesekera (MPhil, Colombo) is a Senior Lecturer at the Faculty of Law, University of Colombo, Sri Lanka. Her work includes teaching, research and training in law relating to women's rights and children's rights.

Knowledge Building Concepts Relating to Gender

Introduction

A person's identity is made up of his or her sex, age, race, caste, class, religion, profession or occupation, political affiliation and a host of other factors. At a basic level a person's identity is decided on biology or nature, in that a person's identity is defined by his or her biological characteristics. 'Sex' marks an individual as a man or woman and depending on the form of sexual organs; a person is classified as a male or female. Further, genetic mutations can lead to transgender features in people that make the distinct biological difference between women and men blurred.

Gender is the next basic factor in the construction of a person's identity. It is also the strongest. It is the social/cultural meaning and values given to sexual differences. Gender is used to describe the characteristics of women and men that are socially and culturally determined. This gender identity is created by the person himself or herself by the characteristics attributed to the person's sex and also by the influences around the person such as parents, family, relatives, friends, through school, the community, race, religion, wider society, the media etc.

Gender differences lead to discrimination based on the unequal power balance between women and men, and those belonging to the third sex. Various interpretations have been given to the word "power". On a personal basis power can be introduced as the ability to fulfill one's objectives or the ability to take decisions in this regard. The ability to make contributions to fulfill one's expected objective not only at home but at every level in the society is also called power. In every society power relationships are built on gender. Hence both on personal basis and general basis power is unevenly divided among males and females.

Females who are considered as a group that has less power than males sometimes do not have power to take decisions even regarding their lives. Providing power to females or vesting power on females is called women's empowerment. The gap between those who have power and who do not have power often paves way for violence against women. Violence is used to control women using the power which is based on the perception that the male is socially, culturally, economically, psychologically and biologically more powerful than the woman.

Traditionally the female is at a disadvantageous position both within the family and in society. The knowledge of this, being sensitive to it and by working to redress it in all structures, laws, plans, policies, human resources development activities, financial and resource management, and the culture of any social institution will pave way for gender equality and women's empowerment.

Expected results

To enable participants to understand concepts relating to gender and gender equality and issues of discrimination and power imbalances that will help promote gender equality.

To understand:

- a. The difference between sex and gender.
- b. Gender stereotypes and resultant discrimination.
- c. How social agents adopt different socialization processes in integrating males and females into society.
- d. The concept of “power” in promoting gender equality.
- e. And work towards women’s empowerment.
- f. Gender based violence and to analyse how the factor of power becomes a reason for violence against women.
- g. To obtain an introductory understanding about gender mainstreaming.
- h. To gain insight into existing international commitments and laws on gender equality and women’s rights

Sex and Gender

Introduction

Every creature in the world is divided as male and female from the birth itself. It is a biological division. Any human being is not able to take a decision on his or her sex. An embryo is created as a result of fertilization of an ovum with a sperm. A woman at a conceivable age ejects XX type ovum. A male's sperm is of two types, XX and XY. When an XX sperm fertilises an ovum a female embryo is created. When an XY sperm fertilises an ovum a male embryo is created. The status given by society to a male and a female based on this biological difference based on sex is called gender. It must be noted here that genetic mutations can lead to transgender features in people that make the distinct biological difference between women and men blurred.

Objective

To understand the difference between sex and gender.

Duration

1 hour

Activity 1

- Distribute blank cards (3" x 4") and pens among all participants.
- Instruct participants to write two special characteristics of a Rose in the cards given.
- Instruct participants to read what was written and place these cards on a flipchart.
- Colour, shape, smoothness of petals, fragrance, and the thorny nature of stems may be characteristics given by nature while beauty, using as the symbol of victory, love and respect may be the characteristics given by the society.
- Explain these characteristics separately and clarify the fact that characteristics given by nature cannot be changed and the characteristics attributed by us may be changed from person to person and society to society. For example while the rose flower may be the most favourite flower of one person another person may consider the lotus flower as his favourite flower.

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Activity 2

- Ask the participants to work in pairs with the one who is seated on the right hand side.
- Give instructions to them to discuss natural differences between males and females and ask each pair to write two characteristics in the cards given.
- Ask each pair to read to the gathering the characteristics written by them.
- There, facts such as physical differences (genitals, moustache, uterus, breast and physiological activities, menstruation, ejection of sperms, reproduction breast feeding) and the differences of physical activities and growth may be presented. Other non biological characteristics such as growing hair long and wearing different clothes may also be presented.
- Differentiate between what is biological and what is not and explain that sex is a biological difference created by nature. (Use Slide 1 and 2)

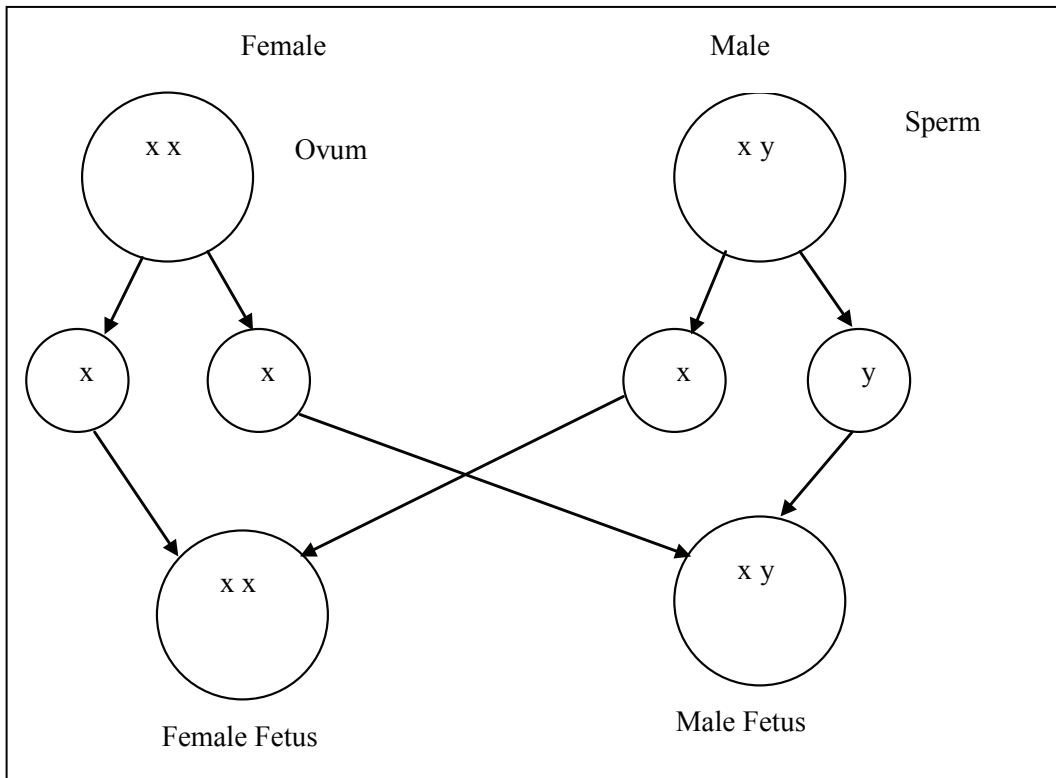
Material

Slide 1

Male – female sex or sexual difference is the biological difference between the bodies of males and females, which is decided from the birth. The most important sexual difference between males and females is the hormone action and the difference of the reproductive system. Female genitals, uterus and breasts are given by nature to the female while male genitals are given to males by it. Accordingly females experience menstruation, conceiving and breast feeding by birth while males experience the production of sperms, ejection of sperms and creation of the embryo. It must be noted here that genetic mutations can lead to transgender features in people that make the distinct biological difference between women and men blurred.

Slide 2

How sexual differences are created (Sex is determined by the sperm of the male)



Source: CENWOR: Beyond the Glass Ceiling, 2008

Explanation:

Sexual difference is a common factor which is universal, unchangeable, not self-determined, devoid of differences such as human race, ethnicity, nationality or class.

Activity 3

Identifying gender

- o Paste two flipcharts on which the two words “Female” and “Male” are written on the back of a white board.
- o Prepare two groups of ten participants each. Give instructions to write characteristics of males and females under the two terms male and female (As they think fit).
- o After that display the two flip charts and read what is written on them to the participants. Characteristics such as beauty, immaturity, prettiness, honesty, kindness, sensitivity may be presented under the term female and while characteristics such as bravery strength, aggressiveness, cruelty, selfishness, ill humour may be presented under the term male.
- o Replace the two terms male and female in each flipchart and explain that there are brave, aggressive, ill humoured and selfish females and kind, patient and sensitive males in the world. Show that these traits may be found in both males and females in a mixed way and their presence in them changes from person to person. Explain that these cannot be generalized as being common to males or females. However, explain that the society has allocated these traits to males and females.
- o Explain that these traits which have been attributed to females and males by society are not common or universal and are changeable from culture to culture, time to time and race to race.
- o Explain that male and female sex is a natural biological creation and gender is a social and cultural creation. (Use slides 3 and 4)

Slide 3

Gender: Males and females have different traits, roles and behaviour patterns which have been created by the society and the culture. These are not biologically created things. When one is socialized there are socially created things named ethics, beliefs and attitudes to be adopted. The position that males and females are entitled to in any society is a creation of the society.

Slide 3

Sex	Gender
✚ Universal	✚ Not universal
✚ Natural creation	✚ Not a natural creation
✚ Biological	✚ A social, cultural creation
✚ Common to all different human races, ethnicities, castes and nationalities	✚ Changes according to ethnicity, nationality and class
✚ Do not change/ are firm / static	✚ Change over time and from place to place
✚ The differences carry a similar value	✚ The differences carry different values

Sex and Gender

Sex is the biological difference between men and women based on their sexual organs. Males and females have different traits, roles and behaviour patterns which have been created by society and culture. These are not biologically created but artificially created by society based on perceptions, ideas and attitudes on what a woman should be and what a man should be. The difference between sex and gender is as follows:

Sex	Gender
✚ Universal	✚ Not universal
✚ Natural creation	✚ Not a natural creation
✚ Biological	✚ A social, cultural creation
✚ Common to all different human races, ethnicities, castes and nationalities	✚ Changes according to ethnicity, nationality and class
✚ Do not change / are firm / static	✚ Change over time and from place to place
✚ The differences carry a similar value	✚ The differences carry different values

The terms sex and gender are often taken by the society as terms with equal meaning. But it is incorrect. Sex means the human difference determined at birth. Biologically all human beings are both with this difference. Not only human but animals and sometimes even plants belong to these two categories. Men and women are born to the world with inherent physical differences. No living being has the ability to decide this phenomenon prior to their birth. Even though the sexes can be changed with the advancement of the modern medical science in rare instances it is a very complex process. Owing to this difference of sex between men and women, changes occur in their bodies, organs, their functions, physical development, voice and etc. This is a natural biological change which is common to the entire world.

All human beings irrespective of differences of complexion, race, religion and caste do experience this difference. Based on this difference of sex the cultures have, since ancient time designed different identities, characteristics, behaviours, roles and even professions. That different socio-cultural state is known as gender. This is not something given by the nature but designed by the society. Gender is common to all women at all times. However, they undergo changes on differences of complexion, community, race, caste, professional class. There are also instances of gender taking different forms in the face of socio-economic and political differences.

According to the definition of Gender of Walter Scott “On the basis of biological difference of sex, the society has designed different social status for them. While these social designs form the base of social relationships, they become the primary factor in describing power relationships in Gender”. Not only every society sees men and women differently, they also assign them specific character traits, roles and abilities. Men are considered as being physically and mentally strong, brave and being able to take quick decisions while women are considered as gentle, childish, beautiful, depending on a man, kind, sensitive and obedient. These male, female identities as well as roles, responsibilities, traditions, expectations and men accents have been separately defined for men and women by the society.

In addition to the role of reproduction society confers on the woman the roles of nurturing and educating children, looking after domestic activities, and even looking after the sick and the elderly. Therefore she is considered more a domestic character. Activities outside the home such as making money, doing business and jobs, common engagements such as political and social activities have been assigned to men leading to him being perceived as a person belonging to the common society. Depending on this difference, the recognition, leadership, resources and opportunities differ. Organisational structures in the family, school, workplace and other institutions too have been framed with these gender power relations as the base.

Gender Stereotypes

Introduction

Society has created not only traits but also different roles, behaviour patterns, vocations, responsibilities, aims, traditions, ethics and speech usages for males and females based on the difference of sex. These differences have been continuing from generation to generation without any change and the aforesaid conditions are considered by many as static as are sexual differences which have been created by nature. A general acceptance is created here that males and females in a certain group of people should have different behaviour patterns, characteristics and traditions. These conditions are generalized by the society and they are based on the beliefs and attitudes which are rooted in the society. These conditions are introduced as **stereotypes of gender**.

An acceptance is created in the society based on the attitudes as to how a female should behave, act, and what traditions, customs should be adopted, what words should be spoken and what clothes should be worn by a female. It is also accepted that a male should have a different approach in that regard. The attitude to the effect that “the true female” or “the true male” should adhere to these social acceptances is built as a result.

Due to the fact that these gender stereotypes are deeply rooted in the society, many do not compel themselves to question them or challenge them. The reason is that they are internalized in the human mind as natural or biological differences between women and men. Therefore, males and females have to make decisions regarding each other’s human relations, expectations, jobs, resources, opportunities, freedom etc. based on the stereotypes of gender. Thereby the independence of the both parties is restricted. However, females become the most disadvantaged due to these stereotypes.

Objectives

- To understand how females and males are given a dissimilar position in the society due to the characteristics, roles, traditions and behaviour patterns that have been attributed to them by society.
- To identify the advantages and disadvantages that males and females experience due to the dissimilar positions they experience in society.

Duration

1 hour

Activity 1

- Division of the gender role
- Distribute cards of two colours (3” x 4”) and pens among the participants. Give instructions to the participants who got cards of one colour to write in them the activities done by women in their houses or work places and ask those who received the cards of the other colour to write in them the activities done by men in the aforesaid places.
- Household activities such as reproduction, nourishing children, activities at home, providing education to children and looking after elders and common activities such as teaching, nursing, clerical work may be presented under the term ‘female’. Household activities such as working as the Chief Occupant, providing protection, earning and maintaining the family and common activities such as management, executive, military, administrative and business activities may be presented under the term ‘male’.
- Allow a few participants to present what they have written. Write the activities which have been presented under the terms ‘male’ and ‘female’ separately on a flip chart.
- Display the aforesaid lists to be seen by the participants and conduct a small discussion posing the following questions to them and making the following comments.
 - o What are the activities that have been assigned to males and females by nature? Can they be changed (Eg. Reproduction, Breast feeding)?
 - o Other household activities (cooking, washing clothes, feeding children, helping children in their learning activities) - can both the male party and the female party do those activities?
 - o Though females engage more in professions such as teaching, clerical work, nursing which are in the common field, can't males too engage in them?
 - o Explain how females engage in professions such as managers, executives, military personnel and astronauts and how males work at a professional level in child protection centres, nurseries, nursing homes, beauty parlours and restaurants. (Through local and foreign experiences and case studies)
 - o Explain the fact even though reproduction and household activities were assigned to the female party and activities in the common field or outside the household were assigned to the male party in ancient times, it has been difficult to divide household roles and common roles as female roles and male roles in the modern context as a result of the social, political, economic and technological changes that have happened in the world.
 - o Similarly emphasize the fact that due to the fact even the female engages in a job outside the household to earn money in the modern world, household activities should be done by the members of the household with co-operation and co-existence.
 - o Explain with examples how the traditional division of roles among the females and males has undergone a change. (Use Slide 1)

Activity 2

Identifying how the female is subordinated by the stereotypes of gender.

- Divide the participants into three groups. Give instructions to each group to have a discussion of 10 minutes under following three topics.
 - o Different traditions, beliefs and expectations related to males and females.
 - o Dissimilar freedom, opportunities and resources received by males and females.
 - o Dissimilar recognition, social respect and leadership received by males and females.
- Write the facts highlighted in the discussion in a flip chart and give instructions to present them to the participants through a group leader.
- Conduct a short discussion regarding the aforesaid facts. Explain with examples in the discussion how the roles of males and females their behaviour, activities, expectations, clothes beliefs change with the changes in the society. Explain that a male who behaves flexibly and sensitively is still called “female man” while a female who behaves bravely and boldly and takes quick decisions is called ‘an iron lady’ by the society irrespective of the fact that such changes have occurred.
- Explain the manner in which a change has occurred in the lives of males and females and the expectations of the society have changed as a result of the rapid growth in sectors such as education, technology, communication, transport and health.
- Explain that even though such a change has occurred in the common field, the female is still given less freedom, less property, fewer opportunities in decision making and her work is underestimated within the household.
- Explain the fact that even the birth of a female child is underrated in many societies, female embryos are destroyed, restrictions are imposed on the lives of female children, traditions such as (examining virginity, negative attitudes borne towards females who have not been given dowries, who have become widows or who are infertile) are adopted and women are made undergo more stress, exploitation and violence within the household.
- Pay attention to the facts that even though females engage in higher professions in the common field, they are still receiving less recognition when compared with males; they are paid less salaries; they have to work more hours; they have less representation in decision making; they receive less promotions ; they undergo more sexual abuses and more exploitation.

Activity 3

Advantages and disadvantages males and females receive due to gender stereotypes.

Some consider that gender is a condition which is confined only to females. It is false. As a result of being confined to limited scope not only females but males also undergo some disadvantageous situations. Gender stereotypes have been created through the agreement of the majority with regard to the characteristics, tasks assigned, responsibilities, customs, clothes, language usages, desired aspirations which a majority of the society has decreed that a male and a female should have based on gender. These stereotypes are not based on the characteristics of persons, their abilities or skills. However, the male party and the female party identify each other based on the aforesaid stereotypes and power relations are created between males and females.

As the female undergoes a disadvantaged position, more attention is paid to the female party when discussing about this concept.

- Divide the participants into four groups and assign the following exercises to them.
 - o Advantages received by females due to gender stereotypes
 - o Disadvantages that the females undergo due to gender stereotypes
 - o Advantages received by males due to gender stereotypes
 - o Disadvantages that the males undergo due to gender stereotypes
- Give instructions to conduct a discussion about the topic assigned to each group (15 minutes) and write the identified facts in a flip chart.
- After the groups present their findings through a group leader and paste the flip charts to be seen by the participants.
- After the discussion, explain further with examples the situations which are advantageous and disadvantageous to both the male party and female party.
 - o Advantages received by females: Ability to become flexible and sensitive, maintaining the family, taking decisions in the place of work, not having management or executive level responsibilities, protection from males, affection of children and having close relationships with them and stress being at a minimum level.
 - o Disadvantages that females undergo: Obstacles to work independently, less freedom, less resources and opportunities, deviating from religious and social activities due to higher load of work within the household, restrictions false beliefs etc. restrictions on some jobs, less social recognition and less respect
 - o Advantages received by males: More freedom, more resources and opportunities, more social recognition and respect, chief occupancy, leadership, representation, representation of the generation.
 - o Disadvantages received by males: More responsibilities (within the household and place of work), more tendencies to catch non-communicable diseases due to stress (high blood pressure, heart attacks etc.) less opportunities to become a sensitive person

- Discuss the fact by undergoing certain restrictions upon gender, the ability of working independently by both parties is disturbed and these restrictions can be ignored if one's objectives are fulfilled in a manner in which the society and himself are benefitted whilst the rights of others are respected.
- Explain the manner in which one should work independently having built up self reliance in him and subsequently make influence to effect an attitudinal change in the members of his family, work place or school for it.
- Also discuss the manner in which influence should be made as a group to change such attitudes, traditions and rules through changes on principles without being restricted to the aforesaid course of action.

Handout

Gender Stereotypes

A set of socially generalized acceptances beliefs and attitudes such as what characteristics, traits, behaviours “true woman” or “true man” should possess and what roles they perform, what traditions they uphold, what kind of dresses they wear (to be “true”) are known as Gender Stereotypes.

Society wants men to be strong, brave, hard, hearted, intelligent, aggressive and to be able to take quick designing. They are registered as “qualities of men”, while it wants a woman to be childish, sensitive, kind, obedient, beautiful and peaceful which it calls “qualities of women”.

These social stereotypes are expected from both men and women and play a role in acquiring roles professional and opportunities. Most men and women tend to look at them within the confines of these unequal parameters made by the society. These parameters make the people to think in lives of the generalized norms of the society to perform the rules expected by the society and uphold the values inherited from the society. If a person thinks outside these contours he becomes a subject of social rejection. Even though women face disadvantages as a result of being confined to these gender stereotypes, men too are not totally free from it. If a man behaves greatly, kindly and sensitively he is identified in way that denotes the man is like a woman. Men also run the risk of being afflicted with stress, contagious diseases as a result of having to shoulder more responsibilities at work place and home.

Even though these social beliefs, values and attitudes have created unequal situations for men and women, a study conducted by Margaret Mead in 1985 revealed that there should be no such socially defined differences for men and women. According to her these social stereotypes are designed by the process of socialisation. Even though there have been quite a lot of opinion and studies being conducted to counter this notion, no clear conclusion has been arrived at to register the opinion that there is no natural difference between men and women other than the difference of sex.

A number of studies into the behaviour of men and women have been conducted in 1974, 1950 and 1960. The finding of those studies was also that the basic reason for this difference was the process of socialization. Sociologists hold the view that people and their various roles are organized and designed by the society in different ways and as a result male and female traits, roles and behaviour vary.

Gendered Socialization and its Agents

Introduction

Socialization is the integration of a person into society. In other words it means learning from society various things such as customs of the society, traditions, what is good and what is bad, how one should conduct himself, duties expected from society and what society expects from people, responsibilities and rights. Attitudes, beliefs, ethics, expectations and behaviour patterns are formed by the learning, experiences, examples and understanding received from the society. This process of teaching and training has existed in society in a disproportionate manner when it comes to gender differences.

Due to the fact that reproductive activities are largely assigned to the female, the woman is expected to attend to all activities of children, nurturing and care giving. The woman has to be protected. These types of social teachings over the generations have kept women confined to the household.

In contrast such teachings contain attitudes such as the male is strong and he is able to work outside the household; he is free and independent; he can provide protection to females and children; he can maintain the family.

This disproportionate integration of males and females into society is called gender based socialization. Gender based socialisation continues in the life of a human being from birth to death through a number of agents such as family, educational, institutions, religious institutions, state, government, political parties, trade unions, influential groups, community organizations, peer groups, neighbours, friends, place of work and media. Different characteristics, roles, behaviour patterns, expectations, traditions, ethics, beliefs on ethics and attitudes become ingrained in the minds of the majority of males and females.

Objectives

- To understanding the socialization of males and females
- To identify social agents that contribute to that process of socialisation and create disproportionate social situations for males and females.

Duration

1 hour

Activity 1

Identifying the agents of the process of socialization and their contribution.

- Divide the participants into 9 groups and give instructions to them to discuss the contribution made by the following nine institutions to create gender.
 - o Family
 - o Educational Institutions
 - o Religions Institutions / Leaders
 - o Media
 - o State, Government
 - o Political Parties / Trade Unions
 - o Influential Groups / Non – Governmental Organizations
 - o Places Of Work
 - o Peer Groups / Friends / Neighbours / Relatives
- Give instructions to write the contribution submitted in the discussion in flip charts.
- Request a group leader to present the findings.
- Conduct an analytical discussion regarding the contribution of agents to the socialization process considering the following facts along with the aforesaid facts.
- Explain that due to the fact that we also contribute to gender based socialization, a change can be effected in that process through an attitudinal change in all of us using the following:
 - o Family: A different kind of a recognition given even prior to the birth, different attitudes regarding the selection of pink or blue colour after birth, selection of toys, sports, freedom, sports, different expectations of the family from male and female children, providing land and other resources, job, selection of the partner for marriage, taking the important decisions of the family, chief occupancy, family name, inheritance.
 - o Educational institutions: Different syllabuses for male and female children, sports, sports rules, opportunities, leadership, providing traditional attitudes to the future generation from formal education.
 - o Religious institutions: Restricting the opportunity of working as priests, highest emancipation, noble religious rites to the male party, obstacles to women to enter into some places of religious worship, restrictions on clothes and ornaments, considering masculinity as noble, the influence made by some religions to somethings which are close even to personal life such as marriage, divorce.
 - o Mass media: Confirmation of traditional attitudes by most of the print and electronic media (eg: The household roles of the females, ill-treating females, exploitation, household violence etc) and traditional roles of males (eg: Leadership, taking decisions, power, authoritative position etc).

- o State / government: Incorporating traditional attitudes and beliefs into the syllabuses of formal education, different laws to males – females (eg: Laws relevant for protecting females sexually from males,) and laws which impose restrictions on the freedom of females, control made by relevant law over the personal lives of females (eg: Forcible family planning systems, prohibition of sterilisation surgeries and abortion). Conveyance of state lands to the eldest male child of the family as per Irrigation and Land Ordinance, less representation of females at decision making level.
- o Political parties / Trade unions: Representation of females is not sufficient in the structure, at decision making level, policies, publications, seem to be male dominated, spread of the attitude that females are not as suitable as males for leadership. Male leadership does not listen to the voice of females. However, their contribution is obtained assigning them secondary level activities.
- o Influential groups / Non-governmental organizations: Structure, leadership and decision making are male dominated. The names in which meetings are held are not suitable to females. Females are encouraged in doing activities at lower levels.
- o Place of work : Disproportionate laws and policies for females, Disproportionate salaries, the majority of the males get involved in decision making related to matters such as disciplinary regulations, traditions, uniforms, division of work, behaviour patterns. Building up informal networks, disproportionate opportunities for recommendations, promotions and trainings, power relations in a male centred environment, sexual abuse and exploitation of females and undergoing stress.
- o Peer groups / friends / neighbours: Traditional attitudes based on gender are confirmed in school and in neighbour and friendly groups.

Gendered Socialisation

Socialisation is integrating a person into the society. In other words it is the process of a person learning the traits, behaviours, roles and traditions appropriate to him. From the birth to the death of a person socialisation takes place and each generation inherits the traits, behaviour roles and responsibilities from their predecessor.

Human beings are born as male and female but it is through the process of socialization that they learn how they have to act as girls and boys; women and men. During this process many things are taught to children or they themselves learn by initiating the members of the society. In these process unequal attitudes, beliefs and values develop in them. They get so deeply internalized that the young begin to believe them as natural. Assigning males and females varying behaviour, roles and traditions is known as Gendered Socialisation.

Because of these things learnt from the society they establish the fact that those varying roles and identities suit them. Socialisation takes place on social expectations and they differ on grounds of race, ethnicity, religion, complexion, caste and class. On this difference, the roles being assigned to different sexes by the society too differ. For example the situation if women in the society many years ago has now changed. She now enjoys more rights pertaining to education, employment and property rights as a result of which the woman has emerged as a talented and able person who can take decisions both within the family and the larger society. However, it is noteworthy that all women still have not reached this level. The reason for that are the traditional attitudes, values, beliefs and traditions that have percolated down from generations through the process of socialization.

References

Liyanage, K. and Walakaluge, S. (2006). Traditional studies and adaptations based on matters such as taking leadership, conduct, division of work, clothes and ornaments and tradition.

Power

Session 4

Introduction

It is difficult to provide one precise definition to the word “Power”. The reason is that the power of each person is identified and exercised in various ways and there is diversity due to this reason. However, power can be simply defined as the ability or strength to do something. It contains the ability to take some decisions, to do some act or to make influence to get it done through some other person. Power can be classified in various forms as per various points of views as physical power, mental power, economic power, political power, social power (families, education, caste etc.) and the power of posts. However, the common expectation of exerting power is to fulfill one’s objectives or wishes.

Objectives

- To provide understanding that the word “power” has various meanings
- To ensure understanding of its common simple meaning
- To identify sources of power and various ways in which it is used

Duration

1 hour

Activity 1

What is power?

- Distribute 4’ x 3’ cards and felt pens among the participants.
- Display the word “power” on a flip chart.
- Give instructions to write on the cards in big letters the impression, attitude or opinion that participants felt when they saw that word (One idea in one card using 5-6 minutes/ one participant can write more than one idea).
- Give instructions to display the cards by pasting them on a flipchart or on the wall.
- Conduct the discussion having understood the fact whether the opinion of the participants regarding “power” is positive, negative or moderate ?
- Do not comment on the accuracy or inaccuracy of the aforesaid ideas.
- Conduct a discussion asking the following questions.
 - o Is this idea positive, negative (eg. acts of thuggery, threatening) or moderate as you think?
 - o What do you identify as “power” ? (Eg. Taking decisions, obtaining more resources)
 - o How was “Power” used / applied as you see?

Emphasize the fact that these comments made by participants change as per the manner in which they were presented, the manner in which they were understood, the manner in which experiences were obtained and the manner in which the concept "power" was looked at and such a change is a normal thing. However a common meaning / definition should be provided to the word "power" through the aforesaid diversity.

Activity 2

Power relationships which affect decision making.

Case studies and small group discussions

Explain the activity clearly.

Any person has to take various decisions in his daily routine (home, office, place of work). Such decisions affect not only him/her but also others. (Eg. decisions such as who shall prepare the dinner today, who shall bring child from school, who shall write the report in the office). Some of these decisions are common in day to day life. Some other decisions are exceptional. Eg. What school should the child be sent to after Grade 05 is an exceptional decision. Explain that an understanding could be obtained through this activity regarding the decision making process, participating in it and how power connects with it.

Explain the fact that this activity is called "STAR" and it is used to analyse various aspects of a case study.

Slide

STAR structure

- S - Situation
- T – Task

Eg: Who got involved in the incident? Why did that incident occur? When did that incident occur?

- A - Action
- R – Results

Eg: What is the result of the action? What was the decision taken? Why was such a decision taken? What are the positive and negative results of the decision?

Source: Cabbab,et.al.2002

To use the STAR format to analyse, use the following case study.

Kanthi is a university lecturer. Aruna, who is a bank manager, is her husband. These two have two school aged children. One day, Kanthi had to attend a two day seminar at a remote place outside the university. Kanthi informed this to Aruna in time and asked him to attend to the affairs of the two children at home as she has to be away from home for 2 days. Aruna got up early in the morning on these days on which Kanthi was not at home, made children get ready for school, prepared their breakfast and accompanied them to the school van. After school, children were sent to his mother's place and he took them home back at about 5.00 in the afternoon. He went to the town with the two children for dinner and had dinner happily. Even in the following morning he attended to the affairs of the two children and home like he did on the previous day.

- Explain to participants the manner in which a case is analysed using the STAR structure below.

Slide

Sample : STAR Structure Analysis	
• Situation	<ul style="list-style-type: none">- Mother is a lecturer- Father is a bank Manager- Children go to school
• Task	<ul style="list-style-type: none">- Mother has to attend to a seminar- Affairs of the household and children are assigned to father
• Action/Decision	<ul style="list-style-type: none">- Father prepares meals- Sending children to school / Bring them home back- Taking children to the town for dinner
Results	<ul style="list-style-type: none">- Mother could attend the seminar successfully- She did not have to worry about household affairs or children's affairs- Father and children get used to attend to household activities, understand the value of those activities, build up the confidence that they can attend to these activities independently when mother is not at home- The relationship between father and children is more strengthened.- Has enjoyment, pleasure

Source: Cabbab,et.al.2002

- Divide participants into small groups of 5 – 6 participants and allocate 15 minutes for them to analyse the relevant cases. (As per STAR Structure) (using Case studies 1,2,3,4 below)

Case Study 1

Sachini is a grade 2 student. A number of students in her class contracted viral fever last week and Sachini too was sick last Wednesday and came home with a friend of hers. At night her parents took her to a doctor and took medicines. But the following morning once again she was sick and could not go to school. Sachini's father is a teacher and mother is a clerk. It was essential for one of the parents to remain home with Sachini. Father said that he couldn't remain since there was a special function at school. Mother stayed home by obtaining a leave since she only had ordinary office work for the day.

Analysis

- ✚ Sachini is a grade 2 student. Her mother is a clerk and father is a teacher.
- ✚ Father could not stay home with Sachini as he had some special duty at school and asked to stay with Sachini.
- ✚ Mother stays home with Sachini
- ✚ Mother's office work piles up while father attends to work at school.

Case Study 2

The Ranasinghe family has 3 children. Ranasinghe made a living by cultivating a plot of land of nearly one acre extent and he too died a year ago. The eldest of the three is a nurse (daughter Chamila). She is married and lives outside the village. Elder son (Dhanushka) attends to the cultivation while working in a factory in the town. Younger son (Indika) is a teacher. He is married and lives in the town. After the death of the father, Indika proposed to sell the farm land. Chamila too agreed to it, but Dhanushka said that he and his children could look after the work of the land as his father did. He proposed to share $\frac{1}{2}$ the income of the land with the brother and sister. Everybody agreed to that.

Case Study 3

Chandrasena works as a security officer attached to Simline Garments Factory. One day the son of a Member of Parliament entered the factory in his luxury car. He tried to park his car in the slot allotted to the Manager's car. Chandrasena then requested him not to park the car there. But the son of the MP disregarded that request and parked the car there saying that he had come for an important discussion with the Manager and entered the building.

Case Study 4

Sandamali has worked as the Secretary of the principal of a Vocational Training Centre for 6 years. Two weeks ago an MP called and asked for an appointment with the principal. The appointment was set at 2 p.m. the following Tuesday and Sandamali informed this to the principal. The principal however had to go to Colombo for an official matter on that day. The principal asked Sandamali to inform the Deputy Principal to meet the MP. As planned the MP visited the school. Sandamali explained the situation and accompanied the MP to the Deputy Principal.

- Give instructions to discuss the aforesaid analysis within the group and write the identified facts on a flip paper under the STAR structure.
- Provide time to the other participants of the workshop as well to discuss about the facts highlighted in this presentation of the aforesaid facts.
- Following this, conduct a discussion asking the following questions
 - o Who took in decision in each case?
 - o Who made the biggest influence to take that decision?
 - o Who was under the influence of some other person when taking that decision?
- Write the names of the relevant decision makers in regard to these cases on the white board.
- After that encourage participants to comment on the manner in which each person participated in decision making, the manner in which influence was made, nature of the case and characteristics of the person etc.
- Write precisely on the white board the characteristics of the decision makers, the manner in which influence was made, and the manner in which the decision was taken in the backdrop of the aforesaid facts.
- Deliver a brief lecture on the concept of “power” using the following ideas in the slides.

Slide

- Relative power - The power that one person has in comparison to that of the other.
- The power that one person has to control other.
- The power that one person has to take decisions about the other.
- The power to take decisions for oneself ignoring the opinion, idea or decision of the other.

Slide

The factors which decide power

Non- Biological	Biological
➤ Education, knowledge	➤ Sexuality
➤ Technological and other abilities	➤ Race
➤ Ability to obtain information	➤ Ethnicity
➤ Close relationships with those who have power	➤ Age
➤ Designation / Post	
➤ Property / assets / income	
➤ Human rights	
➤ Powers granted by state law	
➤ Cultural /ethnicity	

Slide

Human rights are a source of one's power.

- ✚ That all are equal before law – power to be protected by law
 - ✚ Right of expression
 - ✚ Right to peaceful assembly
 - ✚ Casting vote and participating in other political activities
 - ✚ Collecting property by engaging in a righteous occupation
 - ✚ Getting education
- o Emphasize more on the ability of taking decisions which affect one's life, the ability of making influence on others who take decisions which affect one's life, his children or the status of this family or the ability in actively participating the aforesaid decision making process.
 - o Explain the manner in which some persons especially make influence knowingly or unknowingly in taking decisions which are related to the lives of females.
 - o Decision making ability / power is different from person to person and occasion to occasion. Similarly it differs on personal relationships as well.
 - o However all human relationships are based on power (Eg. In all relationships such as husband - wife, parents – children, teacher - students, ruler - subjects, doctor – patients, the relationship between the two parties is decided on the matter whether there is more power or less power)
 - o The power vested in each person when making influence in regard to the decisions or activities of another person is different (Eg. The fact father has more power in a family)

Activity 3

Identifying various methods of applying power

Role-plays and small group discussions

- Divide the participants into groups of 5 – 6 members. (It is important to mix into groups the participants who were not put into a group earlier.)
- If there are 30 participants prepare six different kinds of cards each five cards having the picture of a similar kind of a fruit.
Eg. Mango - 5 cards, Orange - 5 cards, Rambutan - 5, Mangosteen – 5, Banana - 5, Pineapple - 5 etc.
- Mix the aforesaid cards and distribute them among the participants. Those who got a similar kind of fruit have to form one group.
- Provide a simple definition to the word “Power” using the slide below.

Slide

Power is:

- The ability to get one's expected activity carried out successfully or the ability to take a decision.
- The ability to win the expected objective / aim / result.
- The ability to make influence successfully on a decision taken by or an activity done by some other person.
- The ability to participate in the process of dividing resources / make influence in that regard / obtain resources.
- The ability to participate actively at all decision making levels in the family or common institutions.
- Next assign to each group a character which demonstrates a method of applying power (Use the Role play below)

Role play

Characters of using power.

Character 1 - Badra is 43 years old mother of 3. She is a nurse. Her husband is employed and comes home once in three months. The servant does domestic work from Monday – Friday. She takes leave at weekends. Badra has to work at the hospital at weekends once a month. But she helps the school work of her children at night. Older children (14 & 16) does domestic work such as cleaning, watering the plants and etc., She gives rewards for such work. At weekends she asked her elder son to look after the younger one (9) and promised him a pair of shoes. Badra relates stories to the youngest child until he sleeps in order to avoid the studies of the other two children being disturbed.

Character 2 - Chandani is 38. Her husband died 4 years ago. She left her 9 month old child with her parents and went to the town to work as a housemaid. She comes to her parent's house only once a month and gives money to parents to look after the child. As she has worked in that house for 3½ years honestly the owners of the house treats her well. The 3 year old child in that house, Chamika, is very close to her. One day, Chandani got to know that her child fell terribly ill. Even though the members of the House, in specially Chamika found it difficult to manage without Chandani, she went to see her child.

Character 3 - Vinitha is 53 years old and is a principal of a girl's school. She had to select a teacher for a very important one month training. The training is outside the school area and is during the vacation. Three senior teachers in the school apply for this. The principal decides to select one at an interview. The senior most teacher tells that he will apply for a transfer to a national school after the training. The junior teacher says that he plans to apply the knowledge of the training at the school. The principal selects the junior teacher.

Character 4 - Sujatha becomes the Head of the Department of Sociology in the University. A middle aged lecturer in the university starts harassing a junior female lecturer, name Mala in her department. It was revealed that this lecturer criticizes Mala's way of walking and her hairstyle and steals her documents. Even though Sujatha discussed this matter with 5 senior lecturers they came up with no solution. One day this matter was discussed in the presence of all lecturers Sujatha explained that no one can be subjected to harassment or discrimination on the basis of seniority. She also said that harassing one particular woman is "a sexual" offence. But the particular lecturer says that the word "sexual" is low and nothing "sexual" took place and asked her to withdraw that word. But Sujatha defines that word. The particular lecturer suddenly stands up and walks out saying that he has a lecture.

Character 5 - Jalani is an Advanced Level student. She wants to be a fashion designer. But Jalani's father wants her to become a doctor. Jalani's mother gives her the option to select what she likes. Father stresses that she becomes a doctor and promises her a car if she so becomes. Jalani says she likes Mathematics. Jalani asked her father why he did not become a doctor despite all facilities and resources being provided to him by his parents and requested her father to allow her to pursue what she likes.

Character 6 - Punya has been an active member of a majority political party for 15 years. During election time she actively campaigned for the party. She receives instructions for that from a women MP of the area. This MP referred Punya to a formal training programme too. Punya wants to contest the next local government election. She becomes even more active in social activities in the area. Having forwarded an application to contest the local government election, Punya faced two interviewers. Her educational and other qualification are commended at the interview. A function to coincide with the International Women's day was organized in her area and she invited the leadership of the party to the function. At that function too Punya's involvement was commended. But the party organizer of the electorate opposed Punya's candidature. By then she had prepared everything to contest. Owing to this situation a problem crops up between the organizer and the party leadership. But the leadership keeps quiet because of the threat of the organizer to resign from that post. However, at last Punya joins a minor political party and contests the election.

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- Give instructions to one member of the group to act out the given character (after a preparation of 5 minutes)
- Give instructions to the persons who act out roles not to inform other members about the characters they act out and not to change the characteristics included into the character.
- Give 5 – 7 minutes to do a role-play
- Inform the participants to find answers to the following questions while watching the role plays done.
 - o What is the power source of the character which was acted out ?
 - o What is the important decision that the aforesaid person took?
 - o How was power used to take that decision?
 - o Was the matter discussed with the group before taking the decision?
 - o Was a decision taken single handedly ?
 - o Was a person who had a different decision influenced ?
- After the role play reemphasize the fact that power is the ability to take some decision, to do some task or influence the decision maker.
-

Show that power changes from person to person and occasion to occasion as well ,as per it sources and the manner in which power is used. Deliver a short lecture about it using the following slides.

Slide

- Different people apply power in different ways. As per the manner in which power is applied in different relationships it can be categorized in the following ways.
- Coercive power, Autocratic power
- Transactional power
- Position centred power
- Even sources of power change as per occasions and person. (Eg. The post held, social status, Age / Seniority, Experiences, Educational qualifications, Technological knowledge and Informal human relationships etc.)
- However, explain the fact working with a certain precise vision with a firm self- confidence and firm will power by oneself to an objective of his is also a source of power.
- It is a usual practice in power relationship that the person with relatively less power accepts the power of the person who has more power. However, in case such two parties work together it is essential to identify and accept each other's power precisely.
- The person / persons or parties who reached at a decision or performed some act using power should essentially be responsible for that decision or act ultimately.
- After this lecture instruct that groups that did role plays to form the groups again.
- Give instructions to them to discuss the following questions within the group. (7- 10 minutes)
 - o How is power?
 - o What are its sources (post, age, etc)
 - o What was the manner in which power was used.
 - o Did the relevant character use power in a similar or different manner / manners as was described in the lecture ?
 - o What was the outcome of applying power ?

Slide

- ✚ Coercive, Autocratic power
 - o Control the other person or taking decisions for him using coercion or threat
- ✚ Transactional power
 - o Providing payments / gifts / bribes to the other party and applying power through it. (Payments such as bribes, which are illegal)
 - o The person who applies power becomes unexpectedly popular temporarily.
- ✚ Position centred power
 - o Use of power in regard to a position based on the relevant laws, regulations and also equity, ethics and evaluation. Obtain the involvement of the persons related to the decision/ task concerned.

- After that write the facts which were found on a flip chart and submit them to the gathering through a group leader. (Five minutes for one group)
- After this presentation provide opportunity to the other members of the group to submit their questions and ideas. (10 – 12 minutes)
- Due to disproportionate gender based relationships females have less power in comparison to males in a majority of societies. Emphasize that due to the fact that the male is entitled to resources, social recognition, freedom and opportunities traditionally, the male is vested with more power in power relationships in the society.
- Submit a summary of the opinions expressed in regard to the concept, “power”. Who are vested with relatively more power in traditional societies. What is the reason for it ? Also briefly explain how that situation has changed in the modern society and end the session.

Handout

The Concept of “Power”

It is difficult to give one specific definition to the concept of “power” as various people identify and execute power in different ways.

“Power” can simple be defined as the ability to do something. If it is to be defined a little more broadly, it can be explained as the ability;

- ✚ to accomplish a task expected of a person or to take decisions, to achieve the expected objective/aim
- ✚ to successfully influence a person in a decision to be taken by him /her in a task to be performed by her/him
- ✚ to involve in or influence the task of the distribution of resources
- ✚ to be actively engaged in taking decisions pertaining to him in the private or public domain at all levels.

There are four aspects of “power”

1. The power of a person to control another person
2. The power and person has in comparison to another person
3. The power one has to take decision over another person
4. The power to take decision about oneself disregarding the view / opinion of the other person.

Two factors basically decide power they are; Non Biological factors (Education, knowledge. Technical and other abilities, position, close relationship with persons with power, human rights, laws); Biological factors (sex, complexion, age etc.)

Human rights have been guaranteed to every human being equally by law which provides human beings the opportunity of enjoying various freedoms, rights and resources. Everybody gets the right to be treated equally the right of expression, right of peaceful assembly, right to engage in political activities, to engage in a good employment, to obtain information, to receive education and acquire property before the law. Through these rights a person can get power through a number of ways. Power differs from person to person, situation to situation and the manner it is used and its source.

This can be categorized according to the manner in which power is used in human / social relationships. Forceful or dictatorial power or exerting power through threat, undue use of power, transactional power (allowances, gifts, bribes) Power that is centred on policies (relevant laws, policies, regulations, values, assessment, fairness)

According to concepts of Gender, more power has been vested in males than in females and according to social customs and restrictions males enjoy more freedom, more rights, more opportunities and more resources. In this context, men who wield more power often harass, exploit or victimize women or perpetrate terror on her. The class that wields more power harasses the class with less power and similar to that powerful communities harassing less powerful communities, elders harassing less powerful young and the powerful rulers harassing the ruled take place everywhere. If the power of a government, family or institution can be maintained in a balanced manner even to some extent, every member is benefitted.

References

Karl, Marilee, (1995) Women and Empowerment: Participation and Decision Making, London and New Jersey: Zed Books.

Women's Empowerment

Session 5

Introduction

The term “empowerment” was commonly used after 1970s but it is very rarely that a precise definition has been given to the word. Long before the word ‘empowerment’ became popular, the concept was discussed in gender studies that looked at the ability that women should have to control their lives and their ability to take decisions which affect their lives within the household and the society. The core of these opinions was incorporated into the term “empowerment” and its general meaning is the ability to control their decisions and take decisions which affect their lives.

Objectives

- To understand the meaning of the word “empowerment”
- To identify the process of empowerment
- To understand the cycle of empowerment

Activity I

To understand the meaning of the word “empowerment”

- Distribute 4”x3” cards and pens among all the participants.
- Give a period of five minutes to them to write simply and in short the meaning that they sense from the word “empowerment”
- Provide each participant the opportunity to submit to the gathering the meaning written by him/her and write them on a flip chart. Do not rewrite the same meaning and be restricted only to basic meanings.
- Analyse the similarities and differences of the aforesaid meanings and allow the participants to obtain a precise understanding in that regard.

Activity 2

A short lecture on “empowerment”

Submit various definitions that can be given to the word “empowerment” using the following facts on slide.

Slide

As per UNIFEM guidelines on women's empowerment is:

- ✚ The ability that a person has to take decisions which affect his/her life and control her/his life. That broad sense implies the ability to be representative in all institutions at the decision making level and participate in the distribution of resources.

Source: Commonwealth Secretariat (1999) A Quick Guide to the Gender Management System, Commonwealth Secretariat.

Empowerment is:

- ✚ Obtaining a precise knowledge and understanding regarding gender based relationships.
- ✚ Inculcating self contentment by oneself through the thought that he/she is a useful person.
- ✚ Obtaining the ability to decide what actually is suitable to oneself.
- ✚ Obtaining bargaining ability.
- ✚ Obtaining the ability to develop one's status, to make influence to effect a change in the society and be organised for it.

Source: United Nations Development Fund for Women (2000), Progress of the World's Women 2000, New York: UNIFEM.

- Discuss.
 - o According to this definition women need time and opportunities to re-examine their lives and experiences and inquire into them comparatively , analytically personally and as a group as well. For that a precise understanding is required in regard to gender, changes in the status of females against males, and the factors which have caused such changes.
 - o The common situation in the society is internalized in many to the extent that they grasp it as the normal situation. Hence social activists community organizations, government and non-governmental organizations and international organizations are able to inquire into it having raised questions, create the necessary atmosphere for it and originate it in females.
 - o The term “empowerment” was defined in a more extensive manner in the workshop named “Women Development and Empowerment” which was held with representation of Asia and Pacific countries.
 - o As per this definition empowerment means “examining the status of women in a analytical manner getting away from the traditional style of thinking and obtaining a better understanding over it and obtaining power or ability to remove other's control over their lives and take those decisions by themselves”.
 - o In addition to that this definition emphasizes the power for gender equality in the form of the ability to obtain a similar recognition and respect to males and females within the household and common field, make a similar contribution and make representations in decision making at all levels.

Slide

Empowerment means

- o the ability to provide a meaning to the status that women are entitled to, based on gender based approach.
- o the ability to make a voice for them and create a situation in which others listen to it or pay their attention to it.
- o The ability to control their life.
- o the ability to make influence on the decisions which affect the whole society and have the ability to make representations on behalf of their group in taking such decisions.
- o The right to be recognized as an equal human being, citizen, to receive respect and the right to make an equal contribution to the development process and the power or ability to get opportunities

Source: Griffin, Vanessa (ed.) (1987) Women, Development and Empowerment: A Pacific Perspective Kuala Lumpur: Asian and Pacific Development Centre.

- All these definitions lead to the common meaning that providing power or ability to a person or group who have less or no power is called “empowerment”.
- Discuss as a presentation.
 - o The word empowerment has been very popular in the dialogue on “development” since 1990s. The term is used in regard to especially the disadvantaged groups/ women in developing countries. Accordingly the common theme of the word empowerment is power. It is accepted here that all factors such as personal lives, experiences, sentiments, personal activities, the manner in which social institutions and structures have been formed are based on power. (Kabeer, 1994)
 - o Women are considered as persons who have less power when compared with men and empowerment expects to build self confidence in them in regard to their power, reject traditional power relationships and effect a change in the lives of females as well as social relationships and structures through it.
 - o In the initial dialogue on power attention was paid only to approach of “control”. The ability or control over implementing the decision of one person on another person without paying consideration to his rejection of it has been defined as power. (Weber 1978) This is considered as coercive power or autocratic power which is spread by one person on another person (power to power). However this is defined as an extensive meaning in the modern dialogue on power.
 - o Even though women have not precisely understood the power that they have within them, building self confidence in them in regard to the power which has been concealed in them so far and building up the ability in them to obtain power analytically questioning the existing the situation and challenging it, is called empowerment of power within.

- o Obtaining the aforesaid abilities / power by women acting as a group is also called empowerment of power within. Provision of certain abilities / power to women who were a group that was entitled to less or no power for generations and effecting change in gender based relationships and structures in the society through it is done by empowerment of women.
- o As a result women and men both make an equal contribution to the activities of the household and common field and men do not dispossess their power due to empowerment of women. However, suffering that women have undergone due to the domination of men on women comes to an end. Both men and women are entitled to the right of taking decisions regarding their lives.

Activity 3

Identifying various approaches and process in empowerment

- Provide five minutes to participants to internalise the definitions of empowerment described above.
- Provide five minutes to discuss questions participants may have on the definitions.
- Divide the participants into small groups of five members in each group.
- Prepare 30 cards 06 colours each five cards having one similar colour or prepare cards having pictures of birds or fruits as is described above. Mix them and divide them among the participants. Participants who have similar colours / fruits / birds should make one group.
- Give instructions to discuss the manner in which the member of their own group could be empowered and write those opinions in a flip chart.
- Conduct the discussion through a group leader. (Provide 20 minutes for this)
- Ask the Groups to present facts identified by the group through a group leader. (10 minutes for each group)
- Discuss about the empowerment process using the aforesaid facts.

Activity 4

Discuss various approaches of empowerment using the slide below

Slide

- It was a very popular measure in 1990s to give priority to empowerment of women in many development projects.
- According to Kate Young (1993), at the beginning empowerment was used on the approach of developing the mentality of dependence on one's abilities for entrepreneurship. According to Young what was more obvious from it was difference between personal ethics and attitudes. However, Young states that the approach of developing people's participation in development process and in decision making was also used for it subsequently.
- The study named "Empowerment of Women in South Asia" (Batilawala, 1993) indicates that both these approaches are used in South Asia in development activities.
- Activities such enhancing the status of women by connecting them to jobs / economic activities, providing opportunity to them to obtain wealth and resources and developing the living conditions of women through rural development programmes are included in the first approach.
- Activities such as the enhancement of the literacy and education level of women, provision of things required for the fulfillment of basic needs and birth control are also related to the second approach. Educating women by developing their knowledge and understanding and empowering them through the enhancement of their capabilities, skills and leadership qualities are the acts included in the second approach.
- This second approach influences change in the disproportionate gender based power relationships prevalent in the society and helps enhance the participation of women in decision making within the household and in society (Batilawala, 1993).

Activity 5

Identifying the process of empowerment

- Provide five minutes to participants to discuss in pairs where they should commence their empowerment and the manner in which it should be done.
- Provide 3 – 4 minutes to each pair to comment on where they should commence empowerment and the manner in which it should be done.
- Summarize the aforesaid ideas in flip charts. Each pair may contribute different ideas depending on the difference of participants' knowledge, capability and leadership etc. For example one pair may state that a precise knowledge on gender may initially be essential for their empowerment. Another pair may state that empowerment may be commenced from leadership training.
- Show participants the fact that empowerment is generally a continuous process.
- Conduct a brief discussion on this using the following facts on slide.

Slide

- Empowerment is a process. Some persons or groups cannot empower another person or group.
- Empowerment process is connected to a person's personal status and to a group as well. Precise knowledge and understanding on gender can be obtained by having discussions and working as groups or persons. Similarly to effect a change in one's life and in the society as well experiences could be shared as a group and decision makers could be influenced through various activities having organized as groups.
- Empowerment of women could be shown as a process which contains several factors related to one another and which influences one another.

Slide

- The most important thing which should be understood in empowerment is the fact that any person cannot empower another person.
- Empowerment should be won by oneself through his own efforts.
- Various agents can only help / give aid to empower someone.
- These intermediaries can make influence to make people win the things needed to obtain power to have real equanimity, respect and the ability to control their lives by themselves.

Source: Williams, S. Seed, J. and Adelina, M. (1994). Oxfam Gender Training Manual. Oxfam GB.

Slide

Empowerment means:

- Understanding the secondary place that women have in society, the discrimination and exploitation they face.

A continuous process of Empowerment means:

- Developing true knowledge in regard to the place that women have in society, second place, their being subject to suffering, their being exploited.
- Getting proper understanding regarding rights and gender based equality and equity.
- Developing "group" feeling on common matters that affects women based on that knowledge and creating that identity and getting the power to work as a team.
- The fact of women getting organized by the enhancement of leadership skills and capacity making plans to develop the status of women, taking decisions, engaging in relevant activities, specially have representation in decision making institutions and making influence to them.

- Participating in decision making process within household and society and obtaining more power in managing resources than before.
- Taking relevant action to create more equality between men and women.
- Attention is paid to the process of empowerment regarding the rights of women and the ability of taking decisions related to them in development strategy.
- The status of women cannot be enhanced through statutes or policies formulated by these at the top level in decision making process or through the development projects meant for a neglected group. For that development efforts should match with the needs of women. The knowledge of both men and women should be enhanced for it. Women community leaders and local level organizations should assist in identifying the priorities of the needs of women. Human Rights Officers and Women Development Officers can play an important role in this task. They can actively contribute to a number of activities such as providing knowledge to men and women, analyzing the needs of women, identifying the priorities, organizing women to get them fulfilled and encouraging them for it. The officers have been vested with power for it by the state, unlike to community organizations and non-governmental organizations. They have the necessary resources, facilities opportunities and networks for it. Especially due to the fact that assisting in enhancing the living condition of rural women is a prime objective of the job of women development officers, they have the main responsibility of taking action for empowerment of women along with human rights officers and other organizations.
- Traditional ethics, attitudes and institutions are challenged by the women empowerment process. Hence responses against the empowerment of women are unavoidable from the existing power structures which are based on gender based differences.
- However, emphasize the fact that gender equality, equity and rights are essential features of democracy and men and the society as a whole are not affected by it and it is conducive for the sustainable development of the family, society, and the nation. In an environment in which some group of people spread domination over another group of people a free content and equal society can never be created. Empowerment of women creates a peaceful and free situation in which they do not spread power or authority on each other and they can take decisions regarding their lives freely.

Activity 6

Frame of empowerment of women

- Deliver a short lecture using the following facts and the slide below.

Slide

- ✦ It is generally accepted that empowerment of women can be done at five levels / occasions or bases. However, a common formula cannot be presented to the effect that empowerment of all women should be done as per these five levels due to the fact that the living condition of women are not at the same level.
- ✦ However, due to the fact that development of women occur at these five levels there occurs an empowerment at every level.
- ✦ The aforesaid five levels are
 1. Welfare
 2. Access
 3. Conscientisation
 4. Participation
 5. Control

Empowerment frame of women

Empowerment levels	The extent of empowerment	taking action for empowerment	problems related to empowerment
Welfare	not paying attention to structural reasons but fulfilling basic needs of women , getting benefits by women	being interested to identify the problems faced by oneself as a woman	What are the problems faced by women in comparison to men?
Access	equal rights to enjoy access to resources and opportunities (jobs, education, lands) Development of the living condition of women	identifying the obstacles for the development of the life of a women or the obstacles for leading a better life by a woman	How can we face such obstacles?
Conscientisation	Identifying or understanding that women have to face problems due to conscientisation, structural or institutional differences	Taking necessary action to get rid of male – female differences	what should we do to fill the gender based gap?
Participation	Taking an equal representation by women at all decision making levels	organizing women strongly as a group, Acting dedicated on one objective Getting more representation	what strategies are to be used for empowerment at the level?
Control	Last step of the Empowerment process for women , which is equal to that of men ,equal men/women representation	Taking decisions regarding their lives and their children's lives ,contributing to the whole development process having recognition for that active contribution - admiration	the ways and means of fulfilling women's needs and how to continue the living condition of women in a better manner?

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Source: UNICEF (1993) *The Women's Empowerment Frame Work*. p.5

Welfare: This is the first phase of empowerment of women. Here attention is paid in regard to fulfilling the basic needs (food, housing and clothing) of females. The structural problems which affect in a more disadvantageous manner in fulfilling these basic needs are considered at this level. Women merely become beneficiaries of development at this level. The living condition of women, who had received less nutrition, less education, less property and less income for a long period of time, without obtaining aforesaid benefits, will be brought to a better position through the provision of certain benefits at this level. It is essential to formulate relevant laws, policies and allocate resources for it.

Approach: One of the main reasons for the dissimilarity in the social status and living condition of men and women is the disproportionate opportunities, resources, freedom and rights received by them. For example if the woman is not provided the opportunity of receiving formal education she will be relegated to a lower level or a secondary level. In every sector such as social, economic, political and emotional sectors that the male who received that education. Hence the ability of entering each sector by having opportunities, resources, freedom and rights is considered at this level. That level which enables women to achieve a meaningful development in their lives especially to obtain resources will be helpful in bringing equal statues to both men and women. For example women are empowered if they are provided property, jobs, income and loan facilities in an equal manner as men. Women understand at this level, that a gap has been created in gender due to these unequal approaches and it has become an obstacle for the development of their living condition.

Conscientisation: This is the decisive period of empowerment. It is understood at this level that even though there are some biological changes between men and women, the tasks assigned to females, their characteristics, behaviour patterns, traditional language usages and even clothes have been created by the society not by nature. It should be precisely understood here that men and women have fallen to this disproportionate level due to the differences in institutions from family to the state. It is understood here that women themselves contribute to create these disproportionate situations for men and women in institutions such as family, school, religious places, media and government and it is an obstacle for the development of the lives of women.

Participation: Participation of women in taking decisions related to the needs of women and development is expected at this level. Since ancient times, women did not possess the right of taking most important decisions which were related to their lives. Women should essentially have the opportunity of taking decisions in fulfilling the need of their lives and their children and solving the problems related to them. Hence, women should an equal representation as men in every decision making level in every institution from family to the state. For that women should get organized themselves strongly as a team.

Control: The last level of wining gender based quality and women's empowerment is control. The power enjoyed by men in every institution in the distribution of resources, decision making, and representation is given to both men and women at this level. Due to that reason the woman does not undergo the control or authority of the man within the family or any other institution. An equality or power balance is built between men and women. Women also make an equal contribution as men in all activities in the society especially in development activities and it is given a social recognition.

