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17 November 2023

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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

H.E. Ranil Wickremesinghe
President of the Republic of Sri Lanka
Minister of Finance, Economic Stabilisation and National Policies,
Presidential Secretariat
Colombo 01

Your Excellency,

**Observations and Recommendations on the Draft National Women's Commission Bill
Draft Gender Equality Bill, and Draft Women's Empowerment Bill**

We write to you with reference to three draft Bills shared with the Human Rights Commission of Sri Lanka on 1 October 2023.

We wish to state at the outset that we welcome this legislative initiative and are grateful for the cooperation shown by your Secretariat and Ministry in enabling the Commission to fulfil its mandate in terms of section 10(c) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996. The said provision empowers the Commission to 'advise and assist the government in formulating legislation...in furtherance of the promotion and protection of fundamental rights'.

We wish to note that the Bills aim to ensure the fulfilment of Sri Lanka's obligations under international law including the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

In view of further strengthening the Bills, we request that your Secretariat and Ministry consider the observations and recommendations enclosed herewith (Annexes 1, 2 and 3).

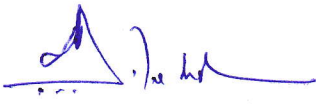
The Commission observes that there are substantial similarities in the provisions and legislative intent behind the Bills. It is, therefore, recommended that the Gender Equality Bill and the Women's Empowerment Bill be amalgamated into a single consolidated Bill. With reference to the institution that will be established under these Bills, we recommend that the Gender Equality Council be housed in the new department to which the Women's Bureau will be upgraded. We recommend that such an amalgamation be considered to minimise overlap and resource wastage. We recommend that the naming of the department as the 'Department for Gender Equality' be considered in view of such a change.

We also recommend that the appointment process with respect to the National Women's Commission be further strengthened, and that the members of the Commission be appointed on the recommendation of the Constitutional Council in a manner similar to the appointment of members to the Human Rights Commission of Sri Lanka.

We urge you to consider publishing the three Bills as soon as possible to enable meaningful public consultation on their substance. Please be assured that the Commission is prepared to offer its continued advice and support in strengthening the Bills.

Thank you.

Yours Sincerely,



Justice L.T.B. Dehideniya
Judge of the Supreme Court (Retired)
Chairman
Human Rights Commission of Sri Lanka

Justice L T B Dehideniya
Chairman

Human Rights Commission of Sri Lanka

Cc: Mr. Aritha Wickramasinghe
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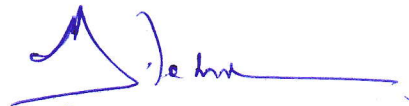
Annex 1

Observations and Recommendations on the Draft National Women's Commission Bill

Pursuant to the mandate of the Human Rights Commission of Sri Lanka under section 10(c) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996, the Commission submits the following observations and recommendations with respect to the draft Bill.

Clause 2

1. Clause 2(d) of the Bill provides that one of the objects of the Bill is 'to prevent and protect women from all forms of discrimination based on gender, sexual orientation, marginalisation, sexual harassment, and violence...' At the outset, it is observed that the syntax of the Clause is unclear, as the term 'women' does not logically follow the term 'prevent'. It is also unclear as to whether 'marginalisation', 'sexual harassment and 'violence' are categories of discrimination or separate categories of harm from which women should be protected.
2. **It is recommended that Clause 2(d) be revised to clarify the syntax and ensure that the categories of harm from which women should be protected are clearly specified.**
3. The Commission observes that Article 12(2) of the Sri Lankan Constitution guarantees the right to non-discrimination on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.
4. While the phrase 'any one of such grounds' has not been explicitly defined, we note that the Government of Sri Lanka has, in the past, clarified its own interpretation of the phrase. For instance, in the State Party Report submitted by Sri Lanka in the Third Universal Periodic Review cycle in 2017, the State acknowledged that prohibited grounds of discrimination expressly included in Article 12(2) of the Constitution are not exhaustive, and that the guarantee of equality and equal protection of the law under Article 12(1) of the Constitution is not subject to any exception. Moreover, in 2019, in its Periodic Report with respect to the International Covenant on Civil and Political Rights, the Sri Lankan State clarified that 'the prohibited grounds of discrimination under article 12(2) of the Constitution are non-exhaustive, and discrimination on the grounds of sexual orientation is implicitly prohibited.'
5. It is, therefore, reasonable to maintain that a statutory objective that refers to non-discrimination on the grounds of gender or sexual orientation is compatible with Article 12(2) of the Constitution. In line with this interpretation, it is observed that the inclusion of grounds of non-discrimination such as gender identity and sexual orientation in the Bill will not be inconsistent with Article 12(2) of the Constitution.
6. It is also noted that the Supreme Court of Sri Lanka, in its determination in SC (Special Determination) No. 13 of 2023 *et al* on the constitutionality of a proposed amendment to the Penal Code to decriminalise certain sexual acts, determined that the amendment was consistent with the Sri Lankan Constitution. Although the relevant sections of the Penal Code, i.e., sections 365 and 365A, have not been repealed or amended to date, the



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Chairman

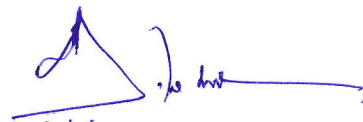
Commission is of the view that necessary action must be taken to do so in view of the Supreme Court's determination. In this context, the broad purpose of the Bill in advancing non-discrimination on the grounds of gender and sexual orientation is in line with the Supreme Court's endorsement of the amendments to the Penal Code.

7. Clause 2(4) of the Bill provides that one of the objects of the Bill is to ensure 'women's participation in all measures and mechanisms connected with transitional justice'. While the Commission commends the Bill's recognition of 'transitional justice' as an important area, there are no further references to the term 'transitional justice' in the Bill, nor have any powers or functions been allocated to the National Women's Commission ('NWC') with respect to transitional justice.

Clause 4

8. Clause 4 of the Bill concerns the composition of the NWC. Clause 4(2)(a) provides for the appointment of five members to the Commission on the recommendation of the Constitutional Council. However, Clause 4(2)(b) of the Bill read together with Clause 4(4) provides for the appointment of two members by 'a select committee of Parliament to look into and report to Parliament...'
9. Clause 4(1) provides that appointments to the Commission shall be made from 'persons who have distinguished themselves in the advancement of women's rights and freedoms'. Clause 4(1) further provides that 'diversity of background, experience and expertise of the proposed members' should be taken into consideration. This provision can be further strengthened to specify the types of experience and expertise that should be taken into consideration. For example, in India, section 3(2) of The National Commission for Women Act (1990) requires the members to be, 'persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare'.
10. Clause 4(3) of the Bill specifies that five members of the Commission shall be women. To avoid doubt, this Clause can be strengthened to ensure that the requirement is that 'at least' five members of the Commission be women.
11. **It is recommended that Clause 4 be strengthened to ensure that all members of the NWC be appointed on the recommendation of the Constitutional Council. It is also recommended that the types of experience and expertise that should be taken into consideration when making appointments to the Commission be specified. It is further recommended that it be clarified that the minimum requirement of women's participation in the Commission is five members.**