Source: United Nations Children's Fund(1993)

Activity 7

Group Discussions on Strategies of Empowerment

- Divide the participants into five equal groups,
- Give instructions to participate to join with those who spoke less during the workshop and it will be more productive to make small groups through it.
- Distribute the five sections called welfare ,approach, access, conscientisation, participation and control among the five groups.
- Give participants 20 minutes to discuss the following questions which are related to each section.
 - Questions related to Welfare
 - What sort of welfare does your group need ?
 - Name welfare services received by you so far ?
 - What are the welfare services not received by you?
 - How can you get them?
 - What are the strategies to get them ?
 - How to empower women through welfare services ?
- For example give the following 4 questions to the group that received the specific topics.

Questions related “Access”.

1. What are the resources, opportunities and freedom that you think will help you to arrive at a suitable access?
2. What are the resources and opportunities you will receive?
3. What are the resources that you have not received?
4. How can you access them? What are the strategies for accessing them?
5. How are women empowered by access to resources and opportunities.

Questions related to “Conscientisation”

1. What is the knowledge that you think is required to get a proper understanding of an analytical knowledge in regard to the status of women or a situation in which a mother undergoes suffering.
2. (Eg. Patriarchy, Women’s rights)
3. What are the topics about which you have an understanding / knowledge (Eg. Concept of gender, Integration of men and women into the society)
4. What are the sections about which you think that you have no proper understanding? How can you get it ? What are the methodologies for that? (Eg. Group discussions, workshops, handouts)
5. How can women be empowered by getting a precise knowledge on the status of women’s lives?

Questions related to “Participation”

1. What are the levels / occasions that you think that women should have participation (within family / common institutions - In decision making and distribution of resources)
2. Which extent do you have participation at various decision making levels at present ?
3. What are the situations / levels at which you have not got opportunity for participation so far?
4. How can you participate in the process of decision making in each place / institution ?
What are the strategies for it ?
5. How are women empowered by participating in decision making in households as well as in common activities ?

Questions related to “Control”

1. What are the occasions / things on which women should have control or decision making power in regard to their lives? (Eg. Receiving education, selecting a job, selecting a partner for marriage, child birth)
 2. What are the occasions in your life on which you have been able to take decisions so far ?
 3. What are the occasions, as you think, on which you do not have sufficient power in decisions related to your life, children, obtaining resources and the representation of your needs ?
 4. How can women be empowered by the provision of such power ?
- Write the facts highlighted in the discussions on flip charts and submit them to the gathering through a group leader. (Provide 7 – 8 minutes)
 - Raise the following questions:
 - What are the facts related to the empowerment of participants out of the facts submitted by groups.
 - What are the strategies to get them?
 - What action should be taken?
 - It is important that the resource person also should comment on these questions in short.
 - For example a group which obtained some empowerment at 1, 2, 3 levels may submit the idea that empowerment means the fact of getting more participation in distributing resource and decision making.
 - It is important to discuss with examples the obstacles in getting an equal access for men and women in family or any other social institution and the strategies that can be used to get over such obstacles on such an occasion.

Activity 8

Cycle of empowering women.

- Give a short lecture with the information below.
 - Explain that empowerment of women is a cyclic process more than a vertical process in which one level is related to the other.
 - For example explain how a woman is relegated to a subordinate position in the society where she does not have access to things such as food, housing, health facilities, jobs and education in a similar manner in which such things are received by a man.
 - Explain that if she receives such things she gets an access for resources and opportunities if she receives the aforesaid things and after that show how precise knowledge and understanding could be received in related to the reasons for the differences between men and women and the manner in which equality could be obtained having got rid of the aforesaid reasons.
 - Describe the manner in which women become powerful to effect structural and attitudinal changes having made influence on the decision makers by being organized as a group of women through that knowledge.
 - Explain how women manage to control their own lives through the aforesaid active participation and how power is obtained by them in distributing resources and how they make influence at decision making levels.
- It is more productive to cite the expected women's characteristics highlighted in this discussion from the nearest environment and explain facts to the participants.
- Explain how each level of empowerment directly connects with the other level.
- Give time to the participants to shortly describe their experiences and incidents.
- Explain that empowerment of all women does not occur in an equal process in related to the five levels and the empowerment level opportunities and the amount of empowerment of each woman may be different.
- As a majority of women in Sri Lanka get various welfare services especially the urban middle class women get more access for resources, education and other opportunities. On such occasions empowerment process can be commenced by educating women about the differences based on the ground of gender and conscientising that ideology. However, explain with examples that when the rural woman, who lives in an environment in which even the basic needs of life cannot be fulfilled, is empowered, that process can be commenced by providing welfare services to her.

Empowerment of Women

It is essential to empower women in the struggle to win gender equality. This means, women acquiring power to control their lives and ensuring parity of status to both men and women in the family and society.

By empowering women, they get more opportunities and representation at all levels of society and political process. An empowered woman gains a proper understanding about the gender disparities, the reason leading to it and the manner of dismantling those disparities. Thereafter she comes bravely forward to fight for gender equality. The empowered woman not only fights alone, she mobilizes other women too. Empowerment is a process that takes place differently at different levels. The first thing that has to happen is to strengthen women who have been discriminated over generations. If parity of status between men and women is to be accomplished, women too should be provided with equal rights, freedoms, opportunities and resources. Group feeling and identity can be built by providing women with equal opportunities and resources. This gives them the opportunity to solve their problems collectively and decide on the strategies to be adopted to achieve their targets. Through a process like this women representation can be empowered in the decision making process.

Why should women be empowered?

The woman too is a human being. Even though there are biological differences between men and women their basic necessities are equal. Basic necessities such as food, housing and health facilities are essential for both sexes. Since both sexes like to live as persons of identity and dignity, both sexes should be ensured with social, cultural, economic and political rights in order for parity of status to be established. It is also essential for gender equality to be established for sustainable development to be achieved. It has been explained that gender inequality leads to development initiatives of developing countries to fail. Gender equality is a prerequisite for democracy and good governance - where there is no equality for men and women, democracy cannot prevail. Where there is no parity of status, freedoms and opportunities for men and women, women cannot have equal status, especially in the process of decision making. The development of a country is a complex process which involves not only economic development but also socio-cultural, political and ethical development.

In the development process that takes place through a human rights approach, it is essential to win parity of status for both men and women. Both men and women should be involved in the process of development and they must have equal rights to enjoy the benefits of development. But in many situations benefits of development are favoured towards men. This makes men stronger in the family as well as in society. Therefore it is essential to empower women which should take place under five factors; welfare, access, involvement, participation and control.

Welfare: This is the first phase of empowerment of women. Here attention is paid with regard to fulfilling the basic needs (food, housing and clothing) of women. The structural problems which affect in a more disadvantageous manner in fulfilling these basic needs are considered at this level. Women merely become beneficiaries of development at this level. The living conditions of women who had received less nutrition, less education, less property and less income for a long period of time, without obtaining aforesaid benefits, will be brought to a better position through the provision of certain benefits at this level. It is essential to formulate relevant laws, policies and allocate resources for it.

Access: One of the main reasons for the inequality in the social status and living condition of men and women is the disproportionate opportunities, resources, freedom and rights received by them. For example if a woman is not provided the opportunity of receiving formal education she will be relegated to a lower level or a secondary level. In every sector such as social, economic, political and emotional sectors that the men who received that education. Hence the ability of entering each sector by having opportunities, resources, freedom and rights is considered at this level. That level which enables women to achieve a meaningful development in their lives especially to obtain resources will be helpful in bringing equal statues to both men and women. For example, women are empowered if they are provided property, jobs, income and loan facilities in an equal manner as men. Women understand at this level, that a gap has been created in gender due to these unequal approaches and it has become an obstacle for the development of their living condition.

Conscientisation: This is the decisive period of empowerment. It is understood at this level that even though there are some biological changes between men and women, the tasks assigned to women, their characteristics, behaviour patterns, traditional language usages and even clothes have been created by the society not by nature. It should be precisely understood here that men and women have fallen to this disproportionate level due to the differences in institutions from family to the State. It is understood here that women themselves also contribute to create these disproportionate situations for men and women in institutions such as family, school, religious places, media and government and it is an obstacle for the development of the lives of women.

Participation: Participation of women in taking decisions related to the needs of women and development is expected at this level. Since ancient times, women did not possess the right of taking most important decisions which were related to their lives. Hence, women should an equal representation as men at every decision making level in every institution from family to the State. For this women must organize themselves.

Control: The last level of wining gender based equality and women's empowerment is control. Here, the power enjoyed by men in every institution in the distribution of resources, decision making, and representation is given to both men and women at this level. Due to that reason woman does not undergo the control or authority of the man within the family or any other institution. An equality or power balance is built between men and women. Women also make an equal contribution as men in all activities in the society especially in development activities and it is given a social recognition.

Source: United Nations Children's Fund (1993)

Gender Mainstreaming

Introduction

- With the declaration of 1975 – 1985 as International Women's Decade by United Nations Organizations, States and other organisations were prompted to formulate policies and implement them in order to enhance the status of women. Although many countries responded positively it was not easy to achieve its desired objectives.
- One of the main reasons for this was the fact that States and other organizations did not dedicate themselves completely to enhancing the status of women. A remedy to address this was the promotion of gender mainstreaming.
- In the 4th World Conference on Women in Beijing, China, in 1995, gender mainstreaming was introduced as a strategy for making a productive change in the status of women. This paved way for examining the manner in which the policies of government affect both men and women and influenced the formulation of policies in a manner which was productive to both parties instead of establishing entities to work for women. The Beijing Platform for Action emphasized the fact that formulation and implementation of all state policies on a gender equality based approach is the main strategy winning gender based equality and equity.

Source: UN Beijing Declaration (1995)

Objectives

- To understand the concept of gender mainstreaming
- To identify strategies that can be used in the implementation of gender mainstreaming
- To understand the advantages for both men and women by using gender mainstreaming.

Activity 1

Gender Mainstreaming

- Deliver a short lecture using the information below:
- Monitoring and recommendations relevant to improve the status of women globally were drafted in the first three World Conferences on Women conducted after the International Women's Decade.
- However Governments of many countries did not dedicate themselves sufficiently to implement the aforesaid recommendations.
- As a result the international women's movement recommended a strategy which was adopted in the 1995 World Conference on Women.
- This strategy was Gender Mainstreaming.

- Gender mainstreaming emphasizes a process to examine the manner in which all State policies affect the lives of men and women.
- The simple meaning of gender mainstreaming includes a process of a gender based approach in all activities such as the formulation of policies of the state on any other organization, restructuring them, enhancing the status of the organization, evaluation and observation.
- It also means that gender should be considered in all decision making levels and their objective is to win gender equality.
- Often the structure of States and other institutions is patriarchal.
- The majority of the persons represented at decision making levels are men.
- Thus decisions are taken in the aforesaid institutions by a majority men who bear traditional attitudes. For example, men have no or less experiences or they have no sensitivity or evaluation regarding the services done by women without a salary and they do not consider such services as ‘labour’. They consider only the tasks from which direct economic benefits could be obtained as “labour”.
- The decisions taken by the majority of men based on such attitudes are essentially be advantageous to them. Similarly such men do not have a deep understanding regarding the gender relationships and gender based socialization process in the society.
- Decisions are taken in regard to the structure of patriarchal institutions, divisions of work, paying salaries and evaluation in a manner which is more advantageous to men.
- Thus women are relegated to a disadvantaged position in society and obstacles are created that prevent their contribution being added to the development process.
- To avoid such a situation, action should be taken to get the participation of both men and women, pay consideration to the needs of both parties, give priority to the most important needs, incorporate the objectives of winning gender equality and equity in the formulation of all forms of state policies and in making decisions.
- Participation of both men and women should be obtained in the implementation, evaluation and observation of the aforesaid decisions and gender should be considered in allocating finance and other resources as well.
- Accordingly gender mainstreaming is a process based on gender equity and promotes gender equality.
- Gender mainstreaming emphasizes that there should be a gender equality based policy document in any organization and making recruitments, determination of salaries, division of work, promotions, transfers, evaluation, providing facilities in the place of work and granting leave should be done based on gender.
- At the same time this concept also means that participation of both men and women and gender should essentially be considered in the decision making process of the organization specially in restructuring institutional development and in effecting changes in the organization.

Activity 2

Identifying gender mainstreaming

- Give five minutes to the participants to discuss gender mainstreaming in pairs.
- Distribute cards (4"x 3") and pens among pairs of participants
- Instruct pairs to write what they think about "Gender Mainstreaming"
- Ask several participants to read and describe what was written. Various descriptions may be given as gender mainstreaming is not commonly used in Sri Lanka.
- Help participants understand the meaning of gender mainstreaming using slides below:

Slide

- ✦ Policies of the State and other organization and the outcomes of projects affect the entire society.
- ✦ However, these policies and projects are formulated and implemented by a majority of men. Men make the highest representation from higher level legislative, executive and judicial institutions to lower level institutions in any government.
- ✦ Economic and business sectors are also dominated by men.
- ✦ In this background the common situation in most countries is evidence of gender disparities in political, economic and social fields.
- ✦ The main objective of gender mainstreaming is the creation of gender based equality impacting on a change in the situation of women who have less power and in men and women relationships.

Slide

Gender mainstreaming is

- ✦ A process based on a gender equality approach
- ✦ A process which assesses the manner in which the outcomes of state policies, laws, development policies and any other planned process affect men and women.
- ✦ A strategy which takes into consideration the needs, desired and experiences of both men and women in the formulation, implementation, observation and evaluation of the policies, laws and projects related to all political, economic and social fields.
- ✦ The final objective of gender mainstreaming is winning gender equality.

Gender mainstreaming can be implemented in the ways.

- ✦ Taking into consideration the needs and problems of both men and women in all laws, state policies, development policies, strategies and priorities.
- ✦ Deciding what men and women need and do not need having analysed the social situation and problems in a gender based approach in the whole development process. Real development can only be achieved by this.

Slide

Gender mainstreaming -

- ✚ Is a process more than an objective
- ✚ In that process men and women's needs, desires, experiences are considered at every decision making level
- ✚ Resources and opportunities are provided on the needs of men and women.
- ✚ The concept of gender relates to all production and reproduction processes.
- ✚ As we live in a society in which both men and women live, all policies and projects should be commenced with a more sensitive understanding in that regard.

Slide

- ✚ Reorganization, development and decision making processes and evaluation of those processes in some organization are incorporated gender mainstreaming
- ✚ Objective of gender mainstreaming is to incorporate gender relationships into all decision making levels and implement all policies and decisions for gender equality.
- ✚ Gender mainstreaming is a process of continuously incorporating gender sensitivity in any project.
- ✚ It simply means taking into consideration the needs, desires and experiences of both men and women in all activities such as the identification of social needs, formulation of policies or plans, formulation of laws and structure of institutions, recruitment for jobs and provision of training, preparation of budgets and distribution of resources, implementation of policies and projects, and observation and evaluation of them.
- ✚ Historically women have been relegated to a less important, position with less power and less resources than men.
- ✚ Gender mainstreaming expects to effect a change in that position of both men and women.

- If participants have problems with regard to this concept or if it is not clear to them give them time to ask questions about it or comment on it. (5- 7 minutes)

Activity 3

How can gender mainstreaming be implemented?

- Ask participants to discuss with the two participants who are seated on either side (groups of three persons) why gender mainstreaming should be implemented ?
- Ask each small group to write three reasons on each card.
- Ask the leader of the small group to present those facts to the gathering and in the meantime write these facts on flip charts (Later paste them on the wall/ on a board to be seen by others.)
- Deliver a short lecture on why gender mainstreaming should be implemented using the facts submitted along with the information given below.

✚ Equal human rights

- Equal rights for both men and women have been established by law. Gender equality has been confirmed by Article 12(2) of 1978 Constitution of Sri Lanka. If equality is to be achieved, gender disparities should be addressed in the legislature, the executive and the judiciary.

✚ Winning sustainable development

- Every society in the world consists of both men and women. If the needs of one party are neglected in development, only a half of the population would reap the benefits of development. It is not beneficial to the development of a country.
- A sustainable development could be achieved only if both men and women contribute to development.
- In some countries because gender mainstreaming has been effectively used in formulation and implementation of policies at national, regional as well as village levels, development objectives have been effectively achieved.

✚ Winning gender democracy

- Gender mainstreaming can be incorporated into all activities not only in the State and government but also in the private sector, the non government sector, political parties, trade unions and other organizations. For example if gender sensitivity is applied in all activities in a political party, such as the formulation of its structure, selection of persons to its posts, formulation of party constitution and policies, giving nominations and the allocation of resources, a true internal democracy can be achieved within that party.

Eg. The Social Democratic party of Germany introduced gender mainstreaming into that Party in November, 2001.

✚ Enhancing the status of women

- Men have made the highest representation at all decision making levels for generations. A majority of men have been entitled to higher posts, more property and more power. As a result problems such as not paying due attention to the needs and wishes of women, sidelining women at decision making levels, not providing enough opportunities for them to provide their capabilities, skills and experiences to the development process have emerged. The overall outcome of this is the fact that women have undergone more suffering, violence and more poverty. This situation can be changed by providing equal opportunities, rights and resources to women as is provided to men

✚ Obtaining aid for Development Projects

- Today it has been a general matter to expect aid from the developed countries for various development projects carried out in developing countries. When development projects are examined for providing aid more attention is paid to the fact whether gender needs and relationships are considered in them.
- If any project has become sensitive to gender from its planning level up to the evaluation level, it will especially be an additional qualification to obtain foreign aid.

Activity 4

Strategies for introducing Gender Mainstreaming

- Make a brief introduction as set out below

Political or administrative leadership will not voluntarily introduce gender mainstreaming into an institution or a country. Gender mainstreaming was introduced due to the influence made for a long time by the women's movements of the countries specially the Scandinavian countries which adopt that process.

- Ask the participants to make four small groups from among them, which consist of members that do similar occupations (Eg. Non-governmental organizations, administrative sector, education sector)
- Give time (10 – 12 minutes) to discuss the strategies which should planned before gender mainstreaming is introduced into the activities of a non-governmental organization, government office, political party and a university as per each job in them.
- Write the strategies discussed by small groups in a flip chart and display such to the participants.
- Introduce the common strategies using the slide below.

Slide

- Being informed about gender having established small groups of women within an institution.
- Providing an understanding on gender to the members of the institution by analysing the situation in the institution from a gender point of view (eg: resources, promotions, assigning work)
- Identifying problems and differences. Organising strong a group of informed persons within the institution
- Mainstreaming
 - Influencing decision makers to introduce gender mainstreaming be introduced under the guidance of the aforesaid group
 - Providing the knowledge and training required for commencing the process of mainstreaming
 - Establishing a special group to monitor and evaluate the mainstreaming process once commenced. (Gender Unit, Gender Focal Point)

- Academics, observers, administrators and leaders of non-governmental organizations who study gender mainstreaming can encourage and compel women and men to promote gender mainstreaming. Women in some institutions can be empowered by providing the relevant knowledge to them. Assistance can be provided to organize women as a strong group. Influence can be made on policy makers on behalf of women. Emphasize the fact a suitable environment can be created for introducing gender mainstreaming by holding an open dialogue on gender mainstreaming between both men and women, compelling groups to help themselves and taking action to work for one objective with a proper coordination having built up connection among groups.

Activity 5

Implementation of gender mainstreaming

- Give instructions to four groups to formulate a plan / structure to implement gender mainstreaming in the institutions to which they belong. Give them a period of 30 minutes for this.
- Trainer should go to the small groups and explain with examples the manner in which or the level on which this process can be commenced.
- “The gender mainstreaming plan” of small groups should be submitted to the participants through a group leader.
- Introduce some common instructions which can be used to implement gender mainstreaming in some institution as a policy. Emphasize the fact that these strategies should be changed as per the requirement of each institution.
- Some guidelines for instructions:
 - Introduction of “Human development policies” or “Gender policies” is a good habit of the institution.
 - Taking action for gender equality and equity should be the policy of the institution.
 - Taking steps to build up among people the attitude that it is essential to reduce gender differences and develop gender equality with the structure of the institution.
 - Incorporating into the letter of appointment or job agreement the condition related to human rights, expectations and dedications for creating gender equality and relevant benefit etc, when persons are recruited to the institution.
 - Providing the relevant training to a small group / mechanism or person the institution and there by taking action in the institution to educate persons on gender, identify the problems of men and women inform them to the decision makers and observe the gender policies in the institution.
 - Incorporating gender equality / equity into the plans, laws, policies, future objectives and the budget of the institution.

- Making influence to the decision makers to implement gender equality policies. Praising the relevant decision makers when achievements are made by each section and incorporating such achievements into the annual report.
- Conducting formal awareness programmes on gender within the institution. Printing booklet of gender policies of the institutions and distributing it among all the members.
- Adopting strategies such as the ones in which there is a numerical representation of both men and women from higher levels of decision making up to the lower levels as a policy.
 - Eg. Preventing situations in which all members of a decision making committee, director board or an interview board are male and appointing a sufficient number female senior officers into them. Incorporating into the policies of the institution the fact that it is compulsory to include such a ratio of men and women into every committee mentioned above.
- Providing opportunities to women to get promotions to the higher level of the job encouraging them for it, providing benefits to them and evaluating such women.
 - Eg. Providing advice to junior officers through senior officers in a formal manner (mentoring) providing opportunities to build up informal networks, exchange the relevant information within the institution in an open manner.
- Paying attention to the family responsibilities of the employees of the institution and creating a suitable environment which enables the members who have families in which there are small children to do their activities in the institution in a balanced manner. (Eg: Allowing employees to attend to office work from their homes, introducing flexible working hours and division of work in a flexible manner.)
- Introducing policies against sexual abuse in the institution and establishing a suitable mechanism to administer justice to victims of such cases.
- Being sensitive to gender in preparing advertisements, handouts and in carrying out other propaganda activities. (Eg: Displaying photos of both men and women, not restricting men and women in traditional roles and displaying gender neutral or balanced photos or messages.)
- Being essentially more sensitive in activities such as the recruitment of persons to the institution, division of responsibilities, awarding promotions and evaluation, providing training, providing allowances and benefits, communication, providing facilities to employees (leave, washrooms, dining places and other facilities) and the selection of persons for representing the institution.
- A sufficient representation of both men and women is essential in the formulation, implementation, observation and evaluation of the laws, policies, plans and projects of the institution and in enjoying their benefit.

Source: International Labour Organization (2005)

Activity 6

Outcomes of Gender mainstreaming

- Divide participants into five small groups (Each group may have 5 – 6 members). It is more productive to ask one participant to join with a participant who spoke least with him/her at the workshop and include three such pairs to make one small group.
- Provide 5 minutes to the participants to discuss in short the facts that they understood about the concepts of gender mainstreaming.
- Following this provide 10 minutes to discuss (with examples) the outcomes that an institution may receive after this process is introduced to it.
- Give five minutes to write the facts discussed on a flip chart and present to the participants.
- Deliver a short lecture using the facts aforesaid and below mentioned.

Slide

- Qualitative development of the activities of the institution.
 - Eg. Technological knowledge to women, the Responsibilities of men become balanced due to the fact that both men and women participate in the decision making process.
- Balance of the number of male and female employees
 - Eg. Use of the knowledge and experiences of and fulfillment of the needs of both men and women as both of these parties have a representation in decision making.
- Development of productivity and efficiency of administrative process.
 - Eg. Equal facilities for both men and women in their place of work enthusiasm received due to the provision of promotions and allowances.
- Developing a good understanding regarding the institution
- The fact that allocation/aid could be obtained. Especially international donor groups take into consideration whether attention is paid to gender in many development projects.
- Promoting a good image of the institution. A good image of the institution is developed both locally and internationally when policies of taking democratic decisions, overlooking sexual abuses, creating a balance between institutional responsibilities and family responsibilities of employees, providing facilities to both male and female parties within the institution, creating promotion and evaluation schemes relevant for both parties are implemented in an institution.

Slide

Advantage of Gender Mainstreaming to men

- ✦ If men get the feeling that the use of this concept is beneficial only to women, they will pay less attention to it or oppose it as it is natural for a group of people to oppose sharing something which they hitherto enjoyed alone on the premise that they will lose it. Therefore, it is important to emphasize that both parties will benefit by implementing mainstreaming policies covering both.
 - ✦ Instead of the tradition of assigning more duties to men in institutions, there must be a culture of assigning of duties in a balanced manner. Eg. There must be some kind of flexibility in the duties of men.
 - ✦ The likelihood of decisions taken only by looking at things in the men's point of view become unsuccessful can be averted by taking the views of both sexes into consideration.
 - ✦ Reduction of the opposition to men who take decisions in institutions without consulting women.
 - ✦ Avoiding the disadvantages being accrued to men owing to traditional roles (Eg. Health problems owing to more responsibilities shorter life span and unfavourable social relations.)
 - ✦ Averting the disadvantages, disparities likely to be meted out to men owing to traditional gender stereotypes (having to display maleness all the time) minimizing the problems in the workplace and being able to enhance the quality of the family as a result of having access to equal salaries for both men and women.
- Conclude the session by emphasizing that both men and women benefit by mainstreaming gender in the relevant institutions.

Mainstreaming Gender

At the 1995, Beijing International Conference of Women, the concept of mainstreaming gender was introduced as a means of changing the situation of women effectively. The underlying objective of this concept is to find out how government policies in the fields of health, education, labour professions, agriculture and industries and in decisions taken in various projects, and in the formulation of laws and statutes affect both men and women and formulating them in a manner that they address the interests and needs of both, instead of creating a separate ministry for women. This concept was emphasized by the Beijing conference as the main strategy of winning gender equality and gender justice.

What is gender mainstreaming?

- ✚ A process based on a gender equality approach
- ✚ A process which assesses the manner in which the outcomes of state policies, laws, development policies and any other planned process affect both men and women.
- ✚ A strategy which takes into consideration the needs, desired and experiences of both men and women in the formulation, implementation, observation and evaluation of the policies, laws and projects related to all political, economic and social fields.
- ✚ The final objective of gender mainstreaming is winning gender equality.

A more simple definition was brought forward in 2004 which reads as follows: “The objective of gender mainstreaming is to integrate gender based approach at all decision making levels and implementing all policies and decisions to winning gender parity”. According to this definition gender mainstreaming should be essentially incorporated at reforms, development attempts and decision making process of all institutions. This can be done in two ways such as taking into consideration the necessities, interests and problems of both sexes in all government policies, development projects, strategies and setting priorities and analyzing the social status and problems of men and women in a gender based approach and identifying what they want and not in the overall development drive. Gender mainstreaming is a process of integrating gender sensitivities from the beginning to the end of any initiative. Eg. observing and assessing the incorporation of gender sensitivities in identifying social needs for a project, getting priorities, planning the project, formulating the laws and policies, recruiting, promoting, training, preparation of budgets, distribution of resources and carrying out projects.

Why is Gender mainstreaming necessary?

Even though equality of men and women has been established by section 12 (2) of the Constitution of Sri Lanka, it is not ensured and assured in Sri Lankan society. Therefore, this situation can, to a certain extent be averted only if gender sensitivities are taken into consideration at all levels of government; executive, legislature and judiciary and at all development programmes.

At all levels of decision making to upgrade the status of women, men have taken the centre stage over the generations. They own more property resources and power. So as women's interests, aspirations and experiences have not received proper attention, historically they have at a disadvantageous position leaving them to be exploited in numerous ways. In general women's socio-economic and political situation remains lower to that of men. If this situation is to be changed gender sensitivities must be brought into the centre. Sustainable development is possible only if both men and women are involved in the process. Therefore, unless the participation of both parties are obtained half of the society becomes disadvantageous. Therefore any development project, from its feasibility study to the conclusion, should have the involvement and participation of women. If the involvement of both sexes and ensured at offices, educational institutions, political parties and trade unions and at the preparation of institutional frameworks, recruitment, distribution of duties and resources and in taking decisions in institutions, gender democracy can be established.

Inclusion of a gender based approach will be very beneficial in attempts to obtain foreign aids and loans for development projects. Scandinavian countries have achieved very impressive results by incorporating gender based approaches in their development institutions.

Prior to establishing concepts of gender mainstreaming the following strategies can be adopted to make the environment conducive for the former to be achieved successfully.

- ✚ Establishing small groups in institutions that take an interest has understanding about gender mainstreaming.
- ✚ Giving the other members of the institution an understanding about it.
- ✚ Analyzing the loans, policies, resources, salaries, promotions, distribution of duties etc. of the institution in a gender perspective.
- ✚ Organising a group in the institution that has a thorough understanding about the concept.
- ✚ Giving the required knowledge and training required to initiate the process of mainstreaming to the relevant persons in the institution.
- ✚ Establishing a special unit to observe and evaluate that process.

Advantages to gender mainstreaming

- ✚ A quality representation of both men and women.
- ✚ Balancing the activities of the institution by developing the knowledge, skills and technical abilities of both sexes.
- ✚ Creating the equal and satisfied environment in the institutions and thereby making them more efficient and effective being able to build the image of the institution thereby gaining more aids and assistance. It is a wrong belief that gender mainstreaming only benefits women; it is beneficial to both sexes and it reduces stress.

Introduction

- ✦ Gender based violence is violence faced by a person/people due to the subordinate position in society created by interpretations of what it means to be a particular sex. Gender based violence can be experienced by both men and women but is largely experienced by women.
- ✦ Gender based violence includes any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life
- ✦ Gender based violence is prevalent in Sri Lanka. Incidences of rape, sexual harassment, domestic violence, incest, assault, obscenity against women, unwanted advances, perverted acts, forced pornography, forced prostitution and media violence all prevail in Sri Lankan society.
- ✦ Although the lack of systematic data has prevented a full understanding of gender based violence, its prevalence and patterns, there are a number of specific writings as well as information from service providers that show a high prevalence and diverse forms of gender based violence faced by women (and children) in the country.
- ✦ These issues receive attention from diverse sectors, the State, non government sector and civil society, which address preventive measures and provide redress for victims. Despite this attention, violence against women continues to take place in the private and public sphere and the measures taken to prevent and redress, remain insufficient.

Objective

- To provide an understanding of gender based violence, the definitions of gender based violence, and introductions to the normative framework and national instruments that address gender based violence, resulting in
 - ✦ Increased knowledge on gender based violence
 - ✦ Specific knowledge on definition of gender based violence
 - ✦ Specific knowledge on the normative framework and national instruments that address gender based violence

Activity 1

To provide an understanding of gender based violence

- Provide participants with flash cards with types of violence written on them (Violence Cards). These cards are provided below.
- Ask participants to post the cards on the chart provided (Violence Chart). The chart has three columns titled 'Affecting MEN more', 'Affecting WOMEN more', and 'Affecting BOTH equally'
- You are provided with a filled chart on how the cards should be placed. Discuss why the different cards were posted in the different places. Change and correct as you go on.
- Discuss how women are more vulnerable to violence and conclude that this is the reason for gender based violence to focus largely on violence against women.

Violence cards

- Shouted at and insulted at home
- Hit at home
- Not given money by spouse/spouse takes all money earned
- Asked for sexual relationships at the workplace in order to give a promotion
- Dirty sexual jokes and comments at the workplace
- Touched in public transport
- Abused at the Police Station by women and men police officers
- Sexually abused by grandfather
- Rape
- Rape of a girl under sixteen years
- Rape by spouse
- Illegal abortion
- Assault/Hitting
- Tricked with false promises of good jobs abroad and made to work like a slave
- Deceived into taking a job and ending up in a brothel
- Murder

‘Violence’ chart

‘Violence’		
Affecting MEN more	Affecting WOMEN more	Affecting BOTH equally

How the Violence Chart should be completed

Affecting MEN more	Affecting WOMEN more	Affecting BOTH equally
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<ul style="list-style-type: none"> • Murder • Assault/Hitting 	<ul style="list-style-type: none"> • Hit at home • Not given money by spouse/spouse takes all money earned • Asked for sexual relationships at the workplace in order to give a promotion • Dirty sexual jokes and comments at the workplace • Touched in public transport • Sexually abused by grandfather • Rape • Rape of a girl under sixteen years • Rape by spouse • Illegal abortion • Deceived into taking a job and ending up in a brothel 	<ul style="list-style-type: none"> • Shouted at and insulted at home • Abused at the Police Station by women and men police officers • Tricked with false promises of good jobs abroad and made to work like a slave
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Activity 2

- Group participants into 3 groups and provide each group with a flash card with the same definition of gender based violence.
- Ask each group to spend 15 minutes analyzing and discussing each definition.

Flash card with definition of gender based violence

Gender based violence is violence faced by a person/people due to the subordinate position in society created by interpretations of what it means to be a particular sex . Gender based violence can be experienced by both men and women but is largely experienced by women.

Because gender based violence is experienced more by women due to their subordinate position in society and the family, gender based violence often speaks about violence against women.

The Declaration on the Elimination of Violence Against Women (DEVAW) defined gender based violence as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It includes but is not limited to physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution and physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.

- Make a detailed presentation with the slide below on the definition with examples from Sri Lanka.

Slide

Sri Lanka recognises the definition of GBV set out in the Declaration on the Elimination of Violence Against Women (DEVAW) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. It also accepts that violence against women encompasses but is not limited to “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution and physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”

Slide

- ✦ Gender equality and non-discrimination of women is a guiding principle of State machinery and State action in Sri Lanka.
- ✦ The Constitution of Sri Lanka promulgated in 1978 in Article 12(2) sets out the principle of non discrimination on the ground of sex (and other specified grounds). Article 12(4) further provides for affirmative State action for the special advantage of women.
- ✦ In 1981, in keeping with the commitment made in the Constitution, Sri Lanka ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- ✦ Sri Lanka is also signatory to a number of other international conventions that recognize gender equality:
 - International Covenant on Civil and Political Rights
 - International Covenant on Economic, Social and Cultural Rights
 - These clearly distinguish discrimination on the grounds of sex as a violation of human rights.
- ✦ In 1993 Sri Lanka signed the Vienna Declaration on the Elimination of Violence Against Women setting out the country's focused commitment to fight against gender based violence.

Slide

- ✦ The State commitment to issues particular to women came about during the United Nations Decade for Women (1975 to 1985) and specifically as a result of the International Women's Year in 1975.
- ✦ In 1978 the government established the Women's Bureau of Sri Lanka, the first ever national level machinery for women set up as a key institution under the then Ministry of Plan Implementation.
- ✦ From 1983 to today, Sri Lanka has had a Ministry concerned with Women's Affairs. Currently this Ministry is the Ministry of Child Development and Women's Affairs.
- ✦ The Sri Lanka Women's Charter was drafted and adopted by the State in March 1993.
- ✦ This is the main policy statement by the government, regarding the rights of women, expressing the States' commitment to remove all forms of discrimination against women and address crucial areas relevant to women. The Charter stems from the CEDAW and DEVAW. It sets up the National Committee on Women (NCW)
- ✦ The National Plan of Action for Women (NPA) was adopted by Sri Lanka in May 1996 following the 1995 World Conference on Women, and has been developed based on the Global Platform for Action on Women.

The Beijing Plus 5 review of the NPA and the updating of the NPA for the period 2001 to 2005 were done by the NCW in 2001. At present, in 2009, an updated version of the NPA is being prepared by the NCW through a collaborative effort of the government, NGOs, researches and academics.

Handouts

Gender Based Violence

- ✦ In Sri Lanka, gender based violence ranges from sexual harassment in public spaces to acts of violence within the privacy of the home or at workplaces. It is acknowledged that the issue of who or which group in society has more power than others and who can exert acts of gender based violence is not restricted to economic power but is very much rooted in notions of social power and hierarchies in access to exercising such power. Thus the concept of gender based violence necessarily includes two aspects - violence which arises out of asymmetrical power relations resulting from socialisation processes, as well as gender based discrimination arising from structural violence against women, as can be seen, for example through the impact of violence against women as a result of armed conflict.
- ✦ Sri Lanka recognises the definition of GBV set out in the Declaration on the Elimination of Violence Against Women (DEVAW) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.¹ It also accepts that violence against women encompasses but is not limited to “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution and physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.²

¹Article 1

²Article 2

Handout

Normative and national framework to address gender based violence

Gender equality and non-discrimination of women is a guiding principle of State machinery and State action in Sri Lanka. The Constitution of Sri Lanka promulgated in 1978 in Article 12(2) sets out the principle of non discrimination on the ground of sex (and other specified grounds). Article 12(4) further provides for affirmative State action for the special advantage of women.¹

In 1981, in keeping with the commitment made in the Constitution, Sri Lanka ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Sri Lanka is also signatory to a number of other international conventions including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which clearly distinguish discrimination on the grounds of sex as a violation of human rights. In 1993 Sri Lanka signed the Vienna Declaration on the Elimination of Violence Against Women setting out the country's focused commitment to fight against gender based violence.

Sri Lanka recognises the definition of GBV set out in the Declaration on the Elimination of Violence Against Women (DEVAV) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.²

It also accepts that violence against women encompasses but is not limited to “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution and physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.³

¹ Article 12 -Rights to equality; Article 12(2) - All persons are equal before the law and are entitled to the equal protection of the law; Article 12(2) - No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one such grounds; Article 12(4) - Nothing in this article shall prevent special provision being made by law, subordinate legislation or executive action for the advancement of women, children or disabled persons.

² Article 1

³ Article 2

- ✦ For over two decades the government of Sri Lanka has been actively committed towards gender equality and the advancement of women including working towards reducing gender based violence. The State commitment to issues particular to women came about during the United Nations Decade for Women (1975 to 1985) and specifically as a result of the International Women's Year in 1975.
- ✦ In 1978 the government established the Women's Bureau of Sri Lanka, the first ever national level machinery for women set up as a key institution under the then Ministry of Plan Implementation. In 1983 the Women's Bureau was placed under the purview of the Ministry of Women's Affairs and Teaching Hospitals - the first time a Ministry was created for women's affairs. From then on the State commitment to women has shifted to several Ministries, the Ministry of Health and Women's Affairs, and then as a singular Ministry of Women's Affairs. In 2001, the Ministry functioned under the Minister for Development, Rehabilitation and Reconstruction of the East, Rural Housing Development and Women's Affairs. In 2004 it was combined with the Ministry of Social Services and known as the Ministry of Social Services and Women's Empowerment. In 2006 the present Ministry was set up, the Ministry of Child Development and Women's Empowerment.
- ✦ The Sri Lanka Women's Charter was drafted and adopted by the State in March 1993 and is the main policy statement by the government, regarding the rights of women, expressing the States' commitment to remove all forms of discrimination against women and address crucial areas relevant to women. The Charter stems from the CEDAW and DEVAW and aims at eradicating sex based discrimination and at achieving gender equality, and establishes standards to be observed in seven broad areas, political and civil rights, rights within the family, the right to education and training, the right to economic activity and benefits, the right to healthcare and nutrition, the right to protection from social discrimination and the right to protection from gender based violence.
- ✦ The Women's Charter is seen as the first positive response by the Sri Lankan Government to securing the rights of women although CEDAW was ratified in 1981, over ten years before the adoption of the Charter.
- ✦ The most significant introduction to State machinery to work towards the rights of women made by the Charter was the setting up of the National Committee on Women in 1994. The National Committee on Women (NCW), a Presidential Committee, is facilitated by the provisions of the Charter¹ which enabled the establishment of a fifteen member Committee to monitor the rights under the Charter. The members of the Committee are persons competent in several areas which are of particular concern to women, such as law, health, economic development, education, science and technology, and the environment, as well as persons who have distinguished themselves in voluntary organisations or in the sphere of women's activities.

¹ Articles 17 – 23

- ✦ The National Plan of Action for Women (NPA) was adopted by Sri Lanka in May 1996 following the 1995 World Conference on Women, and has been developed based on the Global Platform for Action on Women. The NPA is a collaborative effort between the government and the NGO sector in Sri Lanka and encompasses the following sectors: Violence Against Women, women and human rights, women and armed conflict, education and training, economic activities and poverty, health, environment, decision making, the girl child and the media. In the 1996 activity plan of the first NPA, the section on violence against women, women and human rights and women and the armed conflict looked at legislative reform (amendments to the Penal Code, domestic violence legislation), positive administrative action (to change discriminatory Citizenship regulations), the collection of information to address issues related to the armed conflict in the short term (1 year), the establishment of a monitoring unit for women's rights, access to legal processes and legal aid, legislative reform to provide for speedy legal process in relation to grave crimes against women, review of discriminatory personal laws and the establishment of crisis centers for women victims of violence in the medium term (4 years) and raising public awareness of issues of violence, change of attitudes through education, collection of information on violence against women and education of judges and law enforcement officers in the long term (over 4 years).
- ✦ The Beijing Plus 5 review of the NPA and the updating of the NPA for the period 2001 to 2005 were done by the NCW in 2001. At present, in 2009, an updated version of the NPA is being prepared by the NCW through a collaborative effort of the government, NGOs, researches and academics.

Handout

Legal Instruments addressing gender based violence

- ✦ In Sri Lanka, the legal system addresses gender based violence through the provisions of the Penal Code (codified in 1883) and the Prevention of Domestic Violence Act (2005). While many offences against women fall within the general offences of assault, hurt, grievous hurt, sexual abuse, prostitution, murder and kidnapping, a few offences deal specifically with women victims. Chapter XVI of the Penal Code titled "Offences affecting the human body or offences affecting life", contains these offences. These offences would generally cover the physical violence which can be inflicted on women in public sphere as well as in their homes. However, psychological abuse and economic abuse in the absence of physical violence would not constitute a substantive offence.

- ✦ Unequal power structures and gender based violence: The concept of ‘gender’ in itself sets out to clarify the ways in which patriarchal socialisation processes plays a critical function in creating socially ‘acceptable’ norms of behaviour and rights for women and for men. These socialisation processes in effect give more power to men over women and demarcate lines of conduct where women and men have differential and often unequal access to and control over resources, whether it is in terms of food, healthcare, skills training, credit, property, income or, in the arena of decision-making. Lack of access to such resources can also result in those with less ‘power’ being subjected to violence and intimidation, which could take the form of acts of verbal, physical and sexual violations, whether in the privacy of their own homes or in the public sphere.
- ✦ It is acknowledged that the issue of who or which group in society has more power than others and who can exert acts of gender based violence is not restricted to economic power but is very much rooted in notions of social power and hierarchies in access to exercising such power.
- ✦ The concept of gender based violence necessarily includes both the aspects of violence which arises out of asymmetrical power relations resulting from the socialisation processes, as well as gender based discrimination arising from structural violence against women, as can be seen, for example through the impact of violence against women as a result of armed conflict.
- ✦ Addressing gender based violence in Sri Lanka necessarily involves addressing unequal power structures between men and women. Whether this (the issue of addressing power structures) is clearly articulated or not, every initiative, campaign or discussion that addresses gender based violence deals with these power structures that exists in diverse forms within different ethnic groups, within and between class barriers, within religious faiths, in public institutions and offices and within the private sphere.
- ✦ Sri Lanka recognizes gender based violence as a crucial issue that needs focused and strategic responses and diverse sectors, State, nongovernmental, professional, service sectors and academia provide multi faceted initiatives aimed at addressing and reducing gender based violence. However the issue remains grave. The need for extensive strategic and long term programming to address gender based violence is urgent and the space is open for such programming at all levels of society from policy level to community level.
- ✦ It is important to analyse the gaps and shortcomings that have prevented the yielding of highly successful results from the programming in the past decades. While obstacles commonly identified (and present around the world) as ‘cultural’ barriers, negative attitudes, stereotyping and ingrained power inequalities continue to hinder programming, lack of strong, committed and long term State attention to the issue has been a constant and strong barrier to achieving results.

- ✦ Despite State interventions and programmes to reduce gender based violence, the lack of focus and long term commitment is apparent when one compares the achievements of Sri Lanka's movement against child abuse with the work done to reduce gender based violence. Extensive State commitment on child abuse issues resulted in legislative recognition of the Children's Charter, establishment of a National Child Protection Authority with full monitoring, investigation and enforcement powers, long term programmes to counter child abuse had a direct impact in lowering levels of child abuse and garnered non governmental and private sector support for such programmes. The situation on addressing gender based violence has been different, thus resulting in the need for more and more effective programming, advocacy and lobbying to reduce GBV and to garner State support for doing so.

References

Jayasundere R. (2009). Understanding Gendered Violence in Sri Lanka- A programming document for Women Defining Peace.WDP. Sri Lanka.

Kottegoda, S. Jayasundere, R. (2004). Gender Based Violence in Sri Lanka – A document for UNFPA. *UNFP. Colombo*.

Power and Violence against Women Session 8

Introduction

The concept of Gender Based Violence (GBV) necessarily includes both the aspects of violence which arises out of asymmetrical power relations resulting from the socialisation processes, as well as gender based discrimination arising from structural violence against women, as can be seen, for example through the impact of violence against women as a result of armed conflict.

Addressing Gender Based Violence in Sri Lanka necessarily involves addressing unequal power structures between men and women. Whether this (the issue of addressing power structures) is clearly articulated or not, every initiative, campaign or discussion that addresses gender based violence deals with these power structures that exists in diverse forms within different ethnic groups, within and between class barriers, within religious faiths, in public institutions and offices and within the private sphere.

Creating a more equal and equitable relation of power between women and men can be achieved by changing structures and functions of power systems that reinforce inequality.

Examples of different degrees of power relations

- Domestic power – patriarchal structure (men/boys over women/girls)
- Social power – social divisions such as gender, age, caste, class, ethnicity, race
- Institutional power- family, religion, education, occupation
- Administrative and governing power- typical hierarchical system of administration, decision making power, political power

In order to reduce GBV women should have equal power/rights as men. To achieve this, power structures should be addressed under three different levels; individuals/household level, community/society and State. Therefore, working towards the creation of equitable relations of power is a vital step towards reducing GBV.

Objective

- To provide an understanding of ‘power’ as the main cause of gender disparities and gender based violence

Activity

- Provide reading material to participants as pre workshop reading. The reading material is in the Handouts on 5 topics below.
- Discuss the contents of the 5 handouts in an open discussion.
- Group participants into 5 groups and each groups discusses all 5 handouts.
- Each group discusses power imbalances in gender relationships under each topic using the questions below.

Topics in Handouts

1. Culture of violence and GBV
2. Gender Based Violence in politics and public life
3. Poverty and Gender based violence
4. Women's ownership of property and GBV
5. Alcohol, drug and other substance abuse and gender based violence

Guide questions for groups discussions.

Guide questions for groups discussions

- What are the power relationships that contribute to the issue?
- Who has power and how is the power exercised to cause violence?
- Who are the victims and how is power used to victimize?

Handouts

Handout 1 : Unequal power structures and gender based violence

The concept of 'gender' in itself sets out to clarify the ways in which patriarchal socialisation processes plays a critical function in creating socially 'acceptable' norms of behaviour and rights for women and for men. These socialisation processes in effect give more power to men over women and demarcate lines of conduct where women and men have differential and often unequal access to and control over resources, whether it is in terms of food, healthcare, skills training, credit, property, income or, in the arena of decision-making. Lack of access to such resources can also result in those with less 'power' being subjected to violence and intimidation, which could take the form of acts of verbal, physical and sexual violations, whether in the privacy of their own homes or in the public sphere.

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Issues surrounding gender based violence in Sri Lanka:

From the acceptance of the provisions contained in the United Nations Declaration on the Elimination of Violence against Women to the Beijing Platform for Action, to resultant local policies, commitments and legislation, Sri Lanka has come out of the veil of silence surrounding gender based violence. But the recognition of gender based violence as a result of underlying gender inequalities and power imbalances is yet to be commonly accepted – thus initiatives to combat gender based violence often rest on redressal or preventive efforts through awareness raising targeted at addressing the issue of violence and not often enough on strategically addressing the root causes of inequality and power.

Discussions with service providers reveal that gender based violence in Sri Lanka has increased in the past few years. As stated earlier, it is not certain if this increase is due to increased reporting resulting from awareness creation or due to the actual increase in incidences of violence against women. However, the same service providers report an increase in the level of brutality in cases of violence against women, linking this to the general increase in violence in today's Sri Lanka.

Handout 2: Culture of violence and GBV

Sri Lanka's violent civil conflicts (the armed conflict between the State and the LTTE¹ as well as the violent JVP² led uprisings) in the past thirty years have created a culture of violence as well as a culture of impunity from violence. Women experience armed conflict differently to men. The inequalities based on sex result in women's unequal access to resources, rights, authority and control over environments. Losing family members who have died, disappeared or missing, becoming heads of households and being displaced and forced by circumstances to live in welfare centres and relocation sites increase vulnerabilities that are unique to women. Increased militarization and resultant environment of abuse of power, and widespread violence of all forms victimizes women in many ways often impelling them into situations of violence.

It is said that women in Sri Lanka have become victims of armed conflict in four different ways; direct victims of violence, raped or killed in conflict, become refugees or internally displaced, lost male relatives and find themselves in situations of social and economic disempowerment and have experienced the war as woman combatants and as perpetrators of violence. During conflicts women have also been subject to custodial violence, and by being caught in crossfire and bombardments.

While no official figures exist on the numbers of women subject to various forms of violence during conflict, several cases of rape and murder and other forms of violence, especially custodial violence have been highlighted in the media and by women's organizations forcing State action against perpetrators.

The Asian Development Bank Sri Lanka Gender Assessment (2008) notes “*Gender Women in these conflict-affected areas have had to bear a disproportionate share of the burden as the survivors and caregivers of their families. Many of these women have been abruptly forced to be female heads of households, responsible for the welfare of their families amid deprivation and instability. In the welfare centers, facilities have been minimal and women have suffered loss of privacy. Communities have been disrupted; infrastructure, such as roads, telecommunications, and markets, and institutions, such as schools and hospitals, have been destroyed; and productive assets have been lost. Women have had to sustain their families without shelter, food, basic services, education, and means of livelihood. The disruption of traditional agriculture and fishing has meant loss of income. All pervasive is the trauma that is the result of violence, including gender-based violence, as well as perceptions of vulnerability and powerlessness.*”

¹ Liberation Tigers of Tamil Ealam

² Janatha Vimukthi Peramuna

Gender based violence in the recent military offensive in the North of the country remains undocumented. The numbers of internally displaced people has swelled to close on 200,000 housed in temporary shelters and welfare centres. Anecdotal information gathered by civil society organizations point to issues arising from injuries, separation from families and hardship caused insufficient food, medical care and shelter in the trapped areas and the welfare camps. A recent note issued by the United Nations Resident Co-ordinator's Office in Sri Lanka identifies GBV resulting from militarization and the threat of violence where women in welfare centres reported incidents of verbal harassment by military personnel and vulnerability to threats of violence caused by unsecured locations of location of toilets and bathing wells, and the lack of adequate lighting. The note further identifies vulnerabilities faced by the high number of female headed households, and women separated from families.

Handout 3: GBV in politics and public life

The section on 'Women in Power and Decision Making' in the Sri Lanka National Plan of Action on Women recognizes that there are no constraints to women in Sri Lanka reaching the height of political power as President or Prime Minister. However it notes and promotes remedying of the fact that women's representation in legislative bodies and in politics and in decision-making positions in the public and private sector is very low. The reasons for low participation are complex and a commonly identified reason which is said to prevent women from seeking political participation in the level of violence associated with politics.

Incidents in the past five years of harassment of women candidates are testimony to this commonly expressed view. Yet a recent project carried out by a women's NGO¹ brings views from the field to the contrary. The project which reaches women political aspirants states that *"At the field there is no fear of violence, allegations of corruption and tarnishing of good character among women who are expecting to receive nominations and contesting elections in 2010"*. The project which works with community based organizations that prepare women to contest in the political process, further elaborates that *"unlike for male contestant, organizational strength is vital to meet the challenges of violence, threats, intimidation and unfair allegations that are part and parcel of the political process at local level"* and concludes with a telling comment *"these women are brave and fearless. They will accept the challenge and context in the 2010 local authority elections."*

This experience, albeit small in comparison with the size of the electorates in Sri Lanka, brings in two views; one that violence is part and parcel of the electoral process, but two, that women are no longer intimidated by gender based violence in their aspirations to enter politics.

¹ Women and Media Collective project "Strengthening Governance and Increasing Women's Representation in Local Government". 2008

Handout 4: Poverty and GBV

Poverty in Sri Lanka has a direct affect on women. Despite an increase in employment and the resultant decline in the rate of unemployment, income inequalities have remained and there have been little change in the poverty status experienced in Sri Lanka. At present a large segment of the population, over 40% lives below the poverty line. The fact that more than half the population of Sri Lanka is women highlights the gravity of the poverty status of women, although specific statistics are scarce. Women's access to employment and income are critical indicators of the status of women in relation to poverty. While there has been an increase in women's labour force participation in the past years, women's unemployment remains significantly higher when compared to that of men.

The component on women, poverty and the economy in the National Plan of Action for women recognizes that approximately 21% of households are female headed. Current statistics reveal that the Head Count Index (proportion of population below national poverty line) for female headed households is 21.5 compared with 23.0 for male headed households.¹

Many of the Sri Lanka's poverty alleviation programmes reinforce gender stereotyping and subordination of women. Micro credit programmes aiming at reducing poverty largely target women as the better repayers of loans. But many while economically empowering women have reinforced women's status as secondary income earner and further ensnared women into a form of debt that is disempowering.

Sri Lanka has not properly documented the effect of poverty as a cause of gender based violence. Poverty is often cited, without adequate research, as a cause of gender based violence, especially domestic violence. However women's organizations that provide support services record no direct links between poverty and gender based violence and conclude that violence against women takes place in low economic (poor) as well as in affluent(rich) situations.

Handout 5: Women's ownership of property and GBV

There are no countrywide gender disaggregated statistics available as regards land ownership in Sri Lanka, either in regard to private property or to the distribution of State land. While it is difficult to maintain such statistics in regard to private property, it is unfortunate that the relevant State institutions involved with land distribution have not maintained them as regards the latter. Studies by individual researchers provide some information on the issue but this is an area in which there is a distinct lack of hard data.

¹ Sri Lanka National Plan of Action on Women (Draft 2008)

A 2005 study on Property Ownership and Inheritance Rights of Women for Social Protection¹ concludes that property ownership by women did not obviously affect violence. In the study, from the women who faced violence at home, women who owned property were similar in numbers to women who did not. This was the same in the way women responded to the violent situations. The women who tried to deal with the violence were greater in number than those who did not but property ownership in both categories was similar. However the study concludes that gender role stereotypes primarily inform both men and women's attitudes towards property ownership of women. Men believe that if the traditional roles as male provider and female caregiver are maintained, there is no need for property ownership by women. Women, on the same lines, believe ownership of property can cause marital disharmony. Further there are subtle indications that ownership of property does equip women with power to negotiate their status within the family and assert themselves. However, ownership of property does not seem to be the principle role in empowering women.

Yet, despite these study findings, information from the field brought in by women's organizations working at grassroots level reveal that gender based violence does result in relation to property, especially property owned by women where harassment, intimidation, threats of violence and actual violence takes place against women due to property ownership where women are disposed of the property they own or are victimized due to the lack of ownership in relation to dowry, aged women, in inheritance especially with regard to land granted by the State².

Handout 6: Alcohol, drug and other substance abuse and GBV

Links between alcohol abuse and gender based violence are often drawn in Sri Lanka where the underlying factor that emerges in community discussions is that gender based violence, particularly domestic violence following alcohol and substance abuse is excused and to an extent accepted.

Early studies³ have found alcohol abuse to be a problem in over 70% of wife abusers. Most women identified alcohol abuse by men as the predominant factor instigating and aggravating wife beatings.

A study conducted by FORUT⁴, an NGO that addresses alcohol and substance abuse issues in Sri Lanka, finds that violence under the influence of alcohol is excused and more or less accepted by surrounding local communities. Further violence is justified by consumption of alcohol.

¹ Gunaratne, C. (2005). Property Ownership and Inheritance Rights of Women for Social Protection: The Sri Lanka Experience. Centre for Women's Research (CENWOR) and International Center for Research on Women (ICRW). Colombo.

² Information gathered from Viluthu, Siyath and Community Trust Fund through discussions.

³ Saravanapavananthan, N. 1982, 'Wife battering: A study of sixty cases', Forensic Science International, no. 20, pp. 163-166 / Perera, A. 1990, *Battered wife syndrome, a perspective from general practice*, Paper presented to the Academic Sessions of the Sri Lanka Medical Association, Colombo.

⁴ Baklien, B & Samarasinghe, D., 2004. *Alcohol and Poverty in Sri Lanka*. Oslo: Forut.

The study asserts that *“what is condoned when one is intoxicated spreads over to being a norm when sober. When a father’s alcohol abuse leads to a lack of care for the children, it is often considered more of an unfortunate circumstance rather than an issue that demands more concern and attention. Women abused by their intoxicated husbands are common, however the general consensus is that this is due to fate or an “accident” related to alcohol. The consent of misbehaviour under the influence of alcohol leads therefore to the disruption of norms. Alcohol consumption affects behavioural patterns and cultural norms making violent behaviour while intoxicated acceptable”*.

Further studies¹ show that *“domestic violence and gender based violence was almost taken for granted in nearly all settings as an ‘automatic’ consequence of alcohol use. Deprivation of the needs of children due to the father’s heavy alcohol use was regarded simply as a misfortune of the children concerned, and not a matter for special concern or mention. Women being abused in the home by ‘drunken’ husbands was known, and even heard, but it was accepted as fate or as an evil caused by alcohol”*.

However information recorded by service providers² does not identify alcoholism as a primary cause of domestic violence in particular and gender based violence in general. Alcoholism is recorded, as shown by the above studies, as an excuse to perpetuate acts of violence against women. It is argued that the indemnity offered by law where intoxication brings in mitigatory sentences for grave offences adds to this myth.

¹ Baklien, B. and Samarasinghe, D. (2003-2007). Alcohol & Poverty. Alcohol and Drug Information Centre. Colombo

² Discussions with Women In Need. Colombo. (2008)

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Knowledge Building Rights

Introduction

Rights enjoyed by men and women can be briefly identified as human rights. These rights have been enjoyed since the beginning of human society. These rights that were naturally assigned to people, have later been accepted at a higher degree, given a higher status and ethics attached to them.

Since around the 16th century, many insurrections and revolutions spread in various countries against rulers who did not respect these rights resulting in measures being taken to establish such rights not only as traditions, customs and ethics but also as written laws or declarations. After the Second World War, declarations of such rights were made with initiatives taken by the United Nations Organization with a universal standard on a more legal basis.

All human beings require certain opportunities and freedom to ensure their existence, to lead a dignified life, to realize personal advancement and also to achieve social justice. These have been accepted by society and the State as ethical and legal rights and necessary conditions or rights required for the good of individuals as well as the society.

Human beings require various freedoms and opportunities in order to live decently. All human rights are common to both men and women. However, this commonality is very often limited to establish the legality of human rights only and practically, in enjoying human rights, differences in the form of gender, colour, ethnic, religious and language groups, cast and class etc. begin to manifest themselves constantly. Out of those groups, there appears to be a vast gap in the matter of enjoying human rights among men and women. The main reasons for that are the traditional cultural and social patterns, and stereotyped attitude. As a result, although women have equal legal rights, practically they have not yet been able to enjoy equal rights, freedom and opportunities as men do.

Women continue to be subjected to more and more gender based discrimination and since the 1960s the women's movement have been engaged in exerting pressure in numerous ways on the necessity for international commitments for the eradication of discrimination against women. As a result of such movements, in 1979 the United Nations passed the Convention on the Eradication of all forms of Discrimination Against Women (CEDAW). In addition, many other Declarations and Conventions have stressed the necessity to ensure gender equality and justice and many countries including Sri Lanka who ratified such Declarations and have been signatories to the Conventions have legally established gender equality by enshrining relevant provisions in their respective Constitutions.