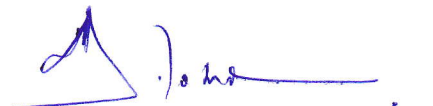
Clauses 5 and 43



12. Clause 5(1)(a) empowers the NWC to 'inquire into and investigate the infringement or imminent infringement of women's rights'. The Commission notes that 'women's rights' is defined in Clause 43 to mean *inter alia* the rights contained in [the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)] and other international conventions, treaties and instruments on women's rights ratified and endorsed by the Government of Sri Lanka'.
13. While the Commission endorses a broad definition of 'women's rights' to include international human rights specified in international conventions, treaties and instruments including CEDAW, it is also cognisant of the fact that Sri Lanka is a dualist country. Therefore, the specification of the nature and scope of all rights in domestic legislation is preferable to avoid doubt, particularly in a context where the NWC is expected to inquire into and investigate the infringement or imminent infringement of such rights.
14. **In this context, it is recommended that the list of rights constituting 'women's rights' be included in the Bill itself so as to avoid ambiguity as to the nature and scope of rights contained in international conventions, treaties and instruments ratified by Sri Lanka.**
15. Clause 5(1)(f) and (g) refer to 'any government body or other authority'. It is recommended that the term 'other authority' be clarified to mean other 'government' authority so as to ensure non-interference with the mandates of any independent commissions.
16. It is observed that under functions and duties of the Commission that there is no explicit provision for engaging civil society actors. Such a provision would be invaluable to the Commission in order to obtain a holistic view of the issues faced by women in society.
17. **It is recommended that Clause 5(1)(f) and (g) be revised to clarify that authorities required to report to or appear before the NWC are 'government' authorities. It is also recommended that the Commission be specifically empowered to engage civil society actors.**

Clauses 16 and 42

18. Clause 16(1) of the Bill confers powers of investigation and inquiry upon the NWC in relation to the infringement or imminent infringement of 'women's rights by any person or a body of persons'. Such investigation and inquiry, however, is to be conducted via a Committee appointed in terms of Clause 42 of the Bill. Clause 42 provides that the Minister in consultation with the NWC may issue Regulations prescribing the manner in which the NWC shall appoint the Committee, the eligibility required of the persons appointed to the Committee, and the procedure to be followed by the Committee.
19. **It is recommended that the manner in which the NWC shall appoint the Committee, the eligibility required of the persons appointed to the Committee, and the procedure to be followed by the Committee be specified in the Bill itself or left to the NWC to determine as opposed to being regulated by the Minister.**


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Judge of the Supreme Court (Retired)
Chairman

Clause 17

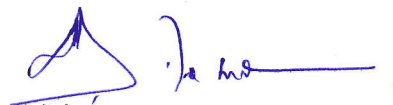
20. Clause 17(1)(b) of the Bill provides a time period for making a complaint to the NWC, i.e., within one month of becoming aware of the infringement in the case of a violation by state administrative or executive action, and within two years if the violation is by a private person.
21. The Commission observes that no time bar is currently in place in terms of making a complaint under the Human Rights Commission of Sri Lanka Act, No.10 of 1996. Therefore, in any event, if the women's right in question is also guaranteed by the Constitution of Sri Lanka, the complainant would be able to complain to the Human Rights Commission without the application of a time bar, thereby creating an incongruence between the Bill and the Human Rights Commission of Sri Lanka Act.
22. **It is recommended that the imposition of a time bar under Clause 17 of the Bill be revisited.**

Part III

23. Part III establishes the post of 'Ombuds for Women's Rights' to entertain in the first instance complaints connected to gender-based inequality or complaints concerning the infringement or imminent infringement of women's rights. It is understood that this institutional actor will process all complaints in the first instance. The Commission is of the view that one institutional actor may not be able to feasibly handle a large volume of complaints. Therefore, it may be more appropriate to establish a division or department within the NWC to handle complaints.
24. **It is recommended that the establishment of the post of 'Ombuds for Women's Rights' be revisited and a division or department within the NWC to handle complaints in the first instance be considered as an alternative model.**

Clause 28

25. Clause 28(1) of the Bill provides that the 'Executive Director' of the NWC is appointed by the President on the recommendation of the Minister. Clause 28(4) provides that the President may for reasons assigned remove the 'Executive Director'. These provisions do not include adequate safeguards with respect to ensuring the independence of the 'Executive Director', who is intended to act on the instructions of and be subject to, the general direction and control of the NWC and be responsible to, the NWC.



Justice L.T.B. Dehideniya
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Chairman
Human Rights Commission of Sri Lanka

26. It is recommended that this provision be revisited to authorise the NWC to appoint a suitable person to the post of Executive Director in a manner that ensures the political independence of the Executive Director.