Therefore, it is essential to identify issues and to decide and implement laws and policies from a gender-based perspective in the legislative, executive and judicial spheres in a country as well as in all other social, economic and political activities. For a country to achieve democracy, good governance, lasting peace and sustainable development it should act with a rights-based approach.

Expected results

To provide an understanding of rights, discrimination and equality

What are Rights ?

Introduction

There are many definitions presented for the term ‘Rights’ and generally, the rights given to human beings by nature in order to lead a good life are considered as rights. But in the history of the world there have been instances where these rights were suppressed, disregarded or violated with social, political and economic changes. On such occasions people rose up in numerous ways against such suppressions or violations. As a result of such agitations there emerged a legal foundation that advocated that such rights should be established and protected. In this Session the definitions of Human Rights will be discussed.

Objectives

- To identify the various definitions of “Rights”
- To identify the universal or common nature of rights.

Duration

1 hour

Activity 1

- Discuss what participants feel when the term “rights” is mentioned. Ask them what the meaning/opinion they attach to it. Do the following activities to provide a clear and simple interpretation of this term.
- Give instructions to participants (for 5 minutes) to identify various divisions/differences of individuals (eg. black, white, brown human types, elder-child etc.)
- Give instructions to some participants to present before the others identified personal differences. Matters relating to various differences such as gender, ethnic groups, race, caste, class, occupations, disabilities (differently-abled) may be referred to at this stage. Accordingly, the resource person should write such divisions on the white board. Divide the differences under two categories as physical and social matters.

Eg:

Physical differences	Social differences
<ul style="list-style-type: none"> • Race • Sexual differences • With/without different abilities • Tall/short 	<ul style="list-style-type: none"> • Ethnicity • Religion • Language • Caste • Class • Place of birth/residence • Dress, jewellery • Gender

- Explain using the following facts:
 - That despite these divisions, human beings are born as equal beings and that every human being likes to lead a good life. The conditions required for that are called rights and they are common to all.
 - All human beings living in any society in the world are born equal physically. Some are white, black or brown by birth. They are born with sexual differences as males and females and the body shape and the structure of each individual too are determined by birth.
 - Despite differences all are the same and all like to live freely and happily.
 - Social differences are created by social, cultural, economic as well as political factors. Such differences are created by agents such as social institutes, eg. the family, religious places, educational institutes, state, government, political parties, media, civil society organisations, work places etc. They differ from society to society and in any society the usages of such traditional differences are being subjected to change. In any society there are various groups depending on the traditions, customs, festivals, clothes and ornaments, food, language spoken, religions professed, life style, behavioural patterns etc. that are obtained in such society. Homogenous societies where such differences are absent are not found in any country of the world. Social heterogeneity is common to every country. However, despite all that, human beings are born equal.
 - Harold Laski(1941:33) identifies rights as “the conditions required for each man to lead a very good/sound life.”
 - T. H. Green identifies rights as “the power requested and accepted by society for the common good.”
 - When such a request receives a social acceptance it becomes an ethical right. When it is recognized by state it becomes a legal right.
 - Rights are conferred by nature not only on human beings at birth but also on fauna and flora.
 - Rights manifest only in a democratic country where there is freedom and equality.
 - Generally every man requires various opportunities for individual development. Laski further describes opportunities as rights. Hobby House further describes rights as conditions required for social wellbeing.
 - Rights are created within the society and there cannot be rights outside society. The creator of state rights is the one who maintains it.

What are Human Rights ?

All human beings need certain opportunities and conditions in order to ensure their existence, to lead a respectful life, to realize personal progress, to protect self-identity, and to achieve social equity. They can be simply identified as human rights. Human rights have been recognized ethically as well as legally by society and the state as prerequisites for individual and social benefit. Such opportunities are necessary to live as a rational being in society and to perform the functions expected of human beings by society. Thus human rights are considered as an essential component of the humanity of any person.

The freedom and opportunities needed by a person for the realization of her/ his own good as well as the good of society are called rights. Similarly, such opportunities are required for a human being to live as a rational being in society and to properly function the tasks expected of him by society. Thus, rights can be defined in a broader sense as the power recognized by society and state and demanded by us from society in order to realize the common good of society.

According to Maurice Cranston (1973:5) “Human rights are a universal ethical right. That is a right that every man and woman should be entitled to at all times and places and that cannot be denied to anyone unless by a serious breach of equity and entitled to every human being for being a human being.”

According to Earnest Barker (1999:174-76), “Rights are what is demanded by a person and accepted by society and state” According to this meaning, there are three basic components that describe rights. Firstly, “the rights should be demanded by a person”. This demand should be related to individual as well as common or social good. Secondly, “that demand should have a social acceptance”. It means that this individual demand becomes a right only if it receives a social recognition that it is for social benefit. For example, a person asking for committing suicide is not beneficial either to him or the society. Therefore it does not get a social recognition. Thirdly, there should be “political recognition”. Rights are given a legality and an assurance due to their being protected by a state. If not so, this individual demand becomes merely an ethical right.

According to Laski rights means “a set of conditions necessary for man to conduct his social life in a good manner.”

According to Johan Galtung, rights mean the essential requirements or rights to be compulsorily possessed by a human being in order to maintain his human nature and to fully develop it. As further explained by him, the rights required by a person to maintain his life, develop a sound physical and mental condition or realize personal development, enjoy freedom, protect his identity or to lead a respectful life are human rights.

According to the above mentioned definitions the foundation of human rights is virtue or good conduct. Before being given a legal protection they were known as natural rights. What is evident from the historical evolution of rights is that individuals or institutes with state power were instrumental in restricting, disregarding or violating them. Therefore, in order to secure their rights people during the respective periods rose up in numerous ways against such state powers. In such instances the people made a legal foundation through agreements, charters, declarations, conventions etc. to have such human rights protected by the state. Therefore, human rights are also known as rights which are against the state and have to be made protected by it. Thus, in the modern human rights definitions they are known not only as a code of conduct meant merely for individual and social relationships but also as a legal system aimed at relationships and responsibilities between the person and the state as well as society and the state. Thus, it is to the state that the responsibility of protecting human rights is entrusted. In that scenario the responsibility of legally protecting, promoting and respecting rights is devolved upon the state.

Introduction

As social beings men and women own rights and hence they are called human rights. The rights or freedom and opportunities accepted by state and society can be enjoyed by a human being since he/she is a social being. Therefore, the rights we enjoy in order to protect our existence, to lead a respectful life and to provide for our own wellbeing should of necessity be used for the common good of society as well.

Objectives

- To clearly understand Human Rights
- To identify special characteristics and different classifications of Human Rights

Duration

2 hours

Activity 1

What are Human Rights?

- Divide the participants into small groups (5-6 in a group). Give one case study each to a group and ask them to read it and answer the relevant questions. Instruct to present before the gathering the answers discussed by each group, through a group leader.

Case Studies

Case Study 1: Gunapala

Gunapala is the eldest boy in a poor village family. When he was studying in Grade 10 his father died of a sudden heart attack. His mother began to work as a coolie on an estate to look after the two younger sisters and the brother of Gunapala. Her income was hardly sufficient to meet family expenses. An uncle of Gunapala found him a job in a hotel in the town. He had to work the whole week continuously from 8.00 a.m. to 10.00 p.m. He was given 2 days a month to go home and his salary was Rs. 7000.00. Due to heavy work and exhaustion he fell ill seriously with fever and the uncle got him admitted to hospital. Although Gunapala was discharged after three days, the doctor advised him to rest for one week. In the mean time the Hotel Manager had informed him to come back to the hotel for work. Gunapala's uncle requested him that Gunapala be given one week's leave. But the Hotel Manager informed him that he had taken another boy for work as Gunapala had gone home from hospital.

Questions:

1. What are the reasons that led to the loss of Gunapala's job?
2. What rights of him have been violated?
3. Although Gunapala is a boy of 15 years, how does his work to look after the family members affect his rights?

Case Study 2: Ramakrishnan

Ramakrishnan is 12 years old and lives with his parents and two sisters in an estate line room. As there was no school close by, Ramakrishnan and other boys of the estate studied at the village Muslim school. Ramakrishnan was given a bench on the last row and the Muslim children used to jeer at him very often. The difference in Tamil pronunciation and the wearing of clothes different to those of the Muslims were the reasons for such behavior. One day, Ramakrishnan went for the pooja in the kovil and went to school straightaway. The majority of Muslim boys looking at him said, "Ah... Rama! You got up from a heap of ash? Why is there ash on your forehead? ..There is a red dot too !.... Like a woman !!". One talkative boy approaching Rama insulted him further saying, "Ay machan... you all live in line rooms on the estate... You all cook, eat and sleep in the same room, don't you? Last night you slept on the cooking spot, didn't you?"

Rama's little mind was greatly hurt. He nearly cried. Going towards the teacher, Rama tried to say something looking down. The teacher reacted in an unexpected way and told him, "Get away..you come here having picked up quarrels? ...Telling tales... back to your seat!" After coming home Rama said to his father, "Appa, I am not going to school again".

Questions:

1. What are the reasons that led to the incident faced by Rama ?
2. What rights of Rama were violated?
3. Should Rama enjoy equal rights as the other children in the school?

Case Study 3: Tharangani

Tharangani is a 44-year old social activist. She used to take up leadership roles making herself endeared to all in the village holding office in Women's Societies and Death Donation Societies etc. Having obtained membership of the political party of which her father was a member, she supported that party in three of the last elections. Having intended to run for the Pradeshiya Sabha election of this time, she sought nomination for woman representation backed by the Women's Board of Authority (*Kantha Bala Mandalaya*). The party of her membership rejected her request and did not give nomination to any other female. Tharangani teamed up with an independent group and handed over nomination for the Pradeshiya Sabha election.

But the electoral organizer of the relevant party threatened Tharangani and asked her to withdraw her nomination. When she did not agree, he got her posters and cut-outs torn down and burnt by his henchmen. She was threatened not to hold meetings and several men were deployed to follow her when she was out from home. On the election day she was chased away from the counting centre. Although Tharangani believed that she would get more than 1000 votes, she had got only 412 votes.

Questions:

- 1 What are the reasons that led to Tharangani's incident?
- 2 What rights of hers were violated?
- 3 What sort of rights should Tharangani, who expected a female representation in the Pradeshiya Sabha, be entitled to?

Case Study 4: Shaheema

Shaheema, who is the youngest daughter of a middle class family, has two elder brothers. She offered two foreign languages as subjects in the GCE (AL) examination. Though not qualified for University entrance, she got through the AL examination and applied for several jobs. She got opportunities for two jobs. One was a post of Cashier in a leading jewellery shop and the other was a post of Receptionist in a Five Star Hotel. Since she preferred the second job, she went for the interview with her father. After several weeks she was informed to come for a three-week training on the job. But the two brothers of Shaheema, scolding both the parents and her, asked "Are you not ashamed to send our sister for jobs in hotels?"

Questions

1. What are the reasons that led to Shaheema's incident?
2. In this incident, what rights of Shaheema were violated?
3. As expected by Shaheema, what rights should she be entitled to for her personal development?

- Once the group leaders present their answers, give a brief lecture on human rights using the following slides.

Slide

- ✚ Equal rights have been ensured in Sri Lanka by Article 12(2) of the Constitution. But these four case studies deal with incidents relating to four characters who had been subjected to human rights violations on account of poverty, ethnicity and gender. They had been differently treated for being belonged to a different ethnic group and being women. Human rights cannot exist side by side with such discriminations. Where human rights are equally enjoyed by everybody there cannot exist discriminations.

- ✚ Therefore, human rights are inherent rights possessed by man by birth. Freedom to enjoy human rights is not restricted on account of one's sex, race, class, ethnicity, religion, language or caste.
- ✚ Despite the existence of any sort of physical or social differences, every man needs freedom, opportunities and resources for his existence, respectful life, identity and individual development. This can be identified simply as human rights. Despite the existence of any such differences referred to above, every man needs food, medicine, shelter, a friendly environment and clothes to maintain his life. Similarly, every person likes to receive a good education, to pursue an occupation, to marry and build up a family and to lead a peaceful and respectful life free from torture. The requirements necessary for that too are known as human rights. Rights such as free association, expression, education, training, engaging in an occupation, receiving a sufficient wage and leisure are compulsory rights. Therefore, there should be space for every man to enjoy human rights freely with no difference.
- Point out that the beginning of human rights goes as far back as the beginning of human civilization and that in all the religious teachings followed by us human rights are given expression.
- Explain that however, their development and expansion took place only after the Second World War. Explain the historical evolution of human rights and particularly give a brief description of the international recognitions accorded to them and UN Human Rights Declarations and Conventions in brief.

Activity 2

Special characteristics of Human Rights

- Allocate five (5) minutes to reflect on the special characteristics of human rights enjoyed by the participants.
- After that ask each participant for the special features identified by them. Write them down on a flip chart and present for display.
- It is possible that participants may present features such as the possession of human rights in general irrespective of gender and various social divisions, existence or restrictions, universality etc.
- Conduct a brief discussion on the special characteristics of human rights using the Slide.
- Although common human rights are similar for both males and females, there are occasions when rights differ depending on the biological and social requirements of women and men.

Slide

Special Characteristics of Human Rights

- ✦ Common – not divided on differences such as gender, human colour, types, race, religion, caste, language and political opinion
- ✦ Universal – inherited by human beings of the entire globe.
- ✦ Not infinite – There are limits to enjoying the rights. Others' right should be honoured.
- ✦ Limited to individual and common good only – Rights cannot be used for individual or social harm or evil (i.e. committing suicide)
- ✦ Can be enjoyed by a free individual only- Some rights can be enjoyed by a free social being only (limited in the case of a prisoner)
- ✦ No right is limitless- subjected to law and ethics
- ✦ Always connected to duties
- ✦ Human rights may differ depending on necessity, place and time
- ✦ One right may not be disregarded or abandoned for another right.

Activity 3

Classification of Human Rights

- Give a brief lecture using the facts given below in a Slide.

Slide

Human Rights

- ✦ Can be classified as ethical and legal rights. Socially accepted traditions, customs and demands are considered as ethical rights (looking after parents, treating the poor, caring for patients etc.). Although they have no legal background, some ethical rights have been accorded a legal background at subsequent periods.
- ✦ Legal rights have been ensured to the public by the supreme power of a state and when they are violated, justice is meted out by the state.
- ✦ Human rights are also classified as positive and negative rights. Positive rights are economic and cultural rights that should be enjoyed with state assistance. When civil and political rights, which are negative rights, are enjoyed there should not be an influence from the state.
- ✦ All political, civil, social and economic rights come under the category of human rights.
- ✦ Only those ensured by enshrining in the constitution are regarded as fundamental rights. Rights that are most important for life fall into this category. Although all fundamental rights are human rights, all human rights are not fundamental rights. If the fundamental rights are violated in Sri Lanka by the executive or an administrative or political institute, people have been given the right by the 1978 Constitution to have justice done through the Ombudsman, the Human Rights Commission of the Supreme Court.

- ✚ Rights attached to people are known as personal or individual rights and those attached to groups of individuals such as women, children, indigenous people and migrant workers are regarded as group rights.
- ✚ According to the evolution of human rights they are believed to be belonged to three generations. It is accepted that in the first generation civil and political rights were developed, in the second generation economic and cultural rights were developed and in the third generation group rights were developed.
- ✚ The basic classification of human rights consists of civil, political and cultural rights.

Activity 4

Identifying civil, political and cultural rights

- Divide the participants into four groups and discuss the following
 1. Civil
 2. Political
 3. Economic and
 4. Cultural rights.
- Allocate 15 minutes to discuss whether they have space to enjoy them, or else, whether there are obstacles and if so, how such obstacles can be overcome.
- Thereafter allow the summary of matters discussed to be presented through a group leader.
- Explain the various rights belonging to those four categories based on facts presented at the discussion. Stress that those rights are inter-connected and that a right cannot be disregarded for another right although so categorized for the convenience of discussion.
- Point out that these rights are possessed equally by both males and females as human beings and a number of fundamental rights have been ensured by the 1978 Constitution of Sri Lanka.
- In terms of the evolution of Human Rights, civil and political rights are regarded as those won by the first generation, economic and cultural rights as those won by the second generation and group rights by the third generation.

Activity 5

- Conduct a brief lecture: Human Rights protected by International Conventions and Charters using the following information.
- ✚ In 1948 the United Nations promulgated a Universal Declaration on Human Rights that can be accepted by every State, ethnic group as well as every human group, by collecting all laws, agreements and international definitions on civil, political and cultural rights scattered throughout the world.

- ✦ One of the immediate objects that influenced the establishment of the United Nations in 1945 was the protection of human rights internationally. Many countries stressed that unfortunate incidents such as the genocide of Jews in Germany prior to the Second World War, the nuclear bombing on the Japanese cities of Hiroshima and Nagasaki by America during the great war should not be repeated in the world. It was also stressed that protection of human rights, human dignity and existence and the creation of peace is a responsibility cast upon all countries in the world. The way a country treats its citizens is not something that affects that country alone but something that should receive the serious attention of the international community, it was further re-iterated.
- ✦ It was said that the protection and practice of human rights through the United Nations Charter was a duty of the member countries. In the preamble to the Declaration, the trust reposed in the rights of males and females as well as those of the majorities and minorities was ensured.
- ✦ Article One of the Charter declares that the “foundation for the realization of UN objectives is to honour human rights”. Article Three declares that “respect for human rights and fundamental rights of all with no discrimination on grounds of race, sex, language, religion etc. will be extended and member countries will be encouraged towards that.”
- ✦ Article 68 of the UN Charter focused attention to the appointment of the International Human Rights Commission.
- ✦ On 10th December, 1948 the Universal Declaration on Human Rights was declared by the UN General Assembly. This Universal Declaration explains matters relating to legal obligation cast upon the UNO for the international protection of human rights. This has accorded an international importance to the Universal Declaration and it is regarded as a part of the international common law as well.
- ✦ The preamble to the Universal Declaration on Human Rights states that the basis of freedom, justice and peace of the world is the acceptance of the inherent dignity and the inalienable equal rights of all persons in the human family. Thus it ensures the universality of human rights and stresses that despite the fact that people live in various regions and areas as different types of humans and belong to diverse races, human types, families, castes or other human groups, profess various religions and speak different languages, be they men or women, they are all entitled to equal human rights.
- ✦ According to Article One of the Declaration - “All men are born equal. They are similar in the matter of dignity and rights. With feelings of justice and injustice and conscience they should treat each other with a sense of brotherhood”
- ✦ According to Article Two - “Every person shall inherit all the rights and all forms of freedom mentioned in this Declaration irrespective of race, colour, gender, language, religion, political or other opinions, national or social source, property and birth.”

- ✦ There are thirty (30) Articles in the Universal Declaration. Articles 3-21 ensure civil and political rights while Articles 22-27 ensure economic, social and cultural rights. Articles 28-30 refer to the right man has to secure an environment for the protection of human rights internationally and the duties he has perform in order to do so.
- ✦ While the Universal Declaration on Human Rights is only a statement of policy, it does not make it legally binding on states. But it has evolved as a standard of ethical responsibility of states. It is also used as a measuring stick to evaluate democratic nature of states.

Other major International Conventions

- ✦ In order to attach legal responsibilities to the human rights established by the Universal Declaration, a number of other Conventions too have been passed by the United Nations as follows:
- ✦ International Convention on Economic, Social and Cultural Rights – 1966 and the International Convention on Civil and Political Rights – 1966 are very important Conventions among them.
- ✦ Rights protected by the 1966 Convention: to engage in an occupation, enjoy an environment conducive to occupation, formation of Trade Unions, a living wage, equal wages, receive education, participation in and promotion of cultural activities.
- ✦ Right to self determination, right to life, right to be free from torture, punishment or inhuman or disgraceful treatment, right to be free from slavery, right to be free from arbitrary arrest or detention, not being treated as guilty until convicted legally, being punished according to the law prevailing at the time of the offence, equality before law, protection of confidentiality and privacy, religious freedom, freedom of conscience, right to form trade unions, peaceful assembly and to build a family are the civil rights ensured under it. Political rights such as voting, representation and other political rights too are established by this Convention.
- ✦ It is also stated that rights ensured by both these Conventions are equally applicable to males and females.
- ✦ Parallel to this Convention, two optional agreements (i.e., the first optional protocol in respect of complaining instances of violating civil and political rights by the state parties who are signatories to this Convention to the Human Rights Commission for redress and the optional protocol regarding the abolition of death penalty) were adopted by the United Nations.
- ✦ Universal Declaration on Human Rights along with these two main Conventions and the two Optional Protocols constitute the instrument known as the International Human Rights Act.

Other important International Conventions relating to Human Rights

- ✦ Around one hundred Conventions and Charters relating to human rights have been passed by the United Nations. They are divided into two categories as instruments protecting common rights and those protecting rights of special groups.
- ✦ Instruments relating to common rights include the 5 documents referred to above and other documents such as the American Declaration on Human Rights and Duties, European Convention on the Protection of Human Rights and Fundamental Freedom, European Social Charter and African Charter on Human Rights.
- ✦ Instruments relating to rights of special groups include the Convention on the Protection of the Rights of Refugees, Convention on the Prevention of Discrimination on Ethnic Grounds, Convention on Child Rights, Convention on the Elimination of all forms of Discrimination Against Women, Convention on the Rights of Migrant Workers and their Family Members etc.
- ✦ The majority of functions relating to the protection and promotion of human rights are performed by the UN General Assembly, the Economic and Social Council, Human Rights Commission and the Sub Commission. Related responsibilities are assigned to the UN Security Council and the International Court on Administration of Justice and the Trusteeship Council.

Handouts

Human Rights: Special features and Classification Special features of Human Rights

Human rights are common and universal and equally entitled to by all men irrespective of gender, race, colour, caste, religious and language considerations. Not being unlimited too is another characteristic of Human Rights. A person can enjoy his rights only to an extent that causes no harm to another person's rights. Human rights should be enjoyed for individual or common good only. A person cannot enjoy human rights at his own pleasure and against social ethics and law.

The fact that human rights can be enjoyed by free individuals living in a society alone is yet another feature of them. For example, even though a person imprisoned can enjoy certain rights, he cannot enjoy all the rights.

Unless limited by law on some requirement, the inability to limit human rights to any person or institute and to disregard or violate at any time whatsoever is another feature of human rights. Although people's rights such as the freedom of assembly, expression and criticizing the misdeeds of government etc., may be curtailed by enforcing the emergency law at times of war or insurrections in a country, such restrictions should be taken away once the emergency law is lifted. Ruling a country under emergency law when there is no war situation is a violation of human rights.

Similarly, one right cannot be relinquished or disregarded for another right either. Thus, after ensuring the right of obtaining food required for human existence, it is not possible to prune down the right of one's personality development in turn. Since both these rights are essential for the creation of a total human being, there is an inter-connectedness between the two.

Being constantly linked to responsibilities is yet another characteristic of human rights. If any person does not carry out his responsibilities, he has no right to enjoy rights. Rights and duties are inter-related like the two sides of a coin.

Advancement of human rights too with the social, economic and political developments is another special feature. During the periods of monarchies man enjoyed only a few rights. But, with the emergence of a new middle class and the shift of political power to an elite class from traditional families as a result of social and economic changes, society began to demand civil and political rights from the state. Since then, during different periods economic and cultural rights as well as group rights have been secured on the requirements of different social groups.

Classification of Human Rights

In terms of the origin of human rights they can be classified as Ethical, and Legal.

Before human rights were recognized by law, man has been in possession of them from nature since the origin of society. Rights to life, equity, property, reproduction etc. are some of the examples. These rights have evolved for a long period of time with social evolution and on the basis of traditions, customs, beliefs etc. Those rights have received a social recognition as good or beneficial things. At that time they were not protected by law. But, when the ethical rights are violated, insults, abuses and accusations are leveled by society.

Some of such natural rights began to receive legal protection during subsequent periods. Apart from that, certain other rights were granted to the people by the state at social requests. They are considered as legal rights and such rights are granted equally to all by the law itself. For example, the right of citizens of a country to exercise their voting rights to elect their rulers can be cited. During the feudal periods it was as a legacy that passed from generation to generation that rulers of monarchs received the ruling power. But in the 17th and 18th centuries, particularly as a result of the economic and social advancements witnessed in the western countries, political systems in which rulers were elected on people's consent came into being. During that time the right to universal franchise was granted to the people by the state as requested by them.

Another classification of Human Rights goes as follows:

- ✚ Civil
- ✚ Political
- ✚ Economic
- ✚ Cultural

Civil rights are essential for every individual to live a civilized and honourable life and for personal and common good. Out of civil rights can be identified those rights such as the rights to life, to receive food, shelter, clothes and health facilities, right to freedom, to be free from violence and arbitrary arrest, to be treated innocent until proved otherwise by law, right to free movement, to leave from and return to the country, marriage, receive education, assemble, expression, form associations, guarantee of secrecy and to receive correct information etc.

Political rights are the right man has to participate in the political activities of a country directly and indirectly. The rights to exercise voting power, representation, election propagation, criticizing government mistakes, influencing state policy formulation, political opinion of choice, forming political parties etc. are basic political rights.

Physical resources or income are necessary to maintain individuals' life meaningfully and usefully. Therefore, employment according to personal skills and qualifications, earning income and property, leave at work places, equal wages, promotions, forming trade unions, receiving pension and gratuities etc. are the major rights among economic rights.

Important among cultural rights are equal treatment for various community groups, languages and religions, opportunities to practice them, engaging in artistic pursuits such as drama, music, sports etc. and intellectual property rights. All these rights have limitations. They can be enjoyed for individual and common good only.

These rights are classified as positive rights and negative rights as well. Economic and cultural rights are considered as positive rights since they have to be enjoyed without state influence. Civil and political rights are regarded as negative rights since there should not be state intervention in enjoying them.

Rights which are equally enjoyed by every individual are classified as personal rights and those which are limited only to a particular group such as a human type, women, children, indigenous people etc. are classified as group rights.

In terms of evolution too human rights are classified into three generations. Accordingly, it is accepted that the first generation focused its attention on civil and political rights, the second generation on economic and cultural rights and the third or the present generation on group rights. However, since the evolution of human rights in different countries did not take place in the same manner at all times, it is difficult to regard this as a general classification. Although human rights evolved in this manner in the western developed countries, the situation in some of the developing countries is different.

All these rights are equally applicable to both men and women. They are an essential component in a democratic political system. Where there are no human rights, there is no democracy and conversely, where there is no democracy, human rights too are not protected. In a democratic society the principle responsibility of protecting human rights is entrusted to the state.

Theoretically the foundation of democratic system is the people. Therefore the existence of the people, their honour, identity and personal as well as public development are essential for true democracy. They can be secured by protecting human rights.

Human Rights are Women's Rights Session 3

Introduction

Among the special characteristics of human rights, their universality stands prominent. Since both males and females are human beings, both require human rights equally for the protection of their existence, dignity, personal development and identity.

Objectives

To understand as to why both males and females should be ensured human rights equally.

Duration

1 hour

Activity 1

- Divide the participants into groups of three and allow 10 minutes to discuss why males and females should be equally entitled to human rights.
- Provide a 4" x 4" card to each group and instruct them to write down in short what they have identified.
- Allow the group leader to present such matters before the gathering. In the mean time the resource person may write them down on flip charts and keep for display.
- Thereafter, using the Slide below and giving relevant examples, engage in a brief discussion.

Slide

- ✚ Although there is a biological difference between males and females, equal fundamental rights are required for the existence of both parties as they are all human beings.
- ✚ Women too contribute to the development of family and nation as men do.
- ✚ Due to the existence of provisions in law for the protection of femininity for a long period of time, in the common field she gets less opportunities relative to her male counterpart.
- ✚ Since woman is traditionally treated as a weak person she is exposed to suppression more than the male and becomes less important.
- ✚ Since the males as well as females possess education, abilities and skills, women too should be provided opportunities to contribute towards sustainable development according to modern developmental theories.
- ✚ Women are entitled to equal rights as they too are citizens of the country.
- ✚ Women too are required to develop their own self, claim a respectful life and protect their identity.
- ✚ Through the enjoyment of equal rights women too are able to assume social leadership and to become models for womankind.
- ✚ In a democratic society and a political system, freedom, equality and human rights are common to both males and females.
- ✚ Women who constitute one half of the population should also be made partners to all economic, social and political activities in order to achieve lasting peace, good governance and true democracy.
- ✚ Women's reproductive functions make a unique contribution to the nation.

Women's Rights : Historical Evolution

Introduction

Both males and females are born equally as human beings. Nobody has the power to decide his or her sex on their own. It is determined by nature. Because of this equality both males and females have been given equal rights in the eye of the law. But, on account of gender differences and the reproductive functions, from ancient times males and females have been assigned unequal roles, attributes and behavioural patterns by society. Besides, due to her gender, woman is treated as a person who should be protected and in such a situation there are instances where she does not receive an opportunity to enjoy equal rights.

Objectives

- To understand the historical evolution of women's rights
- To identify the rights ensured by the UN Convention on the Elimination of all forms of Discrimination Against Women
- To identify the rights enjoyed by the Sri Lankan woman

Duration

2 hours

Activity 1

Internationally established Women's Rights and their Historical Evolution

- Give a brief lecture on the topic using the information given below.

Historical evolution of Women's Rights

- ✚ Although both males and females were given equal civil, economic and political rights by the Declaration on Man and Citizens' Rights promulgated following the French Revolution of 1789, in practice women were not given an opportunity to enjoy them. This situation was criticized and the necessity of according equal rights to women as well was stressed by Mary Wollestonecraft in her study. With this initiative, particularly in the advanced countries of the west, movements launched for demanding equal rights for both male and female parties began to expand.
- ✚ But prior to that, there had been teachings on gender equality in Buddhism and other religions. Furthermore, even though writers like George Stewart Mill and Harriet Tailor were not feminists, they too had stressed the matter of women's rights.

- ✚ As a result of more attention being paid in the Liberal Feminist Movement or the first wave Feminist Movement to women's civil and political rights, it was possible to win rights such as voting rights, rights of property, education, employment, marriage, divorce etc.
- ✚ In the 1960s, influenced by the radical feminists, the second wave feminist movement stressed the importance of women's rights of reproduction, sexuality and the rights against domestic violence and the necessity of women's participation at decision making level.
- ✚ New interpretations of politics were put forward under the theme "Privacy is politics" linking feminine lives to power politics.
- ✚ There were demands for equal rights, opportunities and resources for women as men and it was stressed that the freedom and equality entitled to women are denied to them by the protection of sexuality of women by old laws.
- ✚ As a result of pressure being exerted on the United Nations, the 1979 Convention was declared and implemented in 1981.
- ✚ In 1981 Sri Lanka ratified the Convention.
- ✚ Stress that apart from the 1979 Convention, women's rights have been protected by other International Conventions and Declarations as well.

According to the 1979 Convention

- Discrimination means any type of restriction, disregard, under-estimation or a violation of rights on the basis of gender differences.
 - The fact that the countries who are signatories to the Convention are bound to incorporate those policies in their laws and accordingly to introduce new laws or provisional arrangements, to repeal old laws leading to discrimination and also to ensure the enactment of gender equality legislation and to eliminate discriminations against women.
 - Matters relating to the Committee specified by Section 17 of the 1979 Convention.
 - The partner countries to report to the UN General Secretary on the status of their countries after one year of signing the agreement (as per Article 18) and thereafter submit reports every four years and as required by the Committee.
- Thereafter provide the participants with one copy each of the UN Convention on the Elimination of all forms of Discrimination Against Women.
 - Divide the participants into four groups. After reading the Convention, instruct the four groups to identify the following rights write them down in brief on a flip chart (20 minutes)
 - 👉 Civil Rights
 - 👉 Cultural Rights
 - 👉 Political Rights
 - 👉 Economic Rights
 - Then allow the four group leaders to present them

Activity 2

To identify how the rights of women are established in Sri Lanka

- Explain using the slide that gender equality has been established not only by international legislation but also by the 1978 Sri Lankan Constitution as well.

Slide

Fundamental Rights in Sri Lanka

“No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds” (Constitution of 1978- Chapter III, Article 12(2)).

- Make available a copy of the Chapter on Fundamental Rights to the participants.
- Divide the participants into four groups and allow 10 minutes to read the copy of the Fundamental Rights. Thereafter, distribute the following Articles among the four groups and instruct to write down in brief the fundamental rights contained therein on flip charts.
 - Articles 10-12
 - Article 13
 - Article 14
 - Articles 15-16
- Thereafter allow the group leaders to present their charts.
- After the presentations, conduct a short discussion focusing on the constitutional status and the practical situation prevailing in Sri Lanka using the following facts
 - ✚ Rights in Sri Lanka with regard to the freedom of thought, conscience and religion, freedom from torture, right to equality, freedom of speech, assembly, employment and movement are ensured by the Constitution.
 - ✚ Make note of instances where this freedom and rights are denied to women; e.g. religious priesthood, rituals, restrictions faced in gaining entrance to main religious places, women being subjected to more harassment in the household as well as the common field compared to males, restrictions placed on employment, speech, assembly, association and the less freedom for movement etc.
 - ✚ Restrictions on fundamental rights – that fundamental rights should be enjoyed subject to laws specified for the protection of ethnic and religious co-operation, state security, economy, interest of the country, public health, ethics and protection of others' rights.
 - ✚ Although fundamental rights are equal to all men, there will not be anything to prevent special provisions being made in this Constitution for the advancement of women, children or disabled persons. (Article 12(4)).

- ✚ Existence of remedy for the infringement of fundamental rights by an executive or administrative action (Article 17).
- ✚ Ability to make complaints to the Ombudsman or the Human Rights Commission before making an application to the Supreme Court.

Activity 3

To identify the contents of the Women's Charter

- Conduct a short lecture based on the following:
 - ✚ In 1993 Sri Lanka presented the Women's Charter as a Cabinet Paper. This Charter prepared as per the Convention of 1979 consists of 8 paragraphs and 19 Sections.
 - ✚ It has been pledged there that suitable steps will be taken to ensure the implementation and enjoyment of human rights and fundamental freedom by women equal to men in all fields of political, social, economic and cultural spheres in order to ensure total development and advancement of women.
 - ✚ Give a brief description on political and civil rights, rights within the family, right to education and training, right to economic activities and their benefits, right to health care and nutrition, right to be free from social discrimination and the right to be free from violent acts caused by gender differences.
 - ✚ Describe briefly the establishment of the National Women's Committee, its composition and the role in terms of Part Two of the Women's Charter.
 - ✚ Despite the fact that rights of women have been formulated into an Act and presented to the Sri Lankan government to get the Women's Charter passed by Parliament as a legislation, so far no attention has been made to that matter.
- Conduct an open dialogue to discuss what should be done by us to have it passed as a law and encourage the participants to lobby the matter properly and strongly.
- After this discussion, distribute a copy of the 1993 Women's Charter among the participants. Divide them into 8 groups and assign them the task of reading the 8 paragraphs as 1,2,3,4,5,6,7,and 8. Thereafter, discuss the steps that should be taken by the state if the rights in the relevant fields were to be equally enjoyed by both men and women. Instruct to write the relevant proposals in brief on a flip charts. (15 minutes)
- Allocate time for group leaders to present the proposals.
- Conduct a brief discussion presenting matters outside of those mentioned in the Women's Charter. For example, stress that under political rights, proposals can be made with regard to allocating a reasonable ratio for women in giving nominations in all elections.

Activity 4

To identify the difference between legal rights and practicality

- Conduct a brief discussion based on the following facts

Although gender equality and equity have been ensured through Constitutional provisions and legislations, the practical situation in Sri Lanka is quite different. There is a lesser value attached to the role of woman by society in the household as well as in the public sphere due to gender discriminatory attitudes. Perceptions that women lack knowledge and experience in matters such as leadership, ability are still prevalent in society. Such attitudes, feelings, opinions and values have become a great obstacle in the journey towards true democracy, good governance, lasting peace and development. Particularly, the requirements of women who form one half of the population are little taken into consideration by males in development planning and very often women's abilities and skills are not enlisted. Or else, they do not get an opportunity to contribute to development activities due to being confined to domestic work. Besides, due to the thinking that males are strong and females are weak, the latter is subjected more to pressure and harassments. In such a situation, although ensured by international Conventions and local laws, in the practical world women have not yet been empowered to enjoy equal human rights as men.

- Divide the participants into three groups.
- Instruct the three groups to present three role plays on “The difficulties caused by the infringement of women's right and taking suitable steps to address them”.(30 minutes). (Eg. An incident relating to a wife who is subjected to domestic violence owing to the husband's drunkenness and the children, the wife seeking redress from the lady Women's Development Officer, referral of both husband and wife for advocacy, identifying the sexual issues between the husband and wife, treatment through a relevant psychiatrist).
- Limit one role play to 10 minutes. Once they are presented, there may be an analysis and discussion on various ways of helping such women. Stress that officers like the Women's Development Officer, Relief Sister, Advocacy Officer, Child Promotion Officer, and the Family Health Officer have the legal capacity to help women and children at provincial level. Explain that the Human Rights Commission has legal authority to redress injustices if women's rights, particularly those relating to common areas such as the place of work, are violated by authorities of state administration, executive or a political authority.
- Pay attention to matters such as referrals to the National Women's Committee, Women and Child Police Units, the Human Rights Commission, Legal Aid Commission, Child Protection Authority, and advocacy services, introduction of self-employment, micro credit schemes, referring to assistance from officers such as the Family Health Officer, Child Development Officer, Development Assistant etc.

Handouts

The Origin and Historical Evolution of Human Rights

There are different views regarding the origin of human rights. Although the expansion of the concept of human rights began rapidly during the Second World War, their origin goes as far back as the origin of human civilization. Ever since the beginning of society the ethical recognition of human rights and the ability to enjoy them had been granted to man by society.

From centuries ago, every religion has preached about human rights. Matters relating to human rights and responsibilities are contained in Hindu Vedic literature and the law of Manu, the Babylonian ethics of Hammurabi, Buddhism, the Bible, Quran and the teachings of Christ and Confucius. In these teachings there are written references to various rights relating to the existence, development and honour, freedom and equality of an individual. Similarly, the duties and responsibilities to be fulfilled by an individual for the family, parents, spouse, children, village and the country too are described in them. In addition, in the Irokius Constitution of the Red Indians which is a very ancient civilization and in the Inca and Aztec ethics also there are matters contained regarding rights for the good existence and equity of society.

The Development of Human Rights

In the 12th and 13th centuries the sovereignty and the Church of Europe faced challenges due to various social, economic and industrial changes. As a result of pressure exerted by the people for curtailing the power of the King of England, the two parties signed the Magna Carta Agreement in 1215. While the power of the King was restricted by that document human rights were recognized. In 1680, the first ever Human Rights Act in the world was published by England.

Migrants who had gone from Britain and particularly from other European countries and settled in America objected to maintain it any longer as a British colony and having launched the American Revolution against it they freed America and established their rights through the Declaration of American Independence. French citizens too, having launched the French Revolution against the cruel sovereignty and the Church, established the French Republic on the foundation of freedom, equality and brotherhood. Human rights were further established by the 1789 Declaration of French Freedom and the 1791 French Declaration of Human and Citizens' Rights. It was declared thereby that all men are equal and the right to personal freedom, property, education, employment and representation are entitled to all.

Attaching a legal foundation to the concept that existed based on natural rights in this manner made an impact on its recognition, growth as well as the expansion. The contributions made by John Lock and Jean Jacques Rousseau were of great importance. These philosophers pointed out that man has been given certain rights and freedoms due to his being a human creature.

Landmarks in the evolution of Human Rights

- 1215 - Magna Carta of England
- 1628 – Act of Rights
- 1648 – Westphalia Agreement on Religious Freedom
- 1688 – Charter of Rights
- 1789 – Declaration on Human and Citizens’ Rights declared after the French Revolution
- 1790 – American Charter on Rights
- 1815 – Vienna Conference on International Condemnation of Slavery
- 1862 - Washington Agreement on the Banning of Slavery
- 1867 – Brussels Conference Against Slavery
- 1885 – Berlin Conference Against Slavery
- 1856- Parris Declaration Against War
- 1864 – First Geneva Conference Against War
- 1899- First Hague Conference Against War
- 1906 – Second Geneva Conference Against War
- 1907 – Second Hague Conference Against War
- 1864 – Establishment of the International Red Cross Society
- 1926 – International Geneva Convention on total Banning of Slavery
- 1945 – Establishment of the United Nations Organization
- 1948 – UN Universal Declaration on Human Rights

Expansion of Human Rights

Although human rights were in existence in the western as well as the eastern countries of the world since the beginning of the human civilizations and declarations on human rights had also been made, it was after the Second World War of 1945 that a common consensus was built up on them and expanded internationally. Many countries stressed that atrocities such as the annihilation of the Jews in Germany during the Second World War and the genocide in Japan committed by America by the bombing of Hiroshima and Nagasaki should never be repeated in the world. It was also stressed that the responsibility of protecting human dignity and existence as well as establishing peace is cast upon all countries of the world. The alliance of nations too who were engaged in finding solutions to the problems inherited as a result of the war during the post-war period stressed the fact that more attention should be paid on human rights internationally. It was re-iterated that the way a particular country treats its people is not considered as a matter that affects that country alone but as a matter that should draw the attention of the international society. Based on these objects and many others the United Nations Organization was established in 1945. In that year the UN Charter was drafted which declared that the protection and practice of human rights is the responsibility of UN member countries. In its Preamble confidence was reposed in the rights of males and females as well as big and small countries. In the first Article of the Charter it was stated that “the basis of realizing the UN objects is the respect for human rights”.

In Article 3 it was stated that “respect for human rights and fundamental rights of all persons shall be promoted irrespective of race, sex, language, religion etc. and all member countries shall be encouraged in that regard. However, in order to address certain shortcomings in this Charter, the UN promulgated the Universal Declaration on Human Rights in 1948. This Declaration clarifies the legal responsibility entrusted to the UN to protect human rights internationally. The first Article of the Declaration states that despite the fact that people live in different countries, regions and areas and belong to different nations, human groups, families, castes or any other human groups and speak different languages, they are all equally entitled to human rights because men and women are equal in status. Article Two states that “All rights and all forms of freedom are devolved upon every person irrespective of race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth etc.”. Civil, political, economic, social and cultural rights have been internationally protected by the thirty (30) Articles of this Universal Declaration.

In addition to the Universal Declaration, in 1966 the UN passed an International Convention on Economic, Social and Cultural Rights. The ability to enjoy the relevant rights with no discriminations on grounds of race, colour, sex, religion, ethnic or social origin has been ensured through these Conventions as well. The International Human Rights Commission consisting of 18 members has been established by the Convention on Civil and Political Rights. Parallel to the Convention on Civil and Political Rights, two optional agreements too have been declared by the UN. The first Agreement contains matters relating to the referral of complaints regarding civil and political rights to the Human Rights Commission and getting justice meted out and the second deals with the abolition of death penalty.

A collection of 94 such International Conventions passed by the UN was compiled in 1993. Those Conventions can be classified into two categories as general and special Conventions. The aforementioned 5 Declarations, the American Declaration of 1948, European Social Charter of 1961, African Charter on Human Rights of 1969 etc fall into the general category of rights. Among the conventions on rights entitled to by different groups, Conventions such as the 1948 Convention on the Prevention of Genocide and Punishments, 1948; Convention on Refugee Rights of 1951; the Convention on Prevention of Discrimination against Nations of 1966; the Convention on the Elimination of all forms of Discrimination Against Women of 1979; the Convention of Child Rights of 1984; and the Convention on the Protection of Rights of Migrant Workers and their Family Members of 1990 are considered most important.

By all these Declarations and Conventions it has been ensured that human rights relating to the respective fields shall be possessed by all persons irrespective of gender or any other differences.

In order to protect and promote these rights, a structure of institutes has been established by the UN. The General Assembly, Economic and Social Council, Human Rights Commission and the Sub Commission, Security Council, International Court of Justice and Trusteeship Council are prominent among such institutions. The UN High Commissioner for Refugees, the International Labour Organization and the Commission on the Status of Women too function with regard to the protection and promotion of human rights relating to the respective areas.

Women's Rights and their Historical Evolution

Human rights are those that should be devolved upon every man and woman based on essential human needs in order to maintain humanity and to develop it fully. Rights are essential for any human being for the maintenance of life, personal development, protection of identity and freedom. They are common entitlements of men and women by birth and therefore universal.

Do both men and women need equal rights?

Both men and women are born equally as human beings they all need equal basic rights such as food, shelter, clothes, health facilities, suitable environment etc. for their existence. Therefore the rights to ensure the existence of both woman and man should be received by them equally. Both men and women wish to enjoy self development and thereby to live as content citizens. To live freely is the aspiration of both parties. Both men and women possess rights to maintain and protect their identity. In today's society both parties contribute equally to economic development without any gender difference. Woman makes a great contribution for the maintenance of the family and the nation. When all these facts are considered it is clear that the possession of equal rights by men and women alike is an essential factor.

Since the function of reproduction has been assigned to woman by nature itself owing to biological differences, she has been given entitlement to special rights relating to that role played by her. Similarly, on account of the place given to woman by society for long periods of time and the attitudes and values that have been developed towards her and also her sexuality, many are the instances where her freedom is restricted and she is subjected to suppression and exploitation compared with men. Therefore, in order to free her from acts of discrimination such as abuse, sexual harassment, exploitation, domestic violence etc., she should be granted special rights. Such rights are essential to avoid women being reduced to a more inferior position in the household as well as the common spheres of activities relative to men and to protect them by providing such special rights becomes essential.

While there were instances where women were in possession of very special rights in ancient matriarchal societies, some religious teachers also have paid attention to women's rights. For example, the Buddha has preached on equal treatment of women and their rights. But it is with the emergence of the movements of the French revivalist free ideology and the British liberalism that an accepted methodology was built up in society on rights of women.

Although ideas like equality and individual rights were stressed in the liberal thought, the view that since women are naturally different from men the former are secondary was manifest in that thought as well until the 20th century itself. In the 18th century liberal feminist movements agitated throughout the world demanding that men and women should have equal rights. But even before, various views with regard to gender equality had been expressed by liberals from time to time. During the French Revolution Marquis de Condoce had argued that men and women should enjoy citizenship rights equally. John Stuart Mill, who criticized the discrimination against women practiced by the Victorian English society, argued that women should be granted voting rights. In the latter half of the 17th century, Liberal feminist activists like Mary Astel stressed that the basic liberal concepts such as personal freedom and rights are natural heritages and should be granted to all human beings generally.

Mary Wollstonecraft in her book entitled, “A Vindication of the Rights of Women” stressed the right to education that should be given to women. She argued that women should possess equally as men the right to engage in employment and political rights as well. Harriot Taylor in her article titled stressed the rights of women to franchise, representation and to sit in the courts and the jury. (Liyanage and Walakuluge, 2006).

Due to pressure exerted by the Liberal Feminists Movement or the first wave of the feminist movement, women were granted many civil, political and economic rights. But the stand which had the basic idea of protecting women through certain rights came to be criticized subsequently by radical feminists. It was these radical feminist activists who contributed more to propagate the movement meant for granting equal rights to women without restricting their freedom and opportunities through various legislations since woman is a social being similar to man, particularly in the developing countries. Radical feminists also stressed rights relating to facts such as the reproductive activity of women, matters relating to sexuality, family planning, prevention from domestic violence etc. Again it was they who pointed out the necessity of female representation at decision making levels thereby linking women to politics directly under the theme, “politics is privacy”.

The radical Feminist Movement which exerted pressure on the UN and other international organizations demanded that a separate international convention was necessary to ensure rights of women. As a result of that, the UN passed the Convention on Elimination of all forms of Discrimination Against Women in 1979.

Basic Declarations and Conventions that had been declared previously by the UN too had ensured that equal rights would be accorded to both men and women. The best examples are Universal Declaration on Human Rights of 1948, the Convention on Civil and Political Rights of 1966 and the Convention on Social, Economic and Cultural Rights. Equal rights of men and women have also been ensured by other international Conventions too such as the Convention on Child Rights, Convention on the Rights of Migrant Workers and their Family Members etc. Similarly, rights that are specific for women have been established legally by Conventions such as the one on the Nationality of Married Women and the Convention on the Suppression of Exploitation of Women and Children from Prostitution and other Manners.

The CEDAW Convention

The CEDAW Convention became operative in 1981 and 169 countries have signed it. By Articles 1-17 of that Convention, the rights to vote, engage in election activities, representation and engagement in NGO and community activities, right to stand against being exploited in prostitution and exploitation, representation of one's country at international level, nationality, education, training, sports, receiving knowledge and services relating to family planning, employment, equal wages, maternity leave and other allowances, health and sanitary services, dues, assistance, loans, equal right within the family for cultural and recreation activities etc. have been ensured to women.

Legal Rights entitled to by the Sri Lankan Woman

All the above-mentioned international declarations and Conventions have been ratified by Sri Lanka as well. Article 12(2) of the 1978 Sri Lankan Constitution states that all persons shall be entitled to fundamental rights without any gender discrimination. In 1993 the Women's Charter was presented as a Cabinet Statement and steps that have to be followed for the advancement of woman in policy making too have been articulated. (Women's Charter: Annex 6). The steps that should be taken by the government to protect the rights of women; such as political and civil rights, equal rights within the family, right to education, employment, health and sanitation, right to be free from violence, rights relating to the function of reproduction etc. and the rights of rural women too are mentioned there.

Apart from that, the laws that existed in Sri Lanka against sexual abuses too were amended in 1995 and in 2005 Acts were passed against domestic violence against women. Concessions like the extension of maternity leave, providing the facility of feeding hour for breast feeding, permission being given for night shift work etc. have also been protected by law for the benefit of women.

In the field of administration, the establishment of the Women's Bureau and the Ministry of Women's Affairs in 1978, establishment of Women and Child Police Units in police stations can be considered as efforts taken for the promotion of the rights of Sri Lanka women.

Unresolved Issues

As a result of the global expansion of feminist movements aimed at agitating for demands for women from voting rights to equal rights and as a result of some impact of such movements being made on Sri Lanka, by now Sri Lankan women have been made legally entitled to many of civil, political, economic and cultural rights. But still there are areas where rights have not been ensured. In certain work places laws against sexual harassments and equity policies have not been legally ensured. So far no equal rights have been introduced with regard to laws relating to the ownership of lands inherited in terms of Irrigation and Land Ordinances and the rights of Sri Lankan women who have married foreigners. If women who are made pregnant as a result of rape do not have the ability to make decisions on the child, there is no right to abortion too. There are issues relating to the legal guardianship of children of unmarried women. Female representation in the field of politics and at other decision making levels remains very minimal and so far the Sri Lankan government has not taken any meaningful step in this regard.

Gender Equality

Introduction

There are many definitions adduced for the term “equality”. John Lock states that “all men are equal according to the law of nature. One cannot harm another’s life, property, freedom, health etc.”. Those who contributed to frame the 1776 American Constitution said that “All men are created equal. With the birth man has become entitled to indestructible and inalienable rights.” The Declaration on Man’s and Citizens’ Rights declared after the 1789 French Revolution mentions that “All men are born equal in terms of dignity and rights.”

Objectives

- To identify the meaning of the term ‘Equality’.
- To understand the difference between equality as ensured by law and the practical status.

Duration

1 hour

Activity 1

Identifying the concept of equality

- Distribute 4” x 3” cards among the participants and instruct to write down the meaning they attach to the term “Equality”.
- Allow some volunteers to present the views written by them before the gathering. Write the basic idea on white board/flip chart. Instruct to separate cards with similar views and paste them on the wall.
- Once various views are presented, the resource person may give a brief lecture on “Equality” using the slide below.

Slide

- ✚ “Equality” simply means that “ all human beings should receive equal rights, treatment and privileges. Resources and opportunities should be distributed equally among all in a reasonable and impartial manner. All should be given equal freedom to develop each other’s personality and abilities and to achieve power and victories.”
- ✚ Equality can be classified as natural, social, political, economic, legal and international equality. (See Handout 5)
- ✚ In Liberal Democratic political systems equality is ensured in the Constitution itself. (Article 12(2) of 1978 Sri Lankan Constitution).

- Discuss giving examples of the situation that every man is not equally treated despite the fact that equality is ensured by law and inquiring the participants' views and experiences. (eg. unequal treatment of persons on grounds of ethnicity, class, caste, religion, language, family, political power and employment; Unequal distribution of resources, services, opportunities and discrimination in treatment even before courts of justice). Explain the value of manifesting equality in action by treating others as equals with oneself and by not disturbing others' freedom and opportunities.

Activity 2

Identifying Gender Equality

- Divide the participants into four small groups. Distribute the two Case Studies one each for the two groups and instruct to discuss answers to the relevant questions.

Case Study 1: Samantha

Batalagoda tank is very beautiful. Many guests who frequent the hotels around it like walking around the tank and making merry on the tank bund. One day, while a group of such guests were making fun on the tank bund, a few small children were running along the bank. All of a sudden one child fell into the tank and the group got panicked and began to shout. As none of them knew how to swim they shouted for help. Samantha, who was bathing at the other end of the tank heard the noise and rushing towards the scene she plunged into the water. In a while she took the child out of water holding him by a leg. The people surrounded Samantha and the boy and one guest said to her, "Even though you are a woman you jumped into the tank without fear and saved him. It is a great thing!". Samantha's reply to that comment was, "To save a drowning person, one need not be a man, Anybody who knows how to swim can do it."

Questions

1. What the guest told Samantha is something that many in society say generally. Why do they say so?
2. What do you mean by Samantha's reply?
3. Can men and women develop equal abilities through training?

Case Study 2: Vajira and Asanka

Vajira and Asanka are employed in a private sector institute. Being married 8 years ago, they have two small children. Several months ago the financial institute where Asanka worked was closed due to several management problems that had arisen. As they had to meet family expenses with Vajira's salary only, she began to work on week-ends too. In view of the new situation, Asanka suggested that he can attend to household work instead of the woman who is employed for domestic help. As suggested, Asanka began to manage domestic work without the female servant. Both decided to follow that system until Asanka found another job. But some of the relations of Vajira as well as Asanka began to speak in a negative manner using disparaging term such as "The woman has become the man. ... the man has become the woman. It is the man who looks after children, cooks and sweeps the floor. The woman roams freely even on Saturday. Ultimately he will have to take on everything!".

Questions

1. Do you agree/not agree to the decision of Vajira and Asanka ? Give reasons.
 2. What do you think of the statements made by their relations?
 3. If you were Asanka/ Vajira, what would be your decision in such a situation?
 4. What do you think about Asanka's decision to volunteer to do domestic work?
- Allow time to present answers to the other participants through a group leader.
 - Once answers are presented, discuss briefly the manner in which the legally established gender equality is implemented in an unequal manner in practice , the reason for that and what should be done to avoid such situations and to accord equal rights, freedom, opportunities, resources and equal recognition to both men and women. The following information can be used for the discussion.
- ✚ Although men and women are biologically different, they are equal human beings. The fundamental freedom, opportunities and resources needed for their existence, personality development, identity and for leading a respectful life are similar. For example, when a man is ill he needs medical treatment and so does a woman. Educational opportunities and resources which are provided to a boy for his personal development are equally essential for the development of a girl as well. If it is not so, the existence of men and women cannot be ensured and personality cannot be developed. Since equal educational opportunities have been given to both men and women in Sri Lanka, the majority studying in universities are females. But in the matter of employment both parties are not treated equally. In selections for certain jobs and in granting promotions they are subjected to discrimination on the ground of being females. Sometimes women are paid less wages than men. Occupations like teaching, nursing, clerical etc. are still considered more suitable for women.
 - ✚ However, what is meant by gender equality is not such unequal treatment but equal treatment for both parties. Representation in matters of employment, wages, promotions, training and at decision making levels should be equal for males and females. Both parties should be given equal opportunities for respect, recognition, freedom of property and responsibilities within the family.
 - ✚ It was clear from the first case study which was discussed that there will be no gender difference if there is training and capacity. It is clear from the second case study that a man gets ridiculed by society as he decides to undertake domestic work which is traditionally considered to be the domain of the woman. The household chores and other activities relating to children belong to both husband and wife. If the wife is engaged in income earning, she has no time to perform all the duties expected of a traditional house wife. It is no harm if the household chores usually done by the wife when the husband is the income earner are done by the husband when the wife is the income earner. The mistake lies in the traditional attitudes.

- ✦ Although gender equality has been established within Sri Lanka through the Constitution, laws, policies etc., the true equality has not yet been achieved since attitudinal changes are taking place very slowly.
- ✦ Discuss briefly the strategies being put forward for the realization of true equality asking the participants what should be done by us to achieve it. (e.g. creating awareness about gender equality, including such matters in the formal educational curricula, introducing the policies of equality, establishing mechanisms to monitor their implementation and changing the process of socialization within the family by ourselves).

Handouts

Gender Equality

According to Ernest Barker, human beings are social being as they are born equal despite the differences in human races, families, nations, religions, languages etc.

According to the Oxford Dictionary, Equality means the possession of:

- ✦ Equal status, respect, rights and benefits to all,
- ✦ Similarity of freedom to attain power, ability, personality development and achievements,
- ✦ Equity, impartiality, equal resources and opportunities.

Equality can be classified as positive and negative. Positive equality means equal treatment, equal rights, freedom, resources and opportunities to all without any discrimination. Negative equality means the provision of treatment, special rights, freedom and opportunities on specific grounds of gender, human races, classes and other needs of social groups. For example, allocation of a quota for women to eliminate the disparity resulting in a minimal female participation in politics caused as a result of women being kept away from common affairs for generations may be cited. Although it may appear *prima facie* that this is an unequal or a discriminatory policy against a certain group, its object is to absorb a community that had been away from the political mainstream, into it.

Equality is also classified as natural, social, political, economic, legal and international equality. It means the ability given to all persons to act in the respective fields with dignity enjoying equal rights, freedom and opportunities.

In many countries equality is legally protected including in the 1978 Constitution of Sri Lanka. But in the practical world, women enjoy less rights, less freedom, less opportunities and less resources relative to men in every field such as family, society, economy, politics, legal and international spheres etc. on account of gender status. Many state policies, i.e. education to women, voting rights, employment opportunities, facilities for the function of reproduction etc., have been introduced to change this situation. But still the achievement of gender equality remains a challenge due to reasons such as the inadequacy or the shortcomings in the implementation of such measures, traditional attitudes etc.

Gender equality is a matter connected to human rights and social equity. It is an essential requirement to achieve equity, development and peace. Matters such as treating women's rights as human rights, participation and representation of women in every field, participatory democracy, women's economic independence, education, gender-sharing of social responsibilities, and recognition by society of the necessity to eliminate the secondary status given to women are considered as gender equality. Similarly, the values, attitudes and views for according equal status to men and women by considering the biological differences between men and women in an impartial manner is also considered as gender equality.

Although some use the terms 'equality' and 'equity' as synonyms, it is erroneous. What is meant by the word equality is equal treatment irrespective of gender, race, religious and other differences. Equity means elevating a community group who had been in a disadvantageous position to a level on par with communities who possess a higher social status than the former. In traditional societies it was very rarely that female children were directed towards formal education. Therefore, the opportunities available for the improvement of the knowledge, skills, abilities, leadership qualities and attitudes of female children were very minimal. Providing education, study materials and facilities based on other needs to female children with the objective of treating both males and females equally does not amount to an unequal treatment. Its net result is to bring both parties to an equal position.

Gender equity connotes yet another meaning. The needs and desires of men and women differ due to biological and social differences they have. Taking that difference into consideration also is included in this concept. The nutrition required by women in the function of reproduction, the nutrition of children, vaccinations and maternity leave etc. can be cited as examples in this regard.

Be it among women themselves or among men themselves, their requirements may be different according to various ethnic groups, classes and other social groups. For example, the needs of men and women of indigenous people may be different compared with those of other communities in Sri Lanka. Giving priority to such needs and elevating them to the status of other communities is considered as equity.

In terms of the 1981 Convention on the Elimination of all forms of Discrimination Against Women, discrimination against women means "any type of restriction, denial or distinction caused on the basis of gender difference in the enjoyment of human rights and fundamental freedom in the fields of political, economic, social, cultural and civil spheres or in any other field which are entitled to them on the basis of gender equality."

The sexual differences between men and women too are a natural phenomenon. Accordingly, there is a natural difference between them depending on the performance of different tasks by such organs and the body growth and functions. Nature has provided the female with a womb and other organs relating to the task of reproduction. Apart from that the hands, legs, ears, nose, brain and heart of both men and women are similar.

Therefore, it is important that both males and females should get their requirements met equally in order to realize their existence, personal development, identity and a life of dignity. The rights relating to the fulfillment of such requirements have been legally ensured internationally as well as locally. Therefore, if there is any disparity between men and women on the basis of sex in the matter of enjoying such rights, it amounts to discrimination. The right to food, health services etc. are a basic right of every man. But, if a woman or a girl in any family does not get a sufficient amount of nutritious food to maintain her life, and if a male gets it, then definitely there is discrimination. Similarly, if opportunities for higher education are not provided to a female child on the ground that higher education is not important for girls, there too discrimination takes place.

Both men and women have equal rights to be suitably employed according to their qualifications. But, if the woman is paid less than men without being given an equal pay, they become subjected to discrimination there too.

Women are subjected to such discriminatory treatments mostly due to the characteristic features, roles, stereotypes, traditions, occupations and behavioural patterns assigned to men and women by society. Relative to men, the freedom, resources, opportunities and social recognition often accorded to woman in the family, educational institutes, religious institutes, work places and in other social institutes are unequal. The reason for that is the general feeling prevailing in society that woman is inferior to man due to the existence of archaic attitudes, beliefs, misconceptions, values etc. in the society. In patriarchal societies it is woman who is subjected more to discrimination within the family and the common field. It is also woman who are given less freedom, resources, property and educational facilities and more responsibilities in matters relating to children in the family. Since more power is given to males in every field of social, cultural, political and economic activities there exists a power in-equality between men and women. It is a common theory that the less powerful group suffers at the hand of the more powerful.

However, gender-based discrimination can be eliminated and the creation of an enabling environment for the equal enjoyment of rights ensured by law by both men and women is essential in this regard. Relevant laws, policies as well as proper mechanisms are essential for the protection and promotion of rights. The genuine political will of a government and the allocation of sufficient provisions for their successful implementation is of paramount importance. Apart from that, it is essential that age-old attitudes relating to gender also should be changed radically. All organizations from the family to the state should act with the sole intention of establishing the attitude that men and women are equal human beings. Eliminating or minimizing gender-based discrimination will be possible only if structural and attitudinal changes do take place.

Concept of Gender Equity

Introduction

Gender Equity is the process of ensuring accord rights, freedom, treatment, dignity and opportunities to all women and men by allocating resources, programs and decision-making fairly to both males and females. This requires ensuring that everyone has access to a full range of opportunities to achieve the social, psychological and physical benefits. It does not necessarily mean making the same programmes and facilities available to both males and females. Gender equity requires that women be provided with a full range of activity and programme choices that meet their needs, interests and experiences. Therefore, some activities may be the same as those offered to men, some may be altered, and some may be altogether different.

Objectives

- To understand the concept of equity
- To identify the difference between that concept and practicality

Duration

1 hour

Activity 1

Identifying the concept of Equity

- Allocate 5 minutes to participants to discuss with the two persons seated with them (three persons) as to what they mean by the term equity.
- Thereafter provide them with a paper and pen each and instructs to write in short what they discussed.
- Allow some participants to volunteer to explain to the group what they have noted.
- Thereafter the resource person may deliver a short lecture using the following facts.

The difference between equality and equity.

- Equality means to treat all men and women equally. It is called positive equality. But biologically and in terms of other social status all persons are not equal. Thus, they have different needs depending on their respective differences. A minority group based on ethnicity or religion will have needs which other majority groups do not have.
- Some policies and decisions aim at providing more for disadvantaged groups to bring the on pr with others. These are known as “provisional steps” or “protective policies” meant to elevate those who had been discriminated or considered unimportant to the status of others. The objective of such policies is to bring a social group who had not had an opportunity for generations to enjoy rights, respect and opportunities similar to other communities, by providing them temporarily different or special space. Once that object is fulfilled the relevant policy may be removed.

- Gender Equity is the process of ensuring accord rights, freedom, treatment, dignity and opportunities to all women and men by allocating resources, programs and decision-making fairly to both males and females. This requires ensuring that everyone has access to a full range of opportunities to achieve the social, psychological and physical benefits. It does not necessarily mean making the same programmes and facilities available to both males and females. Gender equity requires that women be provided with a full range of activity and programme choices that meet their needs, interests and experiences. Therefore, some activities may be the same as those offered to men, some may be altered, and some may be altogether different.
- Some examples of equity policies and laws would be maternity leave, feeding hour, leave on days of menstruation, protection from sexual harassment, quotas for women in the legislature etc.
- According to the concept of equality, there cannot be discrimination between males and females. According to the concept of equity, despite the existence of such a difference on grounds of social and cultural reasons, many steps can be taken to redress that situation. Otherwise, rights for the fulfillment of requirements based on biological or social differences caused by gender difference can be made available to them. But in practice, the woman is often subject to a position of less importance or suppression in the domestic and public spheres due to gender differences. Particularly, due to the less freedom, fewer opportunities, less social recognition and more family responsibilities, the opportunities available for her to actively participate in common matters are relatively low. The impact of this affects her in a seriously negative manner in the field of politics than in any other field.
- In Sri Lanka Steps have been taken by Article 12(4) of the 1978 Sri Lankan Constitution to prevent unequal treatment to women, children and disabled persons.
- Conduct a discussion asking the participants what we should do to achieve gender equity in Sri Lanka.

References

<http://www.caaws.ca/gender-equity-101/what-is-gender-equity/>

Discrimination based on gender

Session 7

Introduction

In terms of the 1981 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), discrimination against women means “ any type of restriction , denial or distinction caused on the basis of gender difference in the enjoyment of human rights and fundamental freedom in the fields of political, economic, social, cultural and civil spheres or in any other field which are entitled to them on the basis of gender equality.”

Objectives

- To understand discrimination based on gender
- To identify such discrimination faced by women in life and the steps to be taken to minimize them.

Duration

1 hour

Activity 1

Identifying gender- based discrimination

- Divide participants into small groups (about 8-10 persons). It is more suitable to divide separately as male and female groups.
- Distribute among the groups the following:
 - “ *I am a woman. How would it have been if I were a man?*”
 - “ *I am a man. How would it have been if I were a woman?*”
- Instruct participants to prepare a list of things a person can and cannot do as a result of a woman being a man and a man being a woman.
- Have the lists written by participants presented through a group leader.
- Conduct a short discussion on why the groups think that some functions cannot be performed by men or women. (eg. construction of buildings, cooking). Point out that both males and females work in buildings construction sites and that men can cook and that many good cooks are males.
- Point out that apart from functions nature has assigned to the woman such as bearing children, reproduction, breast- feeding etc. , all the other functions can be performed by both men and women.
- Other than the sexual organs, human beings’ other body parts such as the hands, feet, eyes, ears, brain, heart etc are similar. The difference in the sexual organ is a natural difference. That cannot be changed and the natural functions entrusted to such organs by nature (reproduction) cannot be changed either. Explain to the participants that however, the functions assigned to the males and females by society change from time to time and that they have already changed. (eg. although women perform domestic functions only such as bearing children, looking after them etc., in the modern world women perform various other functions such as income earning, taking leadership etc. apart from the traditional functions.

Activity 2:

- Write the following statements on cards (4"x3"):
 - It is not a wrong thing for men to laugh loudly. It is wrong for girls to laugh loudly.
 - Men are strong. Women are gentle
 - Men are tough. Women are sensitive.
 - Men have more sexual desire than women.
 - Men are aggressive. Women are peaceful.
 - Men make quick decisions. Women hesitate in decision making.
 - Men are dominant. Women are passive and meek.
- Give one card each to a pair of participants and allow 5 minutes to discuss the facts stated by those statements.
- Discuss whether they agree with the statements or not and allow time to present their answers.
- Conduct a short discussion based on the facts presented by the participants using the following and the slide provided:
 - Point out that these ideas are created by society and such views, beliefs etc. have given rise to the building of certain myths and falsehoods around males and females and that although men and women possess equal rights legally, in practice they do not enjoy equal positions since women are often given less freedom, fewer opportunities and less recognition.
 - In such a situation, there are instances where even men are unable to behave as they like. But it is women who are subject more to disadvantage and discrimination. In instances where men enjoy more rights, more freedom and opportunities they are given more privileges and more power. But women are placed in relatively unimportant or secondary positions. It is as a result of this situation that the more powerful person discriminates against or does not treat equally the less powerful person. This is known as gender-based discrimination.

Slide

- Establishing equal legal rights
- Creating a conducive environment to enjoy them equally
- Establishing relevant administrative mechanisms and imparting sound knowledge of such equal laws and policies on relevant officials
- Monitoring whether such laws are implemented properly
- Changing social attitudes through various activities meant for gender equality (formal education, workshops, discussions, cultural programmes, programmes in media, political institutes, religious institutions etc.)
- Organizing social groups and social movements through the change in attitudes and thereby exerting pressure for gender equality

Discrimination means,-

- A person/group with more social, economic, political, physical/body power subjects a relatively less powerful person/group to discrimination/injustice. In this situation the discrimination is done by considering two groups with more power and less power based on considerations such as race, community, sex, class, caste, religion, language, marital status, age, political opinion etc. In all these less powerful groups even the males are subjected to discrimination. But in all such groups women are subjected to more discrimination by men and women of more powerful groups and by men of their own group.

Activity 3

How gender discrimination takes place – An open discussion

- Based on the following facts, conduct the discussion on the basis of answers given to them by the participants and their experiences too. Participation of both males and females will be more effective.
 - Who lives now in the house where you were born? Where do you live now? Why was your residence changed? Who owns the house where you are living now? What do you feel when prefixes such as *Mr*, *Mrs*, *Miss* *Master* are used before your name? How is your name and your identity connected to the family name (father's or husband's name)?
- Here it is possible for matters to come up such as women leaving their house of birth and living in the husband's house; the ancestral home being owned by the father or a brother and the house where she is living now to be owned by the husband or his father; if the husband has died unexpectedly after the marriage she being compelled to come back to the father's house with the children and there she being subjected to pressure by the brothers etc.
- It may also be pointed out that while some men still live in the houses they were born in and if the residence was changed temporarily it is on account of occupational requirements or for occupying another house and very often they have the ownership of the houses where they live.
- Based on this information, discuss the manner in which women in the patriarchal society have to live under the father, husband or the elder sons. Also discuss that although the residence is changed because of job requirements of the male but it is very rarely that residence is changed due to such requirements of the females. However, due to the employment requirements of the male the residence of the entire family is changed and very often the ownership of lands and houses devolves on the male. Discuss further that particularly the ownership of houses which are inherited through ancestry is devolved on the elder son or the youngest son by tradition. (Discuss the advantageous positions enjoyed by men with regard to matters such as chief occupancy, family name, ancestral property ownership, making important family decisions, freedom etc.).
- Explain how women are being discriminated against practically even in matters of dividing family properties even though equal ownership of property by both males and females has been ensured by law in Sri Lanka. Explain how some women become helpless when the husband dies unexpectedly and how they are subjected to various harassments and even chased out by their siblings when they come back to the parents' house.

- Explain how the marital status of a woman affects her identity as evidenced by prefixes such as Mrs/Miss used before her name and how her identity is linked to a male by attaching the family name of the father or husband to her name. The marital status of the male is not indicated before his name and it is not the ordinary tradition to attach the mother's family name before the male's name.
- Explain how women are discriminated against due to matters such as the dowry in the family, examining her virginity, more discipline, dissimilar traditions, receiving less wealth etc. Women suffer disadvantages relevant to men in matters of employment, marriage etc. as well. In selecting for an employment, the usual occurrences of expressions of conclusions such as "a woman cannot do that job properly" etc. Similarly, in matters such as wages, promotions, trainings etc., many women do not get equal opportunities because of such attitudes. Although some women manage to secure such opportunities with hard work and dedication, they do not get opportunities to get onto leadership positions or to show their skills in the common field. In many religious institutes too women are treated separately on account of religious taboos or sterility. Women are subjected to various forms of discrimination and suppression by society both in the family as well as in the common field on account of widowhood.
- Although women and men are both social beings and possess equal legal rights, they receive unequal rights, freedom, privileges, opportunities, resources as well as unequal recognition and respect because of social traditions, attitudes, myths, religious beliefs etc. This gender inequality has been created due to the patriarchal society and in that situation women possess less power compared to men. The attitude that women are a community with less abilities is deep rooted not only among men but also among some women as well. In the personal life of women (family, marriage, property, giving birth to children, household chores, sexuality) and in the public life too (religious, educational, employment, political and social organizations) many activities have to be performed under the influence/ domination/decisions of the male party. As a result of this, in a patriarchal society a male-dominated structure has been established from the family up to the state.
- As a result of this gender power in-equilibrium women are reduced to a secondary position relative to men both in the private and the common sphere. Thus they are subjected to violence, torment, harassment and more human right violations.
- It is by man himself that this patriarchal social and cultural system has been created. Therefore it is man himself who can change it. The position of men and women is vastly different today than that prevailed during traditional feudal societies. Today women have been able to enjoy more rights than before particularly with regard to matters such as education, employment, property, freedom and opportunities.
- Point out with examples how the status, roles, recognition, abilities, skills as well as duties of men and women have been changed with social, economic, political and cultural changes. There are several steps that can be taken to eliminate/minimize gender discrimination. Ask the participants about such steps and write down their answers on flip charts. Discuss such proposals and their practicability.

The Rights Based Approach

Introduction

The central theory of the concept of the Rights Based Approach in development is the fact that *“Since all men/citizens of any country are persons with equal rights, everyone has a right to development. No human group is the mere beneficiaries of development.”* In the application of this approach there are two parties; “holders/owners of rights” (the party which does not have the full capacity to enjoy the rights) and “duty bearers/performers” (the party which are the performers of duty or the party that has the total responsibility of providing opportunities to owners of rights to enjoy them). The Rights Based Approach challenges social, cultural and political reasons that cause imbalanced power structures, poverty and injustice.

Objectives

- To understand the difference between the Basic Needs Based approach and Rights Based Approach
- To understand issues faced by any group due to loss of rights and remedies.

Duration

1 hour

Activity 1

Identifying rights, characters and problems

- Make the participants to stand in one line and distribute the following individual characters each.
- Assign characters to the participants. Assign these male-female characters each among all the participants.

Characters that may be assigned to participants:

- * Gunapala – 65 years, married- labourer-6 children
- * Dhanasena – 40 years, married- farmer – 3 children, lives in the parents’ house
- * Malinda – 27 years; single – Driver, lives with the fiancé- much attached to liquor
- * Gunasekera – 49, married-Court Judge, 1 child
- * Chaminda – 31, single – owns a small tourist business-homosexual
- * Yogarajah – 35, married –broker, 2 children
- * Tudor – 48 , married,-4 children
- * Sampath -42, married, Waiter, 2 children
- * Aboosally- 43, married, business owner, 4 children

- * Rajendran- 39, married, Bank Manager, 2 children
 - * Dhanapala -51, married, Paralytic patient, former Clerk, 3 children
 - * Sumana – 40, married, labour helper, 5 children, self-employed (string hoppers), the old mother lives with her
 - * Shanthi – 42, married, Government Clerk, 2 children
 - * Chandralatha – 45, widow, teaching profession, 3 children
 - * Dilini – 37, married, Lawyer, husband Medical Doctor, no children
 - * Amali- 24, single, employed in a massage parlour (tourist sex trade)
 - * Fathima – 68, married, husband-farmer, house-wife, 4 children
 - * Fafina – 32, married, husband-businessman, house wife, 4 children
 - * Chitra Devi – 34, upcountry Tamil, married, estate worker, 5 children
 - * Chandima – 23, recently married (husband , a low caste man, unemployed), runs a vegetable stall
 - * Gawri – 37, widow, lives in a refugee camp, 3 children
 - * Lalani – 55, married, University Lecturer, husband- Bank Manager, 1 child
- Place the following questions before the participants. Instruct the participants to take one step forward or backward or to stand where they are according to the replies given by the respective assumed characters.

Questions:

1. If you have passed Grade 8 or above in school, put two steps forward.
2. If you have a good recognition among your neighbours, put one more step forward.
3. If you feel you are being left out in the society you live in and if you think you should keep your identity hidden, put one step back.
4. Think you are a diabetic. Are the special treatments needed for that available in your area itself? If you do not find it difficult to meet the expenses needed, put two steps forward. If there is no hospital in your area or you do not have money to buy required medicine, put two steps back.
5. If you have a secure environment so that you can visit a neighbourhood friend's house (200 meters away) alone around 10.00 p.m., put two steps forward. If not, put two steps back.
6. If you can participate in a democratic, just, free and corruption-free election in your area, put two steps forward.
7. If you can obtain a bank loan of Rs. 100,000/= for an urgent requirement, put two steps forward. If it is only from the person who charges exorbitant interest rates that you can get such a loan, put two steps back.
8. If you are interested in pursuing music/sports or any other hobby, are the necessary tuition classes and other facilities available in your area? If so, put two steps forward.

1. I you have computer literacy/capacity to work, put two steps forward.
 2. The government has prepared plans to construct a high- way very close to your house. Do you have ability/self-confidence to meet a government official or any other authorized person to make inquiries about it or to express your objection ? If so, put two steps forward.
 3. There has been a bomb explosion in your area while you were away from home. If you feel that you can return home thereafter without facing any harassment, put two steps forward. If you fear that you might be taken into custody/questioned unnecessarily/threatened, put two steps back.
 4. You do not want to have children at the moment. Can you discuss this matter with your partner and persuade him/her for using contraceptive methods? If so, put two steps forward. If not, put two steps back.
- Conduct a short discussion based on the following:
 - Ask who has not put stepped forward. Allow them to describe what they felt.
 - Explain how those who were in the same row are now standing in an disorderly manner as a result of participants putting steps forward and backward. Do those dissimilar positions indicate that “men possess rights”? Ask what the participants feel about it.
 - What are the reasons for some participants not being able to put steps forward? Is it reasonable ?
 - What are the negative factors that have made it impossible for the participants to protect such “equal rights” ? (gender, village life, ethnicity, sex, different abilities (disabled) and less social recognition)
 - Discuss on the basis of such matters, making inquiries as to why the participants who have not put steps forward did not do so.
 - How can the existing situation be changed so that such participants are able to put steps forward ? What can be done for that ?
 - In this context, what is meant by “right-based approach”?
 - Explain the difference between the basic needs approach and rights-based approach using the following slide.

Slide

The Basic Needs Based Approach

- Based on the welfare model
- This approach is linked to the creating of an awareness among the public about their rights and empowering them to claim such rights.
- Pays attention to human needs and the scope of the disadvantageous positions faced by people.
- Definitely pays attention to social groups who are denied the right to enjoy certain rights.

- Development follows the process of redistribution on the basis of redistribution of resources to eliminate the disadvantageous positions faced by people and to realize the day to day needs.
- To make the voice of the poor and marginalized social groups the focal point of the development discourse by creating active citizenship and consciousness among the people.
- This model is based on the comparative method. It compares the groups enjoying rights more with those enjoying rights less. It takes action to achieve just results as per such comparisons. What is being promoted by this approach is not the rights inherited by man but the right which he should have possessed when compared with the other groups.

The Rights Based Approach

- The object of the rights-based approach is to change poverty and the reason for marginalization, institutional behavior, social values, beliefs and political and conscientious structures.
- Changing policies, budget etc. too is one of its objects.
- Aims at welfare. As a result of basic needs-based development policies or projects a situation is created where groups enjoying less rights are made to depend further on others.
- Rights-based approach creates persons who are self-reliant, independent and , capable of helping others.
- Creates the attitude of entrusting problem solving to external individuals/institutes.
- What is meant by this is the creation of a state which is skilled, efficient, accountable and which allows space to enjoy human rights.

Activity 2

Problem Tree and Solution Tree

- Divide participants into three small groups.
- Assign three topics, one to each group
 1. Conflicts and reasons for conflicts
 2. The consequences of such conflicts on the lives of children, women and others
 3. Reasons for such conflicts
- Select a group leader and instruct to briefly present the matters discussed.
- Draw a large picture of a tree on flipcharts or a white board.
- Instruct groups to write answers to 1 (Conflicts and reasons for conflicts) on the trunk. Instruct groups to write answers to 2 (The consequences of such conflicts on the lives of children, women and others) on the leaves and branches.

- Instruct groups to write answers to 3 (Reasons for such conflicts) on the roots.
- Discuss what has been presented.
- While conducting the discussion, establish small groups to identify problems which affect in achieving gender equality in Sri Lanka. Provide the following guides.
- Use the following for the discussion.

Causes

- Male domination in the family and the common fields
- Harassment against women
- Gender inequality, exploitation, suppression (mental/physical) in social, economic and political fields, diseases, death.
- Militarization (forces being given the leading role in civil and other functions of the country)
- Public-personal functions being carried out by engaging military power

Consequences/results

- Loss of freedom, inability to enjoy rights properly, public displeasure, military teaching being given to children
- War and struggles
- Violence, harassment, males (the majority) taking part in war, rape of women/girls, human trade, abuse, disruption of infrastructure facilities (health, education)
- Number of women-headed families being increased due to male deaths, diseases of children due to lack of proper food, shelter, health services etc., future generation not being properly developed, bribe and corruption (poor governance)

Commonly identified causes

- Poverty
- Natural disasters
- Destruction of houses, lives, property
- Unequal distribution of health and educational services
- Religious intolerance
- Dogmatic/archaic attitudes
- Discuss using the following.
- ✚ The obstacles/challenges faced in properly enjoying the rights ensured to women/girls by international, national, regional, family and individual levels.
- ✚ Point out the fact of the lives of both males and females being put in risk, loss of human freedom, opportunities, rights relating to individual development etc. and women being suppressed more than men.
- ✚ That feminization of poverty is a big challenge in enjoying women's rights and its importance.

- ✚ The society lacks sufficient knowledge of women's rights and their importance.
- ✚ That traditional concepts prevailing in society against women, prejudicial views, unfounded beliefs and recognitions and gender stereotypes etc. too present obstacles.
- ✚ The State lacks the political will or it being minimal to create an environment conducive to properly enjoying rights/women's right ensured by international/national laws.
- ✚ State policy makers and implementers lacking a sufficient knowledge/ sensitivity relating to women's rights and treating women merely as beneficiaries of development.
- ✚ An adequate budget not being allocated by state and other responsible partners to promote women's rights and advance their position.
- ✚ Lack of effective, efficient, systematic and legal mechanisms/services/ lawyer facilities etc. to mete out justice in instances of violating women's rights.
- ✚ Also point out that matters such as the lack of sufficient pressure being exerted by civil society on the formal and informal institutes meant for the promotion/protection of women's rights.

Activity 3

- Divide the participants again into three different groups.
- Distribute three problems most affecting the Sri Lankan society out of them and allow time to discuss solutions to them (15 minutes)
- In the group discussions the resource person may direct the participants in various directions by suggesting solutions to various problems. For example, linking the teachings of religions such as Buddhism, Christianity, Hindu and Islam, point out that in our local culture acts such as killing others, stealing, lying, insulting others, suppressing, extramarital sexual indulgence, insulting others etc. should not be done by a person. Stress that actions such as equal treatment, offering food, drinks etc. to the needy, reasonableness, freedom and respecting others etc. are actions taught by every religion that help protect human rights.

Handouts

The Human Rights Based Approach

The central foundation of the Human Rights Based Approach to development is the theory that all human beings are not mere beneficiaries but citizens who possess rights. In this approach there is a shift from a basic human rights and services based approach. Identification of rights ensured by instruments such as the United Nations Declaration on Human Rights and other United Nations Charters, Conventions, local Constitutions and laws, and a strategic involvement empowering the community to claim such rights are included in this approach.

In the Human Rights Based Approach there are two parties; 1. owners of rights or groups who have not experienced the enjoyment of rights and 2. performers of duties or institutes who are entrusted with the responsibility of creating the environment required for owners of rights to enjoy them in a proper manner.

The main object of the Human Rights Based Approach is the empowerment of owners of rights and the improvement of the ability/capacity of those who perform the duties. Particularly, NGOs use this strategy in order to minimize the dependency of local rural community on assistance by improving the capacity of the government.

The Basic Needs Approach is necessarily based on the welfare model. But the Human Rights Based Approach is linked to strategies of providing basic needs for the empowerment of the community. With this an environment is created in which the community becomes aware of their rights and comes forward to claim such rights. This approach pays attention to community groups who have had no opportunities to enjoy human rights properly or who have been suppressed or marginalized. Through the process of empowerment the voice of such groups is made the focal point in the cycle of development. By creating awareness among the people about their rights and making them active citizens, there will emerge a group of strong and independent persons who do not depend on others. Creation of a situation where human rights can be fully enjoyed is yet another aim of this approach. It is also the object of this approach to change the values, traditions, archaic attitudes, beliefs and misconceptions that have been instrumental in creating social differences, poverty, social exclusion etc. In this approach it is also expected to change institutionalized conducts, political and conscientious structures, laws, policies, budgets etc.

The use of Human Rights –based approach

Any institution, before the use of the Human Rights Based Approach, has to have an institutional preparedness . Redefining the mission of the institution, introducing new methodologies, allocation of financial provisions for the relevant activities and providing training to the staff are more important in this regard. If the object of a project of that institution is to empower a certain group of an oppressed community (ethnic minorities, poor, low cast, women), the problems faced by such groups should be properly analyzed and priority of solving them should be correctly identified. Here, the capacity of the party to whom the duties are entrusted has to be identified analytically. Thereby it will be possible to have an understanding of the relationship between the two parties.

What should be done at the next stage is to create a good understanding of the rights and duties of both the owners of rights and those who are entrusted with duties. Here the first party becomes aware of personal rights and the second party becomes aware of the responsibilities and roles entrusted within the society. This paves way for the effective communication that should be there between the two parties.

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Knowledge Building LAW, LEGAL RIGHTS and MECHANISMS

Introduction

Human Rights are rights enjoyed by men and women. People are entitled to human rights from birth. Rights enshrined in international conventions and treatise applicable to all people and all countries. These rights take an enforceable force when they are enacted as laws in specific countries and become part of the legal systems and legislative and judicial processes of such country.

It is important to know internal commitments to safeguarding human rights and the laws that give them strength in Sri Lanka. It is also important to understand the legal processes that help implement laws and policies from a gender-based perspective in the legislative, executive and judicial spheres in a country as well as in all other social, economic and political activities. For a country to achieve democracy, good governance, lasting peace and sustainable development it should act with a rights-based approach.

Expected results

To provide an understanding of laws and mechanisms that uphold human rights enshrined in international commitments.

What is Law

Introduction

Law plays an important role in our daily lives. Sometimes we are conscious that we are dealing with law, but some other times we do not realize that law governs/regulates our lives or we act according to specified laws. Whether we like it or not, and whether we are conscious of it or not we have to act according to law. If we do not regulate our actions according to law, we will either be punished for violating the law or our actions will not have any legal validity.

While it is important to get to know the law so that we can regulate our acts accordingly, it is also important to identify the discriminatory nature of the law. The discrimination in law could be against the workers, against a particular community, against women simply by virtue of being female or on the ground that they are married or are mothers or they will be married and become mothers, etc. It is only if we get to know the law only, that we will become aware of these discriminations prevalent in the law. Only then we will be able to change the law, and erase the prevailing discriminations in law.

Ordinary citizens can change the law. Through constant persuasion / agitation of the law-making authorities, the law can be changed. We should remember that it is the ordinary citizens who send representatives to the Parliament or any other law-making body, and it becomes the responsibility of these representatives to take the interests of the community into consideration when they make laws and policies. Therefore, the citizens of a country are able to move the law-making authorities to change the discriminatory laws and establish equality. To do this however, the citizens should be aware of the prevailing laws and policies of a country, the regional and international standards, agreements and conventions and also the laws and policies in other countries.

Objectives

- To create awareness among the participants of the laws that have special reference to women
- To enable them to identify the discriminations prevalent in the law
- To enable them to compare the domestic laws with International standards
- To inculcate confidence in them to urge for the betterment of the law.
- To be able to identify the difference between the State under the rule of law and one of lawlessness
- To understand the multiple sources of law
- To appreciate the difference in the applicability of laws

Duration

45 minutes

Activity 1

- Make a presentation based on the following slides.

Slide

What is law?

There are several definitions to law, but in general and in a wider context, law could be described as a guideline imposed by a recognized authority to be followed by those who are subjected to it in carrying out a certain task, or a set of rules agreed upon by people to be followed in their day-to-day activities.

Slide

Law is important for any society, be it a country, a local government body, an institution, workplace...etc. It is important to have specific laws because when there is a law, all the activities of the particular country/institution/workplace are carried out in accordance with the law. Whenever there is no law, such countries/institutions/workplaces are administered and controlled by individual/group preferences. Where there is no law governing a particular situation, then the ordinary citizen is unaware as to how to regulate his/her activities, and what to do and what not to do. Such administration/control lacks the law, and it is generally called 'lawlessness'. When things are regulated by law, it is known as 'rule of law'. Accordingly, the 'rule of law' is preferred to 'lawlessness'.

Slide

Just having a law is not good enough, because rights of peoples could be violated by law the very according to which the society is governed. Hence the law should be just and equitable and should protect and uphold the rights of people.

Laws do not develop spontaneously. Laws are created. The creation of the law is generally a long process, and different factors influence the creation of law, including state policy, age-old custom or traditional practices, judgments pronounced by courts of law and tribunals, religion or authoritative pronouncements. Sometimes laws are influenced by international or regional instruments like the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) or the SAARC Convention against Trafficking of Women and Children. A law can be the end result of one or more of these sources. Such administration and control is generally called 'lawlessness'.

Slide

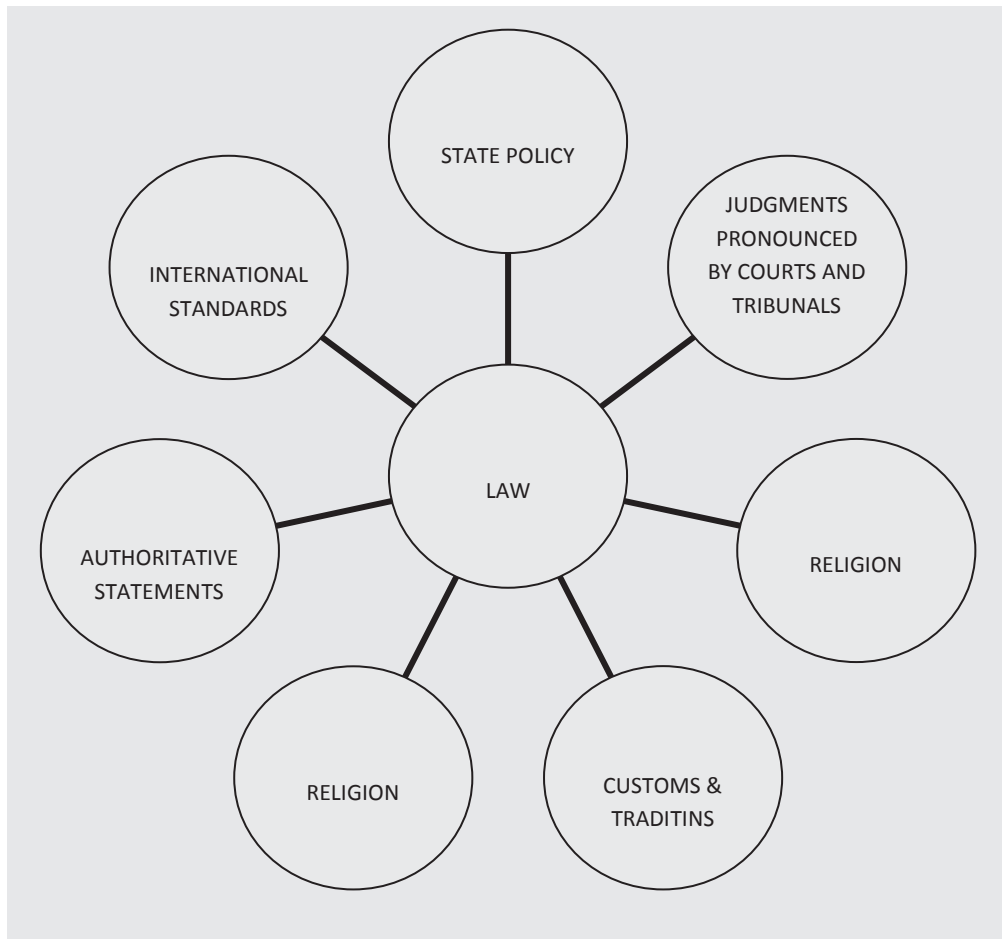
Activity 2

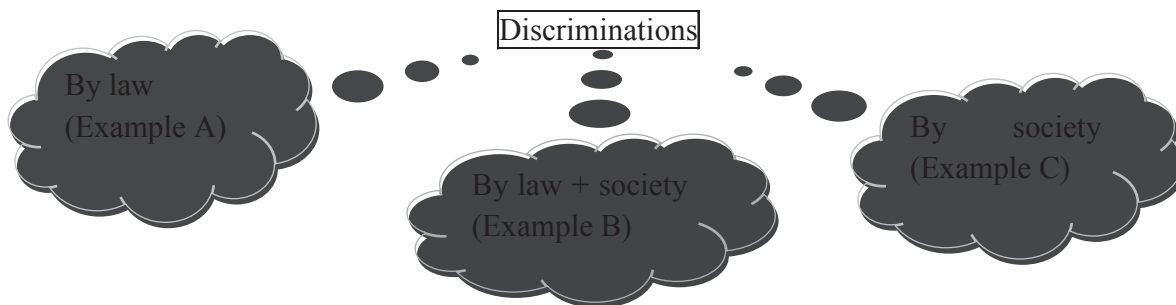
How law could be important particularly for women?

- Discuss the importance of law to women using the following information and examples.

Law is important for everybody, but there is a particular importance for women and girls because sometimes the law could be either discriminatory towards women or there could be special advantages or disadvantages for women. For example there may be laws, which prohibit women from doing certain things while permitting men to do the same thing.

Discriminations may be affected in any one or more of the following modes/means:





Since discrimination may be affected by law, by the society or both, it is vital to distinguish between discriminations in law and discriminations in the society. While many legal discriminations can be corrected by amending the law, amending the law alone will not rectify social discriminations.

Example A

The discriminatory exemption of women District Secretaries (Government Agents) of their voting right to elect the ‘Diyavadana Nilame’ (chief lay custodian) of the sacred ‘Dalada Maligawa’ (temple of the sacred tooth relic) and similar posts of trustees in other Buddhist temples under the Buddhist Temporalities Ordinance No.19 of 1931. District Secretaries are permitted to vote in this particular election. Since District Secretaries are appointed on merit basis, there appears to be no reason as to why women District Secretaries are not permitted to vote. Hence, in absence of an acceptable basis, the distinction is clearly discriminatory. On the other hand, there may be instances where even though the law permits women and men on an equal basis to engage in certain things, women find it difficult to do those things due to social/religious/cultural/other constraints.

Example B

Work during night (till 8pm, and with certain restrictions afterwards) is permitted for both sexes. But Sri Lankan social context is such that women who travel late are not only at risk of safety, but may also be looked down on by the general public as well as the law enforcement authorities, like the police and sometimes even the judiciary. In such circumstances, there should be adequate laws to provide adequate security for women and it is also necessary for the administration of justice to recognize the women’s equal right to engage in decent work at all times.

Example C

Violence (physical/mental/other form) against human persons. Generally violence behaviour is prohibited in (mostly criminal) law. Yet, violent behaviour in the domestic environment is not resisted either by the general public or by the law enforcement authorities, as much as it is resisted when happens outside the domestic environment. Domestic violence is generally condoned or not taken seriously by the society, and as a result victims, most of whom are women, continue to suffer in silence.

Activity 3

Why do you need to be aware of the law?

- Make a presentation using the following information on slide.

Slide

Almost all our actions (and omissions), be it our marriage, child birth registration, inheriting property after the death of a relative etc are governed by laws. If we do not act according to applicable law/s, our actions (or omissions) would be contrary to the law, and as a result we would have to face unpleasant consequences. These results may vary from a marriage being dissolved, a child becoming illegitimate, losing one's property rights to losing the right to vote, losing access to a school, other people occupying the property which should have been somebody else's, etc.

It is very important to be aware of the applicable laws, and act accordingly. Not knowing the law will not be accepted as an excuse, and unawareness of the law prevents us from calling for reform of unfair laws and policies.

- Group participants into four groups and ask them to discuss why it is important to be aware of the prevailing laws and legal practices.
- Discuss their views when presented bringing in the following information.

✚ *Lack of awareness of the law is not an excuse from liability.*

The law and Law Enforcement Authorities presume that everybody know the law, even if one does not actually know it. Eg. a marriage contracted by a girl below the age of 18 yrs. is not valid in law, even if the marriage is contracted with the consent of the parents. Hence, the marriage of a girl of 17 years of age with a man of 25 years of age, is illegal and 'not knowing the legal requirements' will not be considered as an excuse. If the girl conceives, the child will be deemed an illegitimate.

✚ *To claim rights recognized by law, one must know the law.*

Women can claim their due rights recognized under the law. Eg. Protection from domestic violence caused by a spouse or family member or partner can be claimed under the Prevention of Domestic Violence Act no. 34 of 2005 by going to the Magistrate's Court. This can be done only if one is aware of the law and the applicable procedure. If a victim of violence is not aware of the law such victim will not seek and therefore not receive redress from the violence she faces.

✚ *Demand others to adhere to the law*

When one knows what the law is then s/he can demand adherence from others. Eg. Under the prevailing employment laws of Sri Lanka, transport facilities should be provided for female workers, if they are asked to engage in night work - after 10 pm. If transport facilities are not provided in such a situation, the employee can demand it, and failure on the part of the employer gives her the right to take legal action.

✚ *Call for the abolition/amendment of discriminatory laws/policies/practices.*

As mentioned above, there are discriminatory legal provisions relating to election of the *Diyavadana Nilame*, which need to be corrected. We cannot call for the abolition of this law if we are unaware of the law and thus are unable to identify the discriminations.

✚ *Act according to the legal requirements, without being misled by wrong advice/opinion.*

People with poor/no understanding will give wrong advice in an apparent instance of violation of the law. For instance, where a wife is being beaten by her husband repeatedly, neighbours might say that you cannot take any action against him because he is your husband. However, this is wrong. There is a law which provides protection to victims of violence perpetrated by family members.

The law applies in every situation of our lives and at all times. Getting to know the applicable law to a particular situation is important for various reasons, mainly because one is not exempted from liability on the basis of one's unawareness of the applicable law, and can engage in activities in accordance with the law. On the other hand, the legislature can be moved to change the discriminatory laws and thereby ensure gender equality.

- Make presentation on the applicability of law using the slide below.

Slide

1	2	3	4
Applicable to the entire country.	Applicable only to a certain geographical area.	Applicable to a certain group of people,	A mixture of 2 and 3.
<ul style="list-style-type: none"> ✦ The Constitution of 1978 of Sri Lanka ✦ The road rules are the same in the country, ✦ Provisions of the Penal Code 	<ul style="list-style-type: none"> ✦ Regulations issued by the Western Provincial Council apply only to the Western Province. ✦ A special law called the 'Tesawalamei' applies to all the land and immovable property in the Province of Jaffna. 	<ul style="list-style-type: none"> ✦ Muslim law applies only to those who profess Islam, and ✦ Kandyan law applies only to those who are regarded as Kandyans. ✦ Tesawalamei law of succession applies to the inheritance rights of those who are governed by the Tesawalamei. 	<ul style="list-style-type: none"> ✦ Tesawalamei is one such law which applies to Tamils who have maintained and retained their Jaffna origin and also to immovable property in Jaffna irrespective of the personal law applicable to the owner.

While certain laws apply to all the citizens of Sri Lanka, there are other laws which apply selectively. Therefore, it is important to ascertain which laws apply to a person's different activities and the extent of the application of a certain law.

- Make a presentation using the information below.

Personal laws relevant for women in Sri Lanka- (Thesawalamei, Kandyan law, Muslim law)

- ✚ As discussed above, there are different laws which apply to specific areas of personal life of a person. Specifically, marriage, divorce/separation, succession rights to property where a relative or a spouse has died without leaving a last will, maintenance of a wife while the marriage is subsisting but spouses are living separately, maintenance of children when the parents are divorced and adoption of children etc are determined according to the personal law to which one belongs. One's birth, religion and marriage are determining factors with regard to the applicability of personal laws.
- ✚ Apart from the aboriginal customs and laws of communities like *Veddas* (indigenous community), the Thesawalamei law, Kandyan law, and Muslim law are the three main personal laws applicable to the citizens of Sri Lanka. While Thesawalamei applies to Tamils with a Jaffna origin (whether they live in Jaffna or anywhere else in the country) and to immovable property of the province of Jaffna, Kandyan law applies only to Kandyan Sinhalese. Muslim law applies to all who are believers of Islam.

The National and International Legal Protection of Women

Introduction

Significant numbers of the world population are routinely subject to torture, starvation, terrorism, humiliation, mutilation, and even murder simply because they are female. If this were any group other than women being maimed and killed, it would be recognized as a civil and political emergency and a gross violation of their humanity. Yet, despite a clear record of deaths and demonstrable abuse, women's rights are not commonly understood or classified as human rights.'

Since human rights of women are violated in multiple ways by different individuals and groups of individuals, it is necessary to have a strong and structured legal protection mechanism designed especially for the protection of the right of women.

In Sri Lanka the legal protection mechanism comprises of the Constitution of 1978, various other laws, Charters, other national policy documents, and international instruments to which Sri Lanka is a party.

Objectives

- ✦ To improve the knowledge of the national legal protection frame-work of the rights of women;
- ✦ To strengthen the capacity of the participants to seek legal protection and redress where rights are violated or where such violation is imminent.
- ✦ To gain knowledge and understanding of the legal framework that addresses the rights of women in Sri Lanka
- ✦ To appreciate the opportunities and limitations of the national legal protection on women
- ✦ To identify the difference between applicable law and a policy
- ✦ To differentiate between formal and substantive equality
- ✦ To understand international obligations on the part of the State to realize the rights of women.

Duration

2 hours

Activity 1

- Conduct a Group Discussion on the concepts of ‘equality’ and ‘discrimination’
- Divide the participants into four groups.
- Ask each group to explain the two concepts in their own words and present their thoughts.
- Ask participants to share their experience on equality (in employment / education / decision-making – political or otherwise / participation / access to justice – police, courts, and administrative bodies)
- Ask participants to reflect on the causes/reasons for their experience of discrimination, whether it was the law / social practice / both / any other.
- Ask them participants what they propose to correct the situation, whether reform of the law / change of social thinking / other.

Activity 2

Make a presentation on the legal frame work on the protection of the rights of women using the following points.

- Constitutional provisions
 - ✚ The Constitution is the supreme law of the country, and all written laws, customs and practices should be in line with the specifications and standards set out therein.
 - ✚ Article 12 of the Constitution is of special importance for women. The Constitution lays down the Right to equality as follows:
 - 12. (1) all persons are equal before the law and are entitled to the equal protection of the law.
 - (2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds:
 - Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any public corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office:
 - Provided further that it shall be lawful to require a person to have sufficient knowledge of any language as a qualification for any such employment of office where no function of that employment or office can be discharged otherwise than with knowledge of that language.
 - (3) No person shall, on the grounds of race, religion, language, caste, sex or any one such ground, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

- (4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.
- This provision affirms that women are of equal standing with men as far as the application and protection of the law is concern, and therefore entitled to enjoy rights on an equal basis as men.
- ✚ The equality provision (Article 12) of the Constitution applies in the exercise of all the fundamental rights that are enshrined in the Constitution as well as in the interpretation and application of all other laws. Accordingly, women have equal rights to employment, equal pay for equal work, right to health, education, representation in Parliament and other local bodies, equal rights in the work place, at home and everywhere else, equal rights to development, public services, etc. As stated in Article 12 women have the right to equality virtually everywhere.

Activity 3

Understanding about the Sri Lanka Women's Charter

- Divide participants into 3 groups; ask them to appoint a leader in each group.
- Distribute a copy of the Sri Lanka Women's Charter to all groups.
- Give participants 10 minutes to read and identify the following (one category of rights by each group):
 - Social and cultural rights
 - Civil and political rights
 - Economic rights
- Then give 5 minutes to each group leader to present their findings.
- After the presentation, the resource person can have a brief discussion using the following information.

➤ What is the Women's Charter?

It is the main policy statement of the State regarding the rights of women. It expresses the commitment of the State to remove all forms of discrimination against women and addresses crucial issues relevant to them. The Women's Charter is also called the 'Bill of Rights for Women.

➤ When was it adopted?

The Sri Lanka Women's Charter was adopted on the 3rd of March 1993.

➤ What does it aim to achieve?

The Charter aims at eradicating sex-based discrimination and at achieving gender equality.

➤ What are the broad issues covered in the Charter?

- political and civil rights
- rights within the family
- the right to education and training
- the right to economic activity and benefits
- the right to healthcare and nutrition
- the right to protection from social discrimination
- the right to protection from gender based violence

➤ Is it a law?

No, it is only a policy document and does not have the standing of a law. A Women's Rights Bill, which intended to give legal status to the rights enshrined in the Charter, was been submitted to the Parliament of Sri Lanka, but was rejected. Subsequently a Bill to establish a Women's Commission as intended by the Charter which would have given legal recognition to the Charter was also rejected by Cabinet.

➤ What is the relevance of the Charter?

Even though the Charter itself cannot be implemented as law, it could be used as a guide to interpret existing laws, and as an ultimate goal to achieve in the laws relating to rights of women.

Activity 4

- Conduct a discussion on the Convention on the elimination of All forms of Discrimination Against Women (CEDAW).
- Group participants into 7 groups.
- Give each group a Fact Sheet on CEDAW (Facts Sheets are below) and ask each group to discuss the facts contained in the Fact Sheet.
- Ask a group leader to make a presentation on the facts.
- Add any facts that have been missed out by each group.

Fact Sheet 1 **What is CEDAW?**

The Convention on the elimination of All forms of Discrimination Against Women (CEDAW) is a human rights treaty, which specifically address the rights of women and strongly advances a rights-based approach to claiming rights of women. It defines human rights principles, concepts and related standards of conduct and obligations that states parties to the Convention agrees to fulfill. It emphasizes the enjoyment of human rights and highlights the inter-relatedness and equal status of all human rights (whether civil, political, economic, social and cultural) as guaranteed by other human rights treaties. It seeks to eliminate discrimination against women in all its forms and manifestations, and is referred to as the international bill of women's human rights. CEDAW was adopted by the UN General Assembly on December 18, 1979. It came into force on September 3, 1981. It is made up of a preamble and 30 articles and has been ratified by 186 states. Sri Lanka became a party to CEDAW in December 1981.

Fact Sheet 2

Who can be a party to CEDAW?

Only States, and not individuals, can be parties.

Is it compulsory for a state to be a party to the Convention?

No. They can become a party to CEDAW on their own, only if they are willing to abide by it.

What is the importance/significance of CEDAW?

- 👍 Takes into account the social construction of gender
- 👍 Identifies gender discrimination in laws and provides recommendations on how discrimination can be addressed
- 👍 Reveals gaps or weaknesses in law in achieving gender equality
- 👍 Provides for a comprehensive guarantee of equality in all fields – civil, political, economic, social, cultural and other fields
- 👍 Mandates not only equality in law but more importantly, equality of results in real life (commonly known as de facto / actual equality)
- 👍 Defines discrimination in all its forms, both direct and indirect discrimination
- 👍 Focuses on the obligations of states to ensure women's human rights and equality in particular fields of law.

Fact Sheet 3

What are the key principles of CEDAW?

- Substantive equality
- Non-discrimination
- State obligation

Substantive equality

What is substantive equality?

In CEDAW, equality means substantive equality, achievement of which entails that women are given equal opportunities, equal access to opportunities and an enabling environment to achieve equal results. Substantive equality looks beyond legal guarantees of equal treatment, and requires interventions on the part of the state and non-state actors to guarantee equal opportunities to women in order to guarantee equality of results.

A law that has a general application provides equal opportunities for women and men to access credit if they can provide some security. However, a law which applies for a particular section of the community prevents women from owning, controlling and disposing property on their own, and requires the spouse's or other male relative's assent/authority to deal with property.

In such a circumstance, though obtaining credit appears to be of an equal footing, in actual fact it prevents a certain section of women from obtaining credit on their own, or in other words without the consent and intervention of a male. This is an example for ‘formal equality’ or equality in law of general application. This kind of laws of special application or some customs/practices prevents equality of results (formal equality).

What are the challenges to substantive equality?

- Social and cultural perceptions of women as weak, economically dependent, and housebound. The ignorance of these social beliefs and accepting them as ‘normal’ prevents them from being addressed. Eg. wife beating, women should keep silent when they are subjected to sexual harassment in public places, etc.
- Protectionist approach to equality, which assumes that women as weaker than men and therefore require protection, and as a result, women’s choices are restricted and their rights are ignored to keep them safe. Eg. ban on night work (which usually brings more wages) for women on the basis of safety, prohibition on women engaging in dangerous occupation, etc. The protectionist approach in these instances considers women as the problem, and as a result their rights and opportunities and rights are restricted rather than addressing the real problem, which is the unsafe environment.

Fact Sheet 4

What are the key principles of CEDAW?

- Substantive equality
- Non-discrimination
- State obligation

Non-discrimination

What is discrimination against women?

- It means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field.
- Discrimination can be direct or indirect. Direct discrimination is where the law intends and makes a clear distinction between men and women and places women at a disadvantageous position, denying them equality of rights. Indirect discrimination refers to an action or omission that has the effect of discriminating against women even if there has not been an intention to discriminate women. Indirect discrimination could occur in situations where the law treats women and men alike, and further assumes that the society treats them equally.

- Discrimination can be direct or indirect. Direct discrimination is where the law intends and makes a clear distinction between men and women and places women at a disadvantageous position, denying them equality of rights. Indirect discrimination refers to an action or omission that has the effect of discriminating against women even if there has not been an intention to discriminate women. Indirect discrimination could occur in situations where the law treats women and men alike, and further assumes that the society treats them equally.
- If the society actually treats them equally, women can enjoy their rights, but in a society where women are in fact not treated equally, such gender-neutral laws can prevent women equal opportunities for rights, and from enjoying equal results.

For example, the Prevention of Domestic Violence Act of Sri Lanka is gender neutral. It does not make any special reference for women with regard to access to justice or in regard to protection from further violence. A victim of violence has to make the complaint either to the police or to the courts, unless in the case of a child victim. In a society like Sri Lanka where women are not as open as men to seek justice (making a police complaint / going straight to courts) particularly against one's husband or a family member, such gender-neutral provisions may not bring in the expected results.

- Such assumptions of the society and legal provisions are based on formal equality. Non-consideration in law, of these impacts of socio-cultural constraints, results in indirect discrimination.

Fact Sheet 5

What are the key principles of CEDAW?

- Substantive equality
- Non-discrimination
- State obligation

Non-discrimination

How does CEDAW aim to end discrimination?

- It aims to bring about substantive equality of women. This means governments are required to bring in actual results in women's lives,
- It carries with it the principle of State Obligation. This means that the state has responsibilities to women from which it cannot withdraw,
- It prohibits actions and policies that put women at a disadvantage whatever its intentions,
- It requires states parties not only to prevent women's rights violations by state institutions and government officials, but also by private individuals and groups,
- It recognizes the influence of culture and tradition on restricting women's enjoyment of their rights, and challenges States parties to change stereotypes, customs and norms that discriminate women.

Fact Sheet 6

What are the key principles of CEDAW?

- Substantive equality
- Non-discrimination
- State obligation

State obligation

What is state obligation?

- CEDAW requires states parties to ensure the equal recognition, exercise and enjoyment of human rights by women without discrimination on the basis of being a woman.
- The responsibility to ensure equality and end discrimination falls on both state and non-state actors. However, the duty bearer under CEDAW is the state. The state means the legislature, the executive, the judiciary and the entire administrative structure.
- State obligation not only refers to provision of mere equality, but includes the obligation to ensure equality of results. Therefore the state is obliged to take special measures to ensure equality of opportunities and equality of results. These measures could be either permanent or temporary.
- With regard to Sri Lanka, the Constitution provides for such special measures to be taken for the benefit of women and children [See Article 12 (4) of the Constitution of 1978].

What is a state required to do once it has ratified the Convention?

- As a state party to CEDAW, the government recognizes that discrimination and inequality against women exist and that there is a need for state action. State parties are bound to respect, protect and fulfill women's rights. Under CEDAW, the state has to do more than just make sure that there are no existing laws that directly discriminate against women. It must also make sure there are no existing laws that indirectly discriminate against women. It must also make sure that all of the necessary arrangements are put in place that will allow women to actually experience equality in their lives. Women's empowerment and women's active participation in all spheres of public and private life are fundamental resources for social change and prerequisites in the fight against global poverty.
- Accordingly, the main objective of the convention is to ensure gender equality and end discrimination. Therefore a state party is expected to:
 - Repeal all discriminatory laws, and abolish all discriminatory procedures and practices,
 - Enact anti-discrimination policies and provide effective procedures and mechanisms where women can seek redress for violations of their rights,
 - Promote equality through all appropriate means including laws based on equality, measures that promote equality, enabling conditions and affirmative action to ensure equality,
 - Make a national Report every four years on measures the government has taken to comply with the treaty obligations.

Fact Sheet 7

What are the key principles of CEDAW?

- Substantive equality
- Non-discrimination
- State obligation

State obligation

Who monitors and checks government action?

- Every state party voluntarily signs and ratifies the Convention. The states have the freedom to have reservations on the Convention, though they are discouraged to do so, and these reservations are meant to be temporary.
- A key feature of the Convention is that the state is made accountable for ensuring women's rights to equality is fulfilled in practical terms. This means that once CEDAW has been ratified, the state party is bound to fulfill its obligations subject to reservations.
- A committee of 23 experts (CEDAW Committee) elected by the states, has been appointed under the guidance and acceptance of the UN to review the reports. (Articles 17-22 on the committee.) This committee review reports submitted every four years by states (country reports) and NGOs (NGO reports are known as shadow reports). On careful review the committee can issue recommendations. The state party is bound to carry out the recommendations and report the progress to the committee in the next country report.

Handouts

Give all Fact Sheets 1-7 as handouts to every participant.

Activity 5

- Conduct a Group Discussion on understanding the Main Principles of CEDAW
- Divide participants into 2 groups; name them (A) and (B). Each participant should have copies of the Prevention of Domestic Violence Act and the Land Development Ordinance

Activity 5 Component 1

- Group A leads this activity. First ask the Group A to read and discuss the issue A, but instruct Group B also to read it carefully.

Issue A

20 year old Rajani is the sole breadwinner of her family of four younger siblings. Her father is dead and mother is unable to find employment due to her prolonged illness. Their uncle Ramesh provides for their bare maintenance, and he makes undue advances towards Rajani. He urges her to have sex with him, but she somehow manages to escape.

- Now distribute the ‘status of the law’, to both Groups and ask them to read it carefully.

Status of the law

Under the Prevention of Domestic Violence Act of 2005, Rajani can seek a protection order for her protection from Rajan, from the Magistrate’s Court. Their relationship (uncle and niece) is covered under the Act, and possible sexual harassment provides an adequate ground to seek justice under the Act. The law does not prevent her from seeking justice.

- Distribute the following questions ready to both groups.

Questions

1. Whether the concept of equality is reflected in the particular legislative provision. (Information for the trainer - The law is not discriminatory on the basis of gender.)
2. Can Rajani actually seek judicial redress under the prevailing circumstances? [Information for the trainer - The law does not however, provide for special protection for Rajani, by way of seeking justice through third Party intervention, because she is an adult. Rajani and her entire family depend on Ramesh. Their poverty makes them dependants on Ramesh, and because of that she cannot go against him. A third party also cannot make a complaint on behalf of her. She cannot leave her house because the state does not provide safe/shelter homes. Therefore unless she is provided accommodation at a private place, she will be fall into more trouble if she makes the complaint.
3. Would a boy of Rajani’s circumstances face the same consequences?
4. Is this substantive equality?
5. What the State should have actually done to ensure equality of results?

- Ask Group A to discuss each of the questions.
- Ask Group B to respond.

Activity 5 Component 2

- Group B takes the lead on this activity. Ask Group B to read the following issue B, but instruct Group A also to read it carefully.

Issue B

Rajani finds employment to suit her qualifications, in a financial institution. However, the Institution requires all its employees to provide a guarantee by way of cash or a deed of some property. She does not have any cash, and the only property that the family owns, which is a state land has been inherited by her brother after the death of her father. According to the Land Development Ordinance, the eldest male child inherits after the death of the head of the household. Now she finds it a problem because the financial institution does not accept deeds, which are in somebody else’s name.

- Ask Group B to discuss the discriminatory provision in the Land Development Ordinance of Sri Lanka, which specifically mentions male inheritors in preference to females in the order of inheritance of state land.

Information to the trainer: This is direct discrimination against females. As a result, women (in this case Rajani) are pushed further into poverty, and end up in serious consequences. Rajani is unable to accept the job because of lack of surety. This situation carries multiple discriminations, some are direct and some indirect.

- Ask Group B to present.
- Ask Group A to respond.
- In a concluding discussion, discuss the State obligations under the two activities to ensure equality and non-discrimination. Confirm that State obligation extends to various organs of the State and to impose new laws and amend/repeal the existing ones and also to impose obligations on private parties.

Activity 6

Introduction to CEDAW

- Distribute a copy of CEDAW (below) among all participants and give them 20 minutes to read it carefully.
- Ask them to identify main rights given under each article.
- Alternatively, participants can be divided into several groups and ask each group to find out rights related to family, property, culture, politics, etc.
- Then ask them to discuss their (real life) experience in enjoying those rights and to identify the gaps between the legal guarantees and the actual situation (application of the law in real life).

Copy of CEDAW

The Rights Recognized in CEDAW

Article 6-16 address rights of women in the following areas:

- Trafficking and exploitation of prostitution (Article 6) – states parties are required to take appropriate measures to suppress traffic in women and exploitation of prostitution of women.

- Rights in political and public life (Article 7 and 8) – States parties are required to eliminate discrimination against women in the area of political and public life. It states that women and men have equal rights to vote, to run for elections, to participate in the formulation and implementation of government policy, to hold public office, to perform all public functions, and to participate in the NGOs and public and political organizations. Article 8 recognizes women’s right to equally represent the government at the international level and participate in international organizations.
- Nationality (Article 9) – Recognizes women’s right to acquire, change or retain her nationality. States parties are required particularly to ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. Also, states parties are required to grant women equal rights with men with respect to the nationality of their children.
- Education (Article 10) – Women and girls right to education is recognized in Article 10, and to ensure the realization of this right, states parties are required to take all appropriate measures to eliminate discrimination against women in the field of education. It further states that women and men have access to the same curricular, exams, teaching staff, school premises and equipments, and opportunities to get scholarship and grants on the same basis as men and boys. The elimination of stereotyped concepts of the roles of men and women through the revision of textbooks, school programs, adaptation of teaching methods, and encouraging of co-education are required under this Article. This also means that women and girls have the same opportunities to benefit from scholarships and grants, the right to participate in continuing education, in sports and physical education; to get specific educational information about the health and well-being of families; and to continue education without dropping out of school.
- Employment (Article 11) – States are under obligation to take all appropriate measures to discrimination in employment. CEDAW recognizes that women and men have the same right to work and right to enjoy the same employment opportunities, remuneration, promotion, training, social security, and healthy and safe working conditions. Particularly, women should not be discriminated on the grounds of marriage, pregnancy, childbirth and childcare. Accordingly, discrimination in employment on the grounds of marital status and maternity is prohibited, and requires sanctions for dismissals on account of marital status, pregnancy or maternity leave. It also requires maternity leave with pay without loss of benefits or seniority and support services for child care. Special protection from work harmful to pregnant women must be given. Article 11 further states that protective legislation relating to matters covered in the article shall be reviewed periodically, and shall be revised, repealed or extended as necessary.