Clause 36

27. It is recommended that the reference to the 'Bribery Act (Chapter 26)' be revised to 'Anti-Corruption Act, No. 9 of 2023', given that the Bribery Act (Chapter 26) has been repealed.

Clause 38

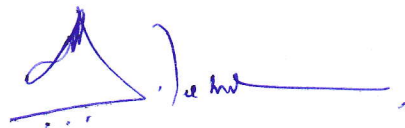
28. Clause 38 of the Bill contains offences under the Bill. However, it is observed that there is significant overlap between Clause 38 and Clause 26, which relates to the offence of contempt against the NWC.
29. It is recommended that Clause 38 be removed and all offences be contained in Clause 26.

Clause 42

30. Clause 42 empowers the Minister to make regulations in consultation with the Commission.
31. It is also recommended that the NWC be clearly established as an independent commission similar to the Human Rights Commission of Sri Lanka, and not be assigned to a particular Ministry. Therefore, a Minister should not be vested with the power to make regulations.

General Observations and Recommendations

32. It is recommended that gender neutral language be used throughout the Bill. For example, in Clause 7 of the Bill, the Chairperson, although required to be a woman, is referred to using a male gender pronoun (i.e., 'his').



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Annex 2
Observations and Recommendations on the Draft Gender Equality Bill

Pursuant to the mandate of the Human Rights Commission of Sri Lanka under section 10(c) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996, the Commission submits the following observations and recommendations with respect to the draft Bill.

Preamble and Clauses 2 and 3

1. The Preamble of the Bill provides: 'the State ensures equal opportunity to all persons irrespective of differences in sex, gender identity or sexual orientation in the National Policy on Gender Equality', and Clause 2(b) provides that one of the objects of the Bill is 'to ensure that every person enjoys, without discrimination based on sex, gender identity or sexual orientation the fundamental rights and freedoms guaranteed by the Constitution'. Clause 3 provides that, 'Every person shall have the right to gender equality and no person shall be denied of such right.'
2. The Commission observes that Article 12(2) of the Sri Lankan Constitution guarantees the right to non-discrimination on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.
3. While the phrase 'any one of such grounds' has not been explicitly defined, we note that the Government of Sri Lanka has, in the past, clarified its own interpretation of the phrase. For instance, in the State Party Report submitted by Sri Lanka in the Third Universal Periodic Review cycle in 2017, the State acknowledged that prohibited grounds of discrimination expressly included in Article 12(2) of the Constitution are not exhaustive, and that the guarantee of equality and equal protection of the law under Article 12(1) of the Constitution is not subject to any exception. Moreover, in 2019, in its Periodic Report with respect to the International Covenant on Civil and Political Rights, the Sri Lankan State clarified that 'the prohibited grounds of discrimination under article 12(2) of the Constitution are non-exhaustive, and discrimination on the grounds of sexual orientation is implicitly prohibited.'
4. It is, therefore, reasonable to maintain that the introduction of a statutory right to non-discrimination on the grounds of gender identity or sexual orientation is compatible with Article 12(2) of the Constitution. In line with this interpretation, it is observed that the inclusion of grounds of non-discrimination such as gender identity and sexual orientation in the Bill will not be inconsistent with Article 12(2) of the Constitution.
5. It is also noted that the Supreme Court of Sri Lanka, in its determination in SC (Special Determination) No. 13 of 2023 *et al* on the constitutionality of a proposed amendment to the Penal Code to decriminalise certain sexual acts, determined that the amendment was consistent with the Sri Lankan Constitution. Although the relevant sections of the Penal Code, i.e., sections 365 and 365A, have not been repealed or amended to date, the Commission is of the view that necessary action must be taken to do so in view of the Supreme Court's determination. In this context, the broad purpose of the Bill in advancing non-discrimination

on the grounds of gender and sexual orientation is in line with the Supreme Court's endorsement of the amendments to the Penal Code.