- Health care (Article 12) – States parties are required to take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. States parties are further required to ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.
- Economic and social life (Article 13) – Equality in all areas of economic and social life, including equal right to family benefits and loans, mortgages and other forms of financial credit are called for in this Article. It also ensures women the right to participate in recreational activities, sports and cultural life.
- Rights of women in rural communities (Article 14) – CEDAW affirms that women in rural communities have the same rights as women in urban areas. Article 14 emphasizes the need to ensure the right of rural women to participate in and benefit from rural development. States parties are required to take into account the particular problems faced by rural women and the significant roles played by them in the economic survival of their families, including their work in the non-monetized sectors of the economy, and are compelled to take appropriate measures to ensure the application of the provisions of the Convention to rural women. This includes adequate health care facilities, education, agricultural credits and loans, marketing facilities and technology, equal treatment in land and agrarian reform and resettlement schemes.
- Equality before the law (Article 15) – Article 15 guarantees women the same legal capacity as men. This means that women are to be treated as equal before the law and have a legal capacity identical to that of men in regard to enter into contracts of any civil nature, to administer property, freedom of movement, and freedom of movement, and choose where to live. States parties are required to treat women equally with men in all stages of procedure in courts and tribunals, and agree to annul all contracts and private instruments with a legal effect, which has the effect of restricting the legal capacity of women.
- Marriage and family life (Article 16) – This is especially important since marriage and family life are considered private affairs of the contracting parties and custom and tradition take centre stage in this regard and as a result of both these reasons states are reluctant to disturb the existing set-up by enforcing new laws or amending the existing ones on marriage and family life. Article 16 is very comprehensive and addresses almost all aspects of marriage and family life. In short, it compels states parties to guarantee, on a basis of equality of men and women:

- The same right to enter into marriage,
- The same right to freely choose a spouse and to enter into marriage only with their free and full consent,
- The same rights and responsibilities during marriage and at its dissolution,
- The same rights and responsibilities as parents, irrespective of their marital status. (This means that the rights as parents are not to be affected on the fact of their being unmarried / single parents).
- The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights. (This refers to the awareness on family planning methods, health impacts on child birth and of having children in between short intervals, and also means and methods to obtain information in this regard. The Article emphasizes that the rights are enjoyed and choices are made with responsibility).
- The same rights and responsibilities with regard to guardianship, wardship, trusteeship, and adoption of children. The Article refers to responsibilities as well, in regard to the legal status as guardians, wards and trustees etc. However, when deciding the rights and responsibilities, the main concern should be on children rather than the adults who claim rights and responsibilities on children as guardians etc.
- The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.
- The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
- Addressing the issue of child marriages, the Article affirms that the betrothal and the marriage of a child shall be void in law, and the states parties are required to take legal and administrative measures to specify a minimum age for marriage and to make the registration of marriages compulsory.

What are General Recommendations?

- General Recommendations (GR) are authoritative explanations on CEDAW articles. Generally they aim specific Articles of the convention, and explain the objective of the Article, what is expected of states parties in regard to the Article and set out specific recommendations to be adhered to by states parties. To date there are 26 GRs under CEDAW addressing various areas of concerns. For example GR 19, which has been confirmed by the UN General assembly in 1992, addresses violence against women. GR 19 addresses the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. It explains in detail how violence against women could take place and in what areas of a woman's life are affected by violence, and suggests possible actions that governments could take to eradicate all forms of violence against women. Article 7 of GR 19 lists out, as follows, the rights that are denied or affected by gender-based violence:

- The right to life;
 - The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment;
 - The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
 - The right to liberty and security of persons;
 - The right to equal protection under the law;
 - The right to equality in the family;
 - The right to the highest standard attainable in physical and mental health;
 - The right to just and favourable conditions of work.
- As can be seen the GRs explain how discriminatory laws and practices affect the lives of women in day to day affairs. Even though these rights are vital for the wellbeing of human life they are often overlooked. Nevertheless, violence against women, which can take many forms and can be of different standards, violates all or some of these rights and as a result, affect the quality of life of women. If not for these explanations, even the governments, mostly under political, religious and cultural pressures, may not address gender-based violence as violation of human rights. Hence the GRs are important in understanding CEDAW and in addressing the issues concerning women.

Activity 7

- Conduct a discussion on the ‘Strengths of CEDAW’ using the following slide.

Slide

- The Convention is an international mandate that legitimates the basis for demands of equality and non-discrimination for women domestically.
- It provides a comprehensive framework for the advancement of women and provides a framework for understanding the concept of equality: equality of opportunity and equality of results.
- It obligates conformity of the principles of the Convention with domestic legislation.
- It carries with the principle of State obligation on the following:
 - a. Implementation of provisions in the legal framework (Constitution, laws, justice system)
 - b. Uphold, adopt and integrate principles of non-discrimination and equality
 - c. Implementation of provisions in the policy framework (development institutions, programmes).

- The above (a, b, c) includes advocacy, claiming of rights and representation of women in decision-making)
- Having a legal mechanism for the protection of women is important particularly in a society where rights of women are routinely subjected to violation in the pretext of religion, culture and other grounds. Sometimes even the Constitutional protection may be undermined by other laws, which have been in force prior to the introduction of the Constitution. Yet, the validity of such laws cannot be questioned in the light of the Constitution since the Constitution itself provides for the continued application of such laws irrespective of their inconsistency. The result in such instances is the continued violation of rights. The relevance of national policy and the enforcement of international instruments is most pertinent in such situations to call for the abolition of laws, which are in violation of fundamental human rights.

References

Bunch, C. (1994). Women's Rights are Human Rights – Towards a Re-Vision of Human Rights. Social Scientists' Association. Sri Lanka.

Sri Lankan Laws Applicable to Marriage

Introduction

As much as Marriage is an important event in a person's life, it brings him/her legal consequences, some of which are reversible while some are not. However, those who enter into marriage concentrate more on the event itself rather than the seriousness of the commitment and rarely realize that what they enter into is a legal contract. It needs to be emphasized therefore, that even though marriage is considered a holy sacrament in Christianity and Hinduism, a legal contract in Islam, and a mutual agreement among the non-Christian Sinhalese, the union of marriage has a legal impact specifically on the parties concerned and their children. Therefore, it is important to know how to contract a marriage that is legally recognized in law, how to avoid the marriage being void, the consequences of a promise of marriage, the responsibilities that fall on a person who has violated a promise of marriage, the remedies available to a person who has been promised marriage, and the consequences of a lawful and unlawful marriage.

Objectives

- To give a fair knowledge of the different Sri Lankan laws applicable to marriage
- To identify the different laws applicable to marriage
- To understand the basic legal requirements of a valid marriage
- To differentiate between a valid marriage, an invalid (void) one and one that could be declared void by a court of law
- To appreciate the requirements of a promise of marriage that carries legal consequences

Duration

1 hour

Activity 1

- Make a presentation using the slides below.

Slide

Laws applicable to Marriage in Sri Lanka

- The applicability of the law relating to marriage depends on the personal law which governs the parties.
- Tamils and low country Sinhalese are governed by the General Law of marriage.
- Muslims are governed by the Muslim Law
- Kandyan Sinhalese are governed by the Kandyan Law. However, this Kandyan Sinhalese are not prevented from contracting marriage under the General law. Therefore, Kandyans have a choice of laws, i.e. to marry under the Kandyan law or the General law

Activity 2

Activity 2 component 1

- Draw a picture of a couple (in matchstick figures) on a board. Be careful not to highlight any ethnic/cultural features. Name them (verbally) as Kusum and Saman.
- Explain that Kusum, who is the daughter of Mr. and Mrs. Samarasinghe wants to marry Saman, whose parents have been living in Ambekke in the Central Province of Sri Lanka for many years. Saman's parents are anxious to know whether Kusum and Saman can marry under the Kandyan Law.
- Ask participants to discuss the applicable laws and help them come up with the following:
 - Applicable laws
 - Marriage Registration (General) Ordinance No.19 of 1907
 - Marriage and Divorce (Kandyan) Act No.44 of 1952
 - Marriage and Divorce (Muslim) Act No.13 of 1951
- Ask participants to discuss whether Kandyan law is applicable only to Kandyans or all those who live in Kandyan Provinces.
- Provide the following information:
 - One cannot marry under the Kandyan law simply because they have been living in the Kandyan Provinces. They have to prove that they are Kandyans, and this has to be proved by showing that they have retained their Kandyan origin irrespective of their present residence. If both Kusum and Saman can prove that they are Kandyans, they can marry under Kandyan law. However, even if they are Kandyans, they are not prevented in solemnizing their marriage under the general law.
 - The Marriage and Divorce (Kandyan) Act No.44 of 1952 applies to Kandyan Sinhalese who choose to marry under the Kandyan law.

Activity 2 component 2

- Draw a picture of a couple (in matchstick figures) on a board. Name them (verbally) as Faiz and Fathima.
- Explain that Faiz's and Fathima's parents have arranged a marriage between Faiz and Fathima. Both are Muslims.
- Ask participants to discuss the applicable laws and help them come up with the following:
 - Applicable laws
 - Marriages of Muslims are valid only if their marriages are contracted under the Marriage and Divorce (Muslim) Act.
 - Marriage and Divorce (Muslim) Act No.13 of 1951 applies to marriages and related matters of Muslims.

Activity 2 component 3

- Draw a picture of a couple (in matchstick figures) on a Bristol board. Name them (verbally) as Rajeswari and Kamal.
- Explain that Rajeswari and Kamal want to contract their marriage. Rajeswari is Tamil and Kamal is Sinhalese.
- Ask participants to discuss the applicable laws and help them come up with the following:
 - Applicable laws
 - Marriage Registration (General) Ordinance No.19 of 1907
- Ask participants to discuss whether Kandyan law is applicable only to Kandyans or all those who live in Kandyan Provinces.
- Provide the following information:
 - One cannot marry under the Kandyan law simply because they have been living in the Kandyan Provinces. They have to prove that they are Kandyans, and this has to be proved by showing that they have retained their Kandyan origin irrespective of their present residence. If both Kusum and Saman can prove that they are Kandyans, they can marry under Kandyan law. However, even if they are Kandyans, they are not prevented in solemnizing their marriage under the general law.
 - The Marriage and Divorce (Kandyan) Act No.44 of 1952 applies to Kandyan Sinhalese who choose to marry under the Kandyan law.

Activity 3

- Make a presentation on the “Capacity to Marry” using the following slides.

Slide

- The law requires that the parties to a marriage should have the capacity to marry. The requirements as to the capacity to marry depend on the law applicable to the parties concerned.

Capacity to marry under the General Law

- According to the Marriage Registration (General) Ordinance No.19 of 1907 the age, relationship between the bride and the groom, and the marital status of the parties are the deciding factors of capacity. The relevant law provides as follows:
- Where both parties to the marriage have not completed eighteen years of age. (section 15)

Slide

- No marriage is valid (section 16)
 - where either party shall be directly descended from the other ; or
 - where the female shall be sister of the male either by the full or the half-blood,
 - or the daughter of his brother or of his sister by the full or the half-blood,
 - or a descendant from either of them, or daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow ; or
 - where the male shall be brother of the female either by the full or the half-blood,
 - or the son of her brother or sister by the full or the half-blood, or a descendant from, either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.
- No marriage is valid if either of the parties have contracted a previous marriage and if such marriage has not been legally dissolved or declared void. (section 18)

Slide

Capacity to marry under the Kandyan law

- The Kandyan Marriage and Divorce Act No 44 of 1952 stipulates the capacity to marry as follows:
- Age (Section 4) : Where either or both parties to marriage is/are under eighteen years of age, provided that:
 - if both parties thereto cohabit as husband and wife, for a period of one year after the party / both parties aforesaid has/have attained the lawful age of marriage or
 - if a child is born of the marriage before the party aforesaid has attained the lawful age of marriage.
- Prohibited degrees of relationship (section 5)
 - if either party thereto is directly descended from the other ; or
 - if the female party thereto is the sister of the male party thereto either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or the daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow ; or
 - if the male party thereto is the brother of the female party thereto either by the full or the half-blood, or the son of her brother or of her sister by the full or the half-blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.
- Prior marriage (Section 6)
 - if one party thereto has contracted a prior marriage ; and
 - if the other party to such prior marriage is still living, unless such prior marriage has been lawfully dissolved or declared void.

Slide

Capacity to marry under the Muslim law

- Under the Muslim law of Sri Lanka, the capacity to marry is determined according to the sect to which the parties belong.
- As a general rule, a girl above the age of 12 years and a boy above the age of 15 years are considered able to marry.
- However, a girl below the age of 12 years also could be given in marriage by the parents with the consent of the Quazi 18 of the area.

Handouts

Give slides as handouts

Activity 4

- Make a presentation on “void marriages” using the following slides.

Slide

A marriage becomes void and has no legal consequence from inception (*ab initio*) where any of the requirements of a legal marriage on capacity to marry are not fulfilled. A court decree is not required to declare the marriage void since no legal consequences follow from a situation where parties lack legal capacity to marry.

A marriage becomes void under following instances:

- A marriage contracted under a law which does not apply to the parties.
- A marriage contracted when either party or both parties to the marriage are already married and the former marriage is still existent.
- Marriages without willful consent of both parties who enter the marriage contract. What is important here is the consent of the parties, and not of their parents. Consent of the parents is not required.
- Marriages contracted giving false names. The correct name and whereabouts (addresses) of the parties should be given to the Marriage Registrar.
- Marriages registered by a person other than a Marriage Registrar or a Christian Priest or a primary judicial officer under the Muslim law.
- Marriages contracted by under-aged persons (persons below the age of 18 years). Parents of children who are below the age of 18 years cannot give their children in marriage, irrespective of the fact whether the child is a girl or a boy.
- Marriages contracted by parties who are within the prohibited degrees of relationship. Marriages between close relatives, i.e. those who are closely related by blood or by marriage are prohibited. Eg. Marriage between an uncle and a niece.

Slide

The Consequences of a void marriage

- The marriages are not valid in law.
- As a consequence the parties will not be considered as husband and wife
- The children will be considered illegitimate
- Parties cannot claim maintenance or other property rights from each other.
- In some instances, the parties will be liable for criminal offences,
 - Eg.1 Those who contract a marriage without dissolving his or her former marriage and while the spouse is still living, commit the crime ‘bigamy’,
 - Eg.2 Those who contract marriages between close relatives commit the crime ‘incest’.

Handouts

Give slides as handouts

Activity 5

Group activity on the Legal Status of Marriage

- Provide the following case study to all participants.

Case Study

Karuna falls in love with Chandiya, a handsome guy who comes to Karuna’s village as a labourer at the port-construction site. He says that both his parents are dead and he is all alone in this world. She trusts him, and consents to all his sexual demands as well. When she realizes that she is pregnant, she urges him to marry her. Due to her repeated pleas, he takes her to a small office in the nearby town, and registers their marriage. Karuna’s parents, though aware of some friendship between the two, are unaware of all this. After some weeks, a woman, Muditha, comes to see Chandiya with a child. Then Karuna finds out that Chandiya is already married to Muditha and the child is their son.

- Group the participants into 5 groups.
- Give a question written on a card to each group

Question 1. What is the legal status of the marriage of Karuna and Chandiya?

Question 2. Can Karuna claim maintenance for herself from Chandiya?

Question 3. What is the legal status of the child when s/he is born?

Question 4. Can Karuna claim support for the child?

Question 5. What is the legal status of the marriage between Chandiya and Muditha?

- Ask the members of each group to find the correct answer to their question from the answers.
- Prove the correct answers as a handout.

Handout **Legal Status of Marriage**

Question 1. What is the legal status of the marriage of Karuna and Chandiya?

Answer. The marriage is not valid at all because one party is already married and that marriage has not been dissolved at the time the of the second marriage.

Question 2. Can Karuna claim maintenance for herself from Chandiya?

Answer. She will not be able to claim maintenance for herself because there is no marital relationship between the two.

Question 3. What is the legal status of the child when s/he is born?

Answer. The child will be non-marital one, which means that s/he will be a child whose parents have not been married. This will reflect in the birth certificate.

Question 4. Can Karuna claim support for the child?

Answer. Yes, she can, but to obtain maintenance for the child, she will have to prove in a court case, that Chandiya is the father of the child. She will have to prove this by evidence of blood tests or DNA testing, which itself is costly.

Question 5. What is the legal status of the marriage between Chandiya and Muditha?

Answer. If it has been contracted according to the law, fulfilling all the legal requirements, it will be legal irrespective of Chandiya's relationship with Karuna.

Activity 6

- Make a presentation using the following slides.

Slide

Voidable marriages

A marriage becomes voidable (by an order of the court) under following instances:

- Where there is evidence of duress. Eg. If a party can prove that s/he was forced to marry the other or was misled by someone to marry the other, then s/he can file a suit asking the marriage to be declared void.
- When either party is sexually impotent. If it can be proved by medical evidence that the other party is incurably impotent at the time of marriage, then a case could be filed to declare the marriage void.
- When the female party to the marriage is/has been pregnant at the time of marriage by someone other than the husband, then the male party can file a case asking the marriage to be declared void.

Slide

Difference between a void marriage and voidable marriage

- VOID MARRIAGE VOIDABLE MARRIAGE Not valid in law and is invalid from the beginning, Valid in law unless and until a court of law declares such a marriage to be invalid,
- As a result does not carry any rights or responsibilities on spouses.
- As a result carries rights and/or responsibilities on spouses until proven void.

Slide

Registration of Marriage

- Under General law
 - Under the general law, registration is not necessary, and a valid marriage can be contracted by following recognized Sinhalese or Hindu customs. However, it will be very much easier to prove a marriage if it has been registered because there will be documentary proof.
- Under Kandyan law
 - Registration is essential under the Kandyan law, and non-registration invalidates a marriage under the Kandyan Law.
- Hence, the certificate of registration of marriage is the best evidence of marriage.

Slide

What are the legal requirements of a Muslim marriage?

- The boy has to be above 15 years of age and the girl has to be 12 years old or more. If the girl is below the age of 12 years, still she can be given in marriage, but with the permission of the Quazi of the area.
- Both parties have to be Muslim. A non-Muslim cannot marry under the Muslim law.
- A man can contract up to 4 marriages [under the Muslim law applicable in Sri Lanka] while the previous marriages are still subsisting, but a woman can marry only one man at a time.
- The consent of the parties to the marriage is a requirement in Muslim law. However, while the bridegroom expresses his consent to the marriage, the consent of the bride, who belongs to the Shafie sect, is expressed by her wali, who is her male guardian. The wali can be either the father, uncle or even a younger brother, but her mother or any other female cannot act as the marriage wali.
- Registration of the marriage after the nikah ceremony is necessary in Muslim law. Even though non-registration itself does not invalidate a marriage, the Act requires marriages to be registered.

Slide

A Promise of Marriage

- Giving a promise of marriage is serious, because marriage carries with it life-long commitments.
- When a person promises to marry someone, and if the person giving the promise has the legal capacity to make that promise, the promise is legally considered serious, and the breach of it carries legal consequences.
- However, the law does not compel the person who gives the promise to marry the other.
- Instead, the person who has been promised can take legal action to claim compensation for the loss of whatever expenses s/he has incurred in relation to the marriage, and for the mental/psychological trauma that s/he has undergone as a result of the breach of promise.

Handouts

Give slides as handouts

Activity 10

Promise of Marriage

- Provide the following case study to all participants.

Case Study

Twenty year-old Shanthi meets Raja, who is 25 years old, at a function, and they fall in love with each other. Initially they communicate over the telephone and exchange text messages. They associate with each other openly and their relatives and parents of the relationship, and their friends and neighbours recognize them as an engaged couple. A lot of love messages have been exchanged between them, and Raja sends her a message saying ‘You will be my beautiful wife before the new year. Others will envy us...’ Their parents fix a date for the marriage, and Shanthi’s parents make all the arrangements for their only daughter’s wedding, including reservation of a sea side hotel, buying jewellery and clothes, paying advance money for the dresser and sending out invitations. Raja, in the mean time, realizes that he is actually in love with his colleague Nandani. He also realizes that Nandani also has secretly loved him, and both of them have not expressed their love to each other because of the affair between Raja and Shanthi. Raja decides that he cannot marry Shanthi, and tells her the true story. Shanthi is shocked and her parents become very angry. They want to take action against Raja.

- Group the participants into 6 groups.
- Give a question written on a card to each group

Questions

- Question 1. Can they take legal action to compel Raja to marry Shanthi?
 - Question 2. What course of legal action is available to them?
 - Question 3. Can every promise be considered a valid promise of marriage?
 - Question 4. Can action to claim damages be instituted against a girl who has breached a
 - Question 5. Can action be taken against a third party, for instance a father who has promised to give his daughter in marriage to a particular person?
 - Question 6. Where can the action be instituted?
- Ask the members of each group to find the correct answer to their question from the answers.
 - Prove the correct answers as a handout.
 - Make a concluding comment s follows:
 - It is important to know the law governing marriage, because the legality of marriage leads to various other legal consequences, such as legitimacy of children, property rights, support obligations/rights, etc. An equally important aspect is the legal implications of a valid promise of marriage, because even though the Sri Lanka law does not allow one to compel marriage on another based on a promise, the law grants redress by way of compensation.

Handout

Question 1. Can they take legal action to compel Raja to marry Shanthi?

Answer. No. Under the Marriage Registration Ordinance No.19 of 1907, no one can be compelled to marry some body. Marriage should be contracted with the free will of the parties who enter into marriage. That is against human rights and that is against the law. The General Marriages Ordinance clearly says (section 20) that no action can be taken to compel marriage.

Question 2. What course of legal action is available to them?

Answer. They can take action to recover damages from Raja, and the calculation of damages could be based on two grounds. i.e. (1) for the monetary losses that they have incurred, and (2) other damages caused as a result of the mental injury, i.e. humiliation, shock, mental trauma etc. In this instance, the monetary loss includes all the reasonable expenses incurred in view of the wedding, i.e. advance money paid for the venue of the wedding, printing of the invitation cards, clothes and jewellery, etc. Damages for the injury are calculated, considering the circumstances and taking account of the damage caused to the good name of the plaintiff. Generally, the social status of the parties, depth of the association between the parties, etc are considered in calculating damages.

Question 3. Can every promise be considered a valid promise of marriage?

Answer. No. The promise has to be in writing or it has to be a written confirmation of the oral promise. Text messages sent over the telephone are considered as evidence. The promise to marry should have been clearly indicated in the message/letter. In this instance the text message could be considered as a valid promise of marriage, because it clearly indicates Raja's intention to marry Shanthi.

Question 4. Can action to claim damages be instituted against a girl who has breached a promise?

Answer. Yes, the law in this regard is gender neutral, and action to claim damages for breach of promise of marriage can be instituted against a girl or a boy.

Question 5. Can action be taken against a third party, for instance a father who has promised to give his daughter in marriage to a particular person?

Answer. No, because a third party cannot enter into a valid promise of marriage. A promise of marriage can validly be given by a person who has the capacity to marry. For instance, an under-aged person, a person with an unsound mind, a third party without the consent and will of the persons who are intended to be married, etc. cannot give a valid promise of marriage.

Question 6. Where can the action be instituted?

Answer. Action should be instituted in the District court in the area where Shanthi resides or Raja resides.

Concluding comment:

It is important to know the law governing marriage, because the legality of marriage leads to various other legal consequences, such as legitimacy of children, property rights, support obligations/rights, etc. An equally important aspect is the legal implications of a valid promise of marriage, because even though the Sri Lanka law does not allow one to compel marriage on another based on a promise, the law grants redress by way of compensation.

Dissolution of Marriage

Introduction

As a result of diverse factors, a considerable change has taken place in the dimensions of the institution of marriage. Unlike two or three decades ago, the institution of marriage is not always considered ‘sacred’ or a ‘union for life’. While the law has to be conscious of the popular social needs, it has a far reaching duty to uphold the basic unit of the society, which the Constitution recognizes as ‘family’. The law, anywhere in the world, is a reflection of the society in which it is applied, so is the divorce law of Sri Lanka. The Sri Lanka law permits divorce but only where the dissolution of the marriage is absolutely necessary.

The existing divorce law of Sri Lanka is contained in three different statutes and covers three social groups; namely the low country Sinhalese, the Jaffna Tamils, the upcountry Sinhalese (popularly known as Kandyanans) and the Muslims.

Objectives

- To create awareness of the applicable Sri Lankan laws relating to dissolution of marriage
- To identify the different laws applicable to different people on the dissolution of marriage
- To understand the legally recognized grounds on which divorce could be obtained
- To identify the different legal standards applicable to men and women especially under the Muslim law and Kandyan law
- To distinguish between dissolution of marriage and judicial separation from a legal point of view

Duration

45 minutes

Activity 1

Identification of the Legal Issues Relating to Divorce in Real Life Situations – Role Play activity

- Select participants to act out different character

Characters - Ranjan, Suba, Mala, mother, father, Judge, two or more lawyers, family counsellor

- Explain the following situation to the participants selected to act out the characters.

Ranjan and Suba have been married for seven years, and have two children, a girl of 6 years of age and a 4 year old boy. They live in Ranjan's parents' house in Nawala, where Ranjan's widowed sister Mala also lives. Both Ranjan and Suba are employed in private companies. Before Mala moved in the parents in law, who looked after the children when Ranjan and Suba went out for work, were good with Suba. Things got changed when Mala, who does not have children and is also not employed, came to live with them. Mala, together with her mother and father creates unnecessary problems to Suba. They tell Ranjan that Suba is not of a good character and that when Ranjan goes outstations she comes home late with a colleague of hers in his motor bicycle. They also convince Ranjan that Suba does not look after the children properly and that she is only interested in going out for work in stylish attire. Mala tells Ranjan that she can look after the children much better than Suba. Arguments begin between Ranjan and Suba and Ranjan starts taking liquor and comes home very late. He often fights with Suba and one day, picks up a fight and hits her. Unbearable to tolerate anymore of his ill treatment, Suba takes all her belongings and leaves for her parents' house taking the two children with her. She wants to divorce Ranjan and wants the custody of the children.

- Request selected participants to act out the situation.
- After the role play is acted out, divide participants into seven groups. Ask groups to appoint a Group Leader.
- Give each group one each of the following questions and the groups to discuss the answer.

Question 1: On what ground she should base her petition for divorce?

Question 2: What could be the counter arguments that could be made on behalf of Ranjan?

Question 3: Can she find fault with her Sister in law and parents in law?

Question 4: Can she ask for the custody of the children?

Question 5: Wouldn't the court attempt to reconcile the parties?

Question 6: If the same thing happens to Ranjan, by his parents and sisters/ brothers in law, can he take the same course of action?

Question 7: If the parties were Tamil and are governed by Tesawalamei what course of action can they take?

Question 8: Do you think the general law on marriage and divorce guarantees gender equality?

- Ask the members of each group to find the correct answer to their question from the answers. Ask the Leader to present the answer.
- Prove the correct answers as a handout.

Handout

Question 1: On what ground she should base her petition for divorce?

Answer: Constructive malicious desertion. She should say that she had no other option than to leave Ranjan, because of his behaviour.

Question 2: What could be the counter arguments that could be made on behalf of Ranjan?

Answer: Suba's alleged bad behaviour. But this will have to be proved by evidence other than Mala's and Ranjan's parents' evidence.

Question 3: Can she find fault with her Sister in law and parents in law?

Answer: Even though they were the cause of the problem, she cannot find fault with them. It is Ranjan against whom she should file the case. However, she can and should explain how it all began and destroyed her family life.

Question 4: Can she ask for the custody of the children?

Answer: Yes, but it will be decided by the court considering all the facts and on the best interests of the child.

Question 5: Wouldn't the court attempt to reconcile the parties?

Answer: The first step of the court would be to reconcile. They will be referred to a family counsellor attached to the District court, failing which the court will decide the matter.

Question 6: If the same thing happens to Ranjan, by his parents and sisters/ brothers in law, can he take the same course of action?

Answer: Yes he is similarly protected under the law.

Question 7: If the parties were Tamil and are governed by Tesawalamei what course of action can they take?

Answer: They should take the same course of action, because Tamils are also governed under the general law with regard to marriage and divorce.

Question 8: Do you think the general law on marriage and divorce guarantees gender equality?

Answer: Yes.

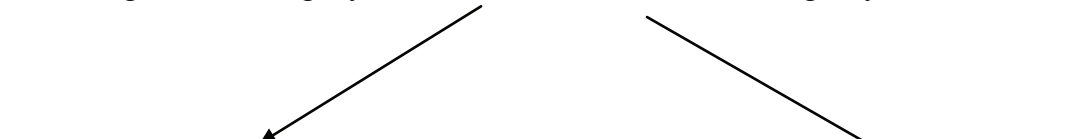
Activity 2

Make a presentation using the following slides and discuss using the discussion points provided.

Slide

Dissolution of marriage - Divorce

A marriage could be legally dissolved in either of the following ways:



By the death of either spouse – The law recognizes that the marriage ceases when one party to the marriage dies.	By a decree of divorce – when a legal divorce is obtained the marriage ceases.
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Slide

Applicability of Different Laws

	Parties governed by Muslim law	Parties governed by Kandyan law	Other Parties (governed by General law)
Marriage	Marriage to be contracted under the Muslim Law	Marriage to be contracted under the Kandyan Law	Marriage to be contracted under the General Law
Divorce	Divorce to be affected under the Muslim Law	Divorce to be affected under the Kandyan Law	Divorce to be affected under the General Law

Discussion Points

- Where the parties have married under the General law, the same law applies to divorce.
- If the woman is governed by general law, she will have to file a divorce case, through an attorney at law, in the District Court.
- The court in which a case is to be filed is the District court either in the area where she resides or her husband resides.

Slide

- Grounds for Divorce under the General Law
 - Malicious desertion
 - Incurable impotence
- Dissolution of marriage (divorce) under the general law has to be on one or more of these grounds:
 - Adultery on the part of the husband/wife - This means that the plaintiff (husband/wife) has to prove that the defendant (wife/husband) has had a sexual relationship, at least once, with another (man/woman) after marrying the plaintiff.
- How can you prove adultery? What evidence is required?
 - This could be proved by eye witnesses, hotel records, medical evidence to establish that her husband has contracted venereal disease, other evidence such as a judgment pronounced by a court of law where it has been established that the defendant was the father/mother of a child who was born after his/her marriage to the plaintiff, etc.
- Malicious desertion
 - This means deserting one's spouse, without any reasonable cause, with the intention of putting an end to the marriage. For instance, where the husband has left the wife and has not cared for her and has not returned home for a considerable period of time, the wife can file for divorce on desertion.
 - However, the desertion has to be without any reasonable cause, i.e. in this instance, the wife should not have been the cause for his abandonment of her. This can take another form where the husband acts so cruelly that the wife finds it unbearable to live with him and leaves him. Even though it is the wife who leaves the husband in this instant, she can file for divorce on desertion, because it is he who has made her to leave.
 - Husband's behavior could be proved by eye witnesses, children's testimony, etc.
- Incurable impotence at the time of marriage
 - This means the husband's or wife's sexual impotence, which has been certified by a doctor as 'incurable'.
 - Also according to the Sri Lankan law, the impotence should have been there at the time of marriage and it should not be a medical condition that occurred sometime after the marriage.
- Do the same grounds of divorce apply to both the husband and the wife?
 - Yes, under the general law same grounds apply to husbands and wives.
 - There is no direct discrimination as far as the grounds are concerned, but there could be indirect discriminations in court where the wife could be unduly exposed to cross examination on private issues.
 - On the other hand, women could face added burdens due to lack of adequate financial assistance, family support, etc.

- Can the plaintiff ask for compensation/damages in a divorce plaint?
 - Yes, s/he can claim, what is in legal terminology called alimony, which means a lump sum of money at the time of divorce, legal costs and also damages in the case of adultery from the woman/man with whom the defendant had the sexual relationship.
- Can the plaintiff ask for the custody of children?
 - Yes, s/he can ask for the custody of children. However, the custody of children will be decided based on the 'best interests of the child'.
 - Undeniably the defendant's misconduct, though not a deciding factor, will be considered by the court in deciding what is best for the child, i.e. whether to live with the mother, or the father or with a third party.

Activity 3

- Make a presentation on Divorce Under Kandyan Law using the following slides.

Slide

- If the parties have been married under the Kandyan law, they will have to dissolve the marriage according to the Kandyan law.
- An application for divorce, which could be obtained from the Office of the District Registrar, should be made to the District Registrar.
- Even though the woman can get advice from an attorney, lawyers are not allowed in an inquiry relating to divorce under Kandyan law. The informal inquiry on divorce is heard by the District Registrar, at her/his office.

Slide

- The application could be made on any one or more of the following grounds:
 - Where the husband and wife have been living separately for a period of two years;
 - Where either party believes that they cannot live happily together and have lived separately for a period of one year;
 - Where the husband and the wife agree that they cannot live together and together they decide to divorce;
 - Where the husband complains of his wife's adultery;
 - Where the wife complains of her husband's adultery committed with a close relative or husband's adultery and his cruelty in addition to his adultery.

- With regard to the last two grounds, there is a clear discrimination in law against a Kandyan wife who seeks divorce. In the case where she seeks to divorce on the ground of her husband's adultery, she will have to prove either incest (sexual relationship between close relatives) or cruelty on the part of the husband, in addition to adultery.
- On the other hand however, a Kandyan husband who seeks to divorce his wife on the ground of adultery has to prove only her. This is a form of direct discrimination, which still exists in law, despite several suggestions for reform.

Handout

Provide the Slides as handouts

Activity 4

Divorce under Kandyan law

- Put up flipcharts with pictures of four people (pictures should not indicate their sex)
- Fix name cards to the pictures as Bandara, Menike, Shanthi and Kumara
- Introduce the characters and their backgrounds to the class as follows:
 - ✚ Menike and Bandara are husband and wife married under the Kandyan law. Menike finds out that Bandara is having a relationship with Shanthi, a widow who works in the same office where Bandara works. Irrespective of his extra-marital affair, Bandara treats Menike well and looks after their two children as any other caring father would.
- Ask the following question from the participants:
 - ✚ Can Menike divorce Bandara on the ground of his adultery?
 - ✚ The answer should be “No, because he does not treat Menike cruelly Shanthi, with whom he has an affair, is not a relative of his.
- Change the names given to the pictures, so that earlier Menike is now Bandara and vice versa and turn the facts the other way round and place Menike in Bandara's position, (considering Menike is having an extra-marital relationship with Kumara.)
- Ask the same question again.
 - ✚ Can Bandara file for divorce on the ground of her adultery?
 - ✚ The answer should be “Yes. Then explain the difference of the application of the law to men and women in similar situations”.
- Highlight the different application of the law to men and women who are in the same situation.

Activity 5

- Make a presentation on Divorce under Muslim Law using the following slides.

Slide

- Divorce is very much easier to men than to women in Muslim law.
- Divorce by men is known as ‘talaq’.
- Where a husband seeks to divorce his wife, first he has to give notice of his intention to the Quazi of the area where the wife resides and after thirty days, utter the word ‘talaq’ three times to the wife.
- The wife then has to spend 60 days of iddat, which means ‘in seclusion’, and after the sixty day period, the Quazi registers the divorce.
- A husband, who divorces his wife, is not required to give reasons for his decision to divorce her to his wife or to anybody, and the Quazi is prevented in law to record such reasons in the divorce register. However, the Quazi should make every possible attempt to make reconciliation between the spouses by involving relatives and religious leaders.

Slide

- Divorce by a wife under Muslim law is more difficult.
- She can go for a judicial divorce, which is called ‘fasah’ or a non-judicial divorce either through mutual consent (mubaraat or khul).
- The non-judicial divorce requires the wife to pay back mahr and some more money/property in lieu of her release from the marital bond. (The mode of divorce, payment etc differ according to different sects to which the parties belong)
- The judicial divorce requires the wife to give notice of her intention of divorce to the Quazi. On receipt of such notice he attempts to reconcile the parties as in the case of a talaq divorce, failing which the wife is required to present her case in the Quazi court, which consists of all male Quazi and 3-5 other assessors.
- Depending on the grounds for divorce recognized in the sect to which the parties belong, the woman can plead for divorce.
- The common grounds for divorce are adultery, non-maintenance, incurable disease, and cruelty on the part of the husband. The woman’s claim has to be proved to the satisfaction of the Quazi court and in practice more weight is attached to male witnesses. While a female’s evidence has to be corroborated by another witness, it is not so required in relation to a male witness.
- Accordingly, discrimination on the basis of sex is clearly evident with regard to divorce in Muslim law on all areas of the process - Mode of divorce, Grounds for divorce and Court procedure and practices.
- At the end of fasah divorce process, the Quazi is required to register the divorce after giving due notice to the parties concerned. Then the divorced wife is required to observe iddat for 60 days, at the end of which she becomes free to marry again.

Activity 6

Identify the Discriminations in Muslim Law

- Group Participants into 3 groups.
- Ask the participants to take two papers of equal size, and to write ‘talaq’ on top of one paper and ‘fasah’ on the other.
- Ask them to list out the grounds for divorce and the procedure of divorce under each heading. Make them discuss, identifying the discrimination and the gender basis of that discrimination. Focus the discussion on ‘equality before the law and equal treatment of the law’, which are fundamental rights guaranteed under the Constitution.
- Make a presentation using the following slides.

Slide

Grounds for divorce

Talaq	Fasah
<ul style="list-style-type: none">• Not specified in the law• procedure is very simple	<ul style="list-style-type: none">• Cruelty• Desertion• Non-maintenance• Impotence• Incurable disease• The wife has to follow the quazi court procedure with other witnesses to substantiate her evidence.• Witnesses 1 male witness = 2 female witnesses

Slide

Law of Divorce under the General law, Muslim law and Kandyan law

	GENERAL LAW	MUSLIM LAW	KANDYAN LAW
MARRIAGE	Equal Provisions on men and women	Not Equal differences on <ul style="list-style-type: none">▪ age,▪ signature▪ marriage guardian (wali)	Equal Provisions
DIVORCE	Equal Provisions on men & women	Not equal Two different procedures for men and women	Not equal with regard to adultery
CUSTODY/ GUARDIANSHIP OF CHILDREN	Equal basis – best interest of the child is the guiding principle	Not equal Father has the guardianship rights, Mother has only custody rights on boys until they are 7 years old (at this time a son can choose to live with the mother or the father), and girls until they are given in marriage.	Equal basis

Activity 7

- Make a presentation on Judicial Separation using the following slides.

Slide

- ✚ Judicial separation is the separation of spouses without completely dissolving the marriage.
- ✚ Married couples can separate from each other in various ways,
 1. when either party dies;
 2. in consequence of a decree of divorce;
 3. in consequence of a decree of separation (judicial separation);
 4. On mutual agreement.

- ✦ In the first two instances, i.e. where either party dies or obtains a decree of divorce, the marriage is permanently and completely dissolved, and the couple is no longer considered as husband and wife, except for the obligations specified by the court/law. Hence, they are free to marry another person again.
- ✦ When the spouses separate from each other on mutual agreement (as in point 4), the marriage is not dissolved. Therefore, the parties are not allowed to marry another person again and the mutual obligations, such as support, property entitlements, and other mutual obligations are intact. For instance, if one party dies, the surviving spouse is entitled to succeed to the deceased spouse's property in accordance with the applicable law.

Slide

- ✦ The parties, who separate, can agree on the custody and guardianship of their children but such an agreement cannot be enforced in law, i.e. such mutual agreements have no legal validity, and as a result, even where a spouse violates the mutual agreement, the other party cannot expect much from the courts of law.
- ✦ However, the Civil Procedure Code provides for 'judicial separation', which allows married couples to separate in consequence of a decree granted by courts.

Slide

- ✦ A judicial separation leads to a suspension of the personal consequences of marriage without resulting in a final dissolution of the marriage. It is considered a legal alternative to divorce when the spouses do not wish to terminate the marriage.
- ✦ A decree of separation can be obtained by either the husband or the wife, through a plaint to the District Court, on several grounds, such as adultery, malicious desertion, sexual impotence, cruelty etc. The grounds are not specified in the General Marriages Ordinance.
- ✦ The significance of judicial separation is that the parties are permitted in law to live separately from each other; hence mutual obligations do not arise. For instance, the recent amendment to the Penal Code provides that forced sexual intercourse between a couple who have judicially separated amounts to 'rape'. Also, an order regarding support obligations, custody of children etc. will be given by the court, and the parties are bound to abide by such an order. However, since the marriage is not dissolved by a decree of judicial separation, the spouses cannot validly contract another marriage.

Slide

The difference between divorce and judicial separation

- ✦ While a decree of divorce completely dissolves a marriage, a judicial separation allows spouses to live separately while saving the marriage contract.
- ✦ Judicial separation is available only under the General Law and thus not available to those who are not governed by the general law. Those who have married under the Kandyan law or Muslim law cannot obtain a judicial separation.
- ✦ The law applicable to the dissolution of marriage depends on the law under which the marriage has been contracted. While the general law of divorce is not discriminatory of women, Kandyan law and Muslim law still contains discriminatory provisions. While there is a difference in grounds for divorce applicable to men and women under the Kandyan law, the Muslim law, which recognizes completely different modes of divorce for men and women, is very much favourable to men.
- ✦ Moreover, despite proposals by various factions, the general law still recognizes judicial separation as a legal remedy with less impact.

Law Relating to the Rights and Obligations of Spousal Maintenance / Support

Module 3

Session 5

Introduction

Maintenance is necessary for both adults and children where one cannot support themselves. The law recognizes this necessity of needy individuals, and imposes the obligation of support on specific persons, who has the required capacity. Under the general law, maintenance obligation falls on a person depending on his/her financial capacity and his/her legal relationship with the applicant.

Objectives

- To create an awareness as to the law relating to the rights and obligations of spousal support and parental support of children
- To identify the Sri Lankan laws governing the rights and duties of support
- To explain the legal obligations/duties and their limits on the part of the spouses to support each other and to support children
- To understand the difference of support obligations between Muslim law and other laws

Duration

45 minutes

Activity 1

- Make a presentation on the Law Relating to the Obligation of Maintenance/Support using the following notes.

Notes

- Under the Maintenance Act of 1999, spousal maintenance is an obligation on both parties – wife and husband.
- A needy wife can claim maintenance from her husband who has means
- A needy husband can claim maintenance from his wife, who has the means to support him.
- Obligation to maintain (or support) the spouse (applicant) falls on the spouse (respondent) where the applicant cannot support her/himself and where the respondent has means to support the applicant.
- Maintenance of children falls on both the mother and the father depending on their (mother's / father's) financial capability.

- Consequently, the legal obligation to maintain one's spouse and children falls on a person depending on the necessity of the needy person and his or her spouse's / parent's ability.
- The obligation of maintenance falls on a spouse during the subsistence of the marriage.
- Generally, spouses are expected to live together in order to give rise to the obligation of maintenance. However, if the parties are living separately on agreement, due to unavoidable circumstances like ill health, employment etc. or some other similar reason, the obligation continues. On the other hand, if they are living separately as a result of a court order the obligation does not arise unless the court orders such maintenance.
- The obligation ceases once the marriage is dissolved by a judgment of the court. However, the court may order the payment of a lump sum as compensation to the wife if it has been found that the husband is at fault and is responsible for the dissolution of marriage.
- The obligation to maintain one's children continues irrespective of the divorce of parents, and also the fact that where or with which party the children live does not affect the responsibility to support one's children. Accordingly, even where the custody of the children has been awarded to the mother, the father's obligation continues as long as the children cannot maintain themselves and as long as the father is considered by the court as capable of supporting them.
- Those who are governed by the Kandyan law and Tesawalamei law are governed by the Maintenance Act of 1999. However, the principles of Muslim law are different, and the Muslims are governed under the Islamic principles on maintenance. Generally under the Muslim law, the husband is solely responsible for the maintenance of his wife during the subsistence of the marriage. The responsibility to support children falls on the father, and the obligation to support a son ceases generally when the son reaches 15 years, but extends beyond this period if the child is in need of support. Obligation of a father with regard to maintenance of his daughter continues until she is given in marriage, until when she is under the guardianship of her father.

Activity 2

- Make a presentation on the Law Relating to the Obligation of Maintenance/Support using the following slides and explanation provided.

Slide

Obligations/rights regarding spousal maintenance and maintenance of children under the general law

THE GENERAL LAW	
Husband to Wife	During the marriage
Wife to Husband	During the marriage
Mother to Child	<ul style="list-style-type: none">• Both legitimate & illegitimate sons & daughters• Until the child reaches 18• a needy adult child, usually until the child is 25 years old• a disabled child (no age limit)
Father to Child	<ul style="list-style-type: none">• Legitimate / illegitimate where the paternity is proved• Paternity has to be proved in a separate court case. Best evidence to prove paternity is blood / DNA testing• Until the child reaches 18• a needy adult child, usually until the child is 25 years old• a disabled child (no age limit)

Obligations/rights regarding spousal maintenance and maintenance of children under the general law

Support obligation	
Mother to Daughter	No obligation
Father to Daughter	Until the daughter enters marriage
Mother to Son	No obligation
Father to Son	Until he is 15 years old If he cannot maintain himself and is in need of support, until he is 25 years old.

Slide

Maintenance obligations/rights under the Muslim law

Support obligation	
Mother to Daughter	No obligation
Father to Daughter	Until the daughter enters marriage
Mother to Son	No obligation
Father to Son	Until he is 15 years old If he cannot maintain himself and is in need of support, until he is 25 years old.

Explanation

- The Sri Lanka law relating to support/ maintenance is two-fold.
- The Maintenance Act applies to Sinhalese (both Kandyan and low-country) and Tamils.
- The Muslim law principles apply to Muslims of Sri Lanka.
- The support obligations / rights under the Maintenance Act are two-fold; obligations between the spouses and between parents and their children. The law does not differentiate between husbands and wives, and the basis for obligation is the marriage relationship and the ability/inability to maintain. Similarly, the Act does not make a distinction between sons and daughters both parents are liable to maintain their children, both sons and daughters, according to their means and the necessity of the children. However, the law sees legitimate and illegitimate children under different light. While a mother is obliged to maintain her illegitimate child, a father's liability depends on the proof of paternity.
- Under the Muslim law support obligation falls only on the husband and the father. Wives and daughters are considered as a group who needs support from a male.

Crimes against Women: Criminal Law Penal Code Amendments

Introduction

Often, knowingly or unknowingly, many women live with crime. Most of the daily occurrences of crime pass unnoticed, and culprits live freely with no punishment, as a result of the ignorance of the law relating to crimes among the victims and other members of the civil society. It is common knowledge that all forms of crimes are on the rise, and the crimes against women are rising at an alarming rate. According to published reports, the culprit is somebody who is close to or well known to the victim, or even a superior of the victim. In this context, the fear of crime is real. Crimes committed on the street, at home or work place or school is a reminder of our own vulnerability as well as of others and the ‘taken for granted attitude’ of our own rights as well as of others. However, fear alone is not going to help; one needs to be aware of the law to prevent and protect and prosecute against crime.

Objectives

- To enhance the law relating to some specific crimes against women
- To realize that some daily occurrences are in fact crimes prohibited in law
- To identify the main components of specific crimes
- To differentiate between specific crimes

Duration

1 hour

Activity 1

- Divide the participants into 6 groups
- Distribute among participants 6 flip charts with the following phrases written on them:
 - ‘Crimes devastates lives’
 - ‘Crimes fractures communities’
 - ‘Crimes stalls development - both individual and social’
 - ‘They are violations of human rights’
 - ‘women are subjected to crimes because they are women’
 - ‘Women also experience sexual and other forms of abuse in situations where their other human rights are being violated’ (eg. as political prisoners, members of persecuted ethnic groups, etc)
- Ask groups to discuss why we should focus on crimes against women under each phrase.
- Ask groups to present their findings.

Activity 2

- Conduct an interactive discussion using the slide and discussion points provided.

Slide

Facts and figures of crimes against women

Offences	2013	2012	2011	2010
Murder	67	119	101	83
Rape	282	337	281	235
Grave Sexual Abuse	15	28	28	21
Sexual Harassment	1732	2002	1253	1074
Battery	2874	3207	2276	1591
Grievous Hurt	253	389	320	209
Domestic Violence	496	405	142	132

** These are only reported ones and the real figures may be higher.

Points for discussion

Who can be the offender in a crime against a woman? The offender can be a private party or the state.

How does a state become an offender? The state becomes an offender when the crime is perpetrated or condoned by the state. When a representative of the state commits a crime in his official capacity, the responsibility falls on the offender him/herself as well as the state. On the other hand the states commit crimes against women when legislation, law enforcement and judicial systems condone or do not recognize certain forms of behaviour as crimes. Hence states are held responsible under the international law when they fail to act with due diligence to prevent, investigate and punish violations of rights. States can be held directly responsible on both these occasions.

Activity 3

Crimes against Women

- Ask the participants to form into pairs or small groups of 3
- Write the following terms on a white/black board or a flip chart:
 - Rape
 - Sexual harassment
 - Incest
 - Trafficking in women and children
- Ask the groups to discuss the meaning of these terms (one for each group) and make a presentation on their findings.
- Make a presentation using the slides below.
- Give the slides and handouts to the participants as you make the presentation.

Slide

Rape

According to the Penal Code (amended in 1995 by Act No.22 of 1995) a man, who has sexual intercourse with a woman commits rape, if the sexual intercourse takes place under any of the following circumstances:

A. Without her consent,

This applies to a man even when she is his wife who has judicially separated from him. Prior to the amendment, the Sri Lanka law did not recognize marital rape, i.e. involuntary/forced sexual intercourse between a man and his wife as 'rape'. After much deliberation by the National Women's Committee, the 1995 amendment to the Pen Code recognized involuntary/forceful intercourse with one's own wife also constitutes rape if the parties are judicially separated. It should be noted however that rape cannot be proved where the parties are married and are not judicially separated.

B. With her consent, but consent has been obtained:

- By use of force, or
- Threat, or
- Intimidation, or
- By putting her in fear of death, or
- Hurt, or
- While she was in lawful detention. [for instance while she was in police custody]

C. With her consent but consent has been obtained:

- When she was of unsound mind
- Under intoxication
- When she believed that he is her lawfully married husband
- When she was under 16 years of age. This is known as statutory rape. Consent is immaterial when the girl is under the age of 16 years. However, this does not apply to Muslim spouses who are allowed in law to marry when they are 12 years of age. However, even in the case of Muslims this applies as an exception only when the parties are married. There has been an instance where the applicability of the exception was extended to the Vedda community, on the ground that girls are allowed to marry according to their customs.

Unlike in most of the crimes the intention is immaterial in rape. Whether the rape was pre-planned or not is not considered.

Prior to the amendment of the Penal Code, the focus was on the perpetrator of rape. The law was not in favour of awarding compensation to the victim of rape. Under the amended law, the victim is entitled to compensation. Further, the law before the amendment was very harsh and technical. The presumption of innocence applied, and the suspect was released with no punishment where there was no evidence of penetration to prove rape. Section 345 of the Penal Code recognizes attempted rape as sexual harassment. Moreover, aggravated punishment is recognized under certain circumstances, for instance when the offender is a public officer and the victim was under his official custody at the time of rape, when committed on a pregnant woman, when committed on a woman under 18 years of age or on a woman who is physically/mentally disabled, and for gang rape.

Slide

Sexual harassment

- This has been introduced under the Penal Code amendment of 1995. Sexual harassment has been described as ‘whoever, by assault or use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment commits the offence of sexual harassment.’ The Act further explains that unwelcome sexual advances by words or action used by a person in authority, in a working place or any other place, shall also constitute this offence.
- The intent of the offender is immaterial.
- In this instance the ‘person in authority does not necessarily have to be a person in lawful authority. For instance a co-worker can be charged for sexual harassment.

Slide

Incest

Incest means sexual intercourse between relatives

- descendents
- collaterals
- Other close relatives.

Incest was introduced as an offence by the Penal Code (Amendment Act No. 22 of 1995 in Section 15.

Definition of Incest

“Whoever has sexual intercourse with another, who is related to him in any of the following enumerated degrees of relationship, that is to say:

- either party is directly descend from the other or is the adoptive parent, adoptive grandparent, adopted child or adopted grandchild of the other; or
- the female, is the sister of the male, either by the full or the half blood or by adoption, or is the daughter at his brother or of his sister, by the full or the half blood or by adoption, or is a descendant from either of them, or is the daughter of his wife by another father, or is his son's or grandson's or father's or grandfather's widow; or
- the male, is the brother of the female either by the full or the half blood or by adoption, or is the son of her brother or sister by the full or the half blood or by adoption or is a descendant from either of them, or is the son of her husband by another mother, or is her deceased daughter's or granddaughter's or mother's or grandmother's husband,
- commits incest, and shall be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years and with fine;

Whoever attempts to commit incest shall be punished with imprisonment of either description for a term which may extend to two years.

Slide

Trafficking in women and children for prostitution

- ✚ According to the international standards (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children – The Palermo Protocol), trafficking means:
 - ‘The recruitment, transportation, transfer, harboring or receipt of persons –
 - By means of
 - The threat or use of force or
 - Other forms of coercion,
 - Of abduction fraud,
 - Of deception,
 - Of the abuse of power or of a position of vulnerability or
 - Of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person
 - For the purpose of exploitation. Exploitation shall include, at a minimum,
 - The exploitation of the prostitution of others or
 - Other forms of sexual exploitation,
 - Forced labour or services,
 - Slavery or practices similar to slavery,
 - Servitude or
 - The removal of organs.
- ✚ Trafficking involves the intent to exploit a person. Therefore the intention is important to prove trafficking.
- ✚ How and why the victim comes to the location where the exploitation takes place are immaterial.
- ✚ Trafficking, unlike illegal migration and smuggling, can take place within, as well as across countries. Another difference between trafficking and migration/smuggling is the means employed to transfer the victim from one place to another. It should have been by the use of any one or more of the following forms, i.e. threat / force / coercion / abduction / fraud / deception / abuse of a position of vulnerability or giving or receiving benefits
- ✚ The applicable law in Sri Lanka is The Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act No.30 of 2005.
- ✚ As can be seen from the title of the Act, it covers only trafficking of ‘women and children’ ‘for prostitution’.
- ✚ According to the Act, ‘trafficking’ means ‘the moving, selling, or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person being subjected to trafficking’, and a ‘trafficker’ means ‘any person, agency or institution engaged in any form of trafficking’. Accordingly,

- ✚ Any person who-
- ✚ Keeps, maintains or manages;
- ✚ Knowingly finances or takes part in the financing of; or
- ✚ Knowingly lets or rents, a building or other place or any part thereof for the purpose of trafficking of women and children for prostitution or any matter connected thereto, shall be guilty of an offence.
- ✚ Any person who-
 - Attempts to commit;
 - Aids or abets in the commission of ;
 - Conspires to commit, an offence under subsection (1) shall be guilty of an offence under this Act.
- ✚ The purpose of trafficking under the Sri Lanka law is confined to prostitution, which has been interpreted as ‘the sexual exploitation or abuse of persons for commercial purposes’. The persons subjected to trafficking means women and children victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage or any other unlawful means’.
- ✚ Consent of the victim as a defense
 - There are two standards when considering the consent of the victim, i.e. with regard to child victims and adult victims, and standards under international convention and the Sri Lankan Act.
 - With regard to child victims, consent is immaterial under both international and domestic law. This means that in no circumstance the consent of a child victim of trafficking will be considered as a defense, and irrespective of the child’s consent the perpetrator is responsible for the crime.
 - However, this does not apply as a general rule with regard to adult victims. If the perpetrator can prove that the victim has given consent to be taken away for the said purpose, then it does not amount to ‘trafficking’ under the international standards.
 - However, if any of the means have been used to get the ‘consent’ of the victim, it will not be considered genuine or informed consent, and then the defendant will be responsible irrespective of the alleged consent of the victim.
 - The Act however, clearly says that trafficking constitutes ‘with or without the consent of the person being subjected to trafficking’, and hence consent of the victim cannot be used as a defense by a perpetrator. A person will also be charged for keeping / maintaining / managing / financing a place for prostitution.

Handouts

Give out slides as handouts

A Woman's Right to Work (Part 1)

Introduction

- ✦ In recognizing women's right to work, it is important to understand the normative framework in place as well as the acceptance of this rights and the specific laws in place that apply to women and work.
- ✦ The core mandate of the International Labour Organization's (ILO) is to promote decent work, both as a human right and as a positive productive factor. Within this mandate, the ILO ensures that all its approaches mainstreams gender equality through rights-based strategies for the economic empowerment of women and men as a fundamental step to protecting and promoting the rights of all workers. ILO works towards ensuring that its tripartite constituents – governments, employers' organisations and workers' organizations take effective policy and institutional measures to mainstream gender in order to promote gender equality at national, sub-regional and regional levels.
- ✦ The ILO Conventions that aim to promote gender equality in the world of work form the basis of all ILO activities promoting gender equality. The key gender equality Conventions are:
 - The Equal Remuneration Convention, 1951 (No. 100)
 - Discrimination Convention (Employment and Occupation) 1958 (No. 111)
 - Workers with Family Responsibilities Convention 1981 (No. 156)
 - Maternity Protection Convention 2000 (No. 183)

Objective

- To provide an understanding of the normative framework of the right of women to work
- ✦ To understand the International Labour Organisation's specific Conventions that apply to women in the world of work

Duration

1 hour

Activity

“Getting to know the normative framework – International obligations”

- Using the power point slides provided, explain in brief the four key gender equality Conventions of the International Labour Office

Slide

International Labour Office (ILO) Conventions

The core mandate of the International Labour Organization's (ILO) is to promote decent work, both as a human right and as a positive productive factor. Within this mandate, the ILO ensures that all its approaches mainstreams gender equality through rights-based strategies for the economic empowerment of women and men as a fundamental step to protecting and promoting the rights of all workers. ILO works towards ensuring that its tripartite constituents – governments, employers' organisations and workers' organizations take effective policy and institutional measures to mainstream gender in order to promote gender equality at national, sub-regional and regional levels.

The ILO Conventions that aim to promote gender equality in the world of work form the basis of all ILO activities promoting gender equality.

The key gender equality Conventions are:

- ✚ The Equal Remuneration Convention, 1951 (No. 100)
- ✚ Discrimination Convention (Employment and Occupation) 1958 (No. 111)
- ✚ Workers with Family Responsibilities Convention 1981 (No. 156)
- ✚ Maternity Protection Convention 2000 (No. 183)

Slide

Workers with Family Responsibilities Convention, 1981 (C156)

- ✚ This is the Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers with Family Responsibilities.
- ✚ This Convention came into force on 11 August 1983
- ✚ The Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
- ✚ It also applies to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
- ✚ The Convention applies to all branches of economic activity and all categories of workers
- ✚ It requires the State to make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
- ✚ It states that the State must take all measures :

- to enable workers with family responsibilities to exercise their right to free choice of employment; and
 - To take account of their needs in terms and conditions of employment and in social security. (a) to take account of the needs of workers with family responsibilities in community planning; and
 - To develop or promote community services, public or private, such as child-care and family services and facilities.
 - to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.
- ✚ The Convention states that family responsibilities must not constitute a valid reason for termination of employment.

Slide

Maternity Protection Convention, 2000 (C183)

- ✚ This is the Convention revises the Maternity Protection Convention (Revised) of 1952 and the Maternity Protection Recommendation, 1952.
- ✚ It came into force on 7 February 2002.
- ✚ The aim of the Convention is to promote equality of all women in the workforce and the health and safety of the mother and child.
- ✚ The Convention applies to all employed women, including those in atypical forms of dependent work.
- ✚ It requires States to:
 - Adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which are prejudicial to the health of the mother or the child
 - Provide a period of maternity leave of not less than 14 weeks which includes a period of six weeks' compulsory leave after childbirth
 - Provide leave before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth.
 - Provide cash and medical benefits in terms of salary and earnings and medical benefits including prenatal, childbirth and postnatal care, and hospitalization care when necessary.
 - Provide the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.
- ✚ The Convention states that it is unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on maternity leave or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.

Slide

The ILO response on the informal economy

- ✚ In terms of the informal economy, the ILO focuses on the rights of workers (women and men) in the informal sector. This work has focused on:
 - ✚ Adopting a resolution (in 2002) which calls for the needs of workers and economic units in the informal economy to be addressed, with emphasis on an integrated approach with a decent work perspective.
 - ✚ Mechanisms are currently being set up to collect and share lessons from good practices and policy across the work of the ILO in all the regions.
 - ✚ Extending social protection coverage and reducing poverty among persons who earn their living in the informal economy.
 - ✚ Proposed introduction of a Convention on Decent Work for Domestic Workers which is a procedure towards the adoption of labour standards on decent work for domestic workers.
- Put up four flipcharts with the titles of the four key gender equality Conventions of the ILO written on them.

Four flipcharts titled as follows:

1. The Equal Remuneration Convention, 1951 (No. 100)
 2. Discrimination Convention (Employment and Occupation) 1958 (No. 111)
 3. Workers with Family Responsibilities Convention 1981 (No. 156)
 4. Maternity Protection Convention 2000 (No. 183)
- Provide participants with cards with sentences written on them. These sentences relate to provisions in the four Conventions.

Sentence cards

<p>1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.</p>
<p>2. This principle of equal remuneration for men and women workers for work of equal value may be applied by means of--</p> <ul style="list-style-type: none"> (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements between employers and workers; or (d) A combination of these various means.
<p>3. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.</p> <p>The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.</p> <p>Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.</p>
<p>4. Discrimination is defined as “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.</p> <p>Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</p>

5. Each Member State undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.
6. Actions by individuals which are prejudicial to the security of the State shall not be deemed to be discrimination, but such individual has the right to appeal to a competent body established in accordance with national practice.
7. Special measures of protection or assistance provided for in other Conventions or recommendations adopted by the International Labour Conference or special protection or assistance or measures to meet for the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are not considered to be discrimination.
8. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
9. It also applies to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
10. States shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
11. States must take all measures : (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and (b) To take account of their needs in terms and conditions of employment and in social security.
12. States must take all measures to take account of the needs of workers with family responsibilities in community planning;
13. States must take all measures to develop or promote community services, public or private, such as child-care and family services and facilities.

14. States must take all measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.
15. All measures taken including measures in the field of vocational guidance and training must be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.
16. Family responsibilities must not constitute a valid reason for termination of employment.
17. The aim of the Convention is to promote equality of all women in the workforce and the health and safety of the mother and child.
18. The Convention applies to all employed women, including those in atypical forms of dependent work.
19. HEALTH PROTECTION - Adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.
20. MATERNITY LEAVE - a woman shall be entitled to a period of maternity leave of not less than 14 weeks and this shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
21. LEAVE IN CASE OF ILLNESS OR COMPLICATIONS - leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.
22. BENEFITS – Cash benefits in accordance with national laws and regulations, or in any other manner consistent with national practice to be provided to women who are absent from work on maternity leave referred to in Articles 4 or 5. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living and shall not be less than two-thirds of the woman's previous earnings.

23. BENEFITS – Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living and shall not be less than two-thirds of the woman's previous earnings.
24. BENEFITS – Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice.
25. BENEFITS – Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.
26. EMPLOYMENT PROTECTION AND NON-DISCRIMINATION - It is unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on maternity leave or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.
27. EMPLOYMENT PROTECTION AND NON-DISCRIMINATION - A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.
28. BREASTFEEDING MOTHERS - A woman should be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

How the sentences should be placed

Equal Remuneration Convention, 1951 (C100)
Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
This principle of equal remuneration for men and women workers for work of equal value may be applied by means of-- (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements between employers and workers; or (d) A combination of these various means.

<p>1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.</p> <p>2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.</p> <p>3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.</p>

<p>Discrimination (Employment and Occupation) Convention, 1958 (C111)</p> <p>(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;</p> <p>(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.</p> <p>2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</p>
<p>Each Member State undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.</p>
<p>Actions by individuals which are prejudicial to the security of the State shall not be deemed to be discrimination, but such individual has the right to appeal to a competent body established in accordance with national practice.</p>
<p>Special measures of protection or assistance provided for in other Conventions or recommendations adopted by the International Labour Conference or special protection or assistance or measures to meet for the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are not considered to be discrimination.</p>

Workers with Family Responsibilities Convention, 1981 (C156)

This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

It also applies to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

States shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

States must take all measures :

(a) to enable workers with family responsibilities to exercise their right to free choice of employment; and

(b) To take account of their needs in terms and conditions of employment and in social security.

States must take all measures to take account of the needs of workers with family responsibilities in community planning;

States must take all measures to develop or promote community services, public or private, such as child-care and family services and facilities.

States must take all measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

All measures taken including measures in the field of vocational guidance and training must be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

Family responsibilities must not constitute a valid reason for termination of employment.

Maternity Protection Convention, 2000 (C183)
The aim of the Convention is to promote equality of all women in the workforce and the health and safety of the mother and child.
The Convention applies to all employed women, including those in atypical forms of dependent work.
HEALTH PROTECTION - Adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.
MATERNITY LEAVE - a woman shall be entitled to a period of maternity leave of not less than 14 weeks and this shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
LEAVE IN CASE OF ILLNESS OR COMPLICATIONS - leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.
BENEFITS – Cash benefits in accordance with national laws and regulations, or in any other manner consistent with national practice to be provided to women who are absent from work on maternity leave referred to in Articles 4 or 5. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living and shall not be less than two-thirds of the woman's previous earnings.
BENEFITS – Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living and shall not be less than two-thirds of the woman's previous earnings.
BENEFITS – Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice.
BENEFITS – Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.
EMPLOYMENT PROTECTION AND NON-DISCRIMINATION - It is unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on maternity leave or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.
EMPLOYMENT PROTECTION AND NON-DISCRIMINATION - A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.
BREASTFEEDING MOTHERS - A woman should be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

- Ask participants to place each sentence in the accurate Convention written on the flipchart.
- Once all cards have been placed on the flipcharts, correct any those have been placed inaccurately.

Slide

The ILO Equal Remuneration Convention, 1951 (C100)

- ✚ This is the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal.
- ✚ The Convention came into force on 23 May 1953
- ✚ Sri Lanka ratified this Convention on 01 April 1993

Article 1

Definitions on “remuneration” and “*equal remuneration for men and women workers for work of equal value*”

- *remuneration* includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex

Article 2

Places an obligation on member States to ensure equal remuneration for all workers for the work of equal value by applying national laws or regulations, legally established or recognised machinery for wage determination, collective agreements between employers and workers or a combination of these various means

Article 3

To take measures to promote objective appraisal of jobs on the basis of the work to be performed.

Article 5 – 13 are on ratification and related conditions

Slide

Discrimination (Employment and Occupation) Convention, 1958 (C111)

This is the Convention concerning Discrimination in Respect of Employment and Occupation which came into force on 15 June 1960.

Sri Lanka ratified it on 27 November 1998.

“Discrimination” is defined in the Convention as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

“Employment and occupation” include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

States undertake to adopt national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination.

In implementing this policy States are expected to:

- ✚ seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy
- ✚ to enact legislation and to promote educational programmes to secure the acceptance and observance of the policy
- ✚ to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy
- ✚ to pursue the policy in respect of employment under the direct control of a national authority
- ✚ to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority
- ✚ to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action

The Convention makes two exemptions where certain acts will not be considered discriminatory. They are:

- ✚ Actions by individuals which are prejudicial to the security of the State
- ✚ Special measures of protection or assistance to meet for the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status

Handouts

A brief summary of Equal Remuneration Convention, 1951 (C100)

This is the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal. The Convention came into force on 23 May 1953 and Sri Lanka ratified this Convention on 01 April 1993.

Article 1	<p>(a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;</p> <p>(b) The term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.</p>
Article 2	<p>1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.</p> <p>2. This principle may be applied by means of--</p> <p>(a) national laws or regulations;</p> <p>(b) legally established or recognised machinery for wage determination;</p> <p>(c) collective agreements between employers and workers; or</p> <p>(d) A combination of these various means.</p>
Article 3	<p>1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.</p> <p>2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.</p> <p>3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.</p>
Article 4	Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.
Article 5	The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.
Article 6	<p>1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.</p> <p>2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.</p> <p>3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.</p>

Article 7	<p>1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate -</p> <ul style="list-style-type: none"> a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification; b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications; c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable; d) The territories in respect of which it reserves its decision pending further consideration of the position. <p>2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.</p> <p>3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.</p> <p>4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.</p>
Article 8	<p>1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.</p> <p>2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.</p> <p>3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.</p>

Article 9	<p>1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.</p> <p>2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.</p>
Article 10	<p>1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.</p> <p>2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.</p>
Article 11	The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.
Article 12	At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.
Article 13	<p>1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides--</p> <p>a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;</p> <p>b) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.</p> <p>2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.</p>

Handout

Discrimination (Employment and Occupation) Convention, 1958 (C111)

This is the Convention concerning Discrimination in Respect of Employment and Occupation which came into force on 15 June 1960. Sri Lanka ratified it on 27 November 1998.

Article 1	<p><i>discrimination</i> includes—</p> <p>(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;</p> <p>(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.</p> <p>2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</p> <p>3. For the purpose of this Convention the terms <i>employment</i> and <i>occupation</i> include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.</p>
Article 2	<p>Each Member State undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.</p>
Article 3	<p>Each Member State undertakes to</p> <p>(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;</p> <p>(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;</p> <p>(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;</p> <p>(d) to pursue the policy in respect of employment under the direct control of a national authority;</p> <p>(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;</p> <p>(f) To indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.</p>

Article 4	Actions by individuals which are prejudicial to the security of the State shall not be deemed to be discrimination, but such individual has the right to appeal to a competent body established in accordance with national practice.
Article 5	Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference or special protection or assistance or measures to meet for the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are not considered to be discrimination.
Article 6 - 14	Ratification and other conditions

Handout

Workers with Family Responsibilities Convention, 1981 (C156)

This is the Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers with Family Responsibilities. This Convention came into force on 11 August 1983

Article 1	<p>This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity</p> <p>It also applies to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.</p>
Article 2	The Convention applies to all branches of economic activity and all categories of workers
Article 3	States shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
Article 4	<p>States must take all measures :</p> <p>(a) to enable workers with family responsibilities to exercise their right to free choice of employment; and</p> <p>(b) To take account of their needs in terms and conditions of employment and in social security.</p>

Article 5	States must take all measures : (a) to take account of the needs of workers with family responsibilities in community planning; and (b) To develop or promote community services, public or private, such as child-care and family services and facilities.
Article 6	States must take all measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.
Article 7	All measures taken including measures in the field of vocational guidance and training must be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.
Article 8	Family responsibilities must not constitute a valid reason for termination of employment.
Article 9	The provisions of this Convention can be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice and national conditions.
Article 10 - 19	Ratification, giving effect to the Convention

Handout

Maternity Protection Convention, 2000 (C183)

This is the Convention revises the Maternity Protection Convention (Revised) of 1952 and the Maternity Protection Recommendation, 1952. It came into force on 7 February 2002. The aim of the Convention is to promote equality of all women in the workforce and the health and safety of the mother and child.

Article 1	Woman applies to any female person without discrimination and the term child applies to any child without discrimination.
Article 2	The Convention applies to all employed women, including those in atypical forms of dependent work.

Article 3	HEALTH PROTECTION - Adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.
Article 4	MATERNITY LEAVE - a woman shall be entitled to a period of maternity leave of not less than 14 weeks and this shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
Article 5	LEAVE IN CASE OF ILLNESS OR COMPLICATIONS - leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.
Article 6	<p>BENEFITS –</p> <p>Cash benefits in accordance with national laws and regulations, or in any other manner consistent with national practice to be provided to women who are absent from work on leave referred to in Articles 4 or 5. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living and shall not be less than two-thirds of the woman's previous earnings.</p> <p>Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.</p>
Article 8	<p>EMPLOYMENT PROTECTION AND NON-DISCRIMINATION - It is unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on maternity leave or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.</p> <p>A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.</p>
Article 10	BREASTFEEDING MOTHERS - A woman should be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.
Article 11 - 21	On review, implementation and ratification

References

www.labourdept.gov.lk

www.ilo.org/ilolex/english

Wijayatilaka, K.; and Zackariya, F. (2001), Sexual Harassment at Work – Sri Lanka Study With focus on the plantation sector, International Labour Organisation, Colombo.

Ranaraja, S. (2009). Labour Force Participation of women in Sri Lanka since independence. *unpublished*. ILO. Colombo.

A Woman's Right to Work (Part 2)

Introduction

- ✦ In recognizing women's right to work, in addition to the normative framework in place, it is important to understand Sri Lanka's acceptance of the rights enshrined in international instruments by incorporating their principles into laws and regulations in place that apply to women and work.
- ✦ The Constitution of Sri Lanka accepts the right of men and women to work.
- ✦ In addition, the Sri Lanka Decent Work Policy accepts gender equality unconditionally and in addition incorporates several special areas of concern for women
- ✦ While all labour laws in Sri Lanka apply to men and women in the world of work, there are a few specific laws that apply to women in the world of work. They are:
 - Employment of Women, Young Persons and Children's Act no.47 of 1956
 - Maternity Benefits Ordinance no.32 of 1939
 - Factories Ordinance no.45 of 1942
 - Shop and Office Employees (Regulation of remuneration and employment) Act no.19 of 1945

Objectives

- To provide an understanding of the acceptance of international principles and commitments by way of law and regulation in Sri Lanka, of the right of women to work
- ✦ To understand the Constitutional acceptance, policy and laws that impact on women in the world of work in Sri Lanka

Duration

1 hour

Activity

- Make a presentation with the slides provided.

Slide

The Fundamental Right to equality enshrined in the Constitution of Sri Lanka

- ✦ The 1978 Constitution of Sri Lanka states that all persons are equal before the law
- ✦ **Article 12(2) states that** “no citizen shall be discriminated against on the grounds of race, religion, language, caste, **sex**, political opinion, place of birth or any such grounds”
- ✦ **Article 12(4)** provides that the Constitutional right to equality shall not prevent “special provision being made, by law, subordinate legislation or executive action, for the advancement of **women**, children or disabled persons”.

- ✚ This provision recognises that affirmative action may be required where women, children or the disabled are in a disadvantageous position or requiring of greater protection, and such “special provision” shall not constitute discrimination as against persons outside the protected class of persons.
- ✚ The Constitution therefore permits the State to make any special provision necessary to implement its treaty obligations under international conventions for the rights of women.
- ✚ Recognising the right to work, the Constitution in **Article 14(1)(g)** guarantees the freedom for any citizen to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise.

Slide

The National Policy for Decent Work

The Sri Lanka National Policy for Decent Work is an overarching policy on labour and employment, which was developed with the assistance of the International Labour Organization (ILO) and accepted by the Cabinet. The Decent Work policy focuses on gender equality in all its four components of decent work; jobs of acceptable quality, rights at work according to international labor standards, participatory social dialogue, and adequate social protection for the unemployed, the sick, and the elderly.

Slide

Women in employment in Sri Lanka enjoy largely the same rights as men as the legislation does not discriminate based on sex. In addition there are provisions which require women to be treated equally or which require women to have better or more access than men. Some of these provisions which focus on women at work are:

- ✚ Employment of Women, Young Persons and Children's Act no.47 of 1956
- ✚ Shop and office employees (Regulation of remuneration and employment) Act no.19 of 1945 (provisions relating to employment of women, young persons and children)
- ✚ Factories Ordinance no.45 of 1942(Provisions relating to employment of women, young persons and children)
- ✚ Maternity Benefits Ordinance no.32 of 1939

Slide

Employment of Women, Young Persons and Children Act No.47 of 1956

- ✚ age, working conditions, night work for women, young persons and children
- ✚ protects such workers from employment under hazardous working conditions

Slide

Shop and Office Employees (Remuneration) Act No. 19 of 1945

- ✚ is the main statutory provision applicable to workers in the mercantile sector
- ✚ States that an employee may be required to work not more than eight hours in any one day as normal working hours
- ✚ Not more than 45 hours in any one week
- ✚ It restricts the employment of a female worker before 6 a.m. or after 8 p.m., whether as normal hours or overtime
- ✚ Prevents the employment of a female worker for a period exceeding 9 hours a day (including overtime and any interval).

Slide

Factories Ordinance No. 45 of 1942

- ✚ Permits that a female worker may be employed on overtime work not exceeding sixty hours a month
- ✚ But the total period of employment cannot be more than ten hours a day.

Slide

Working at night

Female workers in any industrial undertaking covered by the Women, Young Persons and Children Act can be required to work throughout the night, but:

- (a) no woman can be compelled to work at night against her will;
- (b) written permission from the Commissioner General of Labour has to be obtained by the employer prior to the employment of any female worker after 10 p.m.;
- (c) if any female worker has been employed during the hours of 6 a.m. and 6 p.m., she cannot be employed after 10 p.m. on that day;
- (d) female wardens have to be appointed to see to the welfare of women workers who work at night;
- (e) every female worker working at night must be provided with restroom facilities and refreshments by the employer; and
- (f) No woman can be employed more than ten days on night work during any month.

BUT these restrictions do not apply to women in a technical or managerial position or to a workplace where only members of the same family are employed.

Slide

Maternity benefits and protection

Maternity benefits are set out in the Shop and Office Employees (Remuneration) Act and Maternity Benefits Ordinance

✚ Leave

- paid leave of 84 days for the birth of a first or second child
- 42 working days for the birth of third or subsequent child
- Under the Shop and Office Employees Act, holidays and weekly holidays are excluded from the calculation of the period, which gives additional days of paid leave to the worker. This benefit is not available under the Maternity Benefits Ordinance and a worker is paid by the number of days
- Female workers covered by this Act are also entitled to two nursing intervals a day of one hour each, if the child is under the age of twelve months This benefit is not available under the Shop and Office Employees Act

- ✚ A pregnant worker and her unborn child also receive additional protection against hazardous working conditions
- ✚ When notice of pregnancy has been given to the employer, a female employee cannot be employed during the three months immediately before and after the confinement, in any work injurious to her health or that of the child.
- ✚ To protect female workers from discrimination by employers due to pregnancy, there are specific restrictions on the termination of employment of a female worker during pregnancy:
- ✚ The female employee cannot be terminated only on the basis of pregnancy, confinement or illness connected to the pregnancy.
- ✚ If such an allegation is made, the burden of proving that termination was due to any other reason is on the employer.
- ✚ A female employee cannot be given notice of dismissal for any reason during absence on Maternity leave, or in such a manner that notice of termination expires during the period of such leave.

Slide

Safety at Work

The **Factories Ordinance** is the main statute which deals with occupational safety and health of workers in the industrial sector.

It includes guidelines with regard to basic safe working conditions for men and women, and additional facilities for the employment of women, such as adequate facilitations for sanitation and for resting.

Slide

Other issues:

Workers who are not governed by labour laws are open to abuse and harassment

Domestic workers are not covered by the regular labour legislation in Sri Lanka. They do not have enforceable rights to specific hours of work, minimum wages, employment benefits and protection in employment.

Sri Lanka labour migrant workers are covered by the Sri Lanka Bureau of Foreign Employment Act but this Act does not give labour rights to workers. Once away from home, these workers are not protected by Sri Lanka's labour laws. In some countries they do not fall within the labour laws of those countries in which they work.

Women working in the informal sector (i.e. home industries, agriculture, informal family businesses) do not receive the protection of labour laws.

Handouts

Provide copies of slides as handouts

References

www.labourdept.gov.lk

Wijayatilaka, K.; and Zackariya, F. (2001), Sexual Harassment at Work – Sri Lanka Study With focus on the plantation sector, International Labour Organisation, Colombo.

Labour Market Information Unit. (2009). Labour Force Participation of Women in Sri Lanka since Independence. *unpublished*. Ministry of Labour and Employment Relations. Colombo.

Housing/ Land/Property Laws and Policies

Session 9

Introduction

‘Land/property’ means so much more than its geographical meaning: it has an economical, social, political and psychological worth. Equality in access to and control over land is a basic human right, denial or limitation of which cannot be justified on the basis of sex. Repudiation of equal rights of women to land reflects their subordinate status in the society, and often results in undermining their social recognition, economic independence, political status and self-worth. Without secure land/property rights, individuals and communities live under the constant threat of eviction, impacting a range of fundamental human rights. This has a specific impact on the independence of the woman in a context where the head of the household is still prevalent and an adult male is generally recognized as the head of the household, and also where the female-headed nuclear family units have become rather common in the post-war Sri Lanka.

Sri Lanka has ratified several International and Regional Conventions, including CEDAW which binds the States parties to guarantee gender equality and eliminate discriminatory laws and practices. The Constitution also recognizes equality before the law and equal protection of the law and prohibits any discrimination on the basis of sex. Moreover, it provides for special measures to be taken for the benefit of women. Yet, gender discrimination persists with regard to land rights.

Being a plural legal system, Sri Lanka has multiple laws on private/state land ownership and inheritance, some of which directly discriminates women while there are others which pose a threat of discriminatory effect. On the other hand, discriminatory traditional practices are common among all communities. Discriminations continue despite the steady growth in the contribution made by women to the national production and income.

Objectives

- To give an understanding of the rights relating to land and property
- To create awareness as to the gender-based discriminations prevalent in the laws and policies relating to land and property.
- To recognize the rights relating to land and property
- To appreciate the laws of Sri Lanka in relation to land and property rights
- To understand the concept of the head of the house-hold and the discriminations attached thereto.

Duration

1 hour

Activity 1

The concept of the ‘head of the household’

- Give a blank flash card to each participant
- Ask the participants to describe reflect upon an instance where they had to fill-up a form in which head of the household had to be named;
- Ask the participants to write the definition of the ‘head of the household’ on the flash card;
- Ask them to read it
- At the end of their presentations, ask them whether they consider, for instance, a wife as head of the house-hold where the husband is alive and living in the same household.
- Discuss as to why they think so (in agreement or against the above point).

Activity 2

- Make a presentation on the Head of the household’ Concept using the slide and the information below.

Slide

Head of the Household

- The concept of the head of the house-hold is socially constructed
- The concept has no legal bearing
- It has been used in some administrative practices/processes
- The concept assumes that a head of the household is always a male
- The woman is identified as head of the household only in the physical absence of a male (due to death, disappearance, abandonment)
- It is discriminatory against women

Information

- The land/property law of Sri Lanka does not refer to ‘head of the household’, but relevant laws assume that there should be a head for every household. Nevertheless, no statute refers to this concept.
- However, the Department of Census and Statistics, which defines a head of the household as ‘the person who usually resides in the household and is acknowledged by the other members as the head, provide guidelines in its hand book for enumerators regarding the head of the household thus:

- There should be a head of the household for every household unit.
- The head of the household must normally reside in the same place in which the other members of the household unit reside. If not, he/she should not be included in the schedule and the husband/ wife of the head of the household or a another member residing in the same household who has the confidence of the other members as being able to make decisions regarding day to day activities should be included in the list as the head of the household.
- The head of the household need not necessarily have an income.
- Where there are more than one household in a unit, each household should have a separate head of the household.
- There should be a head of the household even when the household does not have a house to reside
- Even though the phrase is gender neutral, in practice the concept necessarily implies a male.
- On the other hand though the law does not directly recognize the concept, it has embedded in administrative practices, and as a result in many instances the usage of this concept has resulted in discrimination against women. For instance, where a widow, whose husband was killed in the war or in the tsunami, will face unnecessary difficulties in applying for relief granted by the state, if the relief has to be applied/signed by the ‘male head of the house hold’.
- This is discriminatory against women.

Activity 3

What are the land/property rights?

- Brainstorm with participants asking them what they identify as land/property rights
- Brainstorm with participants asking them whether they think that land/property is a human right
- Make a presentation using the following points and the information in the handout.

Points

- ✚ Land and/or property rights refer to the right to own, inherit, occupy, buy, sell, or dispose land and/or property.
- ✚ These are human rights and are universal entitlements that all people have because of their inherent dignity as human beings.
- ✚ According to the international and constitutional standards, entitlement to land should be on a basis of equality and no one should be discriminated on a basis of gender.

Legal Framework on Land and Property Rights

Constitutional standards

- Even though the Constitution of Sri Lanka does not address the citizen's right to housing as a 'fundamental right', it recognizes that every citizen is entitled to the freedom of movement and of choosing his residence within Sri Lanka [Article 14(1) (h)].
- Directive principles of State policy also provides that the state must ensure the realization by all citizens of an adequate standard of living for themselves and their families, including adequate housing.

Does this mean that anybody can occupy/own any property?

- No. There are laws governing private and state property. The title to land/property should be decided in accordance with the law. If you want to buy private property, you have to pay the due amount to the owner and get the title registered in your name as the law prescribes. Then only you are permitted to occupy and enjoy that particular land/property. The laws regarding state land differ, and the transfer of state land should be done in accordance with the relevant law on state land.

What then is the gender discrimination referred to, with regard to land rights?

- This refers to discrimination on the basis of sex, on the right to own, inherit, occupy, buy, sell, or dispose land and/or property. For instance, a law is discriminatory if it prohibits women to inherit from their father, or prohibits women from selling their own property, or prefers men in the order of inheritance. Such discriminations are prevalent both in the general law as well as in special (personal) laws.

Some discriminatory laws are as follows:

Land Development Ordinance No.19 of 1935

- The objective of this ordinance, which applies only to state land, is to systematically develop and alienate state land.
- Under the Ordinance state lands are mainly issued to the people belonging to low income groups in Sri Lanka for agricultural and residential purposes.
- Provisions discriminatory on the basis of sex are prevalent in the order of succession on the death of a grantee (in whose name the land has been granted) of state land.
- According to the provisions of the Ordinance, the order of succession is as follows where the permit-holder or a grantee dies without leaving behind a spouse, or upon the failure of the spouse to succeed, or upon the death of the spouse:

- the successor nominated by the deceased should succeed to the land;
- If no successor has been nominated, or if the nominated successor fails to succeed, the person next entitled to succeed under Rule 1 of the Third Schedule should succeed;
- The order of succession as stated in the third schedule prefers male relatives as against female relatives, i.e. sons, grandsons, fathers, brothers, uncles and nephews are preferred to daughters, granddaughters, mothers, sisters, aunts and nieces respectively, and is discriminatory thus.

Thesawalamei law

- In Thesawalamei, women irrespective of their marital status are entitled to own property.
- However, it recognizes the concept of ‘husband’s marital power’, and the wife’s right to dispose her own property is restricted by making the husband’s consent mandatory.

Social/cultural misconceptions

- While these are discriminations prevalent in the law, there are also social/cultural misconceptions that lead to discriminations against women.
- One such misconception relates to the concept of ‘the head of the household’. In the pre-colonial era, the head of the household referred to the nature of marriage, i.e. whether the marriage was in the form of *binna* or *deega*. In a *binna* marriage, where the husband resided in the wife’s mulgedara (ancestral home), the wife was the head of the household, and in a *deega* marriage, where the wife was taken away from her mulgedara to the husband’s home, the husband was considered to be the head of the household.
- This whole concept changed with the introduction of the General Marriages Ordinance of 1907 where no difference with regard to the nature of marriage is recognized. In the present context, unless in the Kandyan Provinces where *deega* and *binna* marriages are still recognized, the concept of ‘the head of the household’ does not have any legal basis. It is based purely on the patriarchal ideologies and Western concepts, which the West also has now abandoned.
- Even though it does not have any legal basis, it continues to discriminate women in various aspects. One such area is the state welfare programmes like tsunami and post-war housing/land grants.

Other relevant laws relating to land/property/housing

- Rent Act No. 7 of 1972
 - Protection of Tenants (special provisions) Act No. 28 of 1970
 - Ceiling on Housing Property Law No. 1 of 1973
 - Urban Development Authority Act No. 70 of 1979
 - Urban Councils Ordinance no.61 of 1939
 - National Housing Development Authority Act No. 17 of 1979
 - Pradeshiya Sabhas Act No.15 of 1987
 - National Housing Act no.37 of 1954
 - Land Acquisition Act No.9 of 1950
 - The Prescription Ordinance No.22 of 1871
 - Primary Courts Procedure Act No.44 of 1979 (section 66)
 - Land Reform Law no. 1 of 1972
 - Land Grants (special Provisions)Act No.43 of 1979
 - The Land Resumption Ordinance No.4 of 1887
 - The State Lands (Recovery of Possessions)Act No. 7 of 1979
-
- Property has been an important aspect of power and strength from the ancient times. Also it has always been a means of suppression. Some laws reflect both these aspects and examples are not rare in Sri Lanka. The concept of the head of the house-hold and the continued traditional recognition of male members of house-holds as heads reinforces the strength and suppression.
 - As much as property is a means of suppression and show of strength, it is an indispensable means of empowerment. Therefore in order to empower women economically and socially, protection of their rights to property is vital.

References

Shadow Report prepared by COHRE Sri Lanka, available at <http://www2.ohchr.org>

UN Security Council Resolution 1325

Introduction

- The United Nations Security Council adopted Resolution 1325 on women and peace and security on 31 October 2000.
- It is known as a landmark resolution on women, peace and security.
- The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction. It also highlights the importance of women's equal participation and full involvement in all efforts for the maintenance and promotion of peace and security.
- This resolution is the first formal and legal document from the United Nations Security Council that requires parties in a conflict to respect **women's rights** and to support their participation in peace negotiations and in post-conflict reconstruction.
- Resolution 1325 urges all members and actors to increase the participation of women and incorporate gender perspectives in all peace and security efforts. It also urges that special measures are taken during conflict to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse.
- Resolution 1325 provides a number of important operational mandates, with implications for Member States and the entities of the United Nations system.

Objectives

- To learn about the United Nations Security Council Resolution 1325
- Knowledge gained on the background, importance and provisions of UN Security Council Resolution 1325

Duration

1 hour

Activity

“The UN Security Council Resolution 1325”

- Using the power point slides provided explain the UN Security Council Resolution 1325 to participants

Slide

- ✦ The United Nations Security Council Resolution 1325 shows the importance the world community gives to women's involvement during war/peace processes
- ✦ As member states of the UN, all states are obligated to uphold resolutions of the Security Council.
- ✦ This is the first resolution which specifically targets the impact of conflict on women and the role women can and should play in peace, reconciliation and reconstruction.

Slide

- ✦ The Resolution urges member states to ensure increased representation of women at all decision-making levels.
- ✦ The Resolution encourages the Secretary General to implement his strategic plan of action calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes.
- ✦ The Resolution urges the Secretary General to appoint more women as special representatives and envoys.
- ✦ The Resolution urges the Secretary General to expand the role and contributions of women in UN field based operations, including among military observers, civilian police, human rights and humanitarian personnel.

Slide

- ✦ The Resolution requests the Secretary General to provide training guidelines and materials on the protection, rights and particular needs of women.
- ✦ The Resolution urges member states to increase their voluntary financial, technical and logistical support for gender sensitive training efforts.
- ✦ The Resolution calls upon all parties in armed conflict to fully respect international law applicable to the rights and protection of women and girls, especially as civilians.
- ✦ The Resolution calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse.

Slide

- ✦ The Resolution emphasizes the responsibilities of all states to put an end to impunity and to prosecute those responsible for genocide crimes, including those related to sexual and other forms of violence against women and girls.
- ✦ The Resolution calls upon all parties to armed conflict to respect the civilian and humanitarian characters of refugee camps and settlements with particular attention to women's and girls' special needs.
- ✦ The Resolution invites the Secretary General to carry out a study to be presented to the Security Council on the impact of armed conflict on women and girls, the role of women in peace-building, the gender dimensions of peace processes and conflict resolution, and progress on gender mainstreaming throughout peacekeeping missions.

- Group participants into 3 groups and provide each group with a card containing provisions of the UN Security Council Resolution 1325.

Cards containing provisions of the UN Security Council Resolution 1325

1. Card: Ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict
2. Card: For Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts in implementing Resolution 1325
3. Card: To adopt a gender perspective when negotiating and implementing peace agreements, including,
 - The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;
 - Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;
 - Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary
4. Card: For all parties to armed conflict
 - to respectfully international law applicable to the rights and protection of women and girls as civilians
 - to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict
 - To put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls, and to exclude these crimes, where feasible from amnesty provisions;
 - To respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls.
 - To consider the different needs of female and male ex-combatants and to take into account the needs of their dependants in the planning for disarmament, demobilization and reintegration
 - To take into account gender considerations and the rights of women, including through consultation with local and international women's groups

- Ask each group to brainstorm as to what should be considered when applying this provision to Sri Lanka with regard to the internal conflicts the country has suffered.
- Groups to make presentations. As one group presents, other groups and trainer will raise questions on the benefits and practicality of issues highlighted by each group.

Handouts

The United Nations Security Council Resolution 1325

- The background to Resolution 1325 is that the UN Security Council was concerned about civilians in armed conflict, particularly women and children, who constituted most of the victims and were increasingly targeted by armed elements. This in turn was highlighted as having an impact on the possibilities for peace and reconciliation. As women played an important role in the prevention and resolution of conflicts, it was important that they were equally involved in the process of maintaining international peace and security. It was also recognised the need to adopt a gender perspective in **peacekeeping** operations and the training of personnel on women's rights.
- Thus the Security Council called on all parties involved in negotiating and implementing peace agreements had to take into account the special needs of women and girls in **armed conflict**, support women's peace initiatives and respect the human rights of women and girls and urged parties to take measures to protect women and girls from gender-based violence and to respect the **humanitarian** nature of **refugee** camps and take the needs of women and girls into their design. The resolution also emphasised the responsibility of all countries to prosecute those responsible for crimes against them. During the **disarmament, demobilisation** and reintegration process, the differing needs of female and male ex-combatants had to be taken into account.
- The resolution was initiated by **Netumbo Nandi-Ndaitwah**, then Minister of Women's Affairs in **Namibia** when the country took its turn **chairing the Security Council**.^[2] After lobbying by dozens of women's organizations and the **United Nations Development Fund for Women (UNIFEM)**, the resolution was adopted unanimously.

Key points in Resolution 1325

- The main Provisions of Resolution 1325:
 - ✚ Increased participation and representation of women at all levels of decision-making
 - ✚ Attention to specific protection needs of women and girls in conflict
 - ✚ Gender perspective in post-conflict processes
 - ✚ Gender perspective in UN programming, reporting and in SC missions
 - ✚ Gender perspective and training in UN peace support operations.

- Key Actors responsible for implementation of Resolution 1325 are:
 - ✚ The Security Council
 - ✚ Member States
 - ✚ UN entities
 - ✚ UN Secretary General
 - ✚ Parties to conflict
- The Resolution reaffirms the need to fully implement international humanitarian and human rights law that protects the rights of women and girls during and after conflicts. The Resolution highlights the following commitments made by international instruments:
 - ✚ The body of rule enshrined in international humanitarian law (IHL) which in wartime, protects people who are not or are no longer participating in the hostilities. IHL's central purpose is to limit and prevent human suffering in times of armed conflict. IHL rules are to be observed not only by governments and their armed forces, but also by armed opposition groups and any other parties to a conflict. The IHL is based on the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. International humanitarian law recognises general protection for women equal to that of men and also recognizes the need to give women additional special protection according to their specific needs.
 - ✚ The UN Charter
 - ✚ The Universal Declaration of Human Rights
 - ✚ International Covenant on Civil and Political Rights
 - ✚ International Covenant on Economic and Social and Cultural Rights
 - ✚ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Resolution emphasizes the need to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls
- It recognizes the need to mainstream a gender perspective into peacekeeping operations
- It recognizes the need for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations
- It highlights the need to understand the impact of armed conflict on women and girls and that effective institutional arrangements need to be made to guarantee the protection of women and girls. The resolution also recognizes that the full participation of women and girls in the peace processes can significantly contribute to the maintenance and promotion of international peace and security
- The Resolution also recognizes that need to gather and consolidate data on the impact of armed conflict on women and girls

Implementing the provisions of 1325

For all parties to work towards operationalising the Resolution 1325, the Resolution provides the following guidelines:

- To ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict
- For the UN Secretary General to appoint more women as special representatives and envoys to pursue good offices on his/her behalf and for Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster
- For the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel
- To incorporate a gender perspective into peacekeeping operations and for the Secretary-General to ensure that, where appropriate, field operations include a gender component
- For the Secretary-General to provide training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peace-building measures to Member States and for Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel and civilian personnel of peacekeeping operations
- For Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts
- To adopt a gender perspective when negotiating and implementing peace agreements, including,
 - The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;
 - Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;
 - Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary
- For all parties to armed conflict
 - to respectfully international law applicable to the rights and protection of women and girls as civilians
 - to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict

- To put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls, and to exclude these crimes, where feasible from amnesty provisions;
- To respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls.
- To consider the different needs of female and male ex-combatants and to take into account the needs of their dependants in the planning for disarmament, demobilization and reintegration
- To take into account gender considerations and the rights of women, including through consultation with local and international women's groups
- For the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and to submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations

Handout

In 2010 on the tenth anniversary of Resolution 1325 the United Nations highlighted the following:

- It recognized that R resolution 1325 has led to broad shifts in approach to women, peace and security issues.
- It stated that UN peacekeeping had changed dramatically as a result of the Resolution 1325 as women peacekeepers were now an integral part of peacekeeping missions, and gender issues were given due priority in all aspects of peacekeeping, from negotiations and decision-making, to security sector reform, mine action initiatives, and the enforcement of the rule of law.
- The report also noted that in the decade since the adoption of the resolution a flood of activities had been generated on the issue of women, peace and security by the Security Council, UN Member States, civil society and the UN System

The report several measures that are needed for progressive implementation of the Resolution:

- Increased human and financial resources for UN entities working on women, peace and security
- A framework setting UN system-wide priorities to ensure a single coherent and coordinated approach, with concrete and specific goals and targets for the next decade
- A strategy to increase women's participation and leadership in peace processes – in negotiation, post conflict governance and reconstruction

- A meaningful set of indicators to track progress and help address the lack of accurate data
- The Security Council to receive, analyse and act upon information on women and conflict more systematically, and to consult regularly with women's organizations and survivors of abuses in situations of armed conflict
- The adoption of National Action Plans by Member States, backed by adequate funding
- Perpetrators of human rights violations against women and girls in conflict situations – including those who commission such abuses – to be brought to justice in accordance with national laws, international law and international humanitarian law

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http://www.un.org/en/peacekeeping/documents/background_1325_anniversary.pdf

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Beijing Platform for Action

Introduction

In 1995, “The Fourth World Conference on Women: Action for Equality, Development and Peace” convened by the United Nations was held in Beijing, China. The final outcome of the Conference was The Beijing Declaration and Platform for Action prepared and accepted by member countries. The Beijing Declaration aims at achieving greater equality and opportunity for women around the world, and deals with removing obstacles to women's public participation in all spheres of public and private lives through a full and equal share in economic, social, cultural and political decision-making.

Objectives

- To learn about the Beijing Platform for Action
- A comprehensive understanding of the Beijing Platform for Action, the process and its contents

Duration

1 hour

Activity

The Beijing Platform for Action and its relevance to Sri Lanka

- Provide the Beijing Platform for Action to participants prior to the workshop as reading material (see Handout).
- Make a short presentation on the Beijing Platform for Action using the slides provided.

Slides

The World Conference on Women is organized and held by the United Nations to focus on issues that are specific to women. The most recent one was held in 1995 in Beijing China.

The Beijing Declaration and Platform for Action accepted at the 4th World Conference addresses global and universal issues affecting women.

The Declaration and Platform for Action therefore proposes changes in values, attitudes, practices and priorities at all levels and signals –

- ✦ A clear commitment to international norms and standards of equality between men and women;
- ✦ Measures to protect and promote the human rights of women and girl-children as an integral part of universal human rights and
- ✦ Requires institutions at all levels to be reoriented to expedite implementation of the platform for action.

Implementing the Beijing Platform for Action is mainly a responsibility of governments, as well as institutions in the public, private and non-governmental sectors at the community, national, sub regional, regional and international levels.

The Beijing Platform for Action is reviewed every five years to see the progress that has been made. Reviews have been done in 2000 (Beijing + 5), 2005 (Beijing + 10), and 2010 (Beijing + 15).

Slide

- ✦ The Beijing Platform for Action identified twelve issues as 'critical areas of concern' for women, and on which strategic action was needed by governments, non-government organisations and businesses around the world: These areas are:
- ✦ The persistent and increasing burden of poverty
- ✦ Inequalities and inadequacies in, and unequal access to, education and training
- ✦ Inequalities and inadequacies in, and unequal access to, health care and related services
- ✦ Violence against women
- ✦ The effects of armed or other kinds of conflict on women, including those living under foreign occupation
- ✦ Inequality in economic structures and policies, in all forms of productive activities and in access to resources
- ✦ Lack of respect for, and inadequate promotion and protection of, the human rights of women
- ✦ Stereotyping of women and inequality promotion and protection of the human rights of women
- ✦ Gender inequalities in the management of natural resources and in the safeguarding of the environment
- ✦ Persistent discrimination against, and violation of, the rights of the girl child
- ✦ Inequality between men and women in the sharing of power and decision-making at all levels
- ✦ Insufficient mechanisms at all levels to promote the advancement of women

Slide

- ✦ The Beijing Platform of Action is a detailed document which sets out 12 areas for intervention.
- ✦ These are set out as strategic objectives and each objective has sub objectives.
- ✦ Each sub objective has “action to be taken” setting out information on what should be done to achieve the objectives.
- ✦ On identifying the strategic objectives, sub objectives and the action to be taken to achieve each objective

- ✚ The Platform for Action sets out measures for institutional arrangements at national regional, sub regional and international level (UN and other international institutions and organizations) as well as provisions for financial arrangements. (Please see the table in the handout)
- Pair participants. Ask each pair to pick one Strategic Objective (by drawing lots) and discuss and present the issues in the Strategic Objective identified in the Beijing Platform that are relevant to Sri Lanka. (Use Table below)

Table on the Beijing Platform for Action

The Beijing Platform for Action	
Strategic objectives	Issues
A. Women and poverty	<ul style="list-style-type: none"> • Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women • in poverty • Revise laws and administrative practices to ensure women's equal rights and access to economic resources • Provide women with access to savings and credit mechanisms and institutions • Develop gender-based methodologies and conduct research to address the feminization of poverty
B. Education and training of women	<ul style="list-style-type: none"> • Ensure equal access to education • Eradicate illiteracy among women • Improve women's access to vocational training, science and technology, and continuing education • Develop non-discriminatory education and training • Allocate sufficient resources for and monitor the implementation of educational reforms • Promote life-long education and training for girls and women
C. Women and health	<ul style="list-style-type: none"> • Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services • Strengthen preventive programmes that promote women's health • Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues • Promote research and disseminate information on women's health • Increase resources and monitor follow-up for women's health
D. Violence against women	<ul style="list-style-type: none"> • Take integrated measures to prevent and eliminate violence against women • Study the causes and consequences of violence against women and the effectiveness of preventive measures • Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

E. Women and armed conflict	<ul style="list-style-type: none"> • Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation • Reduce excessive military expenditures and control the availability of armaments • Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations • Promote women's contribution to fostering a culture of peace • Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women • Provide assistance to the women of the colonies and non-self-governing territories
F. Women and the economy	<ul style="list-style-type: none"> • Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources • Facilitate women's equal access to resources, employment, markets and trade • Provide business services, training and access to markets, information and technology, particularly to low-income women • Strengthen women's economic capacity and commercial networks • Eliminate occupational segregation and all forms of employment discrimination • Promote harmonization of work and family responsibilities for women and men
G. Women in power and decision-making	<ul style="list-style-type: none"> • Take measures to ensure women's equal access to and full participation in power structures and decision-making • Increase women's capacity to participate in decision-making and leadership
H. Institutional mechanisms for the advancement of women	<ul style="list-style-type: none"> • Create or strengthen national machineries and other governmental bodies • Integrate gender perspectives in legislation, public policies, programmes and projects • Generate and disseminate gender disaggregated data and information for planning and evaluation
I. Human rights of women	<ul style="list-style-type: none"> • Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women • Ensure equality and non-discrimination under the law and in practice • Achieve legal literacy

A. Women and the media	<ul style="list-style-type: none"> • Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication • Promote a balanced and non-stereotyped portrayal of women in the media
B. Women and the environment	<ul style="list-style-type: none"> • Involve women actively in environmental decision-making at all levels • Integrate gender concerns and perspectives in policies and programmes for sustainable development • Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women
C. The girl child	<ul style="list-style-type: none"> • Eliminate all forms of discrimination against the girl child • Eliminate negative cultural attitudes and practices against girls • Promote and protect the rights of the girl child and increase awareness of her needs and potential • Eliminate discrimination against girls in health and nutrition • Eliminate the economic exploitation of child labour and protect young girls at work • Eradicate violence against the girl child • Promote the girl child's awareness of and participation in social, economic and political life • Strengthen the role of the family in improving the status of the girl child

Handouts

The Beijing Platform for Action

The World Conference on Women is organized and held by the United Nations to focus on issues that are specific to women. The most recent one was held in 1995 in Beijing China. The previous World Conferences were held in **Mexico City (1975)**, **Copenhagen (1980)** and **Nairobi (1985)**.

The Beijing Declaration and Platform for Action accepted at the 4th World Conference addresses global and universal issues affecting women. It recognizes that deeply entrenched attitudes and practices perpetuate **inequality** and **discrimination** against women, in public and private life, in all parts of the world. The Declaration and Platform for Action therefore proposes changes in values, attitudes, practices and priorities at all levels and signals:

- a clear commitment to international norms and standards of **equality between men and women**;
- measures to protect and promote the human rights of women and girl-children as an integral part of universal human rights and
- Requires institutions at all levels to be reoriented to expedite implementation of the platform for action.

The Declaration embodies the commitment of the international community to the advancement of women and to the implementation of the Platform for Action, ensuring that a gender perspective is reflected in all policies and programmes at the national, regional and international levels.

Implementing the Beijing Platform for Action

Implementing the Beijing Platform for Action is mainly a responsibility of governments, as well as institutions in the public, private and non-governmental sectors at the community, national, sub regional, regional and international levels.

The Beijing Platform for Action is reviewed every five years to see the progress that has been made. Reviews have been done in 2000 (Beijing + 5), 2005 (Beijing + 10), and 2010 (Beijing + 15).

The Beijing Platform for Action identified twelve issues as 'critical areas of concern' for women, and on which strategic action was needed by governments, non-government organisations and businesses around the world: These areas are:

- The persistent and increasing burden of poverty
- Inequalities and inadequacies in, and unequal access to, education and training
- Inequalities and inadequacies in, and unequal access to, health care and related services
- Violence against women
- The effects of armed or other kinds of conflict on women, including those living under foreign occupation
- Inequality in economic structures and policies, in all forms of productive activities and in access to resources
- Lack of respect for, and inadequate promotion and protection of, the human rights of women
- Stereotyping of women and inequality promotion and protection of the human rights of women
- Gender inequalities in the management of natural resources and in the safeguarding of the environment
- Persistent discrimination against, and violation of, the rights of the girl child
- Inequality between men and women in the sharing of power and decision-making at all levels
- Insufficient mechanisms at all levels to promote the advancement of women

Handout

The Sri Lanka National Plan of Action for Women

- The Sri Lanka National Plan of Action for Women is the document that helps implement the Beijing Platform for Action in Sri Lanka.
- The Sri Lanka National Plan of Action for Women (NPA) was adopted by Sri Lanka in May 1996 following the 1995 World Conference on Women, and has been developed based on the Beijing Platform for Action on Women.
- The NPA is a collaborative effort between the government and the NGO sector in Sri Lanka.
- The NPA includes the following sectors:
 - Violence Against Women
 - Women and human rights
 - Women and armed conflict
 - Education and training
 - Economic activities and poverty
 - Health
 - Environment
 - Decision making
 - The girl child
 - Media.
- The Sri Lanka National Committee on Women (NCW) takes the lead in ensuring its implementation.
- In 2001, following the Beijing +5 review, the NPA was updated by the NCW for the period 2001 to 2005. At present (2011), a further updated version of the NPA is being prepared by the NCW through a collaborative effort of the government, NGOs, researches and academics.

Handout

The Strategic Objectives and Sub Objectives of the Beijing Platform for Action

The Beijing Platform of Action is a detailed document which sets out 12 areas for intervention. These are set out as strategic objectives and each objective has sub objectives. Each sub objective has “action to be taken” setting out information on what should be done to achieve the objectives. On identifying the strategic objectives, sub objectives and the action to be taken to achieve each objective, the document sets out measures for institutional arrangements at national regional, sub regional and international level (UN and other international institutions and organizations) as well as provisions for financial arrangements.

The strategic objectives and sub objectives are as follows:

Strategic objectives	Sub objectives
A. Women and poverty	<ul style="list-style-type: none"> • Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women • in poverty • Revise laws and administrative practices to ensure women's equal rights and access to economic resources • Provide women with access to savings and credit mechanisms and institutions • Develop gender-based methodologies and conduct research to address the feminization of poverty
B. Education and training of women	<ul style="list-style-type: none"> • Ensure equal access to education • Eradicate illiteracy among women • Improve women's access to vocational training, science and technology, and continuing education • Develop non-discriminatory education and training • Allocate sufficient resources for and monitor the implementation of educational reforms • Promote life-long education and training for girls and women
C. Women and health	<ul style="list-style-type: none"> • Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services • Strengthen preventive programmes that promote women's health • Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues • Promote research and disseminate information on women's health • Increase resources and monitor follow-up for women's health
D. Violence against women	<ul style="list-style-type: none"> • Take integrated measures to prevent and eliminate violence against women • Study the causes and consequences of violence against women and the effectiveness of preventive measures • Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

E. Women and armed conflict	<ul style="list-style-type: none"> • Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation • Reduce excessive military expenditures and control the availability of armaments • Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations • Promote women's contribution to fostering a culture of peace • Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women • Provide assistance to the women of the colonies and non-self-governing territories
F. Women and the economy	<ul style="list-style-type: none"> • Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources • Facilitate women's equal access to resources, employment, markets and trade • Provide business services, training and access to markets, information and technology, particularly to low-income women • Strengthen women's economic capacity and commercial networks • Eliminate occupational segregation and all forms of employment discrimination • Promote harmonization of work and family responsibilities for women and men
G. Women in power and decision-making	<ul style="list-style-type: none"> • Take measures to ensure women's equal access to and full participation in power structures and decision-making • Increase women's capacity to participate in decision-making and leadership
H. Institutional mechanisms for the advancement of women	<ul style="list-style-type: none"> • Create or strengthen national machineries and other governmental bodies • Integrate gender perspectives in legislation, public policies, programmes and projects • Generate and disseminate gender disaggregated data and information for planning and evaluation
I. Human rights of women	<ul style="list-style-type: none"> • Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women • Ensure equality and non-discrimination under the law and in practice • Achieve legal literacy

J. Women and the media	<ul style="list-style-type: none"> • Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication • Promote a balanced and non-stereotyped portrayal of women in the media
K. Women and the environment	<ul style="list-style-type: none"> • Involve women actively in environmental decision-making at all levels • Integrate gender concerns and perspectives in policies and programmes for sustainable development • Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women
L. The girl child	<ul style="list-style-type: none"> • Eliminate all forms of discrimination against the girl child • Eliminate negative cultural attitudes and practices against girls • Promote and protect the rights of the girl child and increase awareness of her needs and potential • Eliminate discrimination against girls in health and nutrition • Eliminate the economic exploitation of child labour and protect young girls at work • Eradicate violence against the girl child • Promote the girl child's awareness of and participation in social, economic and political life • Strengthen the role of the family in improving the status of the girl child

Reproductive Rights

Introduction

Reproductive rights were recognized as human rights at the United Nation's 1968 International Conference on Human Rights. The World Health Organization defines reproductive rights as follows:

“Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence”.

Objectives

- To understand Reproductive Rights.

Duration

45 minutes

Activity

- Make a presentation using the slides provided.
- Discuss the information based on the three foundation principles that apply to Reproductive Rights namely:
 - ✓ Reproduction a right of the individual
 - ✓ Both males and females have the same reproductive rights
 - ✓ Reproduction is not a woman's duty. It is her choice as well as her right.

Slide

What rights are involved in reproductive health?

The right	RELEVANCE
The right to survival/right to life	Living standard and health services should be improved to ensure the right to survival/life
The right to liberty and security of the person	It is important to ensure the right to enjoy and control one's sexual and reproductive life, and the right to informed consent in medical interventions

The right to the highest attainable standard of health	This emphasizes the right to have access to the highest-possible quality care related to sexual and reproductive health, protection from harmful practices, as well as a right to counseling and impartial information to allow informed decisions
The right to family planning	It has been recognized internationally that all couples and individuals have the right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. [Cairo Programme of Action]
The right to marry and found a family	The right to obtain services for the prevention and treatment of sexually transmitted diseases, since these are a leading cause of infertility
The right to a private and family life	This includes the right to have access to available reproductive health care technology, including safe and acceptable contraceptive methods
The rights to receive and impart information and to freedom of thought	This addresses everyone's right to information and counselling about family planning methods and service availability
Right to education	This is important in empowering men and women, both young and old with the knowledge, skills and self-confidence necessary to participate fully in the development process
The right to non-discrimination on the basis of sex	This right is violated, for example, by family practices favouring sons over daughters with regard to nutrition, health care and education, and by prenatal sex selection and female infanticide.

Slide

What are the applicable Laws, Policies & Conventions?

- The Constitution (Article 12): Equality before the law and equal protection of the law, and also non-discrimination on the basis of age and sex.
Reproductive health is a state of complete physical, mental and social well-being in all matters relating to the reproductive system, its functions and processes. Reproductive health implies that couples are able to have a satisfying and safe sex life that they have the capability to reproduce and the freedom to decide responsibly on the number of children they may have.

- The Population and Reproductive Health Policy for Sri Lanka aims at achieving a higher quality of life for its people by providing quality reproductive health information and services, achieving gender equality, providing health care and social support for the elderly, promoting the economic benefits of migration and urbanization while controlling their adverse social and health effects and reaching a stable population size in the long term.
- Policies and Commitments
 - Population and Reproductive Health Policy Action Plan, 2000-2010
 - Six Year Development Programme on Family Health, 1999-2004
 - National Plan of Action for Women, 2002-2007
 - Women's Charter 1993
 - Eligibility for sterilization Government Circular, 1988
 - National Strategic Plan for Prevention and Control of HIV/AIDS, 2002-2006
 - Penal Code (sections 303, 304 and 306 on causing a woman with child to miscarry)
 - Venereal Disease Ordinance, 1938
 - Medical Ordinance (1927) – regulates medical profession
 - Sri Lanka Nurses Council Act (1988) – regulates the nursing profession
 - Ayurveda Act (1961)
 - Homeopathy Act (1970)

The National Health Policy

- Includes maternal and child health as a policy objective to be achieved,
- The Government of Sri Lanka recognizes the importance of promotion of appropriate behaviours that make its citizens responsible to themselves, their families and to society for the prevention of HIV/AIDS.
- Planned Behavioural Change Communication (BCC) programmes should address the needs of the specific vulnerable groups.
- Responsible sexual behaviour such as abstinence, delaying sex and safer sex practices should be promoted and encouraged among the youth and general population.
- The use of condoms is of utmost importance for the high risk and key vulnerable target populations and should be promoted. Services that support the practice of safe & responsible behaviour should also be ensured.
- The empowerment of women and the responsibilities of men in promoting positive behaviour should be emphasized. In addition, reducing the stigma and discrimination in relation to HIV/AIDS should be addressed, in order to promote positive health seeking behaviours. The Government of Sri Lanka supports provision of preventive education and clinical services to those believed to be at high risk, including sex workers, men having sex with men and injecting drug users.

Slide

International law:

- ✚ CEDAW- Convention on the Elimination of All forms of Discrimination Against Women. This is the only human rights treaty which affirms the reproductive rights of women.

- * **Article 12** (1). States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. (2). Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.
- * **Article 16** (a) States parties should ensure that women have equal rights as men to enter into marriage and to choose their partners.
(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

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www.womenaid.org

www.ilo.org

Population and Reproductive Health Policy Sri Lanka, 1998

International Covenant on Economic, Social and Cultural Rights

Reproductive Rights

Introduction

Domestic violence, simply described, is an act of physical, mental, emotional, sexual or economic violence committed within the confines of the domestic sphere by persons living in that domestic sphere. Due to the nature of where the act of violence occurs, domestic violence is often considered a ‘private’ matter between two or more parties who have a relationship with each other be they husband and wife, partners, parent and child or employer and domestic aide. However with legal recognition of domestic violence as a punishable crime, these acts of violence are taken out of the private sphere, yet acceptance of the issue’s public nature is slow.

Domestic violence is defined as “violence perpetrated in the domestic sphere, which targets women because of their role within that sphere, or violence which is intended to impact, directly and negatively on women within the domestic sphere”.

Domestic violence is a wide spread problem in Sri Lanka. According to the UN Rapporteur on Violence Against Women, more than 60% of Sri Lankan women is subject to some form of domestic violence.

As a result of strong lobbying by civil society organizations strengthened by research carried out by institutions and individual academics, the Prevention of Domestic Violence Act was enacted in September 2005. Until the enactment of the Act, domestic violence was virtually an invisible phenomenon in Sri Lanka, unrecognized by the State and accepted by society at large. With the enactment of the Prevention of Domestic Violence Act, wide awareness raising campaigns brought attention to the issue and from this stemmed pro active action from diverse sectors of society, state, legal, medical, law enforcement, dispute resolution and community.

Objectives

- To provide an understanding of the definition, nature and prevalence of domestic violence.
- To provide a overview of domestic violence
- To provide an understanding of the definition of domestic violence
- To provide information on the law and prevalence of domestic violence

Duration

1 hour

Activity

“Understanding Domestic Violence”

- Group participants into 3 groups.
- Provide each group with one definition of Domestic Violence.

Cards with definitions of domestic violence

Card:

Definition 1

Domestic violence can be broadly defined a pattern of abusive behaviours by one or both partners in an intimate relationship (such as marriage, dating, family, friends or cohabitation). Domestic violence has many forms including physical aggression (hitting, kicking, biting, shoving, restraining, throwing objects), verbal abuse, sexual abuse, emotional abuse (controlling or domineering), intimidation, passive abuse (like neglect), and economic deprivation or threats of such abuse.

Card:

Definition 2

The Plan of Action supporting the prevention of Domestic Violence drafted by the National Committee on Women states:

Domestic violence is widely defined as an abuse of power perpetrated mainly (but not only) by men against women. Commonly perpetrated forms of domestic violence include: physical and sexual violence; threats and intimidation; emotional and social abuse; and economic deprivation.