Clause 4

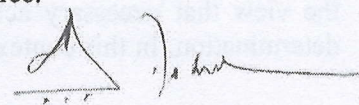
6. Under Clause 4(1)(f) of the Bill, the Minister is empowered to issue directions and guidelines to 'other institutions and organisations'. While it may be assumed that such institutions and organisations are of the same class as 'Ministries, Departments, statutory bodies', this power is broadly framed, and may amount to interference with mandates of independent commissions.
7. **It is recommended that the powers of the Minister to issue directions and guidelines be confined to ministries, departments, and other government institutions, and not extended to statutory bodies, or other institutions and organisations.**

Clause 6

8. Clause 6 of the Bill sets out the procedure for the appointment of members of the Gender Equality Council ('the Council'). Clause 6(a) provides that five such members would be *ex officio* members who are secretaries to specific ministries, and the Inspector General of Police (or his representative). Clause 6(b) provides that the remaining four members are to be appointed by the Minister.
9. It is observed that the composition of the Council does not adequately guarantee institutional independence from political interference.
10. **It is recommended that Clause 6 be revisited to ensure that the members of the Council are appointed through a mechanism that guarantees their political independence. For example, appointments may be on the recommendation of the Constitutional Council.**

Clauses 9 and 11

11. Clause 9(3) of the Bill provides that the Minister may remove the Chairperson of the Council from office for reasons assigned. Meanwhile, Clause 11 provides that the Minister may remove an appointed member from office for reasons assigned, and that such a member shall not be eligible for reappointment as a member of the Council or to serve the Council in any other capacity.
12. The Commission notes that the procedure for removing the Chairperson or a member of the Council does not include adequate safeguards to ensure the political independence of the Council.
13. **It is recommended that the removal process with respect to the Chairperson of the Council be revisited to ensure greater political independence.**



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Human Rights Commission of Sri Lanka

Clauses 17 and 18

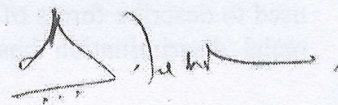
14. Clause 17 provides for the appointment of a Gender Focal Point. However, it is observed that there are no qualifications or requirements for the Gender Focal Point included in the provision, and it is recommended that this lacuna be rectified.
15. Clause 18(a) states that, the Gender Focal Point shall 'be responsible for mainstreaming gender issues in the policies and programmes of the concerned Ministry'. It is unclear as to what is meant by the 'concerned Ministry'. If the Clause refers to the mainstreaming of gender in all ministries, it should indicate the provision of facilities and resources to carry out such a task.
- 16. It is recommended that this provision be revisited to ensure greater clarity and effectiveness of the Gender Focal Point.**

Clause 23

17. Clause 23 pertains to the declaration of secrecy, which must be signed by every member of the Council and all officers and employees of the Council prior to assuming duties under the Bill.
18. Given that the Council is not an institution that will receive complaints, there is no requirement for a declaration of secrecy as such. While generally maintaining confidentiality and respecting privacy are vital, particularly to safeguard personal information of citizens who may engage the Council, it is observed that this obligation, if framed in the broad language of 'secrecy', may impede whistle-blowers who disclose information in the public interest.
- 19. Accordingly, it is recommended that the requirement for a declaration of secrecy be removed from the Bill.**

Clause 25 and Clause 26

20. Clause 25 of the Bill includes a range of offences including a specific offence on the failure to comply with an order or directive of the 'Commission'. It is assumed that the reference to 'Commission' is in fact a reference to the Council. Additionally, it is observed that the Council does not possess powers to issue orders and directives under Clause 7 of the Bill. Clause 26 meanwhile provides for vicarious liability with respect to these offences.
- 21. It is recommended that both Clause 25 and 26 be omitted, as it is inadvisable to include offences in a Bill that does not contemplate orders, directives, or any investigative powers or powers of inquiry.**