Card:

Definition 3

The Prevention of Domestic Violence Act defines Domestic Violence as:

1. An act (or attempt to commit an act) committed by a relevant person which constitutes an offence under Chapter 16 of the Penal Code. These include:

- Voluntarily causing hurt and grievous hurt
- Causing hurt by an act which endangers life
- Wrongfully restraining or confining person
- Assault or use of criminal force
- Criminal intimidation
- Murder
- Sexual abuse

2. An act of emotional abuse. Emotional abuse means a pattern of degrading or humiliating conduct directed towards a person, including-

- repeated insults, ridicule or name calling;
- repeated threats which cause emotional pain; or
- the repeated exhibition of obsessive possessiveness or jealousy which seriously hampers a person's privacy, liberty, integrity or security;

- Ask each group to brainstorm on what each definition means.
- Each group makes a presentation explaining each definition with examples of incidents of domestic violence they find from their work and their lives.
- Brainstorm using power point slides.

Slide

Domestic violence, simply described, is an act of physical, mental, emotional, sexual or economic violence committed within the confines of the domestic sphere by persons living in that domestic sphere.

Domestic violence is defined as “violence perpetrated in the domestic sphere, which targets women because of their role within that sphere, or violence which is intended to impact, directly and negatively on women within the domestic sphere”

Domestic violence is a widespread problem in Sri Lanka. The Police Women and Children’s Desks in 2008 received 90,000 complaints of domestic disputes brought to its 36 Desks around the country. In September 2005, the Prevention of Domestic Violence Act was enacted. Until the enactment of the Act, domestic violence was not recognized as a crime in Sri Lanka, and was accepted by society at large. With the passing of the Act, for the first time in the history of the penal law in the country, domestic violence moved out of the private sphere and is now accepted as a crime from which victims can receive protection. With the enactment of the law, there is recognition that perpetrators can be punished under the existing penal law of the country.

In Sri Lanka there are no national level statistics on domestic violence. However sectoral studies have showed the prevalence of domestic violence around the country surpassing ethnic, religious and class difference.

Handouts

Domestic Violence

Domestic violence, simply described, is an act of physical, mental, emotional, sexual or economic violence committed within the confines of the domestic sphere by persons living in that domestic sphere. Due to the nature of where the act of violence occurs, domestic violence is often considered a ‘private’ matter between two or more parties who have a relationship with each other be they husband and wife, partners, parent and child or employer and domestic aide. However with legal recognition of domestic violence as a punishable crime, these acts of violence are taken out of the private sphere, yet acceptance of the issue’s public nature is slow.

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While accepting the definition of the Special Rapporteur, Sri Lanka has its own definition of domestic violence in the national policy document, The 'Plan of Action supporting the prevention of Domestic Violence' drafted by the National Committee on Women. According to this definition, domestic violence is defined as "an abuse of power perpetrated mainly (but not only) by men against women. Commonly perpetrated forms of domestic violence include: physical and sexual violence; threats and intimidation; emotional and social abuse; and economic deprivation".

The Prevention of Domestic Violence Act of Sri Lanka provides a legal definition of domestic violence as "an act (or attempt to commit an act) committed by a relevant person which constitutes an offence under Chapter 16 of the Penal Code. These include the offences of voluntarily causing hurt and grievous hurt, causing hurt by an act which endangers life, wrongfully restraining or confining person, assault or use of criminal force, criminal intimidation, murder and sexual abuse". The Act also defines domestic violence as "an act of emotional abuse". Emotional abuse is described as a pattern of degrading or humiliating conduct directed towards a person, including repeated insults, ridicule or name calling, repeated threats which cause emotional pain or the repeated exhibition of obsessive possessiveness or jealousy which seriously hampers a person's privacy, liberty, integrity or security.

Some statistical data and a large number of anecdotal information show a high prevalence of domestic violence in Sri Lanka and that the majority of these victims is women. Despite this visibility and recognition of domestic violence as a crime, addressing the issue remains clouded by the gendered identities, roles and behaviours of women and society's expectations of such identities, roles and behaviours. Studies have highlighted the burden of stigma on women, social and economic vulnerabilities faced by women, lack of supportive access to justice and formal protection systems and socialization processes that minimize the gravity of domestic violence as preventing women recognizing, reporting and taking action on domestic violence.

Handout

Definitions of Domestic Violence

Definition 1

Domestic violence can be broadly defined a pattern of abusive behaviours by one or both partners in an intimate relationship (such as marriage, dating, family, friends or cohabitation). Domestic violence has many forms including physical aggression (hitting, kicking, biting, shoving, restraining, throwing objects), verbal abuse, sexual abuse, emotional abuse (controlling or domineering), intimidation, passive abuse (like neglect), and economic deprivation or threats of such abuse.

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Sexual Harassment

Introduction

Some of the most common forms of violence against women in Sri Lanka are rape and sexual violence, domestic violence, *sexual harassment*, and trafficking.

Sexual harassment can include a range of actions as set out below:

- Unwelcome physical contact and advances
- Words or comments of a sexual nature that makes the person hearing it uncomfortable
- Dirty jokes and obscene gestures
- Showing pornographic material
- Demanding or requesting sexual favours
- Circulation of abusive emails
- Any other unwelcome physical, verbal or non - verbal conduct of sexual nature

Objectives

- To provide an understanding of the definition of sexual harassment
- To provide information on the law and nature of sexual harassment in Sri Lanka

Duration

1 hour

Activity

What is Sexual Harassment?

- Make a presentation using the slides provided to give a clear understanding of sexual harassment

Slide

What is sexual harassment?

- Unwelcome physical contact and advances
- Words or comments of a sexual nature that makes the person hearing it uncomfortable
- Dirty jokes and obscene gestures
- Showing pornographic material
- Demanding or requesting sexual favours
- Circulation of abusive emails
- Any other unwelcome physical, verbal or non - verbal conduct of sexual nature

In all aspects of public life including on roads, public transport, schools, universities, workplaces, businesses and in recreation.

Slide

- ✦ Sexual harassment is an issue that is not widely unacknowledged in Sri Lanka. Sexual harassment can be caused and suffered by both women and men. In Sri Lanka, a comprehensive law on sexual harassment was introduced in the Penal Code of Sri Lanka by amendment no. 22 of 1995. But only a handful of cases have been instituted under the legal provisions.
 - ✦ Sexual harassment is defined in law as "harassment of a sexual nature using assault, criminal force, or words or actions which causes annoyance to the person being harassed."
 - ✦ It includes unwelcome sexual advances by words or action used by a person in authority (such as Police, armed service personnel, school officials, medical officials etc.) and unwelcome sexual advances in the work place.
 - ✦ Sexual harassment is punishable by imprisonment with or without hard labour for any period up to five (5) years, or a fine, or imprisonment and fine imposed together. Further the perpetrator can be ordered to pay compensation to the person against whom the offence was committed.
- Group participants into 3 groups.
 - Provide each group with a case study of sexual harassment for discussion.

3 Case studies

Case Study 1

Malini is a mother of two who works in Dubai as a housemaid. She left Sri Lanka in 2009 after the pre departure training conducted by the Sri Lanka Bureau of Foreign Employment and upon signing a contract of employment with the Employment Agent. The contract said that she would work 8 hours a day as a housemaid. At her workplace Malini has to work 15 hours a day. She has to do the house work, look after the children and also work in the shop owned by her employers. Every week or so, her employer comes to her room at night and demands that she has sexual relations with him. He threatens to stop the payment of her salary. But he has not forced himself on her.

Question to answer:

Is Malini being sexually harassed? Describe your analysis based on the definitions of sexual harassment.

Case Study 2

Sivalaxmi is 25 years old and works as a tea plucker in an Estate in Nuwara Eliya. She is married with a child. Sivalaxmi's supervisor always gives Sivalaxmi an easy spot to work and gives her extra time off. But Sivalaxmi says she does not want these special favours and that she only wants to do her job properly and get paid properly. From time to time Sivalaxmi's supervisor suggests that she has sexual relations with him and says that he will reward her if she does.

Question to answer:

Is Sivalaxmi being sexually harassed? Describe your analysis based on the definitions of sexual harassment.

Case Study 3

Fathima is a student who travels by bus to the accountancy Institute where she is studying to be an Accountant. One day in the bus, a middle aged man began touching Fathima and causing her discomfort and embarrassment.

Question to answer:

Is Fathima being sexually harassed? Describe your analysis based on the definitions of sexual harassment.

- At the presentation of case study discussions, each group will answer the questions in each case study.

Handouts

Sexual Harassment in Sri Lanka

- Sexual harassment is an issue that is not widely unacknowledged in Sri Lanka. Sexual harassment takes place in all aspects of public life including on roads, public transport, schools, universities, workplaces, businesses and in recreation. Sexual harassment can be caused and suffered by both women and men. In Sri Lanka, a comprehensive law on sexual harassment was introduced in the Penal Code of Sri Lanka by amendment no. 22 of 1995. But only a handful of cases have been instituted under the legal provisions.
- The 1995 amendment to the Penal Code introduced two new offences that criminalized two forms of gender based violence, *sexual harassment* and incest. Sexual harassment is now dealt in section 345 of the Penal Code which recognizes sexual harassment in the public sphere including in employment and public transport.
- Sexual harassment is defined as "harassment of a sexual nature using assault, criminal force, or words or actions which causes annoyance to the person being harassed." It includes unwelcome sexual advances by words or action used by a person in authority (such as Police, armed service personnel, school officials, medical officials etc.) and unwelcome sexual advances in the work place.

- Sexual harassment is punishable by imprisonment with or without hard labour for any period up to five (5) years, or a fine, or imprisonment and fine imposed together. Further the perpetrator can be ordered to pay compensation to the person against whom the offence was committed.
- Sexual harassment in public places: The law on sexual Harassment in Sri Lanka aims at addressing any form of sexual harassment caused in public places. This includes harassment caused on the road, in public transport like buses and trains, in places like parks, shops as well as schools, universities, workplaces, religious institutions and places of recreation.
- Although the law is in place, there are few complaints made to the Police about sexual harassment in open public places like roads and public transport and fewer cases have been filed in court. This could be due to the lack of awareness of the law as well as the lack of proper mechanisms in place to address such complaints when made by victims.
- Sexual Harassment in the workplace: Sexual Harassment within the workplace occurs in diverse work spaces such as the public and private sectors, domestic work spheres, industries and formal and non formal workplaces. Research has shown that sexual harassment is wide spread and spans virtually all workplaces in some degree or the other. While the harassment recorded is at varying degrees.
- Some areas of work where sexual harassment is severe are unskilled and low skilled migrant labour, free trades zones and the plantations. Sex workers in Sri Lanka also face severe harassment.
- Sri Lanka's female migrant workers are the highest foreign exchange earners for the country and are the most visible group of women exposed to gender based violence at the workplace. Research shows that these migrant workers are victimized by varying forms of violence from being duped, defrauded and sexually exploited on the promise of work at home to being physically, mentally and sexually abused at the workplace which is outside the jurisdiction of Sri Lankan law.
- In the Free Trades Zones in various parts of the country, female workers are often subject to acts of violence and abuse. Over 80% of workers in these Zones is single women and are subject to various forms of violence within the workplace, on their way to work at within their places of residence. A study carried out shows that 59% of the sample women working in the Zones are harassed at the workplace, 83% while travelling and 37% at the places of residence. The violence so faced includes physical force of attempted rape and being forced to perform sexual acts. Apart from facing harassment by the public, these workers are also targeted by workplace staff such as managers, supervisor, security officers as well as co workers.
- Sex workers in Sri Lanka who are considered illegal workers due to prostitution not being recognized by the laws of Sri Lanka, are another category of workers who face diverse acts of violence which are largely undocumented. The ambiguous status of sex workers makes them prone to gender based violence with little protection from the law and support from the legal system.
- Government and private institutions are also governed by sexual harassment laws. Some places have put in place Sexual Harassment Policies which cater to addressing complaints of sexual harassment in the specific workplace. The Human Rights Commission has such a Sexual Harassment Policy.

Sexual Harassment

Introduction

Emergency responses to major disasters are focused on saving lives, delivering supplies and providing security. In this, it is important to include a gender perspective to ensure that women's needs and situations are addressed adequately.

In order to ensure gender sensitive responses in disaster situations it is important to consider that:

- Different gender identities, relations and responsibilities influence people's ability to respond in emergency situations. Low education levels, limited mobility, less access to resources, more economic dependency, more responsibility for dependants, little or no work experience or exposure outside the home and community, special reproductive health needs, high vulnerability to sexual and physical violence, limited decision making power are all factors that severely
- Women's vulnerability is increased in disaster situations.
- Addressing gender needs is not just a protection or a rights issue- it is also about increasing efficiency, quality and sustainability of the relief initiatives. This is especially so when it comes to understanding accessibility issues that limit a woman's ability to effectively utilize relief services and in identifying varying coping capacities and insights, information of women that can be harnessed to enhance relief operations.
- Participation of women, men and other vulnerable groups in all aspects of delivery of relief operations and reconstruction plans such as in needs assessments, planning, implementation, monitoring and in maintenance is critical for gender mainstreaming. Women have an important role to play in this process and can be an important part of disaster mitigation and response efforts, whether acting within their traditional gender roles or transcending them.
- The gender question is not just a woman's issue. Gender analysis is a useful tool for analyzing specific vulnerabilities of men and boys and how a community works as well as how people relate to each other and contribute to problems and solutions. Attention also needs to be paid to the situation of boys and men and how their roles and responsibilities may have changed. Women's coping strategies and special psychological needs have to be addressed.

Objectives

- To provide an understanding of the specific issue particular to women that have to be addressed in responding to disaster situations
- An understanding of women's issues in disaster situations and how to ensure that these issues are addressed when responding to disaster situations

Duration

1 hour

Activity

Women's Concerns and Rights in Disaster Situations

- Group participants into groups of four.
- Provide brief descriptions of disaster situations and ask groups to analyse what specific issues arise in relation to women in such disaster situations and in responding to these situations.

Four situations of disasters

Situation 01

Discuss issues that are specific to women in the following disaster situation

In Ratnapura, weeks of torrential rain and caused heavy flooding in certain areas. People have left their homes and are in schools and religious places. They are provided with food and basic necessities by the Government and NGOs.

Situation 02

Discuss issues that are specific to women in the following disaster situation

In Puthukudiyirippu, the civil war has displaced thousands of people, lives have been lost. People have left their homes and are in schools and religious places. They are provided with food and basic necessities by the Government and NGOs.

Situation 03

Discuss issues that are specific to women in the following disaster situation

In Matara, the tsunami has left many homes destroyed. Lives have been lost and people have sought shelter in schools and religious places. They are provided with food and basic necessities by the Government and NGOs.

Situation 04

Discuss issues that are specific to women in the following disaster situation

In Kattankudy, months of drought have destroyed crops. People are helpless with no income and have to manage with minimum food. They are provided with food and basic necessities by the Government and NGOs.

- Request groups to present their findings and brainstorm.
- Make a presentation with the slides provided and explanations in the handouts.

Slide

- Often emergency responses to major disasters are focused on saving lives, delivering supplies and providing security. In this it is important to include a gender perspective to ensure that women's needs and situations are addressed adequately.
- During and after natural disasters, women face issues that are specific to women and need to be considered seriously.
- These issues are that:
 - Women are far more likely to die than men
 - Women are at increased risk of violence
 - Women may not always receive necessary health care
 - Women may be denied adequate relief aid or compensation for their losses
 - Women experience ongoing economic vulnerability
 - Women are often the first to mobilize local relief efforts

Slide

Based on what has been learned from natural disaster situations like floods, earthquakes, cyclones and tsunami as well as manmade disaster like war, attention should be paid to:

- ✦ Include women in pre- and post-disaster planning
- ✦ Keep women safe
- ✦ Target women's health needs
- ✦ Help women become self-sufficient
- ✦ Ensure equal aid distribution.
- ✦ Bring women into all decision-making processes

Handouts

Women's Rights in Disaster Situations (1)

- Often emergency responses to major disasters are focused on saving lives, delivering supplies and providing security. In this it is important to include a gender perspective to ensure that women's needs and situations are addressed adequately.
- During and after natural disasters, women face issues that are specific to women and need to be considered seriously.

These issues are that:

- Women are far more likely to die than men
- Women are at increased risk of violence
- Women may not always receive necessary health care
- Women may be denied adequate relief aid or compensation for their losses
- Women experience ongoing economic vulnerability
- Women are often the first to mobilize local relief efforts

Women are far more likely to die than men

- Women (and children) are at greater risk during disasters. In many disaster statistics do not even show the separate numbers of men, women and children who lose their lives or are injured but evidence shows that more women and children suffer from death, injury and destitution during diverse disasters.
 - In the 2004 tsunami, there are no gender disaggregated data on victims but stories show that more women and children died. It is estimated that three times as many women as men perished.
 - In the 2005 earthquake in Pakistan more women than men were killed and as many as half the dead may be children

Women are at increased risk of violence

- In natural disasters, women become uniquely vulnerable to sexual abuse, including rape and gang rape.
- Domestic violence also increases and this is considered a private matter and many government authorities will not intervene in such situations.
- Studies have shown that problems of violence can be even worse in places with prior histories of armed civil and/or social conflict. In cases where soldiers and displaced women are from different political or ethnic groups, those who should be protectors may instead become predators, increasing women's vulnerability.
 - In the 2004 tsunami in Banda Aceh, Indonesia, security forces had a history of rape and other crimes of sexual violence against women thought to be relatives of members of the Movement for the Independence of Aceh.

Women may not always receive necessary health care

- Women have special healthcare needs that can be overlooked during disaster relief efforts. Pregnant women need obstetrical care, and without such care may miscarry or deliver under extremely unsanitary conditions.
- Displaced women frequently lack access to contraception and even undergarments and sanitary supplies. In some situations where these are available, they may be distributed by men thus limiting access to women.

Women may be denied adequate relief aid or compensation for their losses

- At times, essentials like food and water, linen and other rations may be distributed based on the needs of single adults, forcing mothers to share meagre rations in order to feed their children.
- In other cases, women have been too intimidated to collect aid when the distribution of supplies is controlled by men.

- Government recognition of males as the head of household can exclude women from compensation for loss
 - In Sri Lanka there was a situation where the government offered 5,000 rupees to families affected by the tsunami, but in Batticaloa, authorities recognized only male-headed households, so women whose husbands had died could not claim the money.
 - In Thailand, the government paid twice as much to families for the funeral expenses of men than for those of women.

Women experience ongoing economic vulnerability

- Many women who lose their partners or other ‘male providers’ in disasters and while continuing to perform traditional duties like childcare and nursing the wounded, they also have to take on the burden of providing for their families.
- Women, who work in the agricultural industry or the informal economy, are often heavily impacted by natural disasters.
- These situations can lead to women being marginalized from recovery and rehabilitation services and also make them vulnerable to abuse - forced marriage, labour exploitation and trafficking.

Women are often the first to mobilize local relief efforts

- It is found out that women often are the first to rally round informally or in formal women’s groups to provide or obtain relief efforts.
 - In 1998 in Guatemala after a hurricane Honduran women readily took on traditionally masculine tasks like building homes and shelters, hauling water and digging wells.
 - Six months after Banda Aceh, Indonesia was devastated by the tsunami, more than 70% of the local civil organizations working in the area were women's groups or groups mostly staffed by women.
- But women are rarely included in policy- and decision-making and frequently go unrecognized for their critical roles.
 - In post tsunami Sri Lanka, women had little say in temporary housing design. As a result, some dwellings actually were constructed without any kitchen facilities. The lack of safe cooking areas led to smoke and fire hazards.

Women's Rights in Disaster Situations (2)

Based on what has been learned from natural disaster situations like floods, earthquakes, cyclones and tsunami as well as manmade disaster like war, attention should be paid to:

- **Include women in pre- and post-disaster planning**

Include women in pre- and post-disaster planning by consulting women and including women at decision making levels of all relief and rehabilitation efforts.

- **Keep women safe**

Keep women safe by relief agencies and governments ensuring through effective mechanisms women's physical safety - working to prevent violence, including rape, by creating safe spaces and facilities for women and means for legal redress.

- **Target women's health needs**

Target women's health needs by making make special efforts to address the specific health needs of women in disaster situations. This includes providing suitable toilet facilities, undergarments, sanitary supplies and prenatal and maternity care. Psychological counselling for post-traumatic stress must be available to women and girls as they cope with the loss of children and family members, and the ongoing challenges created by the disaster. Women and girls must be provided with culturally appropriate clothing.

- **Help women become self-sufficient**

Help women become self-sufficient by including long term income-generating projects and/or jobs for women whose livelihoods and/or key providers have been lost, so they may provide for themselves and their families.

- **Ensure equal aid distribution**

Ensure equal aid distribution. In addition to providing safe temporary housing, permanent housing and land rights must be secured for displaced women.

- **Bring women into all decision-making processes**

Bring women into all decision-making processes in both long- and short-term reconstruction plans and efforts which must include women's input, and their leadership.

References

Chew L. and Ramdas K.N. (2005). caught in the Storm: WOMEN. Global Fund.

Rozan. (2006). Checklist to facilitate Gender Sensitivity of Relief and Reconstruction efforts for Survivors of the Earthquake in Pakistan

http://www.who.int/hac/techguidance/pht/womenshealth/Pakistan_Checklist_for_assessing_gender_sensitivity.pdf

Rights of the Internally Displaced

Introduction

Even though there are no special national or international laws relating to Internally Displaced Persons (IDPs) the 'UN Guiding principles' provide guidelines in regard to rights of the IDPs and corresponding obligations of the state authorities. It should be noted that UN Guiding Principles does not carry the weight of a law. Following are some of the guiding principles:

- ✦ IDPs are human beings and citizens or habitual residents of a particular state. They may have special needs because of their vulnerability.
- ✦ Accordingly, they are entitled to all the human rights and guarantees of humanitarian law (laws applicable during an armed conflict) and also to rights and entitlements that are of special importance to them, which are recognized in the international law as well as domestic law.
- ✦ As a result national authorities are responsible to provide protection and humanitarian necessities to IDPs. The IDPs have a right to request and receive these requests and necessities.
- ✦ There can be no discrimination on the basis of race, religion, sex, age, religion, colour or any other basis. However, children, women, persons with disabilities and elderly persons shall be entitled to special protection and assistance depending on their condition.

Objectives

- To understand the situation of Internally Displaced Persons
- To understand the rights of Internally Displaced Persons

Duration

1 hour

Activity 1

- Make a presentation using the following slides.

Slide

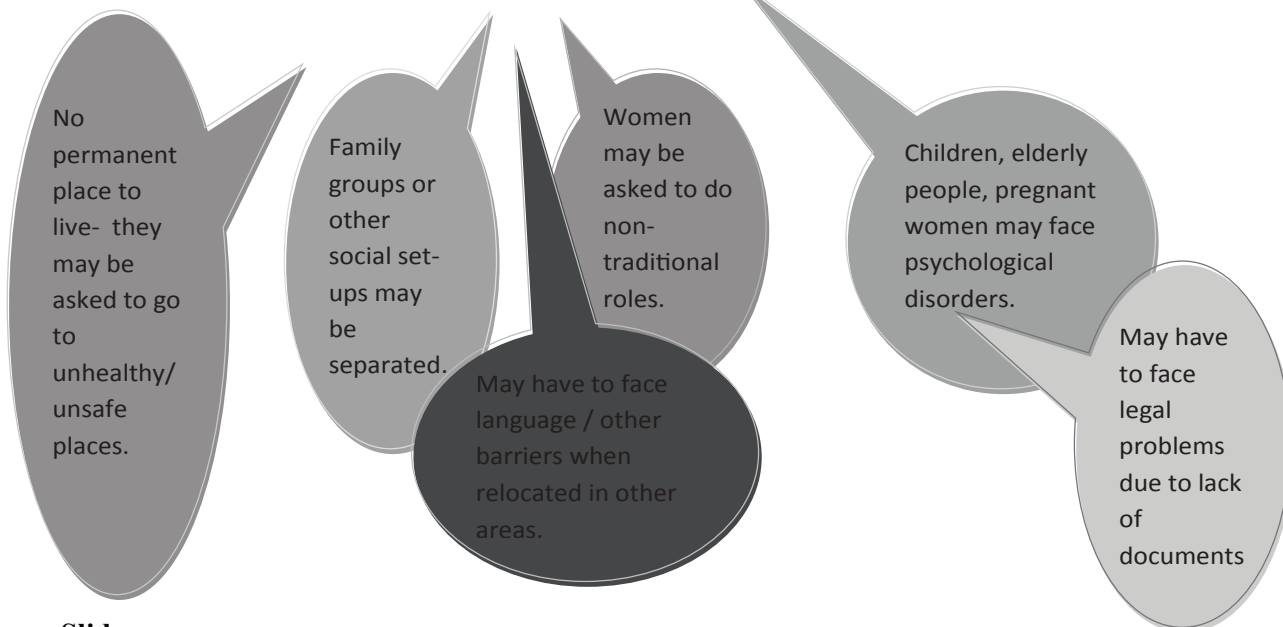
Who is an internally displaced person (IDP)?

'Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized state border.' – UN guiding principles.

Feature	Explanation
Persons/groups of persons forced or obliged	Displacement can affect individuals or groups Displacement could have occurred due to various reasons, eg. By force, intimidation to leave by threat or necessity. <i>Displacement should not have been voluntary.</i>
To flee or to leave	Not necessarily means running away from an immediate danger, but can also take the form of an organized departures. Eg. In a notified eviction.
As a result of or in order to avoid the effects	The displacement could have occurred before or after the conflict/disaster, which can be either real or imminent.
Their homes or places of habitual residence	Does not have to be a home/ building. Habitual residence can be land on which the particular group of people traditionally and habitually lives.
Identified causes	
in particular	The causes list out below are not exhaustive but can include other possible causes.
Armed conflict	<p>International conflict - fighting between at least two states. Non-international conflict – fighting within the territory of a state:</p> <div style="display: flex; align-items: center; justify-content: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 20px; text-align: center; width: 200px;"> <p>Between states armed forces & identifiable</p> </div> <div style="margin: 0 20px; font-weight: bold; font-size: 1.2em;">OR</div> <div style="border: 1px solid black; border-radius: 50%; padding: 20px; text-align: center; width: 200px;"> <p>Between armed groups fighting one another.</p> </div> </div>
Situations of violence	Internal tensions and disturbances – falls short of armed conflict but involve the use of force & other repressive methods, eg: riots, violent ethnic/religious conflicts not amounting to armed conflicts.
Violations of human rights	Includes the denial/limitation by the government, of the rights guaranteed by national/international law, threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group.
Natural or human made disasters	Eg. Droughts, floods, earthquakes, tsunami, nuclear disasters, food crisis.

Slide

- IDPs may become particularly vulnerable due to following reasons:



Slide

What is the difference between an IDP and a refugee?

According to the 1951 IDP Convention Article 1 A (2) and 1967 Protocol, a ‘refugee’ is a person who ‘owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country’

Activity 2

- Prepare flash cards with the following written on them.

Flash cards

- Remains within his/her country
- There has to be a well founded fear of persecution that is linked to race, religion, nationality, membership of a particular social group or political opinion
- Not necessary to have fear
- The legal status is set by an international legal document
- No binding document that sets out international standards
- Has to cross an international border

- Not entitled to any additional rights / have the same rights as other citizens of the country.
 - Status entitles the individual to certain rights
- Ask participants to place the cards in two columns marked on a flip chart. The columns should be REFUGEE and IDP.

REFUGEE	IDP

- Discuss using the following slides.

Slide

A person becomes a refugee only where s/he fulfills the following features:

REFUGEE	IDP
✚ There has to be a well founded fear in the refugee, of persecution that is linked to race, religion, nationality, membership of a particular social group or political opinion	✚ Not necessary to have fear
✚ has to cross an international border	✚ Remains within his/her country
✚ The legal status is set by an international legal document	✚ No similar binding document
✚ The status of refugee entitles the individual to certain rights	✚ Not entitled to any additional rights – IDPs have the same rights as other citizens of the country. But their vulnerability should be taken into account when handling their needs.

Slide

The Rights of IDPs

Even though there are no special national or international laws relating to IDPs, the ‘UN Guiding principles’ provide guidelines in regard to rights of the IDPs and corresponding obligations of the state authorities. It should be noted that UN Guiding Principles does not carry the weight of a law. Following are some of the guiding principles:

- ✚ IDPs are human beings and citizens or habitual residents of a particular state. They may have special needs because of their vulnerability.
- ✚ Accordingly, they are entitled to all the human rights and guarantees of humanitarian law (laws applicable during an armed conflict) and also to rights and entitlements that are of special importance to them, which are recognized in the international law as well as domestic law.
- ✚ As a result national authorities are responsible to provide protection and humanitarian necessities to IDPs. The IDPs have a right to request and receive these requests and necessities.
- ✚ There can be no discrimination on the basis of race, religion, sex, age, religion, colour or any other basis. However, children, women, persons with disabilities and elderly persons shall be entitled to special protection and assistance depending on their condition.
- ✚ The IDPs have the right to protection from arbitrary displacement, and where displaced due to unavoidable circumstances, authorities shall make sure that such displacement shall not last any longer than required under the circumstances.
- ✚ Displacement shall not be carried out in a manner that violates the right to life, dignity, liberty and security of those who are affected.
- ✚ They shall be protected against rape, mutilation, torture, cruel, inhuman or degrading treatment, and from violent and threatening behavior by other displaced persons, armed forces or others.
- ✚ They shall not be confined to a camp, and if doing so is necessary under the circumstances; such confinement shall not last longer than necessary.
- ✚ They shall be protected from arbitrary arrest as a result of their displacement.
- ✚ They shall have the right to move in and out of the camps, where they are temporarily located.
- ✚ They shall have the right to live in another part of their country or to leave their country and seek asylum in another country.
- ✚ They shall have the right to know the fate and whereabouts of their missing relatives.
- ✚ In order to give effect to the right to have a family life, those who wish to stay with their family members should be allowed to do so.
- ✚ They shall have the right to adequate food, shelter, clothing, essential medical services and sanitation. Special attention should be paid to women and their special needs.
- ✚ They shall have the right to freedom of religion, the right to vote and participate in governmental and public affairs.
- ✚ They shall have the right to communicate in the language they understand.
- ✚ They shall have the right to return voluntarily, in safety and with dignity.

Capacity Building Making Rights Real

Introduction

Gaining knowledge and understanding the complex nature of rights is essential to work on promoting and safeguarding right. In addition to raising awareness and supporting those whose rights have been violated, making rights real involves creating the ideal messenger.

This Module is about creating the Ideal Messenger. It contains knowledge, information and the tools to enhance the work of persons committed to working on rights protection.

Expected results

- To identify the qualities and skills to be possessed by a successful Change Agent to make a social change
- All aspects of using information and advocating for change including documenting gender based violence, developing research plans, carrying out comprehensive research exercises, and understanding the power of well researched and documented data and information for advocacy campaigns

To provide a practical understanding of networking and referral strategies

Leadership to become a successful Change Agent

Introduction

Leadership structures differ from culture to culture. When acting as Change Agents aiming at social change, it is natural to think and act differently. However, the qualities to be possessed by Change Agents are mostly similar. The qualities and skills develop on experiences, education, training, socialization, living environment and access to power.

Objectives

- To identify the qualities and skills to be possessed by a Leader
- To identifying the qualities and potential to be possessed by a successful Change Agent to make a social change
- To know how to become a successful Change Agent

Duration

1 hour

Activity I

Identifying the qualities and skills to be possessed by a Leader

- Provide the participants with some papers and pens.
- Ask participants to draw the picture of a leader that come to their minds, emphasize the fact that the picture should demonstrate the qualities and skills of a good leader. (10 minutes)
- Having shown the portraits of a few, let the participants discuss the leadership qualities (qualities and skills) of the characters they picked.
- Write down the leadership qualities and skills that emerge on two separate flip charts. Qualities such as commitment, courage, ability to motivate followers, technical knowledge, taking decisions in a democratic manner can emerge here. They may even emerge as “male leadership qualities” and “female leadership qualities”.
- Initiate a brief discussion a leader should possess based on the facts emerged based on the slides below.

Slide

- Culture plays a significant role in creating a leader.
- Family, religious institutions, educational institutions, media, peer groups, political organizations, trade unions and other pressure groups make a significant contribution to sharpen the persons Leadership qualities through the process of socialization.
- Culture plays a more dominant role than education, personal development and experiences, in developing the leadership qualities of a person.
- However while culture can change a person, the person also can change the culture.

Slide

Qualities of a leader

- 👉 Intelligent / Sharp / critical
- 👉 Generous
- 👉 Fair / just
- 👉 Leadership qualities / skills
- 👉 Communication ability / public lectures
- 👉 Technical knowhow
- 👉 Knowledge on laws / policies
- 👉 Knowledge on the culture of the workplace / area, knowledge of language/ use
- 👉 Knowledge on the numbers of the institution with special skills.
- 👉 Ability to form formal / informal networks
- 👉 Ability to form close relations with power holders within and outside the institution.
- 👉 Knowledge and training on administration / management
- 👉 Knowledge on acquiring resources
- 👉 Knowledge on Gender
- 👉 Ability to identify needs of the group instantly / sequencing priorities
- 👉 Ability of assessment and observation

Slide

- It takes a long time for people to develop the above personal qualities.
- But skills / potentials can be developed relatively quickly.
- Ability to educate
 - Educating followers on the objectives of a task being performed or to be achieved and directing them towards that.
- Voice
 - Ability to listen to the views of the members of the group / institution and understand the things expressed or not expressed by them.
- Confidence
 - Confidence that task assigned to someone will be accomplished by him.
- Both men and women can develop these qualities.
- In the past and at present leaders have played the role of successful Change Agents.

Activity 2

Change Agent - Identifying qualities / skills leaders should possess.

- Give 5 minutes to participants to think about their institution / group / business / project on their own.
- Then give another 5 minutes for them to think about a leader who made a successful effort to effect a change in that.
- Then provide the participants with a pen and paper each and answer the following questions.
 - What is the successful change made by the Change Agent you thought about ?
 - What are the techniques used by him to effect that change ?

- What are the significant skills / qualities that you identified in him / her ?
- Discuss using the following slide.

Slide

Leader

- ✚ There are many definitions to “Leader.”
A person who has a proper understanding about himself, who can control himself and is patiently listening to others, makes a voice on others behalf, possesses a vision to achieve the common targets, encourages followers / members to achieve the set targets, lives by the words uttered, can be called leader.
- If the number of participants is very large, give the opportunity to about 10 volunteers to present their answers to the group.
- In presenting the answers, list the qualities and the techniques used by the Change Agent on a flip chart.
- Having displayed the qualities and kills on a transparent paper, discuss about the facts emerged.
- Pay special attention to a technique used by a Change Agent to make a change in the society / institution.
 - Eg. Educating others on a special issue in the society / institution and bringing that to the notice of the authorities concerned / advocating for that a convincing the members for that.
 - Assigning the responsibilities / tasks of the leader to second layer leaders, observing – nourishing them with experiences.
 - Organizing a set of people who believe that women should receive more nominations at elections and discussing that issue with relevant authorities / sending petitions.
 - Giving publicity to that through media.
 - Taking the leadership to change the culture of the workplace by holding staff meetings once a week, rewarding efficient staff members, assigning of tasks / responsibilities in a fair manner and formally observing them with a view to better formalize the administration of the institution.
- There is a possibility of presenting this type of techniques depending on the experiences of participants. Discuss by asking questions such as, as why those techniques were effective or not.
- Using the following slides present ideas about the special traits of change agents, and what they can do.

Slide

These are common traits of a Change Agent and may differ from situation to situation and person to person.

- Respecting / appreciating values
- Patient
- Intelligent
- Possessing self understanding
- Encouraging motivating
- possessing positive attitudes
- Commitment
- Having an understanding about the relevant environment, society, economic and political aspects.
- Helpful
- Being able to pass accurate judgements on matters
- Faithful
- Willing to know about rare or exciting things / make a voice on others behalf
- Flexible

Slide

A Change Agent must be able to:

- Become a leader or change Agent according to a given situation
- Analyse the inherent features / changes in the society / community properly and advocating for such changes
- Take decisions based on ethics and policies, responsive to oneself, group and the society.
- Create positive things for the society and reinforcing / emphasizing them.
- Initiate the way / steps leading to a sustainable future and implement those steps efficiently within a specific period of time.
- Tolerate complex situations and the work with firm determination in effecting changes.
- Express ideas clearly and efficiently in oral / written communication.
- Listen to others attentively and incorporate the views and beliefs of others in the activities of the groups.
- Enter into agreements to soften personal differences irrespective of cultural, social, class, national or commercial differences.
- Criticize and assess oneself, and reflect on what one said or did.
- Reflect upon achieving aims and changes that take place and gaining a thorough understanding of them.
- Engage actively in social discourse / debates.
- Act as a mediator in resolving conflicts.
- Analyse persons and powers that control the society, their imbalances of power and social systems.

- Foresee international factors / situations pertaining to one's group.
 - Present the scope of work precisely.
 - Challenge the prevailing situations (negative) at appropriately.
 - Solve problems creatively as a group in an analytical manner and find solutions to complex issues connected to various matters.
 - Organize groups, develop fronts and solidarities, networks and work collaboratively.
 - Get others to engage in group activities, motivating / encouraging members, planting commitment and vigour in them.
 - Change according to personal or social changes.
- In this short discussion point out to the participants that everybody can contribute to make a change in the society through various means. Emphasize the special traits of the change Agents in the real world as follows:

Anybody can develop leadership qualities / skills within a short period of time if he / she possesses commitment. The first thing in this directive is for the participant to change his / her attitudes positively. They can also develop some of the qualities of a change Agent they admire in themselves. If not they can effect an attitudinal change on their own by developing certain qualities / skills. Society cannot be changed overnight. Basically the change asked for by the society should be properly understood and then educate one's followers, family members and friends towards that cause before effecting the changes required. If a broader social / institutional change is sought, a number of efficient leaders should be selected and given a training to become change Agents. They can then get the assistance of various social organizations and work towards the goal with commitment and firm determination. It is essential to get the involvement of the media personnel, intellectuals, other social leaders and religious leaders in order to make the expected change.

Activity 3

Your leadership towards becoming a successful Change Agent.

- Divide the participants into groups of 5.
- Ask them to identify a positive change they want to see happen in a society / group / institution relevant to them (Eg. In the case of an office changing the situation of not assigning the duties / responsibilities equally, taking decisions by way of consultation through discussions / monthly meetings, changing the situation of administration treating the minority groups in an unequal manner.
- Instruct the participants to discuss as to how the identified situation can be changed and what they should do as Change Agents to change that situation. Give them time to discuss in groups the qualities / skill they should possess to achieve that objective.

- Let them express their views (identified facts) to the groups through a leader.
- Conclude the session by emphasizing that both men and women can become successful Change Agents and by pointing out that even though certain qualities and skills possessed by Change Agents could be the same, they vary according to situation, time and person.

Handouts

Distribute slides as handouts

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Bond, L. Sheryl (2007) Academic Leadership in Training Module on Women in Leadership and Management in Higher Education, London: Association of Commonwealth.

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Documenting Violence Against Women

Introduction

- Gender based violence is one of the most common forms of violence in the world. Gender based violence stems from interactions between men and women due to power imbalances that lead to diverse forms of violence, largely inflicted upon women by men.
- Gender based violence includes physical violence, verbal violence, emotional violence, sexual violence and economic violence.
- It happens in both the private sphere and the public sphere and studies show that gender based violence often involves acts by men against women thereby gender based violence is more commonly interpreted as violence against women. However it could also include violence that affects men, as long as it is conditioned upon or affected by men's gender roles.
- Internationally there is a growing body of research focusing on documenting gender based violence and the impact of such on women. These studies attempt to use a common methodology and definitions in order to find out prevalence, types and profiles of perpetrators and victims of gender based violence. Studies are also attempting to look at specific issues like health impact, property ownership and its relationship to gender based violence and also measure the monetary cost of gender based violence.
- Documenting gender based violence has to be done with care and commitment in order to safeguard the privacy of victims and to record accurate information.
- When documented, these facts and statistics can be used effectively and responsibly to advocate for better services for victims, for stricter laws and policies to reduce and prevent gender based violence.

Objective

- To learn about the need for documenting gender based violence

Duration

1 hour

Activity

Importance of Documenting Violence Against Women

- Provide a brief introduction on documenting gender based violence using the following slides

Slide

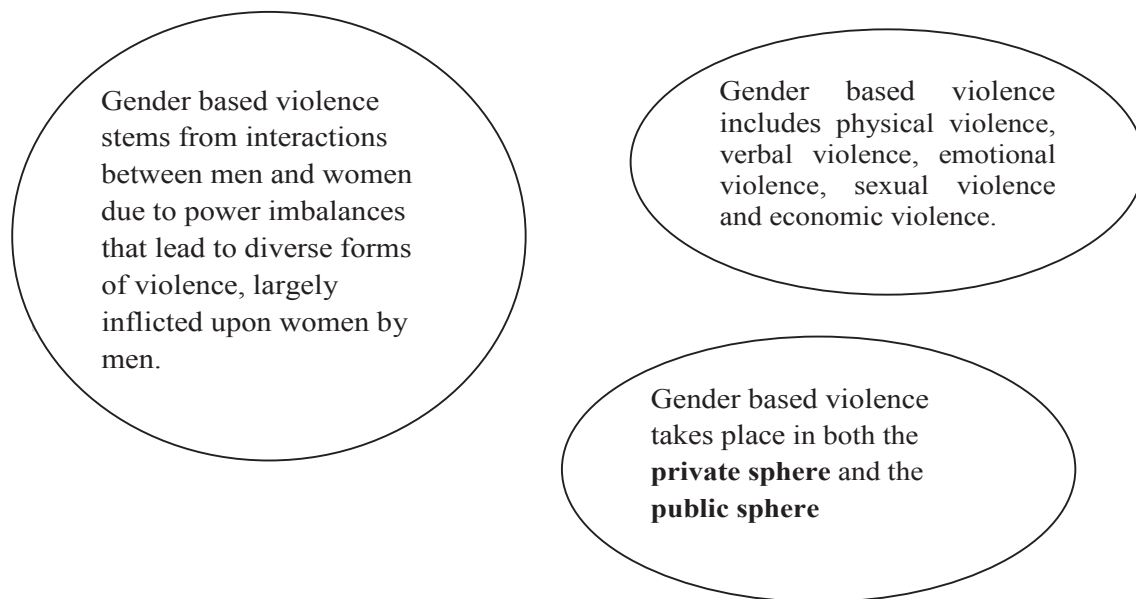
- Gender based violence is one of the most common forms of violence in the world. Gender based violence stems from interactions between men and women due to power imbalances that lead to diverse forms of violence, largely inflicted upon women by men.
- Gender based violence includes physical violence, verbal violence, emotional violence, sexual violence and economic violence.
- It happens in both the private sphere and the public sphere and studies show that gender based violence often involves acts by men against women thereby gender based violence is more commonly interpreted as violence against women. However it could also include violence that affects men, as long as it is conditioned upon or affected by men's gender roles

Slide

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 - Documenting gender based violence has to be done with care and commitment in order to safeguard the privacy of victims and to record accurate information.
 - When documented, these facts and statistics can be used effectively and responsibly to advocate for better services for victims, for stricter laws and policies to reduce and prevent gender based violence.
- Brainstorm on the type of information that can be gathered. Discuss the handouts.

Documenting Gender Based Violence

- ✦ Gender based violence is one of the most common forms of violence in the world.



- ✦ Studies show that gender based violence often involves acts by men against women thereby gender based violence is more commonly interpreted as violence against women. However it could also include violence that affects men, as long as it is conditioned upon or affected by men's gender roles.

Research on gender based violence

- ✦ Internationally there is a growing body of research focusing on documenting gender based violence and the impact of such on women. These studies attempt to use a common methodology and definitions in order to find out prevalence, types and profiles of perpetrators and victims of gender based violence. Studies are also attempting to look at specific issues like health impact, property ownership and its relationship to gender based violence and also measure the monetary cost of gender based violence.
- ✦ Documenting gender based violence has to be done with care and commitment in order to safeguard the privacy of victims and to record accurate information.
- ✦ When documented, these facts and statistics can be used effectively and responsibly to advocate for better services for victims, for stricter laws and policies to reduce and prevent gender based violence.

Handout

Guidelines for the type of information that can be gathered by documenting gender based violence

Victim details	Age Sex Ethnicity Religion Residence in terms of country, province, district Education Employment Marital status Children
Perpetrator details	Age Sex Ethnicity Religion Residence in terms of country, province, district Education Employment Marital status Children
Types of violence	Physical Sexual Verbal Emotional Economic
Places of violence	Private sphere (home) Public sphere (workplace, school, religious institutions, public transport, public spaces etc)
Causes of violence	As explained by victims (power, anger, mental illness, imbalance in gender roles etc)
Causes of violence	As explained by perpetrators(power, anger, mental illness, imbalance in gender roles etc)
Contributory factors	As explained by victims (alcoholism, poverty, suspicion, illicit affairs etc)
Contributory factors	As explained by perpetrators(alcoholism, poverty, suspicion, illicit affairs etc)
Impact of violence	Direct and Indirect (immediate / long term)
Cost of violence	Monetary and Non Monetary

Documenting Gender Based Violence - Documentation Methods and Analysis

Introduction

- In planning to document gender based violence, it is important to design and follow a comprehensive approach to the research.
- This chapter outlines the steps to be followed but is not a guide to conducting research on gender based violence.
- Based on the contents of this chapter, research on gender based violence should be conceptualized, designed and conducted in a detailed and meticulous manner.

Objective

- To provide an overview of the main aspects of documenting gender based violence as a foundation for developing research plans.
- To understanding of the essential aspects of documenting gender based violence as a foundation for developing and carrying out comprehensive research exercises.

Duration

1 hour

Activity

- Group participants into 2 groups
- First ask all Groups to read handout 1 in the groups
- Brainstorm as one group getting comments from all groups
- Follow the same process with Handout 2.

Handout

Essential steps in documenting gender based violence

Documenting gender based violence can be done using general methods and tools of research. However extensive care has to be focused on the sensitivity of the issue, protection and wellbeing of respondents as well as researchers and on the issue of privacy.

The following steps should be considered in documenting gender based violence:

At the very beginning

- Identify the research topic based on existing literature and need
- Identify the research objectives clearly
- Develop the conceptual framework for the research

- Identify a definition for gender based violence which will run through the research
- Identify the research team

Mechanism

- Choose a research design
- Decide if quantitative methods or qualitative methods or a mix of both will be used
- Decide if the research is to be a population based research or services based research
- Identify collaborations and partnerships needed to carry out the research
- Choose the research subjects which will provide a basis for sample selection

Pre implementation

- Develop the research design by identifying research methods, tools and instruments
- Develop tools and instruments like questionnaires, content analysis guides and guide questions
- Quantify the sample
- Plan out a training and capacity building plan for the research team
- Develop ethics
- Plan out access to subjects
- Develop protection and safety mechanisms for respondents and research team members including field researchers
- Develop data control measures
- Develop data entry mechanism
- Develop an Analysis Framework and identify data analysis mechanisms
- Develop a dissemination plan for findings

Implementation

- Pilot test research tools
- Pilot test analysis mechanisms
- Based on pilot test, conduct the research
- Conduct periodic data control measures

Data entry and coding and analysis

- Carry out data entry in the selected format
- Carry out analysis
- If Quantitative Data is used
 - Basic analysis can be done of data on gender based violence
 - Complex analysis can be done through interconnections between various previously identified variables and gender based violence

- Interpreting results should be done based on data
- If Qualitative Data is used
 - Follow the approach to analysis developed previously by using data coding.
 - This can be done by computer based data coding or manual data coding using fields, cards or indexing.

Findings

- Share findings with selected audiences
- Once finalized, disseminate findings according to the dissemination plan

Handout

Documentation Methods and Sources of Information

Method	Information that can be gathered
Surveys that provide information in numbers	
Surveys of Victims and Perpetrators	Victims, perpetrators, types of violence, spheres in which the violence takes place, causes of violence, factors that contribute to violence, impact of violence, how victims respond to the violence, response of police, courts, service providers, response of society (family, neighbours, community members, religious leaders)
Surveys of impact of gender based violence	Impact on the health of victims and their families Impact on occupation, employment and education Impact on economic status
Surveys of gender based violence caused by specific entities	Gender based violence caused by State officials Gender based violence caused by immediate family members Gender based violence caused by extended family members Gender based violence caused by the general public
Case studies	Case studies of victims Case studies of perpetrators Case studies of service providers
Narrative inquiry – Stories	Stories of victims
Focus group Discussions	With stakeholders like service providers, government officials including law enforcement officers, judicial officers, medical officers to ascertain views on gender based violence and its prevalence
Documenting support group activities	Documenting the work of Support Groups for victims of gender based violence and reformed perpetrators on causes, contributory factors, consequences and impact of gender based violence

Documenting Gender Based Violence - Using data and information

Introduction

- Well researched data and information are a powerful tool in advocating for gender based violence to be recognized and for mechanisms to be set in place for addressing, reducing and preventing gender based violence.
- Accurate and comprehensive data can be used in many ways for many purposes such as for acceptance of the issue, law reform, policy enactment and policy reform, to enhance service provision and to mobilize community action.
- Using researched data and information should be done according to a strategic and long term plan aimed at specific results.

Objective

- To provide an understanding of how powerful well researched and documented data and information is in advocacy campaigns to reduce and prevent gender based violence
- To identify the ways in which well researched data and information can be used in advocating to reduce and prevent gender based violence

Duration

1 hour

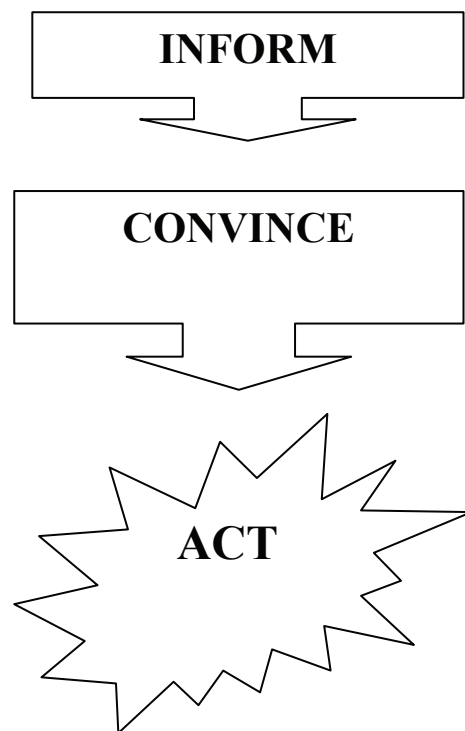
Activity

- Make a presentation using the slides provides on the power of well researched data and information.

Slides

There are many important uses for data and information on gender based violence

- For providing national statistics
- For providing sector or aspect based statistics
- For record keeping by service providers, law enforcement authorities
- To support truth and reconciliation commissions
- For advocacy
- To enhance the body of academic research



Inform – use data and information to provide accurate facts and information to provide an understanding that gender based violence takes place and is a real issue of importance. This data can serve to inform about prevalence, types, profiles of victims and perpetrators, causes and consequences, and immediate and long term impact of the issue

Convince – The data and information can be used to convince of the existence of the issue, to dispel myths that gender based violence does not happen and is not serious and to convince about the gravity of the issue as a social problem

Act – The data and information can be used to promote action at different levels

- To enact laws or reform existing laws
- To make or enhance policy to address the issue
- To provide better services in all sectors – legal, health, psychosocial, economic
- To garner community support to prevent

- Groups participants into 4 groups.
- Provide each group statistics from Sri Lanka on gender based violence (in handout).
- Ask each group to make a presentation on using the data provided –
 - Group 1 – To advocate for law reform (targeting law makers in Sri Lanka)
 - Group 2 – To advocate for better implementation of the law (targeting police and judiciary)
 - Group 3 – To advocate for better service provision for victims (targeting the Ministry of Women’s Affairs in Sri Lanka)
 - Group 4 - To advocate for prevention at community level (targeting community leaders)
- Groups make presentation and other groups comment on how effective the campaign is.

Handout

Facts on Domestic Violence in Sri Lanka

Data from the National Report on Violence and Health, Sri Lanka 2008 published by the World Health Organisation (WHO)

Year	Fact	Details	Source
2004	40.7% of women had been abused by their partners The abuse was physical, emotional, and sexual, and most women reacted in a submissive manner	A survey at the Outpatient Department of the Teaching Hospital in Ragama in a semiurban area in the suburbs of Colombo	Kuruppuarachchi KALA, Wijeratne LT. From a presentation made at the annual sessions of the Sri Lanka College of Psychiatrists.

2002	36% had been beaten but had no external injuries 11% had been beaten resulting in injuries	a study of women attending antenatal and gynecological clinics of a hospital in Anuradhapura	Addressing Violence against Women. Piloting the programme guide in Sri Lanka. UNFPA, Sarvodaya and Ministry of Health Project. UNFPA. 2002.
2002	18.3% women faced domestic violence Perpetrators of abuse were 59% was husbands , 17% mothers-in-law, 9% sisters-in-law, 4% fathers , 4% brothers, 7% others (uncles, cousins and distant relatives)	A study of physical abuse in a cohort of pregnant women in the Badulla district. A sample of 1200 pregnant women aged 15 to 49 years	<i>Moonesinghe et al. Development of a Screening Instrument to Detect Physical Abuse and its use in a Cohort of Pregnant Women In Sri Lanka. Asia Pac J Public Health 2004;16 (2);138-144</i>
2001	Prevalence of wife beating : 30%	A study to determine the prevalence and to identify sociodemographic factors associated with wife beating in Kantale, Trincomalee. Sample of 417 women in the age category 18-49 years.	<i>Subramaniam et al. The Prevalence and Pattern of Wife Beating in the Trincomalee District in Eastern Sri Lanka. Southeast Asian J Trop Med Public Health Vol. 32 No. 1 March 2001</i>
1999	27% of the acts of violence reported in the media was domestic violence	press reports of violence against women in 1998, out of a total of 1096 incidents reported	Breakdown of incidents of violence in print media. Women's Rights Watch Year Report 1998. Women and Media Collective, Colombo. 1999.
1992	60% women face domestic violence by husband 98% of them had been beaten more than once		Deraniyagala S. Domestic Violence. Women in Need, Colombo, Sri Lanka. 1992.

1992	27% of physical violence 9% of experiencing severe battering	A study done by a general practitioner among 800 clients	Ananda Perera. Presentation made at a seminar on gender-based violence and as quoted in Sri Lanka Report on Domestic Violence. Centre for Women's Research (CENWOR), Colombo, Sri Lanka. 2001.
1991	32% women face domestic violence by husband	Data from observations on the incidence of domestic violence in four locations in Sri Lanka	Gameela Samarasinghe. Report on some observations on the incidence of domestic violence in four locations in Sri Lanka and the attitudes of women towards violence. Women In Need, Colombo, Sri Lanka. 1991.
1991	54% in Colombo faced domestic violence 71% in Halmillawa faced domestic violence 60% in Nochchiya faced domestic violence 72% in Pitakanda faced domestic violence	A study of 515 households	Gameela Samarasinghe. Report on some observations on the incidence of domestic violence in four locations in Sri Lanka and the attitudes of women towards violence. Women In Need, Colombo, Sri Lanka. 1991.
1990	27% women face domestic violence by husband	Data collected from general medical practice	Perera A. Battered wife syndrome, perspectives from general practice. Paper presented to the Academic Sessions of the Sri Lanka Medical Association, Colombo. 1990.

Why women stay in abusive relationships			
1982	60% to 80% of women remained with their abusive husbands or partners.		Saravanapavananthan N. Wife battering: A study of sixty cases. <i>Forensic Science International</i> , No. 20, pp. 163-166. 1982.
1992	38% of the women who experienced violence left home, but returned and continued to experience violence, as they did not consider leaving as a permanent solution.		Deraniyagala S. Domestic Violence. Women in Need, Colombo, Sri Lanka. 1992.
2004	79% of abused women had stayed in their marriages for more than 10 years due to <ul style="list-style-type: none"> • lack of means to leave their husbands and live independently • because society looks down upon such women. 	From a presentation made at the annual sessions of the Sri Lanka College of Psychiatrists	Kuruppuarachchi KALA, Wijeratne LT.
1990	An overwhelming majority opt to stay in an abusive relationship because of children	A study done by a general practitioner among 800 clients	Perera A. Battered wife syndrome, perspectives from general practice. Paper presented to the Academic Sessions of the Sri Lanka Medical Association, Colombo. 1990.
1996	Women do not leave abusive marriages because of the children		Mathew T. Work placement reports on domestic violence. Thesis submitted in partial requirement for MSc in Applied Psychology, University of Colombo, Sri Lanka. 1996.

Reasons for violence			
2002	Husbands suspect their wives of extramarital relationships		Moonesinghe LN. The prevalence and correlates of physical abuse within marriage in a cohort of pregnant women in the Badulla District, Thesis submitted for the Degree of Doctor of Medicine in Community Medicine to the Post Graduate Institute of Medicine, University of Colombo, Sri Lanka. 2002.
1997	Cultural conditioning and socialization processes		Wijayatilake K, Kottegoda S, Liyanage K, Wickremasinghe M, Samarasinghe G. Violence against women: Voices of victims and activists, Study Series, No.12. Centre for Women's Research (CENWOR), Colombo, Sri Lanka. 1997.
1982	Illiteracy Unemployment and the consequent dependency on their husbands for existence		Saravanapavananthan N. Wife battering: A study of sixty cases. <i>Forensic Science International</i> , No. 20, pp. 163-166. 1982.
	economic considerations carry more weight than the emotional ones. Most women regardless of their level of education and their employment status stayed in an abusive relationship because of the welfare of their children	A study in Eastern Sri Lanka	Nirthanan P. The extent and some factors associated with wife beating in the M.O.H. area Kantale. Dissertation submitted as a requirement for the degree of Master of Science (Community Medicine) to the Post Graduate Institute of Medicine, University of Colombo, Sri Lanka. 1999.

Reporting violence			
2004	80% of incidents of violence against women were not reported to authorities.	A study done in 12 sites across Sri Lanka in 2004	Kamalini Wijetilake. Study on sexual and gender based violence in selected locations in Sri Lanka. Centre for Women's Research (CENWOR), Colombo, Sri Lanka and UNHCR. 2004.

Networking and referral strategies

Introduction

- Networking is a powerful tool where collective and collaborative strength helps in addressing gender based violence.
- Referrals are an important aspect of addressing incidents of gender based violence and are essential to provide comprehensive support to those seeking help and for maximizing resources and minimizing duplication of resources and efforts

Objective

- To provide a practical understanding of networking and referral strategies
- To understand the importance of networking and referral strategies and to gather data and information on such in Sri Lanka

Duration

1 hour

Activity

“What networking means to me”

- Pair participants and give each pair 3 flashcards. Ask each pair to come up with a description of what networking means to them, and one advantage and one disadvantage of networking.
- Use 3 flipcharts titled ‘networking’, ‘advantages of networking’ and ‘disadvantages of networking’. Place the descriptions and points written by participants on flipcharts.
- Discuss what participants wrote on the flipcharts.
- Make a presentation using the following slides

Slides

What is networking?

Networking is the exchange of information or services among individuals, groups, or institutions thereby creating a supportive system of sharing information and services among individuals and groups having a common interest.

What are the benefits of networking?

- Networking to address gender based violence provides a powerful mechanism for addressing a complex issue like gender based violence.
- Many networks exist around the world that bring together people, groups of people, organizations and institutions to provide support and work towards reducing gender based violence.

In practice, Networking -

- Provides a supportive forum for victims of violence
- Provides a supportive forum for perpetrators seeking to stop causing violence
- Provides a platform for common and collaborative action by bringing together diverse people/groups with different expertise and capacity working towards a common goal of eradicating gender based violence.