Clause 27

22. Clause 27 of the Bill empowers the Minister to make Regulations. The Minister is empowered under Clause 27(2)(b) to issue Regulations containing guidelines to relevant authorities, specifying 'social measures'. The Ministry can also issue Regulations under Clause 27(2)(c) 'to identify matters to be addressed in relation to socio-economic gender balance between persons of different gender identities and sexual orientations', and under Clause 27(2)(d) to 'establish support systems for assisting persons of different gender identities and sexual orientations to obtain redress for gender-based violence and discrimination'. It is observed that these provisions are imprecise and can be strengthened to clarify the legislative intent behind them.
23. **It is recommended that this provision be revisited to ensure greater clarity, particularly in respect of terms such as 'social measures', 'socio-economic gender balance', and 'support systems'.**

Clause 29

24. It is observed that Clause 29 of the Bill, which is the interpretation clause, does not contain a definition for the term 'sexual orientation'. It is also observed that the definition for 'gender identity' needs to be strengthened to be in line with international human rights standards.
25. The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender identity defines sexual orientation as 'each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.'
26. Moreover, the Yogyakarta Principles and the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity defines 'gender identity' as 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.'
27. **It is recommended that a definition for 'sexual orientation' in line with international human rights standards be included. It is further recommended that the definition for 'gender identity' be revised to bring it in line with international human rights standards.**
28. It is observed that Clause 2(c) of the Bill refers to gender-based discrimination inclusive of 'direct, indirect, intersectional and multiple discrimination. However, Clause 29 does not provide a definition for 'intersectional discrimination' and 'multiple discrimination' as contemplated under the Bill. Moreover, these Clauses do not deal with 'structural discrimination', which can also be a form of discrimination. Such terminology is commonly used to describe forms of discrimination that are structural in nature. For instance, structural racial discrimination has been described by the United Nations Special Rapporteur on

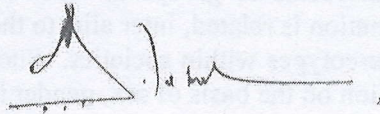
Contemporary Forms of Racism, Racial Discrimination, Xenophobia and related Intolerance as ‘...intolerant patterns of behaviour and attitudes within societal structures that target specific individuals or groups of individuals...The existence of such “societal” structural ...discrimination is related, inter alia, to the persistence of deeply rooted racial prejudice and negative stereotypes within societies.’ Such a definition may be adapted to define structural discrimination on the basis of sex, gender identity or sexual orientation, in the Bill.

29. It is observed that the definition for 'direct discrimination' does not refer to sexual orientation. Moreover, the definition for 'indirect discrimination' can be further strengthened to bring it in line with international human rights standards. For instance, the following definition, offered by the Committee on the Elimination of Discrimination Against Women in *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, may be adapted to frame the relevant definition in the Bill: 'Indirect discrimination...occurs when a law, policy, programme or practice appears to be neutral as it relates to [persons], but has a discriminatory effect in practice on [persons on the basis of their sex, gender identity or sexual orientation], *because pre-existing inequalities are not addressed by the apparently neutral measure*' (emphasis added).
30. It is recommended that definitions for 'intersectional discrimination', 'multiple discrimination', and 'structural discrimination' be included in the Bill. Moreover, the definition for 'direct discrimination' should refer to sexual orientation, and the definition for 'indirect discrimination' should be further strengthened to bring it in line with international human rights standards.

General Observations and Recommendations

31. It is observed that the Bill does not contain any provision specifically addressing the harassment of individuals on the basis of sex, gender identity or sexual orientation, including the phenomenon of online harassment and cyber-bullying.
32. It is recommended that the mandate of the Gender Equality Council be strengthened to specifically deal with the phenomenon of harassment alongside the phenomena of discrimination and violence and that the term 'harassment' be included within the object found in Clause 2(d) of the Bill.
33. The Commission observes that there are substantial similarities in the provisions and legislative intent behind the draft Gender Equality Bill, the draft National Women's Commission Bill, and the draft Women's Empowerment Bill.
34. It is recommended that the amalgamation of the Gender Equality Bill and the Women's Empowerment Bill be considered under the title "The Gender Equality and Women's Empowerment Bill." With reference to the institution that will be established under this Bill, we recommend that the Gender Equality Council be housed in the new department to which the Women's Bureau will be upgraded. We recommend that such an

an amalgamation be considered to minimise overlap and resource wastage. We recommend that the naming of the department as the 'Department for Gender Equality' be considered in view of such a change.