Some actions that a network can carry out are:

- Specific service provision (avoiding duplication and maximizing resources)
- Awareness raising (to reduce and prevent gender based violence, to draw attention to the issue using landmark events such as the 16 Days of Activism)
- Training (to reduce and prevent gender based violence by pooling expertise and resources)
- Lobbying and Advocacy (with the strength of a group)

Referrals

To refer is to send or direct (someone) *to* someone or something (for aid, information, etc).

A referral is done when the person or institution providing certain services (as in to address gender based violence) is not equipped to provide a service that is needed and must seek services of other institutions to serve the person in need.

Referrals have to be done with care and commitment to ensure that the person seeking help received the service he/she is looking for which addresses the situation beneficially.

Point to note in providing referral suggestions

- 👉 Recognize the limitations of your own services and strategies to address gender based violence and recognize the need to refer to other organizations for effective services
- 👉 When making a list of possible places for referral, make contact with officers in charge of every referral point and establish a working relationships with such officer

- 👉 When a complainant makes a complaint that needs referring to another place:
 - ✓ Ensure that you document the complaint and the referral suggestions provided to the complainant
 - ✓ Contact responsible officers in the places where referrals are made and inform such officer of the incident
 - ✓ Follow up with the complainant as well as the place to which the complainant was referred
 - ✓ Document such follow up action
- 👉 Referrals are important when responding to incidents of gender based violence. As an officer of the Human Rights Commission, you may not be able to provide the necessary assistance and services to those who are facing violence. But it is important to provide some assistance to anyone seeking your help. In this situation the best approach is to familiarize yourself with where you can refer people to.

The types of places where referrals can be made are:

For immediate protection refer to

- 👉 A Police Station (Police Women and Children's Desk or general complaints division)
- 👉 A Hospital (Accident Service)
- * *as the need may be*

If the situation does not need emergency assistance refer the person to the following:

- 👉 Service providers that provide legal aid
 - ✓ Any branch of the Legal Aid Commission
 - ✓ NGO service providers (see list provided)
- 👉 For out of court settlements
 - ✓ Counsellor at the Divisional Secretariat
 - ✓ The Community Mediation Board in the person's area of residence
- 👉 Service providers that provide psychosocial support
 - ✓ Counsellor at the Divisional Secretariat
 - ✓ Gender Complaints Centre for the National Committee on Women, Ministry of Women's Affairs and Child Development
 - ✓ NGOs

Annexes

1. Human Rights Commission Act
2. Prevention of Domestic Violence Act
3. Women's Charter
4. CEDAW Convention
5. Security Council Resolution 1325

Human Rights Commission of Sri Lanka Act No. 21 of 1996

Date of entry into force: 21 August 1996

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION OF SRI LANKA; TO SET OUT THE POWERS AND FUNCTIONS OF SUCH COMMISSION; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Short title and date of operation.

1. This Act may be cited as the Human Rights Commission of Sri Lanka Act, No. 21 of 1996 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the "appointed date")

PART I

ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION OF SRI LANKA

Establishment of Human Rights Commission of Sri Lanka.

2.

(1) There shall be established a Commission which shall be called and known as the Human Rights Commission of Sri Lanka (hereinafter in this Act referred to as "the Commission").

(2) The Commission shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The seal of the Commission shall be in the custody of the Secretary to the Commission and may be altered in such manner as may be determined by the Commission,

Constitution of the Commission and term of office

3.

(1)The Commission shall consist of five members, chosen from among persons having knowledge of, or practical experience in, matters relating to human rights.

(2)The members of the Commission shall be appointed by the President, on the recommendation of the Constitutional Council:

Provided however, that during the period commencing on the appointed date and ending on the date when the Constitutional Council is established, members of the Commission shall be appointed by the President on the recommendation of the Prime Minister in consultation with the Speaker and the Leader of the Opposition.

(3)In making recommendations, under subsection (2), the Constitutional Council and the Prime Minister shall have regard to the necessity of the minorities being represented of the Commission.

(4)One of the members so appointed shall be nominated by the President to be the Chairman of the Commission.

(5)Every member of the Commission shall hold office for a period of three years.

(6)The office of a member shall become vacant-

(a)upon the death of such member;

(b)upon such member resigning such office by writing addressed to the President;

(c)upon such member being removed from office on any ground specified in section 4;or

(d)on the expiration of his term of office.

Grounds for removal of members

4.

(1) A member of the commission may be removed from office-

(a) by the President, if he-

(i) is adjudged an insolvent by a court of competent jurisdiction;

(ii) engages in any paid employment outside the duties of his office, which in the opinion of the President, formed on the recommendation of the Prime Minister in consultation with the Speaker and the Leader of the Opposition, conflicts with his duties as a member of the Commission;

(iii) is unfit to continue in office by reason of infirmity of mind or body'

(iv) is declared to be of unsound mind by a court of competent jurisdiction;

(v) is convicted of an offence involving moral turpitude; or

(vi) absents himself from three consecutive meetings without obtaining leave of the Commission;
or

(b) by an order of the President made after an address of Parliament, supported by a majority of the total number of members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehavior or incapacity:

Provided however that no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of Parliament, unless notice of such resolution is signed by not less than one-third of the total number of members of Parliament and sets out full particulars of the alleged misbehavior or incapacity.

(2) The procedure for the presentation and passing on an address of Parliament for the removal of in Judge of the Supreme Court or the Court of Appeal, shall apply in all respects to the presentation and passing of an address of Parliament for the removal of a member of the Commission.

Eligibility for reappointment

5. Any member who vacates his office, otherwise than by removal under section 4, shall be eligible for re-appointment.

Resignation &c.

6.

(1) The Chairman may resign from the office of Chairman by letter addressed to the President.

(2) Subject to the provisions of subsection (1), the term of office of the Chairman shall be his period of membership of the commission.

(3) If the Chairman of the Commission becomes by reason of illness or other infirmity, or absence from Sri Lanka temporarily unable to perform the duties of his office, the President may appoint any other member of the Commission to act in his place.

Act or proceedings of the Commission deemed not to be invalid by reason of any vacancy.

7. No act or proceeding of the Commission shall be deemed to be invalid by reason only of the existence of any vacancy among its members, or defect in the appointment of any member thereof.

Remuneration of members vacancy &c.

8. The salaries of the members of the Commission shall be determined by Parliament and shall be charged on the Consolidated Fund and shall not be diminished during their terms of office.

Meetings of the Commission.

9.

(1) The Chairman of the Commission shall be its Chief Executive officer and shall preside at all meetings of the Commission. In the event of his absence from any meeting, the members of the Commission present at such meeting shall elect one from amongst themselves to preside at such meeting.

(2) The Chairman of any meeting of the Commission shall, in addition to his own vote, have a casting vote.

(3) Subject to the other provisions of this Act, the Commission may regulate the procedure in regard to the conduct of meetings of the Commission, and the transaction of business at such meetings.

Functions of the Commission.

10.The functions of the Commission shall be-

- (a)to inquire into, and investigate, complaints regarding procedures, with a view to ensuring compliance with the provisions of the Constitution relating to fundamental rights and to promoting respect for and observance of, fundamental rights;
- (b)to inquire into and investigate complaints regarding infringements or imminent infringements of fundamental rights, and to provide for resolution thereof by conciliation and mediation in accordance with the provisions hereinafter provided;
- (c)to advise and assist the government in formulating legislation and administrative directives and procedures, in furtherance of, the promotion and protection of fundamental rights;
- (d)to make recommendations to the Government regarding measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards;
- (e)to make recommendations to the Government on the need to subscribe or accede to treaties and other international instruments in the field of human rights; and
- (f)to promote awareness of, and provide education in relation to, human rights.

Powers of the Commission.

11For the purpose of discharging its functions the Commission may exercise any or all of the following powers:-

- (a)investigate any infringement or imminent infringement of fundamental rights in accordance with the succeeding provisions of this Act;
- (b)appoint such number of sub-committees at Provincial level, as it considers necessary to exercise such powers of the Commission as may be delegated to them, by the Commission, under this Act;
- (c)intervene in any proceedings relating to the infringement or imminent infringement of fundamental rights, pending before any court, with the permission of such court;
- (d)monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention;

(e)take such steps as it may be directed to take by the Supreme Court, in respect of any matter referred to it by the Supreme Court;

(f)undertake research into, and promote awareness of, human rights, by conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;

(g)award in its absolute discretion to an aggrieved person or a person acting on behalf of an aggrieved person, such sum of money as is sufficient to meet the expenses that may have been reasonably incurred by him in making a complaint to the Commission under section 14.

(h)do all such other things as are necessary or conducive to the discharge of its functions.

PART II POWERS OF INVESTIGATION OF THE COMMISSION

Reference by Supreme Court.

12.

(1)The Supreme Court may refer any matter arising in the course of a hearing of an application made to the Supreme Court under Article 126 of the Constitution to the Commission for inquiry and report.

(2)The Commission shall inquire and report to the Supreme Court on the matters referred to it under subsection (1), within the period, if any, specified in such reference.

Computation of time for purpose of Article 126 of the Constitution.

13.

(1)Where a complaint is made by an aggrieved party in terms of section 14, to the Commission, within one month of the alleged infringement or imminent infringement of a fundamental right by executive or administrative action, the period within which the inquiry into such complaint is pending before the Commission, shall not be taken into account in computing the period of one month with in which an application may be made to the Supreme Court by such person in terms of Article 126 (2) of the Constitution.

(2)Where the Supreme Court makes a reference in terms of section 12 (1) to the commission for inquiry or report, the period commencing from the date of such reference and ending on the date of the report of the Commission, shall not be taken into account in computing the period of two months referred to in Article 126(5) of the Constitution.

Commission may investigate on own motion or on complaint.

14. The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, investigate an allegation of the infringement or imminent infringement of a fundamental right of such person or group of persons caused-

(a) by executive or administrative action; or

(b) as a result of an act which constitutes an offence under the Prevention of terrorism Act. No 48 of 1979, committed by any person

Procedure where infringement is not disclosed or is disclosed

15.

(1) Where an investigation conducted by the Commission under section 14 does not disclose the infringement or imminent infringement of a fundamental right by executive or administrative action or by any person referred to in paragraph (b) of section 14, the Commission shall, record that fact, and shall accordingly inform the person making the complaint within thirty days.

(2) Where an investigation conducted by the commission under section 14 discloses the infringement or imminent infringement of a fundamental right by executive or administrative action, or by any person referred to in paragraph (b) of section 14, the Commission shall have the power to refer the matter, where appropriate, for conciliation or mediation.

(3) Where an investigation conducted by the Commission under section 14 discloses the infringement or imminent infringement of a fundamental right by executive or administrative action, or by any person referred to in paragraph (b) of section 14, the Commission may where it appears to the Commission that it is not appropriate to refer such matter for conciliation or mediation, or where it appears to the Commission that is appropriate to refer the matter for conciliation or mediation, but all or any of the parties object or objects to conciliation or mediation, or where the attempt at conciliation or mediation is not successful-

(a) recommend to the appropriate authorities, that prosecution or other proceedings be instituted against the person or persons infringing such fundamental right;

(b)refer the matter to any court having jurisdiction to hear and determine such matter in accordance with such rules of court as may be prescribed therefor, and within such time as is provided for invoking the jurisdiction of such court, by any person;

(c)make such recommendations as it may think fit to the appropriate authority or person or persons concerned, with a view to preventing or remedying such infringement, or the continuation of such infringement.

(4)Without prejudice to the Generality of the recommendations that may be made under paragraph (c) of subsection (3). The Commission may-

(a)recommend that the act or omission giving rise to the infringement or imminent infringement of a fundamental right be reconsidered or rectified;

(b)recommend that the decision giving rise to the infringement or imminent infringement of a fundamental right be reconsidered or rectified;

(c)recommend that the practice on which the decision, recommendation, act or omission giving rise to the infringement or imminent infringement of a fundamental right was based, be altered; and

(d)recommend that reasons be given for the decision, recommendation, act or omission giving rise to the infringement or imminent infringement of a fundamental right.

(5)No recommendation shall be made by the Commission under the preceding provisions of this section in respect of the infringement or imminent infringement of a fundamental right except after affording an opportunity of being heard to the person alleged to be about to infringe or to have infringed such fundamental right,

(6)A copy of a recommendation made by the Commission under the preceding provisions of this section in respect of the infringement or imminent infringement of a fundamental right shall be sent by the Commission to the person aggrieved, the head of the institution concerned, and the Minister to whom the institution concerned has been assigned.

(7)The Commission shall require any authority or person or persons to whom a recommendation under the preceding provisions of this section is addressed to report to the Commission, within such period as may be specified in such recommendation, the action which such authority or person has taken, or proposes to take, to give effect to such recommendation and it shall be the duty of every such person to report to the Commission accordingly.

(8)Where any authority or person or persons to whom a recommendation under the preceding provisions of this section is addressed, fails to report to the Commission within the period specified in such recommendation or where such person reports to the Commission and the action taken, or proposed to by him to give effect to the recommendations of the Commission, is in the view of the Commission, inadequate, the Commission shall make a full report of the facts to the President who shall, cause a copy of such report to be placed before Parliament.

Procedure for conciliation or mediation.

16.

(1)Where the Commission refers a matter for conciliation or mediation under section 15 it shall appoint one or more persons to conciliate or mediate between to parties.

(2)The manner of appointment and the powers and functions conciliators or mediators shall be as prescribed.

(3)The Commission may direct the parties to appear before the conciliators for the purpose of conciliation or mediation. Sittings of the conciliators or mediators may be held in camera.

(4)In the event of conciliation or mediation not being successful, or where one party objects to conciliation or mediation, the conciliator or mediator shall report to the Commission accordingly.

(5)Where the conciliators or mediators are successful in resolving the matter by conciliation or mediation they shall inform the Commission of the settlement arrived at.

(6)Where a matter is referred to for conciliation or mediation under this section and a settlement is arrived at, the Commission shall make such directions (including directions as to the payment of compensation) as may be necessary to give effect to such settlement.

Reference to the Supreme Court

17.Where in the course of an inquiry or investigation conducted by the Commission a question arises as to the scope or ambit of a fundamental right, the Commission may refer such question to the Supreme Court under Article 125 of the Constitution, for the determination of the Supreme Court.

Power relating inquiring

18.

(1)The Commission shall, for the purposes of an inquiry or investigations under this Act, have the power-

(a)to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission may think it necessary or desirable to procure or examine;

(b)to require the evidence (whether written or oral) of any witness, to be given on oath or affirmation, such oath or affirmation to be that which could be required of witness if he were giving evidence in a court of law, and to administer and cause to be administered by an officer authorised in that behalf by the Commission an oath or affirmation to every such witness;

(c)to summon any person residing in Sri Lanka, to attend any meeting of the Commission to give evidence or produce any document or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

(d)to admit notwithstanding any of the provisions of the Evidence Ordinance, any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;

(e)to admit or exclude the public from such inquiry or investigation or any part thereof.

Evidence before the Commission.

19.

(1)A person who gives evidence before the Commission shall in respect of such evidence, be entitle to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

(2)No person shall in respect of any evidence written or oral, given by that person to, the Commission, be any action, prosecution or other proceeding, civil or criminal in any court.

(3)Subject as hereinafter provided, no evidence of any statement made or given by any person to, or before, the Commission, shall e admissible against that person in any action, prosecution or other proceeding, civil or criminal in any court:

Provided that, nothing in the preceding provisions of this subsection shall-

(a)affect, or be deemed or construed to affect, any prosecution or penalty for any offence under Chapter XI of the Penal Code read with section 23 of this Act;

(b)prohibit, or be deemed or construed to prohibit the publication or disclosure of the name, or of the evidence or any part of the evidence of any witness who gives evidence before the Commission for the purposes of the prosecution of that witness for any offence under Chapter XI of the Penal Code.

Service of summons.

20.

(1)Every summons shall be under the hand of the Chairman of the Commission.

(2)Any summons may be served by delivering it to the person named therein or where that is not practicable, by leaving it at the last known place of abode of that person, or by registered post.

(3)Every person to whom a summons is served shall attend before the commission at the time and place mentioned therein, and shall answer the questions put to him by the Commission or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons.

Punishment for contempt

21.

(1)Every offence of contempt committed against, or in disrespect of, the authority of the Commission shall be punishable by the Supreme Court as though it were an offence of contempt committed against, or in disrespect of, the authority of that Court, and the Supreme Court is hereby vested with jurisdiction to try every such offence.

(2)An act done or omitted to be done in relation to the Commission, whether in the presence of the Commission or otherwise, shall constitute an offence of contempt against, or in disrespect of, the authority of the Commission, if such act would, if done or omitted to be done in relation to the Supreme Court, have constituted an offence of contempt against, or in disrespect of, the authority of such Court.

(3)If any person-

(a)fails without cause, which in the opinion of the Commission is reasonable, to appear before the Commission at the time and place mentioned in the summons served under this Act; or

such person shall be guilty of the offence of contempt against, or in disrespect of, the authority of the Commission.

(4)Where the Commission determines that a person is guilty of an offence of contempt under subsection (2) or subsection (3), against, or in disrespect of its authority the commission may transmit to the Supreme Court, a Certificate setting out such determination; every such Certificate shall be signed by the Chairman of the Commission.

(5)In any proceedings for the punishment of and offence of contempt which the Supreme Court may think fit to take cognizance of, as provided in this section, any document purporting to be a Certificate signed and transmitted to the Court under subsection(4) shall-

(a)be received in evidence, and be deemed to be such a certificate without further proof, unless the contrary is proved, and

(b)be evidence that the determination set out in the certificate was mad by the Commission and of the facts stated in the determination.

(6)in any proceeding taken as provided in this section for the punishment of any alleged offence of contempt against, or in disrespect of, the authority of the Commission, no member of the Commission shall, except with his own consent, and notwithstanding anything to the contrary in this Act, be summoned or examined as a witness.

PART III STAFF OF THE COMMISSION

Appointment of the staff of the Commission

22.

(1)There shall be appointed a Secretary to the Commission.

(2)There may be appointed such officers and servants as may be necessary to assist the Commission in the discharge of its functions under this Act.

Members of the Commission deemed to the public servants

23.The members of the Commission and the officers and servants appointed to assist the Commission shall be deemed to be public servants within the meaning of the Penal Code and every inquiry or investigation conducted under this Act shall be deemed to be a judicial proceeding within the meaning of that Code.

Delegation of powers.

24. The Commission may delegate to any officer appointed to assist the Commission any of its powers, and the person to whom such powers are so delegated may exercise those powers subject to the direction of the Commission.

Appointment of public officers to the staff of the Commission

25.

(1) At the request of the Commission, any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission, for such period as may be determined by the Commission, with like consent, or with like consent be permanently appointed to such staff.

(2) Where any officer in the Public service is temporarily appointed to the staff of the Commission, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, mutatis mutandis, apply to, and in relation to, such officer.

(3) Where any officer in the public service is permanently appointed to the staff of the Commission, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, mutatis mutandis, apply to, and in relation to, such officer.

(4) Where the Commission employs a person who has agreed to serve to the Government for a specified period, any period of service to the commission, shall be regarded as service to the Government for the purpose of discharging the obligations of that person under such agreement.

Protection of action.

26.

(1) No proceedings civil or criminal, shall be instituted against any member of the Commission or any officer or servant appointed to assist the Commission, other than for contempt, or against any other person assisting the Commission in any other way, for any act which in good faith is done or omitted to be done, by him, as such member or officer or servant or servant or other person.

(2)A member of the Commission or an officer or servant appointed to assist the Commission shall not be required to produce in any court, an document received by, or to disclose to any court, any matter or thing coming to the notice of, the commission in the course of any inquiry or investigation conducted by the Commission under this Act, except as may be necessary for the purposes of proceeding of contempt or for an offence under this Act.

(3)No proceedings civil or civil or criminal, shall be instituted in any court against any member of the Commission in respect of any report made by the Commission under this Act or against any other person in respect of the publication by such person of a substantially true account of such report.

(4)Any expenses incurred by the Commission in any suit or prosecution brought by, or against, the Commission before any court, shall be paid out of the funds of the Commission and any costs paid to, or recovered by, the Commission in any such suit or prosecution, shall be credited to the fund of the Commission.

(5)Any expense incurred by any member of the Commission or any officer or servant thereof or any person appointed to assist the Commission, in any suit or prosecution brought against him in any court in respect of any act which is done, or purported to be done, by him under this Act or on the direction of the Commission shall, if the court holds that the act was done in good faith, be paid out of the funds of the Commission, unless such expense is recovered by him in such suit or prosecution.

Commission deemed to be a scheduled institution within the meaning of the Bribery Act.

27.The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

PART IV GENERAL

Duty to inform Commission of arrest &c, and power of Commission to inspect to obtain information.

28.

(1)Where a person is arrested or detained under the Prevention of Terrorism (Temporary Provision) Act, NO. 48 of 1979 or a regulation made under the Public Security ordinance, (Chapter 40) it shall be the duty of the person making such arrest or order of detention, as the case may be, to forthwith and in any case, not later than forty-eight hours from the time of such arrest or detention, inform the Commission of such arrest or detention as the case may be and the place at which the person so arrested or detained is being held in custody or detention.

Where a person so held in custody or detention is released or transferred to another place of detention, it shall be the duty of the person making the order for such release or transfer, as the case may be, to inform the Commission of such release or transfer, as the case may be, and in the case of a transfer, to inform the Commission of the location of the new place of detention.

(2) Any person authorised by the Commission in writing may enter at any place of detention, police station, prison or any other place in which any person is detained by a judicial order or otherwise, and make such examinations therein or make such inquiries from any person found therein, as may be necessary to ascertain the conditions of detention of the persons detained therein.

(3) Any person on whom a duty is imposed by subsection (1), and who wilfully omits to inform the Commission as required by subsection (1), or who resists or obstructs an officer authorised under subsection (1) in the exercise by that officer of the powers conferred on him by that subsection, shall be guilty of an offence and shall on conviction after summary trial by a Magistrate, be liable to imprisonment for a period not exceeding one year or to a fine not exceeding five thousand rupees, or the both such fine and imprisonment.

Funds of the Commission.

29

(1) The State shall provide the Commission with adequate funds to enable the Commission to discharge the functions assigned to it by this Act.

(2) The commission shall cause proper accounts to be kept of its income and expenditure, and assets and liabilities.

(3) The financial year of the commission shall be the calendar year.

(4) Article 154 of the Constitution shall apply to the audit and accounts of the Commission.

Commission to report.

30. The Commission shall submit an annual report to Parliament of all its activities during the year to which the report relates. Such report shall contain a list of all matters referred to it, and the action taken in respect of them along with the recommendations of the Commission in respect of each matter. The Commission may, whenever it considers it necessary to do so, submit periodic or special reports to Parliament in respect of any particular matter or matters referred to it, and the action taken in respect thereof.

Regulations.

31.

(1)The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, or in respect of any matter which is required by this Act to be prescribed, or in respect of which regulations are required to be made.

(2)Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations prescribing the procedure to be followed in the conduct of investigations under this Act.

(3)Every regulation made by the Minister shall be published in the Gazette, and shall come into operation on the date of such publication, or on such later date as may be specified in the regulation.

(4)Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval., Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(5)Notification of the date of which any regulation is so deemed to be rescinded shall be published in the Gazette.

Sinhala text to prevail in case of inconsistencies.

32.In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Interpretation.

33.In this Act, unless the context otherwise requires-"fundamental right" means a fundamental right declared and recognised by the Constitution; "head of the institution" in relation to-

(a)a public officer serving in a Government department, means the head of that department, or where such public officer is the head of that department means the Secretary to the Ministry to which that department has been assigned;

(b)a public officer who is serving in a Ministry means the Secretary to the Ministry, or where such public officer is the Secretary means the Minister in charge of that Ministry;

(c)a scheduled public officer, means the Judicial Service Commission, appointed under Article 112 of the Constitution;

(d)any other public officer, means the principal executive officer, means the principal executive officer under whose general direction and control that public officer is serving;

(e)an officer of a public corporation, local authority or other like institution, means the principal executive officer of that public corporation, local authority or other like institution, or where such officer is the principal executive officer of that public corporation, local authority or institution, means the Secretary to the Ministry under which such public corporation, local authority or institution functions;

"human right" means a right declared and recognised by the International Covenant on Civil and Political Rights and the international Covenant Economic Social and Cultural Rights;

"institution" includes a Government department, public corporation, statutory board or commission, local authority, Government owned business undertaking and a company, the majority of shares of which are held by the Government;

"local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any authority created or established by or under any law, to exercise, perform and discharge powers, duties and functions corresponding or similar to, the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;

"public corporation" means any corporation, board or other body which was, or is established by or under any written law other than that Companies. Act, No. 17 of 1982, with funds or capital wholly or partly provided by the Government, by way of grant, loan or otherwise.

Prevention of Domestic Violence Act



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**PREVENTION OF DOMESTIC VIOLENCE
ACT, No.34 OF 2005**

Printed on the Order of Government

[Certified on 3rd October, 2005]

Published as a Supplement to Part 11 of the *Gazette of the Democratic
Socialist Republic of Sri Lanka* of October 07, 2005

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 1

Price: Rs. 12.25

Postage: Rs. 7.50

AN ACT TO PROVIDE FOR THE PREVENTION OF ANY ACT OF DOMESTIC VIOLENCE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL

THERE TO

BE it enacted by the Parliament of the Democratic Socialist Short title. Republic of Sri Lanka as follows:-

Short title

1. This Act may be cited as the Prevention of Domestic An aggrieved Violence Act, No. 34 of 2005.

An aggrieved person to make an application.

2. (1) A person, in respect of whom an act of domestic violence has been, is, or is likely to be, committed (hereinafter referred to as “an aggrieved person”) may make an application to the Magistrate’s Court for a Protection Order, for the prevention of such act of domestic violence.

(2) An application under subsection (1) may be made—

(a) by an aggrieved person;

(b) where the aggrieved person is a child, on behalf of such child by —

(i) a parent or guardian of the child;

(ii) a person with whom the child resides;

(iii) a person authorized in writing by the National Child Protection Authority established under the National Child Protection Authority Act, No. 50 of 1998; or

(c) by a police officer on behalf of an aggrieved person.

(3) An application under subsection (1) shall be made in duplicate and shall be substantially in the form set out in Schedule II hereto and shall be made to the Magistrate’s Court within whose jurisdiction the aggrieved person or the relevant person temporarily or permanently resides, or the act of domestic violence has been or is likely to be committed.

(4) Affidavits of any person who has knowledge of the aforesaid acts of domestic violence may be attached affidavits to the application, in support thereof.

Considering the application.

3. Upon an application being made in accordance with the provisions of this Act, the Court shall forthwith consider the application.

Procedure for the issue or refusal of an Interim Protection Order.

4. (1) Upon the consideration of the application and the affidavits, if any, the court shall -

(a) where it is satisfied that it is necessary to issue an Interim Protection Order (hereinafter referred to as an "Interim Order"), until the conclusion of the inquiry into the application, forthwith issue an Interim Order having regard to the provisions of subsection (2), and shall also make an Order for the holding of an inquiry in respect of such application on a date not later than fourteen days from the date of the application; or

(b) where it is satisfied that it is not necessary to issue an Interim Order in the circumstances, make an Order for the holding of an inquiry in respect of such application, on a date not later than fourteen days from the date of the application:

Provided however, that the court may, where it considers it necessary, examine on oath prior to the issue of such Interim Order, any person referred to in subsection (2) of section 2 or any other material witness, as the case may be.

(2) In determining the issue of an Interim Order the court shall take into consideration the urgent need to prevent the commission of any act of domestic violence, and the need to ensure the safety of the aggrieved person.

(3) Upon the issuing of an Order under paragraph (a) or paragraph (b) of subsection (1), as the case may be, the court shall cause Notice to be issued on the respondent, to show cause on the date specified therein, why a Protection Order should not be issued against him.

(4) An Interim Order made under paragraph (a) of subsection (1), together with the Order made under paragraph (a) or paragraph (b) of subsection (1) as the case may be, shall be served on the respondent along with the Notice issued under subsection (3). Where service of such documents cannot, by the exercise of due diligence be effected by the fiscal or other authorized officer, such documents shall be deemed to be served on such respondent if it is posted in a conspicuous place at his usual place of residence.

Interim Order.

5. (1) An Interim Order—

(a) shall, pending the issue of a Protection Order prohibit the respondent from committing or causing the commission of any act of domestic violence;

(b) may, contain any other prohibition or condition specified in sub-paragraphs (a) to (1) of subsection (1) of section 11 where the Court is satisfied, that by reason of the circumstances of the case, and upon evidence given on oath by the aggrieved person or any other person on behalf of the aggrieved person, or any material witness, that such prohibition or condition is necessary to prevent any act of domestic violence.

(2) Where an Interim Order has been made, the Court may where it is satisfied that it is—

(a) in the interest of the parties to do so, order a social worker or a family counselor to counsel the parties and order the parties to attend such counseling sessions.

(b) reasonably necessary to protect and provide for the immediate safety of the aggrieved person, order a social worker, family counselor, probation officer, family health worker or child rights promotion officer to monitor the observance of the Order and submit to

Court a report on the date specified for the inquiry into the application in terms of subsection (I) of section 4.

(3) An Interim Order shall remain in force until a Protection Order is issued by the court or such Interim Order is vacated.

Issue of Protection Order where the respondent appears.

6. (1) Where, on the date specified in the Notice issued under subsection (3) of section 4, the respondent is present in Court, the Court shall proceed to inquire into the application, and consider any evidence previously received along with such further affidavits or oral evidence as it may deem necessary which shall form part of the record of the proceedings.

(2) Where the respondent is not represented by a legal representative, the Court may of its own accord or on the request of the aggrieved person, order —

(a) that the examination of witnesses including the aggrieved person shall not be conducted by the respondent;

(b) the respondent to state the questions to Court so as to enable the Court to repeat the question accurately to the aggrieved person or witness.

(3) After the inquiry where the Court is satisfied that it is necessary to issue a Protection Order, issue a Protection Order having regard to the provisions of section 8.

(4) Where on the date specified in the Notice issued under subsection (3) of section 4 the respondent appears and does not admit to the act or acts of violence, but does not object to the issue of a Protection Order, the court shall issue a Protection Order having regard to the provisions of section 8.

Issue of protection order when respondent does not appear.

7. (1) Where on the date specified in the Notice issued under subsection (3) of section 4 the respondent does not appear and the Court is satisfied that the Notice has been served on the respondent, the court shall proceed to consider the application on the evidence previously received and such further evidence by way of affidavits or any oral evidence recorded in the absence of the respondent as it may deem necessary, which shall form part of the record of the proceedings.

(2) The Court may upon being satisfied on a consideration of the evidence before it, that it is necessary to issue a Protection Order, issue a Protection Order having regard to the provisions of section 8:

Matters to be taken into consideration in issuing a protection order.

8. In determining whether a Protection Order should be issued or not, the court shall take into consideration the need to prevent the commission of any act of domestic violence and the need to ensure the safety of the aggrieved person.

Protection Order to be served on the respondent.

9. Upon the issuing of a Protection Order the Court shall forthwith cause —

- (a) such order to be served on the respondent; and
- (b) certified copies of such Order, to be served on the—
 - (i) aggrieved person;
 - (ii) applicant, where the applicant is not the aggrieved person;
 - (iii) officers in charge of the police stations within whose jurisdiction the respondent and the aggrieved person reside..

Protection Order.

10. (1) A Protection Order—

- (a) shall, prohibit the respondent from committing or causing the commission of, any act of domestic violence;
- (b) may, contain any other prohibition specified in subparagraph, (a) to (1) of subsection (1) of section 11, or any supplementary order specified in subsection (1) of section 12 where the court is satisfied that by reason of the circumstances of the case, and upon evidence given on oath by the aggrieved person or any other person on behalf of the aggrieved person as the case may be, or any other material witness, that it is necessary to do so to ensure the safety and well being of the aggrieved person.
- (2) A Protection Order shall remain in force for a period not exceeding 12 months as specified therein.

Prohibitions that an Interim Order or Protection Order may contain.

11. (1) The Court may, by means of an Interim Order or Protection Order prohibit the respondent from

- (a) entering a residence or any specified part thereof, shared by the aggrieved person and the respondent;
- (b) entering the aggrieved person's —
 - (i) residence;
 - (ii) place of employment;
 - (iii) school;
- (c) entering any shelter in which the aggrieved person may be temporarily accommodated;
- (d) preventing the aggrieved person who ordinarily lives or has lived in a shared residence from entering or remaining in the shared residence or a specified part of the shared residence;
- (e) occupying the shared residence;

- (J) having contact with any child of the aggrieved person or having contact with such child other than on the satisfaction of such conditions as it may consider appropriate, where the Court is satisfied that it is in the best interest of such child
- (g) preventing the aggrieved person from using or having access to shared resources;
- (h) contacting or attempting to establish contact with the aggrieved person in any manner whatsoever;
- (i) committing acts of violence against any other person, whether it be a relative, friend, social worker or medical officer, who may be assisting the aggrieved person ;
- (j) following the aggrieved person around as to cause a nuisance;
- (k) engaging in such other conduct as in the opinion of the Court will be detrimental to the safety, health or well being of the aggrieved person or other person who may require protection from the respondent as the Court may specify in the Protection Order;
- (1) selling, transferring, alienating or encumbering the matrimonial home so as to place the aggrieved person in a destitute position.
- (2) In imposing any prohibition referred to in subsection (1) the Court shall have regard to—
 - (a) - the need for the accommodation of the aggrieved person or the children (if any) of the aggrieved person and the children (if any) of the respondent;
 - (b) any hardship that may be caused to the respondent or to any other person as a result of the making of the Order.

Supplementary Orders.

12. (1) Where a Protection Order has been made and where the Court is satisfied that it is reasonably necessary to protect and provide for the immediate safety, health or welfare of the aggrieved person the Court may order—

- (a) the police to seize any weapons that the respondent may have in his or her possession;
- (b) the police to accompany the aggrieved person to any place to assist with the collection of personal property of such person and of any children;
- (c) the respondent and the aggrieved person to attend mandatory counseling sessions, psychotherapy or other forms of rehabilitative therapy as may be available ;
- (d) the aggrieved person if such person so requests, be placed in a shelter or provided with temporary accommodation the location and other details of which shall be kept confidential if necessary;
- (e) a social worker, family counsellor, probation officer or family health worker to monitor the observance of the Protection Order between the aggrieved person and the respondent and submit to Court a report relating thereto, once in every three months.
- (f) the respondent to provide urgent monetary assistance to any person, where such respondent has a duty to support such person;
- (.g) the respondent to make such payments and provide such facilities, or make such payments or provide such facilities as the case may be, as are necessary to enable the

aggrieved party to continue in occupation of any residence in which such aggrieved party will reside during the period of operation of such Order, notwithstanding that the respondent has been prohibited from entering or remaining in such residence by an Order made under section 11.

(2) An Order under paragraphs (J) and g) of subsection (1) shall only be made after due inquiry and having regard to the financial needs and other resources of the aggrieved person and the respondent:

Provided however such an Order shall not affect the rights of any person under the Maintenance Act, No. 37 of 1999.

(3) The Court may, on the failure of the respondent to make any payment ordered under paragraph (f) of subsection (I) direct an employer of the respondent, to directly pay to the aggrieved person a part or the whole of the remuneration due to the respondent as financial relief that the Court may have ordered.

Orders made with consent of parties.

13. The Court may, with the consent of the parties to the proceedings, make any Order under this Act without proof or admission of guilt and such Order shall not be construed as having been made consequent to an admission of guilt or upon proof of guilt.

Variation or revocation of a Protection Order.

14. (1) A Protection Order may be altered, modified, varied, extended or revoked, on an application made either by the aggrieved person or the respondent, and where the Court is satisfied that there is a change of circumstances that require such alteration, modification, variation, extension, or revocation:

Provided however, no such alteration, modification, variation, extension or revocation, shall be made without hearing both the aggrieved person and the respondent:

Provided further that the Court shall not grant such an application to the aggrieved person unless it is satisfied that the application is made freely and voluntarily.

Attendance of respondent and witnesses.

15. The provisions of Chapter V and VI of the Code of Criminal Procedure Act, No. 15 of 1979 shall be applicable for compelling the attendance of the respondent and any person required by the applicant to give evidence, and for requiring the production of any document necessary, for the purposes of this Act.

Spouse to be a competent Witness.

16. In any proceedings under this Act a spouse shall be a competent witness against the other spouse.

Right of Appeal.

17. Any person who is dissatisfied with an Order made by a Magistrate under section 6 or section 7 may prefer an appeal to the High Court established under Article 154p of the Constitution in like manner as if the Order was a final Order pronounced by a Magistrate's Court in a criminal case or matter, and sections 320 to 330 (both inclusive) and sections 357 and 358 of the Code of Criminal Procedure Act, No. 15 of 1979 shall, *mutatis mutandis*, apply to such appeal:

Provided however, that notwithstanding anything to the contrary in section 323 of the Code of Criminal Procedure Act, No. 15 of 1979 an Order under section 6 or section 7 shall not be stayed by reason of such appeal, unless the High Court for reasons to be recorded directs otherwise:

Provided further that the Magistrate in forwarding the record to the High Court shall retain a copy of his Order for purposes of enforcement.

Enforcement of Order.

18. Where respondent against whom an Interim Order or a Protection Order, as the case may be, has been issued and has failed to comply with such Order, such respondent shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

Court to adopt procedure in framing charges.

19. Notwithstanding anything contained in the Code of Criminal Procedure Act, No. 15 of 1979, the Court may adopt a procedure as it may seem expedient in respect of the framing of charges.

Persons printing or publishing any matter in certain cases to be punished.

20. Any person who prints or publishes—

- (a) the name or any matter which may make known the identity of an applicant or a respondent in an application under this Act; or
- (b) any matter other than a judgment of the Supreme Court or Court of Appeal, in relation to any proceeding under this Act, in any Court,

shall be punished with imprisonment of either description for a term which may extend to two years or to a fine or to both such imprisonment and fine.

Other actions not barred.

21. Nothing in this Act shall be construed as depriving an aggrieved person of a right if any, to institute a separate civil action or criminal proceeding.

Sinhala text to prevail in case inconsistency.

22. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Interpretation.

23. In this Act unless the context otherwise requires—

“child” means a person who is under the age of 18 years;

“domestic violence” means—

(a) an act which constitutes an offence specified in Schedule I;

(b) any emotional abuse,

committed or caused by a relevant person within the environment of the home or outside and arising out of the personal relationship between the aggrieved person and the relevant person;

“emotional abuse” means a pattern of cruel, inhuman, degrading or humiliating conduct of a serious

nature directed towards an aggrieved person;

“shared resources” means movable or immovable property which both the aggrieved person and the respondent have habitually used or have had access to ;

“relevant person” in relation to an aggrieved person means,

(a) (i) the spouse;

(ii) ex-spouse;

(iii) cohabiting partner,

of an aggrieved person;

(b) (i) the father, mother, grandfather

grandmothers stepfather stepmother;

(ii) the son, daughters grandson, grand
daughter, stepson, stepdaughter;

(iii) ‘the brother, sister, half-brother, half-
sister, step brother, step-sister;

(iv) siblings of a parent;

(v) the child of a sibling;

(vi) child of a sibling of a parent,

of an aggrieved person or of the spouse, former spouse or cohabiting partner of the aggrieved person,

“‘respondent’ in relation to a Protection Order or an Interim Order means the relevant person against whom such Order is sought or made.

SCHEDULE I

Section 22

1. All offences contained in Chapter IXV of the Penal Code
2. Extortion-Section 372 of the Penal Code
3. Criminal Intimidation-Section 483 of the Penal Code
4. AI to commit any of the above offences

SCHEDULE II

Section 2(3)

APPLICATION

In the Magistrates Court of

A.B. of..... (name, description and address of the aggrieved person. and if he/she sure in any representative capacity, state the capacity-- e. g.. if the aggrieved person is a minor or person of unsound mind appearing by his/her guardian or next friend, say "a minor, by C. D. of..... his/her next friend")..... (Aggrieved person).

Against

Y.Z., of(name, description and addresses of the respondent)
.....Respondent.

The..... day of20.....

The application of the above-named aggrieved person (and if the case is so add: appearing by C. H, his/her registered attorney) states as follows:

(Here set out the circumstances of the case)

Wherefore the aggrieved person (or aggrieved persons) prays for a Protection Order against the respondent with effect from the.....day of
20.....

.....

Signature of Applicant

Women's Charter

WOMEN'S CHARTER (SRI LANKA)

**National Committee on Women
Ministry of Women's Empowerment and Social Welfare
117, Nawala Road
Narahenpita, Colombo -05
Sri Lanka**

WOMEN'S CHARTER

(Approved by the Government of Sri Lanka on 3rd March, 1993)

PREAMBLE

Whereas the Constitution of the Democratic Socialist Republic of Sri Lanka recognises that gender equality and freedom from discrimination on the ground of sex is a fundamental right, and provides for its enforcement in the Courts of Law;

Whereas the Constitution provides for affirmative legislative and administrative intervention to eliminate gender inequalities;

Whereas the Universal Declaration of Human Rights affirms the principle of nondiscrimination and proclaims that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all rights and freedoms without distinction of any kind, including distinction based on sex;

Whereas Sri Lanka has endorsed these international standards and has accepted by ratification, international obligations under the Convention on the Elimination of all Forms of Discrimination against Women;

Concerned that discrimination against women continues to exist, recognizing that gender-based violence is a violation of human rights and fundamental freedoms in that it impairs or negates women's enjoyment of these recognized rights and freedoms;

Desiring to restate laws, policies and measures on gender equality that have been realised, and set down new commitments and standards;

Desiring that the rights, principles and policies specified in the Charter shall, be respected by and shall guide the actions of all persons, institutions, organizations and enterprises;

Determined to ensure justice and equity and the recognition of gender equality in all areas of life in Sri Lanka;

The Government of Sri Lanka Declares as follows:

Part I

1. The State shall in all fields, in particular in the political, social, economic and cultural fields, take all appropriate measures, including the promulgation of legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

POLITICAL AND CIVIL RIGHTS:

2.
 - i) The State shall take all appropriate measures to eliminate discrimination against women in the Public and Private Sectors, in the political and public life of the country, and ensure to women, on equal terms with men, the right;
 - a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies,
 - b) to equitable representation in the nomination process at the National, Provincial and Local government elections,
 - c) to participate in the formulation of state policy and the implementation thereof and to hold public office and perform all public functions at all levels of state.
 - ii) The State shall promote the participation of women in organizations and associations that are involved in trade union and political activity.
3. The State shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their State at the international level and to participate in the work and activities of international organizations.
4.
 - i) The State shall take all appropriate measures to ensure that women enjoy equal rights with men to acquire, change or retain their nationality. The State shall in particular ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of her husband.
 - ii) The State shall ensure that women enjoy equal rights with men in deciding on matters which may have a bearing on the nationality of their children.
 - iii) In the case of a mixed marriage, the State shall ensure that the spouses shall have the right to choose to be governed by the General Law.
 - iv) The State shall ensure that men and women enjoy the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

5. The State shall take all necessary measures to realize the constitutionally guaranteed fundamental rights of women including the right to liberty and security of the person and to equal protection of the law.
6. The State shall take necessary measures to accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity.

RIGHTS WITHIN THE FAMILY

7. i) The State shall work towards taking all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations in particular and shall work towards ensuring, on basis of equality of men and women:-
 - a) The same right to enter into marriage;
 - b) The same right to choose a spouse and to enter into marriage only with their free and full consent;
 - c) The same rights and responsibilities during marriage and at its dissolution;
 - d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children, so that in all cases the interests of the child shall be paramount and there is no discrimination in any manner whatsoever between marital and non-marital children;
 - e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - f) The same rights and responsibilities with regard to guardianship, curatorship, trusteeship and adoption of children, or similar institutions where these concepts exist or are recognized in national legislation;
 - g) The same personal rights as husband and wife, including the right to choose a family name, residence and domicile;
 - h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and dis-position of property.
- ii) The State shall enact legislation to prohibit the transfer of movable or immovable properties to any person other than one's own children in consideration of marriage, except where such transfers are legal under existing religious laws.

8. i) The State shall provide for the registration of marriages in an official registry and shall enact legislation to specify 18 years as the minimum age of marriage, providing special measures for a specified interim period in order to protect the parties to the union, where such unions have been effected.
- ii) The State shall recognize the breakdown of marriage as the basis for dissolution and provide for equal sharing of family provision and support, parental rights and responsibilities after dissolution and annulment.
- iii) The State shall take necessary measures to provide for conciliation in family dispute settlement and recognize the right to confidentiality and privacy wherever it is relevant.

RIGHT TO EDUCATION AND TRAINING

9. The State shall take all measures to ensure for men and women:

- i) a) access to the same educational opportunities in pre-schools, primary, secondary and tertiary, technical, vocational and professional education including co-educational, non-formal, and continuing education, training and extension programmes;
- b) access to 10 years of compulsory education;
- c) access to the same opportunities to benefit from scholarships and study grants;
- d) access to the same curricula, examinations, certification procedures, teaching staff with qualifications of the same standard and facilities in schools and training programmes, equipment of the same quality and the same opportunities to participate actively in physical and aesthetic education; and
- e) access to career and vocational guidance and counseling programmes.
- ii) Recognizing the primary responsibility which devolves on women in families which have disabled persons, the State shall ensure that disabled persons shall have equal access to education and training.
- iii) In keeping with National policy the State shall ensure to both mother and father the equal right of choice with regard to the medium of instruction in which children are to be educated taking into account the paramount interest of the children.
- iv) The State shall take all steps to ensure the elimination of gender role-stereotyped concepts in content and educational material in all types of education, through the revision, preparation and writing of teaching – learning material.
- v) The State shall take all appropriate measures to ensure the reduction of early school-leavers and the organization of programmes for girls and women who have left school prematurely.

RIGHT TO ECONOMIC ACTIVITY AND BENEFITS

10. i). The State shall take all appropriate steps to ensure to all women and men in the formal and informal sectors of the economy:
- a.) the same right to engage in economic activities for financial benefits;
 - b.) the same rights and the same opportunities in employment in the public, private and informal sectors at all levels of employment without gender based discrimination in recruitment, placement, promotions, conditions of service and job security;
 - c.) equal access to the same opportunities for vocational training and re- training, in-service training and apprenticeship;
 - d.) i). equal access to ownership of and other rights to land, including land in Settlement schemes and equal treatment in land and agrarian reforms;
 - ii). equal access to resources such as agricultural credit and loans, other forms of credit, marketing facilities and extension services.
 - e.) equal access to appropriate technology including access to improved technology –
 - i. to enhance avenues of improving incomes of women;
 - ii. to reduce the time and labor involved in economic and non-economic activities so that men and women share equally their responsibilities in the home, work place and in the community;
 - f.) the right to receive equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as in the evaluation of the quality of work;
 - g.) the same right to social security, particularly in cases of retirement, unemployment, sickness, and old age and other incapacity to work;
 - h.) the right to leave and re-entry after a period of leave taken for child-care and fulfillment of family responsibilities or any other reasons recognized by law;
 - i.) the same right to protection of health and to safety in working conditions devoid of all health hazards, including the provision of safe and protective equipment in work places; and
 - j.) equal access to a healthy working environment including safe drinking water, adequate sanitary facilities and basic medical and welfare facilities.
- ii) The State shall redefine the term “Head of household” so as to ensure that women’s contribution to the household is recognized and they have equal access with men to all State development programmes, distribution of benefit and entailed responsibilities.

11. In order to prevent discrimination against women on grounds of marriage or maternity and to ensure their effective right to work, the State shall take appropriate measures:

- i) to ensure that the granting and enjoyment of maternity leave and benefits shall be considered a fulfillment of parental and community responsibility;
- ii) to work towards the granting of parental leave;
- iii) to encourage and also to implement legal provisions on maternity leave with pay or comparable social benefits without loss of existing or current employment, seniority or social allowances, and to make provisions for breast feeding;
- iv) to prohibit and impose sanctions for dismissal (whether under another pretext or not) on the grounds of marriage, pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- v) to encourage and also implement legal provisions on necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- vi) to ensure whenever possible that both spouses are entitled to work in the same geographical location; and
- vii) to prohibit the employment of women during pregnancy in types of work proved to be harmful to them and to the unborn child.

12. The State shall take appropriate measures to:

- i) ensure through legislation that the minimum age of employment shall be 15 years;
- ii) ensure that interests of all migrant women are protected within the country and in the host country through bilateral agreements;
- iii) ensure that all protective laws in regard to industrial workers are effectively enforced in all sectors of industry and to develop new laws and policies to ensure that their rights and interests are protected and not undermined;
- iv) to eliminate discrimination against women in other areas of economic and social life in order to ensure on a basis of equality of men and women, the same rights, in particular the right to bank loans, mortgages and other forms of financial credit;
- v) collect, classify and make available gender disaggregated data and information reflecting their economic, social and cultural contribution to the country including the G.N.P.;
- vi) organize where necessary, self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment; and

- vii) ensure that employers shall pay all remuneration, salary, benefits or allowances payable to a women worker directly to her.

RIGHT TO HEALTH CARE & NUTRITION

13. The State shall ensure to both women and men without discrimination:

- i. a) equal access to health care information and education including nutrition education, counselling and services including preventive and curative services and equality in the distribution of family food resources.
- b) access to information, education, counselling and treatment with regard to sexuality transmitted disease. (S.T.D)

The State shall in particular ensure:

- ii.
 - a) the availability of and access to programmes which will promote and protect the mental and physical health of women, including the provision of proper and humane facilities with regard to medical and psychiatric treatment of patients, and ensure access to social support measures for the elderly and physically handicapped women;
 - b) the provision of the highest available standards of health care, quality services in connection with pregnancy, confinement and the post-natal period, free services and social support where necessary and ensuring sufficient rest during pregnancy and lactation, including special protection and safeguards for women in custody.

The State shall ensure:

- iii.
 - a) women's right to control their re-productivity, equal access to information, education counselling, and services in family planning, including the provision of safe family planning devices and the introduction and enforcement of regulations relating to their safety;
 - b) that in pursuing Family Planning Policies such policies are equally focused on men and women; and
 - c) that family education includes a proper understanding of parenting as a family and social responsibility of equity in entitlement, it being understood that the interests of the child is the paramount consideration in all cases.

RIGHT TO PROTECTION FROM SOCIAL DISCRIMINATION

14. The State shall take all appropriate measures to:

- i. promote social and cultural attitudes with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either gender and stereotyped roles for men and women;
- ii. prevent the portrayal of negative images of women in all forms of media; and
- iii. eliminate all forms of exploitation of, trafficking in and prostitution of women and children.

15. The State shall:

- i. work towards the elimination of negative social attitudes towards widows, divorcees, single parents, single women and any vulnerable groups of women;
- ii. take all steps to ensure that such women do not suffer social and economic discrimination; and
- iii. take positive action to ensure their participation in the mainstream of society.

RIGHT TO PROTECTION FROM GENDER-BASED VIOLENCE

16. The State shall take all measures to prevent the phenomenon of violence against women, children and young persons in society, in the workplace, in the family as well as in custody, in particular such manifestation of it as rape, incest, sexual harassment and physical and mental abuse, torture and cruel, inhuman or degrading treatment.

Such measures shall also include:

- i. the promotion of legislative reforms not only in terms of the substantive law but also with regard to preventive and punitive measures which would clearly recognize the rights of the women victims of violence;
- ii. the promotion of structural reforms within the law enforcement machinery and sensitization of enforcement authorities so as to strengthen their capacity to deal with crimes of violence directed against women;
- iii. provision of support to Non-governmental organizations, community-based organizations and programmes which provide support and counselling services to women victims of violence, including those affected by armed conflict and civil strife.

Part II

ESTABLISHMENT OF THE NATIONAL COMMITTEE

17. (1) There shall be established for the purpose of examining progress made on the realization of the obligations undertaken by this charter and for monitoring the achievement of its objectives, a **National Committee on Women**, hereinafter referred to as the “Committee”.
- (2) The Committee shall consist of 15 members as follows:
- i. Two members each appointed by the president of Sri Lanka from amongst persons of standing in the community who have distinguished themselves in the fields of:
 - (a) Law,
 - (b) Health,
 - (c) Economic development,
 - (d) Education,
 - (e) Science and Technology,
 - (f) Environment;
 - ii. Two members appointed by the president of Sri Lanka amongst persons who have distinguished themselves in the work of women’s Voluntary Organizations or in the sphere of women’s activities;
- and
- iii. An Executive Director appointed by the President of Sri Lanka who shall be of a rank not less than Class 1 of the All Island State Services or of like equal rank in the non – government sector, having experience in the work related to women and development. The Executive Director shall also be a member and a full-time official of the Committee;
 - iv. The Chairperson of the Committee shall be appointed by the president of Sri Lanka from amongst the 14 members appointed under paragraph (1) and (11) of this Sub- section;
 - v. There shall be a Secretary to the Committee who shall be a full-time official also appointed by the President of Sri Lanka.
18. 1) The Chairperson and other members of the committee shall hold office for a period of 4 years and shall be eligible for re-appointment for one consecutive period.
- 2) Subject to the approval of the president of Sri Lanka the Minister may appoint a suitable person to fill any vacancy occurring among the members and person so appointed shall hold office for the unexpired period of the term of office of the member whom she/he succeeds.

19. The Functions of the Committee shall be as follows:

- (a) to entertain and scrutinize complaints of gender discrimination and channel such complaints where appropriate to the relevant administrative authorities and concerned persons or bodies for necessary action;
- (b) to refer complaints of violation of the provisions contained in this Charter to governmental and non-governmental organization for redress, legal aid / or mediation services;
- (c) to monitor such action and require annual reports of progress from relevant administrative authorities and make these reports widely available within the country;
- (d) to evaluate the impact of legislative and development policies on the rights and responsibilities of women as contained in this Charter;
- (e) to help to realise the objectives of the Charter through the encouragement of relevant research and to make recommendations for reforms based on such research; and
- (f) to advice the Minister (responsible for the status of Women) on such matters relating to the status of Women as the Minister may refer to the Committee for its consideration, or as the Committee may deem appropriate.

20. (1) The quorum for any meetings of the Committee shall be 7 members.

- (2) The Committee shall meet as often as may be necessary and at least once in every two months.

21. (1) Any member may resign her/his office by a letter addressed to the Minister.

- (2) The president of Sri Lanka may if he thinks it expedient remove a member or official of the Committee appointed by him.

22. The Committee may act notwithstanding any vacancy among the members thereof.

23. The Committee shall have a permanent office and a Secretariat with full-time staff functioning under the Executive Director.

National Committee on Women,
Ministry of Women's Empowerment and Social Welfare,
177, Nawala Road,
Narahenpita,
Colombo -05,
Sri Lanka.

Tel: 2368072

Fax: 2368072

E-Mail: ncwsl@sltnet.lk

September, 2005.

CEDAW Convention



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INTRODUCTION

On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the tenth anniversary of the Convention in 1989, almost one hundred nations have agreed to be bound by its provisions.

The Convention was the culmination of more than thirty years of work by the United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light all the areas in which women are denied equality with men. These efforts for the advancement of women have resulted in several declarations and conventions, of which the Convention on the Elimination of All Forms of Discrimination against Women is the central and most comprehensive document.

Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns. The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity, and worth of the human person, in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights.

In its preamble, the Convention explicitly acknowledges that "extensive discrimination against women continues to exist", and emphasizes that such discrimination "violates the principles of equality of rights and respect for human dignity". As defined in article 1, discrimination is understood as "any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field". The Convention gives positive affirmation to the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men"(article 3).

The agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt with in great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952. Its provisions, therefore, are restated in article 7 of the present document, whereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level (article 8). The Convention on the Nationality of Married Women - adopted in 1957 - is integrated under article 9 providing for the statehood of women, irrespective of their marital status. The Convention, thereby, draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right. Articles 10, 11 and 13, respectively, affirm women's rights to non-discrimination in education, employment and economic and social activities. These demands are given special emphasis with regard to the situation of rural women, whose particular struggles and vital economic contributions, as noted in article 14, warrant more attention in policy planning. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed at restricting women's legal capacity "shall be deemed null and void". Finally, in article 16, the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regard to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. The preamble sets the tone by stating that "the role of women in procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates, in article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child-rearing by both sexes. Accordingly, provisions for maternity protection and child-care are proclaimed as essential rights and are incorporated into all areas of the Convention, whether dealing with employment, family law, health care or education. Society's obligation extends to offering social services, especially child-care facilities, that allow individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and "shall not be considered discriminatory". (article 4). "The Convention also affirms women's right to reproductive choice. Notably, it is the only human rights treaty to mention family planning. States parties are obliged to include advice on family planning in the education process (article 10.h) and to develop family codes that guarantee women's rights "to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (article 16.e).

The third general thrust of the Convention aims at enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women. Noting this interrelationship, the preamble of the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". States parties are therefore obliged to work towards the modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5). And Article 10.c. mandates the revision of textbooks, school programmes and teaching methods with a view to eliminating stereotyped concepts in the field of education. Finally, cultural patterns which define the public realm as a man's world and the domestic sphere as women's domain are strongly targeted in all of the Convention's provisions that affirm the equal responsibilities of both sexes in family life and their equal rights with regard to education and employment. Altogether, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex.

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW). The Committee's mandate and the administration of the treaty are defined in the Articles 17 to 30 of the Convention. The Committee is composed of 23 experts nominated by their Governments and elected by the States parties as individuals "of high moral standing and competence in the field covered by the Convention".

At least every four years, the States parties are expected to submit a national report to the Committee, indicating the measures they have adopted to give effect to the provisions of the Convention. During its annual session, the Committee members discuss these reports with the Government representatives and explore with them areas for further action by the specific country. The Committee also makes general recommendations to the States parties on matters concerning the elimination of discrimination against women.

The full text of the Convention is set out herein

WOMEN

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;

- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a [Committee on the Elimination of Discrimination against Women](#) (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. ([amendment](#), [status of ratification](#))

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

(a) In the legislation of a State Party; or

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

Security Council Resolution 1325



Security Council

Distr.: General
31 October 2000

Resolution 1325 (2000)

**Adopted by the Security Council at its 4213th meeting, on
31 October 2000**

The Security Council,

Recalling its resolutions 1261 (1999) of 25 August 1999, 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000 and 1314 (2000) of 11 August 2000, as well as relevant statements of its President, and *recalling also* the statement of its President to the press on the occasion of the United Nations Day for Women's Rights and International Peace (International Women's Day) of 8 March 2000 (SC/6816),

Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century" (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

Bearing in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security,

Expressing concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and *recognizing* the consequent impact this has on durable peace and reconciliation,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and *stressing* the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

Reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts,

Emphasizing the need for all parties to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls,

Recognizing the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard *noting* the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

Recognizing also the importance of the recommendation contained in the statement of its President to the press of 8 March 2000 for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations,

Recognizing that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security,

Noting the need to consolidate data on the impact of armed conflict on women and girls,

1. *Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;

2. *Encourages* the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes;

3. *Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard *calls on* Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;

4. *Further urges* the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;

5. *Expresses* its willingness to incorporate a gender perspective into peacekeeping operations, and *urges* the Secretary-General to ensure that, where appropriate, field operations include a gender component;

6. *Requests* the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peace-building measures, *invites* Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment, and *further requests* the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;

7. *Urges* Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children's Fund, and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies;

8. *Calls on* all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:

(a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;

(b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;

(c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;

9. *Calls upon* all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;

10. *Calls on* all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;

11. *Emphasizes* the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard *stresses* the need to exclude these crimes, where feasible from amnesty provisions;

12. *Calls upon* all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design, and recalls its resolutions 1208 (1998) of 19 November 1998 and 1296 (2000) of 19 April 2000;

13. *Encourages* all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;

14. *Reaffirms* its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;

15. *Expresses* its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups;

16. *Invites* the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and *further invites* him to

submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;

17. *Requests* the Secretary-General, where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls;

18. *Decides* to remain actively seized of the matter.