Justice L.T.B. Dehideniya
Judge of the Supreme Court (Retired)
Chairman
Human Rights Commission of Sri Lanka

Annex 3

Observations and Recommendations on the Draft Women's Empowerment Bill

Pursuant to the mandate of the Human Rights Commission of Sri Lanka under section 10(c) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996, the Commission submits the following observations and recommendations with respect to the draft Bill.

Clauses 2 and 7

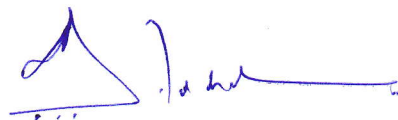
1. Clause 2(e) of the Bill states that one of the objectives of the Bill is 'introducing a process for the recognition of addressing and redressing all forms of discrimination against women including legislative measures'. Although the term 'legislative measures' is likely to mean enactment, amendment and/or repeal of Acts of Parliament and subordinate legislation issued thereunder, it is observed that further clarity may be useful to define what is meant by 'legislative measures'.
2. **It is recommended that either Clause 2(e) or the interpretation clause, i.e., Clause 7, be revised to clarify what is contemplated by the term 'legislative measures', and whether such term means the enactment, amendment and/or repeal of Acts or Parliament and/or subordinate legislation including regulations.**

Clause 3

3. Clause 3(1)(f) of the Bill empowers the Minister to issue 'directions and guidelines to the Ministries, Departments and statutory bodies and other institutions and organisations'. It is observed that 'statutory bodies and other institutions and organisations' could include independent commissions.
4. **It is recommended that the powers of the Minister to issue directions and guidelines be confined to ministries, departments, and other government institutions, and not extended to statutory bodies, or other institutions and organisations.**

Clauses 5 and 7

5. Clause 5(1) of the Bill states that the Minister may prepare Codes of Conduct relating to 'special categories of women'. It is observed that the phrase 'special categories of women' is not defined in this provision or the interpretation clause.
6. **It is recommended that a definition of the phrase 'special categories of women' be included in the interpretation clause, i.e., Clause 7, to ensure greater clarity as to whom the 'Codes of Conduct' relate to. If the intention is to reference intersectionality, it is recommended that the term be used and a definition provided (See Observations and Recommendations on the Gender Equality Bill.)**

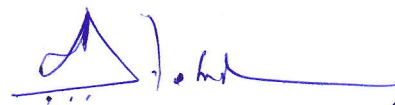


Clause 6

7. Clause 6(2)(b) of the Bill empowers the Minister to make regulations including to 'ensure not less than fifty percent contribution of women in the national economy'. It is not clear whether this provision takes into account unpaid care work and women's contribution to the informal economy.
8. **It is recommended that Clause 6(2)(b) be revisited to explicitly include unpaid care work and women's contribution to the informal economy.**

General Observations and Recommendations

9. The Commission observes that there are substantial similarities in the provisions and legislative intent behind this Bill, and the draft Gender Equality Bill. They both reference the National Policy on Gender Equality and Women's Empowerment.
10. **It is recommended that the amalgamation of the above two Bills into a single consolidated Bill be considered. With reference to the institution that will be established under this Bill, we recommend that the Gender Equality Council be housed in the new department to which the Women's Bureau will be upgraded. We recommend that such an amalgamation be considered to minimise overlap and resource wastage. We recommend that the naming of the department as the 'Department for Gender Equality' be considered in view of such a change.**



Justice L.T.B. Dehideniya
Judge of the Supreme Court (Retired)
Chairman
Human Rights Commission of Sri Lanka